

RELIEF FROM DEPORTATION/EXCLUSION (Post-IIRIRA/AEDEPA)

<p align="center">Asylum INA § 208 8 U.S.C. § 1158</p>	<p align="center">Restriction on Removal INA § 241(b)(3) 8 U.S.C. § 1231(b)(3)</p>	<p align="center">Cancellation of Removal INA § 240A(b)(1) 8 U.S.C. § 1229b(b)(1)</p>	<p align="center">Cancellation of Removal for Certain Permanent Residents INA § 240A(a) 8 U.S.C. § 1229b(a)</p>	<p align="center">Voluntary Departure INA § 240B 8 U.S.C. § 1229c</p>
<p>Must demonstrate past persecution or well-founded fear of persecution based on race, religion, nationality, membership in social group, or political opinion.</p> <p>Alien may have any status at time of application, but application must be filed within one year of arrival in US unless there are changed or extraordinary circumstances.</p> <p>A spouse or child of an alien who is granted asylum may be granted the same status as the alien if accompanying, or following to join, such alien.</p> <p>NOT eligible if alien participated in the persecution of any person based on race, religion, nationality, membership in social group, or political opinion.</p> <p>NOT eligible if convicted of a particularly serious crime (includes aggravated felonies).</p> <p>NOT eligible if alien is security risk or terrorist.</p> <p>NOT eligible if the alien has committed a serious nonpolitical crime outside the US.</p> <p>NOT eligible if can be removed to a “safe” third country unless in the public interest.</p> <p>NOT eligible if has firmly resettled in another country prior to arrival in US.</p>	<p>Must demonstrate that alien's life or freedom threatened on account of race, religion, nationality, membership in social group, or political opinion.</p> <p>NOT eligible if alien participated in the persecution of any person based on race, religion, nationality, membership in social group, or political opinion;</p> <p>NOT eligible if the alien has been convicted of a particularly serious crime (includes aggravated felony/ies for which aggregate sentence of 5 years or more imposed) or danger to the community.</p> <p>NOT eligible if the alien has committed a serious nonpolitical crime outside the United States prior to the arrival in the United States;</p> <p>NOT eligible if alien is security risk.</p>	<p>Alien may have any status at time of application.</p> <p>Must have continuous physical presence in US for 10 years.</p> <p>Good moral character during 10 year period.</p> <p>Deportation would result in extreme hardship to spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence, or to alien if alien is legal permanent resident.</p> <p>NOT excludable under 1182(a)(2) - CMT, multiple convictions, controlled substance trafficker, prostitution, trafficker in persons, religious freedom violators; and</p> <p>NOT deportable under 1227(a)(2) - CMT, multiple convictions, aggravated felony, high-speed flight, controlled substances, drug user/addict, firearms offenses, child abuse, neglect, abandonment, domestic violence, stalking, violation protective order; and</p> <p>NOT deportable under 1227(a)(3) - failure to register/change address with INS, document fraud/falsification with INS, or false claim to US citizenship.</p> <p>Special rules for battered spouse or service in U.S. Armed Forces.</p> <p>NOT alien crewman, non-immigrant exchange alien under 1101(a)(15)(J).</p> <p>NOT prior grant of suspension, cancellation or 212(c) relief under current or prior statutes.</p> <p>NOT persecutor, terrorist, security threat, Nazi or genocide.</p> <p>NOT eligible if have failed to depart under order of removal or voluntary departure.</p>	<p>Can waive deportation -</p> <p>- if LPR</p> <p>-if has resided in US for 7 continuous years after having been admitted in any status; and</p> <p>NOT aggravated felony.</p> <p>NOT alien crewman, non-immigrant exchange alien under 1101(a)(15)(J).</p> <p>NOT prior grant of suspension, cancellation or 212(c) relief under current or prior statutes.</p> <p>NOT persecutor, terrorist, security threat, Nazi or genocide.</p> <p>NOT eligible if have failed to depart under order of removal or voluntary departure.</p> <p>Special rules for battered spouse or service in U.S. Armed Forces.</p>	<p>Depart at own expense. Bond may be required. 120 day limit on period before must depart.</p> <p>NOT eligible if convicted of aggravated felony or terrorist.</p> <p>NOT arriving alien.</p> <p>NOT prior grant of voluntary departure after determination of inadmissibility under 1182(a)(6)(A) - entered without inspection.</p> <p>Special rules for persons entering as non-immigrant visitors in order to receive medical treatment in the United States.</p> <p>NOT fail to depart under order of removal or voluntary departure.</p> <p><i>** If requested at the conclusion of a 1229a removal proceeding -</i></p> <p><i>Must show physically present in US for one year prior to service of Notice to Appear; and</i></p> <p><i>Must establish good moral character for at least five years immediately preceding application for relief; and</i></p> <p><i>NOT deportable for aggravated felony or terrorist; and</i></p> <p><i>Must show has means to depart and intends to do so.</i></p> <p><i>60 day limit on period before must depart and must post bond.</i></p>

Registry of Status INA § 249 8 U.S.C. § 1259	Adjustment of Status INA § 245 8 U.S.C. § 1255	Waiver of Criminal Grounds INA § 212(h) 8 U.S.C. § 1182(h)	Waiver of Fraud INA § 212(i) 8 U.S.C. § 1182(i)	Waiver for Alien Smuggling INA § 237(a)(1)(E)(ii) 8 U.S.C. § 1227(a)(1)(E)(ii)	Waiver for Alien Smuggling INA § 212(d)(11) 8 U.S.C. § 1182(d)(11)
<p>Eligible to become LPR -</p> <ul style="list-style-type: none"> -if alien entered the US prior to January 1, 1972; and -if has maintained continuous residence since entry; and -if good moral character. <p>NOT eligible if ineligible to citizenship.</p> <p>NOT eligible if inadmissible under 1182(a)(3)(E) (Nazi or genocide), terrorist, or subversive.</p> <p>NOT eligible if inadmissible under 1182(a) insofar as relates to criminal, procurer or other immoral person, subversive, narcotics law violator, or alien smuggler.</p> <p>NOT eligible if have failed to depart under order of removal or voluntary departure.</p>	<p>Must be otherwise admissible to the United States as LPR.</p> <p>An immigrant visa is immediately available to alien at the time application is filed.</p> <p>Special conditions if admitted as non-immigrant under 1101(a)(15)(S) - snitch; or 1101(a)(15)(T) - victim of trafficker in humans; or 1101(a)(15)(U) - victim of physical or mental abuse.</p> <p>Available if marry while in proceedings so long as marriage not fraudulent.</p> <p>If 1101(a)(27)(j) (special juvenile) most conditions of admissibility other than drugs and CMT may be waived.</p> <p>Available to alien physically present in US if enter without inspection, alien crewmen; persons, other than immediate relative or special immigrant, who maintain unauthorized employment; have unlawful status on date application in filed; non-immigrant visitor; non-immigrant in transit; or fail to maintain lawful status since entry into U.S.</p> <ul style="list-style-type: none"> - if pay \$1000; and - is the beneficiary of a petition for classification under 1154 filed prior to April 30, 2001; or - has petition for labor certification under 1182(a)(5)(A) filed prior to April 30, 2001; and -if petition for classification or labor certification was filed after Jan. 14, 1998, was physically present on Dec. 21, 2000. 	<p>Can waive -</p> <ul style="list-style-type: none"> a) 1182(a)(2)(A)(i)(I) - CMT; b) 1182(a)(2)(A)(II) - controlled substance if single offense of possession < 30g marijuana; c) 1182(a)(2)(B)- multiple convictions for which aggregate sentence > 5 years imposed; d) 1182(a)(2)(D) - prostitution; e) 1182(a)(2)(E) - aliens with immunity from prosecution <p>- if only excludable under 1182(a)(2)(D)(i) or (ii) or acts occurred > 15 years prior to application; and</p> <ul style="list-style-type: none"> - if admission not contrary to national welfare, safety; and - if rehabilitated. <p>OR</p> <ul style="list-style-type: none"> - if has LPR or USC spouse, parent, son or daughter and can show extreme hardship. <p>OR</p> <ul style="list-style-type: none"> - if the alien is a qualifying immediate relative under 1154(a)(1)(A) or 1154(a)(1)(B). <p>NOT eligible if convicted of murder, torture, or conspiracy or attempt to commit murder or torture.</p> <p>NOT eligible if LPR who commits aggravated felony after entry; or if LPR has not had seven years continuous lawful presence in country prior to commencement of removal proceedings.</p>	<p>Can waive 8 U.S.C. § 1182(a)(6)(C)(i) - having obtained entry, visa, etc. through fraud or misrepresentation -</p> <ul style="list-style-type: none"> - if has USC or LPR spouse, parent, son or daughter and deportation would cause extreme hardship to that individual; <p>Special rules for battered spouse or child of USC or child of person who has renounced US citizenship.</p>	<p>Can waive deportation based on alien smuggling under 1251(a)(1)(E)(i) -</p> <ul style="list-style-type: none"> -if LPR who assisted spouse, parent, son or daughter and no other individual to enter US unlawfully; and -if waiver is for humanitarian purposes, to assure family unity or otherwise in the public interest; <p>OR</p> <ul style="list-style-type: none"> -if alien was present in US on May 5, 1988; and -if now seeking admission under 1153(a)(2) or 1401; and -if before May 5, 1988 assisted spouse, parent, son or daughter and no other individual to enter the US unlawfully. 	<p>Can waive exclusion based on alien smuggling under 1182(a)(6)(E)(i)-</p> <ul style="list-style-type: none"> -if LPR who proceeded abroad not under order of deportation; and -if admissible as returning resident; and -if assisted spouse, parent, son or daughter and no other individual to enter US unlawfully. <p>OR</p> <ul style="list-style-type: none"> -if alien seeking admission as an immediate relative or under 1153(a) (family sponsored immigrants); and -if assisted spouse, parent, son or daughter and no other individual to enter US unlawfully.