

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

<p align="center">Asylum INA § 208 8 U.S.C. § 1158</p>	<p align="center">Withholding INA § 243(h) 8 U.S.C. § 1253(h)</p>	<p align="center">Suspension INA § 244(a) 8 U.S.C. § 1254(a)</p>	<p align="center">Voluntary Departure INA § 244(e) 8 U.S.C. § 1254(e)</p>	<p align="center">Adjustment of Status INA § 245 8 U.S.C. § 1255</p>	<p align="center">Registry of Status INA § 249 8 U.S.C. § 1259</p>
<p>Alien may have any status at time of application.</p> <p>Alien must be refugee within the meaning of 8 USC § 1101(a)(42)(A).</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 convicted of aggravated felony.</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.</p> <p>Aggravated felony = particularly serious crime.</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 must have continuous physical presence for 7 years.</p> <p>Good moral character during 7 year period.</p> <p>Deportation would result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.</p> <p>If deportable under 8 USC § 1251(a)(2), (3), or (4), (CMT, controlled substance, multiple convictions) must show same as above for 10 year period after commission of act making him/her deportable.</p> <p>Special rules for battered spouse or service in U.S. Armed Forces.</p>	<p>NOT be deportable under 8 USC § 1251(a)(2), (3) or (4) (CMT, controlled substance, multiple convictions).</p> <p>Must be able to depart at own expense.</p> <p>Must establish good moral character for at least five years immediately preceding application for relief.</p> <p>NOT eligible if convicted of aggravated felony.</p>	<p>Must be otherwise admissible to the United States as LPR.</p> <p>Must have an immigrant visa immediately available to alien at the time application is filed.</p> <p>Only available to alien crewmen; persons, other than immediate relative or special immigrant, who maintain unauthorized employment; person who have unlawful status on date application in filed; or persons who fail to maintain lawful status since entry into U.S. if pay 5x filing fee.</p> <p>NOT available to person, other than immediate relative, who has entered as non-immigrant visitor under 1182(l) (visitor to Guam) or 1187.</p> <p>Special conditions if admitted as non-immigrant under 1101(a)(15)(S) - (snitch).</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>Eligible to become LPR -</p> <p>-if alien entered the US prior to January 1, 1972; and</p> <p>-if has maintained continuous residence since entry; and</p> <p>-if can demonstrate good moral character.</p> <p>NOT eligible if ineligible to citizenship.</p> <p>NOT eligible if inadmissible under 8 USC 1182(a)(3)(E) (Nazi or genocide).</p> <p>NOT eligible if inadmissible under 8 USC 1182(a) insofar as relates to criminal, procurer or other immoral person, subversive, narcotics law violator, or alien smuggler.</p>

<p>Waiver of Criminal Offense INA § 212(c) 8 U.S.C. § 1182(c)</p>	<p>Waiver of Criminal Grounds INA § 212(h) 8 U.S.C. § 1182(h)</p>	<p>Waiver of Fraud INA § 212(i) 8 U.S.C. § 1182(i)</p>	<p>Waiver of Fraud INA § 241(a)(1)(H) 8 U.S.C. § 1251(a)(1)(H) previously -INA § 241(f) 8 U.S.C. § 1251(f)</p>	<p>Waiver for Alien Smuggling INA § 241(a)(1)(E)(ii) 8 U.S.C. § 1251(a)(1)(E)(ii)</p>	<p>Waiver for Alien Smuggling INA § 212(d)(11) 8 U.S.C. § 1182(d)(11)</p>
<p>Can waive exclusion based on 8 USC § 1182(a) (criminal offenses) -</p> <p>- if LPR; and</p> <p>-if has 7 consecutive years unrelinquished domicile.</p> <p>Can waive grounds other than security grounds or international child abduction.</p> <p>NOT eligible if has aggravated felony/ies for which has served at least five years incarceration (jail and/or prison).</p>	<p>Can waive 8 USC §:</p> <p>a) 1182(a)(2)(A)(i)(I) - CMT;</p> <p>b) 1182(a)(2)(A)(II) - controlled substance if single offense of possession < 30g marijuana;</p> <p>c) 1182(a)(2)(B)- multiple convictions for which aggregate sentence > 5 years imposed;</p> <p>d) 1182(a)(2)(D) - prostitution;</p> <p>e) 1182(a)(2)(E) - aliens with immunity from prosecution</p> <p>- if only excludable under 1182(a)(2)(D)(i) or (ii) or acts occurred > 15 years prior to application; and</p> <p>- if admission not contrary to national welfare, safety; and</p> <p>- if rehabilitated.</p> <p>OR</p> <p>- if has LPR or USC spouse, parent, son or daughter and can show extreme hardship.</p>	<p>Can waive 8 U.S.C. § 1182(a)(6)(C)(i) - having obtained entry, visa, etc. through fraud or misrepresentation -</p> <p>- if has USC or LPR spouse, parent, son or daughter;</p> <p>OR</p> <p>- if fraud occurred at least 10 years prior to application for status; and</p> <p>- if entry not contrary to national welfare, safety, or security.</p>	<p>Can waive deportation based on excludability at time of entry due to 8 USC § 1182(a)(6)(C)(i) (visa or entry by fraud or misrepresentation) -</p> <p>-if has USC or LPR spouse, parent, son or daughter; and</p> <p>-if had possession of visa or entry document; and</p> <p>-if was otherwise admissible except fraud for 1182(a)(5)(A) (employment) or (7)(A) (documentation).</p> <p>NOT eligible if Nazi or genocide.</p>	<p>Can waive deportation based on alien smuggling under 8 USC § 1251(a)(1)(E)(i) -</p> <p>-if LPR who assisted spouse, parent, son or daughter and no other individual to enter US unlawfully; and</p> <p>-if waiver is for humanitarian purposes, to assure family unity or otherwise in the public interest;</p> <p>OR</p> <p>-if alien was present in US on May 5, 1988; and</p> <p>-if now seeking admission under 1153(a)(2) or 1401; and</p> <p>-if before May 5, 1988 assisted spouse, parent, son or daughter and no other individual to enter the US unlawfully.</p>	<p>Can waive exclusion based on alien smuggling under 8 USC § 1182(a)(6)(E)(i)-</p> <p>-if LPR who proceeded abroad not under order of deportation; and</p> <p>-if admissible as returning resident; and</p> <p>-if assisted spouse, parent, son or daughter and no other individual to enter US unlawfully.</p> <p>OR</p> <p>-if alien seeking admission as an immediate relative or under 1153(a) (family sponsored immigrants); and</p> <p>-if assisted spouse, parent, son or daughter and no other individual to enter US unlawfully.</p>