



GARDNER & MENDOZA, PC
ATTORNEYS AT LAW



HOW TO GET A GREEN CARD THROUGH MARRIAGE

Love and marriage go together like a horse and carriage. And in the eyes of USCIS, you better be getting married for “love” or money or because you’re getting back at your parents or any other reason, but not because you want the green card. So, that takes us to Step 1!

Step 1. Don’t get married for the wrong reason, and that wrong reason would be an immigration benefit. A big “no-no” that could land you in Federal custody. But I digress; the marriage fraud post will be for another day. Let me just say to you: don’t even think about it! And if you got married to a foreign national and it’s a bona fide one, move on to Step 2.

Step 2. PREPARE YOUR FORMS. Okay, so you’re married now and your spouse is a foreign national of another country, but she’s living here in the U.S. And she came to the U.S. inspected at a port of entry. She has an I-94 or maybe she has an I-94W (visa waiver country). She could be here on a tourist visa, a student visa, an H-1B visa, etc. The point is that she entered with inspection.

You must file several immigration forms in order for your spouse to become a Lawful Permanent Resident of the U.S., also known as a green card holder. The following forms must be prepared for filing:

- FORM I-130 (PETITION FOR ALIEN RELATIVE)
- FORM I-130A (SUPPLEMENT TO FORM I-130)
- FORM I-765 (WORK AUTHORIZATION DOCUMENT)
- FORM I-485 (APPLICATION FOR ADJUSTMENT OF STATUS)
- FORM I-864 (AFFIDAVIT OF SUPPORT)
- FORM I-131 (ADVANCE PAROLE) – WARNING: DO NOT FILE THIS FORM IF YOUR SPOUSE HAS 180 DAYS OR MORE OF UNLAWFUL PRESENCE IN THE U.S.
- FORM I-693 (MEDICAL WHICH MUST BE DONE BY A USCIS DESIGNATED CIVIL SURGEON)

In addition to these forms/applications, you and your spouse need to gather up supporting documents. Some of these include: proof of your U.S. Citizenship, your spouse’s birth certificate with certified translation (if applicable), your most recent income tax return, your marriage certificate and divorce decrees if either of you have ever been married before, passport-style photos for each of you, copies of her I-94, visa, and passport.

Step 3. File your forms and applications. The current USCIS filing fees for a marriage-based adjustment of status case is \$1760. These fees are subject to change, so before filing you need to double check this fee. You also need to check to see where these forms must be mailed before sending them off. Currently, that location for the jurisdiction where we are located (Virginia) is the Chicago Lockbox. Mail it to the wrong place, and there could be months of delay in your case. Send in the wrong fee

and the same thing – delays. So, please double- or triple-check before mailing everything off.

Step 4. Receive receipt notices as evidence that USCIS has received the forms and fees. You will receive these notices within about 3-4 weeks of filing.

Step 5. Biometrics notice will come in the mail. Approximately 4-5 weeks after filing, you will receive a biometrics notice for you to appear at a USCIS Application Support Center where the following will occur: digital fingerprints, digital photo and digital signature. All digital – I love it! It makes things easier and card production is fast once your case is approved.

Step 6. Work permit will arrive sometime around the 120 day mark. Yay! Now you can legally work. Welcome to America!

Step 7. Marriage-based adjustment interview at your local USCIS office will be scheduled. The processing time for a marriage-based interview is approximately 10-11 months. Some jurisdictions process faster, others slower. Check your local office’s processing times on the uscis.gov website.

Step 8. You and your spouse must appear at the bona fide marriage interview. Yup, that’s what it’s called internally – bona fide marriage interview. Because in addition to going over all of your forms, a USCIS officer will look to see whether you and your spouse have documentary evidence to show that it’s a bona fide marriage: a “real” marriage not for immigration purposes. See my first paragraph. In addition to observing the couple and using her common sense and training, the Immigration Officer will ask for documents to show that you and your spouse have a shared life together, like:

- joint bank account statements
- lease or mortgage which include both of your names
- photos
- utility bills
- birth certificates of your children
- jointly filed tax returns

These are just a few documents you can bring to the interview. Make sure you bring copies of all of these documents to give the Immigration Officer to keep for her file.

The Immigration Officer will also ask your spouse all of the questions on the I-485 Form, so she needs to review it prior to filing and again prior to the interview. If she answers “yes” to any of the questions on the I-485, then she could be inadmissible or ineligible for Lawful Permanent

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Residence in the U.S. I will not get into that in this blog post, but suffice it to say, if the answer is “yes” to any of those questions, you need to consult with an [immigration attorney](#).

Step 9. A decision is made. If the Officer approves your case, you will know fairly soon, within 3-4 weeks. And your green card will come in the mail within 1-3 months. If the Officer needs additional documentation, she will either hand you the request for additional documents right there at the interview or mail it to you within a couple of weeks. There will be a deadline on that request so don't miss it. If you do, your case might be deemed abandoned, and then you have to start all over (which is not good unless you have an extra \$1760 lying around and extra hours in your life to do it all again).

Disclaimer: This article should not be seen or used as legal advice! Although I am an immigration attorney, I can't give advice if we don't have an attorney-client relationship.

Now that we've done the legal disclaimer, let's move on to:

FREQUENTLY ASKED QUESTIONS

1. Do I need a lawyer to file the paperwork in order to get the green card for my spouse?

Why do people ask me this? I'm a lawyer – of course you need a lawyer to do this! You need a lawyer to do everything these days, don't you? Seriously though, I know why people ask me this. It's because of cost and in this economy I can appreciate that. The USCIS filing fees, the legal fees, the medical – it all adds up to be a big chunk of change. The real answer is “no”, you don't need a lawyer. People do this process without a lawyer and survive.

But I will say this, I have come into cases where people have messed up their own forms, their own processes and have lost time and money (because they've filed the wrong filing fees or forms and because they've delayed their cases so much that their spouse could have had a work permit, earning money). I have also seen very bad advice given when one calls the USCIS 1-800 number for assistance, as well as USCIS mess-ups that I personally believe would not have occurred had the couple had an immigration attorney representing them.

So, if you can afford it, get an immigration attorney. You will be pleased. An immigration attorney who knows the ropes with USCIS filings can have your case processed and filed within 10 business days (like we do) and it will be well worth the money you spend on the attorney. This is an important process – your spouse's legal status in the United States, why chance it?

2. Can I get my Social Security card?

Yes. Thanks to a new update with the USCIS forms, your Social Security card will be mailed directly to you after you receive your work permit! It will have a restriction on it, however, that states that it can only be used for work purposes with a proper work authorization document (that's your work permit). However, that restriction can be removed after your spouse gets his or her green card. He or she will have to visit the SSA office once they receive the green card in the mail.

3. Can I get a driver's license?

It depends on your jurisdiction. Check with your local DMV. In Virginia, you should be able to get a driver's license with a pending I-485. Bring your original I-485 receipt to the DMV with you, an unexpired passport and your Form I-94.

4. How long will my spouse's green card be good for?

It depends on how long you and your spouse have been married. If you've been married for less than two years at the time that your spouse's case is approved, then his/her Lawful Permanent Resident card will be a conditional one, and it will be valid for two years. You will have to renew the card prior to the expiration of the card, but you can't renew it sooner than 90 days prior to the card's expiration.

If you and your spouse have been married more than two years at the time of approval, then your spouse will receive a 10-year green card, with no conditions.

5. When can my spouse apply for U.S. Citizenship?

Assuming the two of you are still married and living together at the time of filing, he or she can apply three years after receiving her Lawful Permanent resident status. And, he or she can apply 90 days early, so make that three years minus 90 days. Again, be careful with the counting. You don't want to file this one early!



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