



EVERYTHING YOU  
THOUGHT ABOUT  
IMMIGRATION LAW...  
WAS WRONG

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Our focus today

- ❖ Getting in line and status through time in the U.S.
- ❖ Status through and for family members
  - ❖ Spouses
  - ❖ Children
- ❖ How long does the process take?
- ❖ Applying for status when in the U.S.
- ❖ Crimes
- ❖ Most common misconceptions I hear (that don't fall into the previous categories)

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QUESTION 1

Anyone can come into the United States legally if they just get in line or spend a specified time in the country

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What is likely meant?

Visa Bulletin      Relief from removal

"Getting in line"      "Status through time"

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The screenshot shows the official website for the U.S. Department of Homeland Security, specifically the Visa Bulletin section. The page title is "Visa Bulletin For February 2022". The content includes a table with columns for "Country", "Priority Dates", and "Final Action Dates". The table lists various countries and their corresponding dates for different visa categories. Below the table, there is a section titled "4. STATISTICAL SUMMARY" which provides a brief overview of the visa processing statistics for the month.

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Immigration and Nationality Act § 240  
USC § 1229b.

Cancellation of removal for:

(a) Certain permanent residents  
 "The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien  
 (1) has been an alien lawfully admitted for permanent residence for not less than five years..."

(b) Certain nonpermanent residents  
 "The Attorney General may cancel removal of, adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien  
 (A) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application..."

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**QUESTION 2**

Spouses, parents, children, grandchildren, aunts, uncles, nieces, nephews and other relatives may be directly petitioned by their United States citizen or permanent resident family members?

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### Qualifying Family Relationships

<p><b>Immediate Relative</b> Petitioner must be a U.S. citizen</p> <ul style="list-style-type: none"> <li>• Spouse</li> <li>• Minor child</li> <li>• Parent of +21 U.S. citizen</li> </ul>	<p><b>Preference Category Relatives</b></p> <ul style="list-style-type: none"> <li>• F1 -Unmarried sons and daughters of USCs</li> <li>• F2 A-Spouses and minor children of LPRs</li> <li>• F2 B-Unmarried sons and daughters of LPRs</li> <li>• F3 -Over 21 sons and daughters of USCs</li> <li>• F4 -Siblings of USCs</li> </ul>
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### Differences between Immediate and Preference Relatives

<ul style="list-style-type: none"> <li>• Can immediately apply to adjust status or for an immigrant visa once family petition approved</li> <li>• Qualifying family members CANNOT be included in immediate relative petitions</li> </ul>	<ul style="list-style-type: none"> <li>• Spouse and minor children can be included in principal Beneficiary's petition</li> <li>• Can include those family relationships that existed at the time the petition was filed or those after acquired</li> <li>• If minor child turns 21 before visa becomes available, they are no longer eligible under principal beneficiary's petition.</li> </ul>
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**QUESTION 3**

Anders' mother has a visa available to her based on a petition her USC sister filed for her. At the time the visa became available, Anders was 22 and completing a course of study in his country of citizenship. Is he eligible to apply for an immigrant visa as a derivative relative of his mother's petition?

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**COMMON LAW MARRIAGES    RELIGIOUS MARRIAGES    CIVIL MARRIAGES    MARRIAGES OUTSIDE THE U.S.**

Except in limited circumstances, Not recognized for immigration purposes    Some religious marriages are valid for immigration purposes    Valid for immigration purposes    if, otherwise valid for immigration purposes, recognized by USCIS, Department of State

**IF UNSURE, REFER TO THE DEPARTMENT OF STATE RECIPROcity TABLE**

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The screenshot shows the 'U.S. Visa Reciprocity and Civil Documents by Country' page. It includes a navigation menu with options like 'U.S. Passports', 'International Travel', 'U.S. Visa', 'Immigrants and Naturalization', 'Visa Fee Chart', and 'Passports of Other Countries'. The main content area features a 'What's Reciprocity?' section with a 'VISA WIZARD' button and a 'VISA NEWS' button. Below this is a table with columns for 'Country', 'Type of Visa', 'Validity', and 'Comments'. The table lists countries like Afghanistan, Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Cayman Islands, Central African Republic, Chad, Chile, China, Colombia, Costa Rica, Cote d'Ivoire, Czech Republic, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Korea, Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Lesotho, Liberia, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, North Macedonia, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, South Korea, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Taiwan, Tanzania, Thailand, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Venezuela, Vietnam, West Bank, Yemen, Zambia, and Zimbabwe.

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### QUESTION 5

From the date the petition is submitted, immigration processes can take \_\_\_\_\_ to complete adjudication:

- a) Several weeks
- b) Several months
- c) Several years
- d) An indefinite amount of time
- e) Both c. and d.

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### Simple Petition Process




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### Adjustment of Status Process

Reported processing times for field office range from 14.5 months (NM) to 49 months (MD)

Chicago Field Office reporting 17.5 months

Some interviews will be waived




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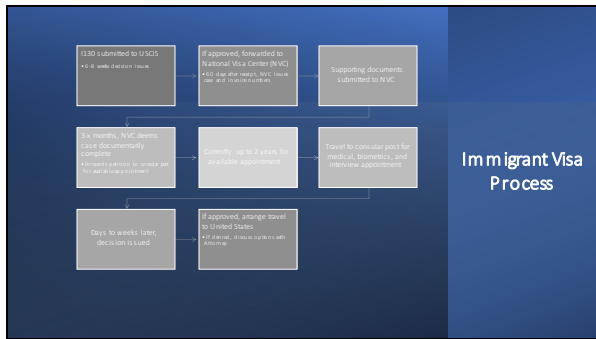
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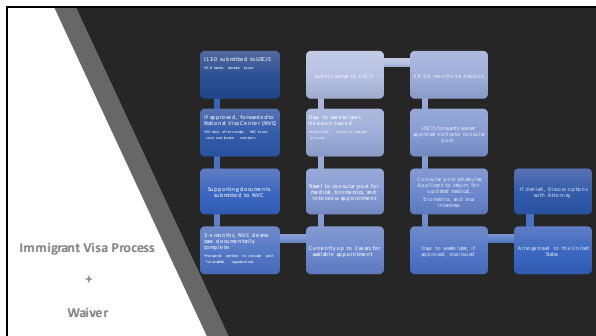
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**QUESTION 6**

Su Iaiman entered the United States as a student and remained in Illinois after his stay expired. He has since married a U.S. legal permanent resident who will file a petition on his behalf. Will he adjust status in the United States or at a consular post abroad?

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Even if non-citizen is present in the United States, may only adjust status to permanent resident if:

- Petitioned by immediate relative
  - Currently in valid status
  - Visa is currently available in their category
  - Not otherwise inadmissible
- 245i eligible
  - Pre January 14, 1998 petitions and
  - Post January 14, 1998 petitions

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Even after qualifying based on family relationship, status as crime victim, employee, investor, etc., may still be denied lawful US status based on one (or several) grounds of inadmissibility

- Health
- **Crimes**
- National security
- Public charge
- Fraud or misrepresentation
- Past immigration law violations
- Other miscellaneous grounds of inadmissibility

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- Arrests/convictions do NOT automatically disqualify non-citizen from an immigration benefit
- Thorough history MUST be taken
  - INCLUDING arrests/convictions OUTSIDE the United States
- Tools beyond Client reported history
  - State and FBI fingerprint search
  - CBIM/FOIA
- For immigration purposes, a plea of guilty, even if it avoids jail time, is a conviction
- Periods of suspended jail time are counted for purposes of immigration law and can impact a non-citizen where eligibility for a benefit is conditioned on having served less than a specific amount of jail time for any given conviction or combination of convictions
- Where adjudication of guilt is withheld (e.g. pre-trial diversion, boot-camp, alcohol and drug classes, anger management classes), a disposition can still qualify as a conviction if the non-citizen admitted sufficient facts to warrant a finding of guilt, and the judge has ordered some form of punishment, penalty, or restraint on liberty to be imposed.

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**QUESTION 7**

Madeleine is attending her naturalization interview. She met with the attorney when consulting to open the case, at the time forms and documents were prepared for submission, and before the interview to review her application and prepare for possible questions from the officer. Based on the history Madeleine provided throughout the case, it is a straightforward petition.

At the interview, the officer issues a request for evidence for Madeleine's past marijuana possession conviction.

When discussing the request with her attorney, Madeleine discloses an arrest and charge of possession of marijuana by Rolling Meadows police in 2016 to which she pled guilty. The conviction was expunged in 2019, so there is no conviction on her record and she had not disclosed it as such. Is Madeleine right?

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Many non-citizens believe (or are told) about crimes

Crime happened in another country, so it does not count	Crime happened so long ago it has been erased from record
Records were expunged/sealed and there is no record of crime	Marijuana legalized in non-citizen's state, so arrest/conviction has no bearing on immigration petition

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<p><b>Immigrants are illegally present in the United States</b></p> <ul style="list-style-type: none"> <li>Most immigrants were admitted as part of the visa process into the United States</li> <li>Although some immigrants entered the United States without inspection, many have fallen out of status or "aged out" of a family visa benefit.</li> </ul>	<p><b>Immigrants are among the largest recipients of public benefits</b></p> <ul style="list-style-type: none"> <li>Undocumented non-citizens do not qualify for most public benefits</li> <li>Those who qualify for public benefits use them at lesser rates than other people present in the United States</li> <li>Non-citizens lawfully present in the United States as legal permanent residents are ineligible for many public benefits for the first five years of their lawful status</li> </ul>	<p><b>The United States has the most accessible and navigable immigration policy</b></p> <ul style="list-style-type: none"> <li>The United States' inflow of immigrants is below that of most industrialized nations in the Organisation for Economic Cooperation and Development</li> </ul>
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