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Provisional Extreme Hardship Waiver is Not Yet in Effect

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Not too long ago, the U.S. Citizenship and Immigration Services (USCIS) has made a proposed change to allow certain immediate relatives (spouse, parent and/or children of a US citizen) who can demonstrate the required extreme hardships to apply for a provisional extreme hardship waiver for unlawful presence prior to departing the United States of America (US). The provisional extreme hardship waiver for unlawful presence, if eventually implemented, will reduce separation of many families.

Extreme Hardship Waivers

Foreign nationals or non-U.S. citizens (including green card holders) with certain histories may need waivers (such as I-601 and/or other waivers) OR other filings to be allowed to enter, remain or return to the U.S. These certain histories include, but are not limited to: (a) commission of certain crime, or possible commission of misrepresentation/fraud to obtain or attempt to obtain immigration benefits in or to the U.S.; (b) certain medical conditions; (c) certain period(s) of illegal presence in the U.S.; (d) abandonment (intentional/unintentional) of green card; and/or (e) certain removal/deportation experience within the U.S. immigration law.

At present, the wait-time for an I-601 extreme hardship waiver varies widely. As a result, family separation is often lengthy and uncertain, and for the unfortunate ones, permanent.

Proposed Provisional Waiver Procedures Are Not Effective Yet

The provisional extreme hardship waiver for unlawful presence procedures are not yet in effect until the USCIS publishes a final rule in the Federal Register specifying the effective date, which may be the end of this year. Prior to it becoming effective, any applications to the USCIS for provisional waivers for unlawful presence will be rejected.

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We represent employers, and individuals and their families in green card and work visa matters in U.S. immigration law. We also have a focus on self-petition green card cases such as extraordinary ability and national interest waiver.

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