

Family Based Immigration Petitions (Form I-130)

If you are a lawful permanent resident and your spouse, and/or child(ren) are included in an I-130 petition you filed, they will be considered valid petitioners for immediate relative status even after your death. As such, they are eligible for deferred action, advance parole, and/or work authorization.

If your spouse or child(ren) are **not** beneficiaries of an I-130 petition, they (and your parents) may self-petition for such classification provided:

- ✓ You served honorably in active duty status in the Armed Forces of the United States.
- ✓ You died as a result of injury or disease incurred in or aggravated by combat.
- ✓ You were granted posthumous citizenship.
- ✓ They file Form I-360 within two years from the date you were granted posthumous citizenship.

NOTE: When filing the Form I-360, it is important to check box K in Part 2 of the form and write “**PUBLIC LAW 108-136.**”

Posthumous Citizenship

There is a provision for granting posthumous citizenship to members of the Armed Forces.

A request for posthumous citizenship can be made by the next of kin, the Secretary of Defense, or his designee provided:

- ✓ The request is made no later than two years after the person's death. If the death occurred prior to November 24, 2003, the request must be made no later than November 24, 2005.

- ✓ The request is accompanied by documentation provided by the military that you served in active duty and died in combat.

If the request for posthumous citizenship is approved, the Director of Citizenship and Immigration Services will send the next of kin a document which acknowledges you as a citizen of the United States at the time of your death.

CIS Resources

If you would like to learn more about the application process, please visit us at our website at

<http://www.uscis.gov>

You can download forms online by clicking “Immigration Forms, Fees, and Fingerprints” located at the left of the screen. You can also call the USCIS Form Line at 1-800-870-3676.

To find the district office closest to your location, click on “Service Field Office Addresses and Information” also located to the left of the screen.



Survivor Benefits for
Non-Citizen Relatives
of Military Personnel
Office of Citizenship



U.S. Citizenship
and Immigration
Services

Posthumous Benefits to Surviving Spouses, Children, and Parents

As a member of the Armed Forces serving in active-duty status, it is important that you understand the immigration benefits that may be available to your immediate relatives should you die as a result of injury or disease incurred in combat.

Generally, service in the Armed Forces means service in one of the following branches: Army, Navy, Marine Corps, Air Force, Coast Guard, certain reserve components of the National Guard, and selected reserve of the Ready Reserve.

Surviving family members seeking immigration benefits are given special consideration in the processing of their application for permanent residence or for classification as an immediate relative.

This brochure provides you with some information that will assist you in navigating through these provisions of the law and, in addition, will provide you with additional resources to learn more.

If You Are a Citizen

If you are a citizen of the United States, your spouse, children, and parents will be treated as your immediate relatives for up to two years after your death.

Your Spouse:

Your spouse will be considered your immediate relative for immigration purposes provided:

- ✓ You served honorably in active-duty status in the Armed Forces of the United States.
- ✓ You died as a result of injury or disease incurred in or aggravated by combat.
- ✓ You were not legally separated from your spouse at the time of your death.
- ✓ Your spouse files a petition for an immigration benefit (Form I-360) within two years of your death.
- ✓ Your spouse does not remarry prior to obtaining lawful permanent residence based on his/her relationship to you as a U.S. Citizen.

When filing the Form I-360, it is important to check box K in Part 2 of the form and write **"PUBLIC LAW 108-136."**

Your Children and Parents:

Your children and parents will be considered your immediate relatives for immigration purposes provided:

- ✓ You served honorably in active-duty status in the Armed Forces of the United States.
- ✓ You died as a result of injury or disease incurred in or aggravated by combat.

- ✓ Your child or parent files for an immigration benefit (Form I-360) within two years of your death.

When filing the Form I-360, it is important to check box K in Part 2 of the form and write **"PUBLIC LAW 108-136."**

NOTE: Your parents will benefit from this process irrespective of your age at the time of your death. Your child(ren) will remain an immediate relative even if s/he gets married or turns 21 years of age.

If You Are Not a Citizen

Adjustment of Status Applications (Form I-485)

If your spouse, child(ren), or parents applied for adjustment of status based on their relationship to you prior to your death, this application will be adjudicated as if your death did not occur provided:

- ✓ You served honorably in active duty status in the Armed Forces of the United States.



- ✓ You died as a result of injury or disease incurred in or aggravated by combat.
- ✓ You were granted posthumous citizenship.
- ✓ Your spouse, child(ren) or parents write a letter to the district office having jurisdiction over their case, **or** they indicate at the time of the interview that they are eligible for adjustment under Section 1703 of Public Law 108-136 and they provide proof of eligibility.

