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Practice Pointer: Applying for the Keeping Families Together Parole-in-Place Program

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AILA provides this resource for attorneys, representatives and legal service providers to use when preparing Form I-131F applications for their clients. This document is not intended to serve as legal advice and it is recommended that individuals seeking to apply for this new program first consult with competent legal counsel. If you do not currently have an attorney, you may find a qualified, licensed attorney in good standing through www.ailalawyer.com by selecting “Parole in Place”.

Additional resources are available for AILA members at <https://www.aila.org/library/featured-issue-executive-actions-to-promote-family-unity-and-help-dreamers>.

Attorneys who are not yet AILA members can join here: <https://www.aila.org/join>

On August 20, 2024, DHS formally published a [Federal Register Notice](#)¹ (FRN) detailing the eligibility requirements for the Keeping Families Together Parole in Place (PIP) process and began accepting applications on that date. The FRN, along with [Frequently Asked Questions](#) published by USCIS, provide important details on the substantive and procedural requirements of the PIP process.

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¹ 89 FR 67459 (August 20, 2024).

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Application Process

- USCIS has created a new Form I-131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens, for the Keeping Families Together PIP program.
 - A [Filing Guide for Form I-131F](#) provides instructions on how to complete the form.
- Submissions will only be accepted through online filing via [myUSCIS](#). Therefore, no paper applications will be accepted.
 - Keeping Families Together Parole-in-Place/Form I-131F applications will be available through both client and attorney myUSCIS accounts.
 - If an applicant files on their own behalf and later requests to be represented by an attorney, the attorney can electronically file a Form G-28 for that case.
- Each applicant must submit their own Form I-131F with a \$580 filing fee.
 - Fee waivers are not available for Form I-131F.
- Applicants will be required to submit biometrics and undergo background checks.
 - Biometrics already on file with USCIS can be reused, so long as they remain valid and adhere to current standards. Biometrics data collected for applications within 15 months of the processing date may be reused. If USCIS decides to reuse biometrics for the PIP application, USCIS will advise the applicant via a notice stating so.
 - USCIS has emphasized the importance of ensuring that the applicant’s name and other identification information exactly matches information from any previous filings/biometrics.
- Interviews may be required as part of the adjudication process but are not expected as a matter of course.
- Given the discretionary nature of the parole program, USCIS may deny an application without an RFE or NOID.
- USCIS will not accept concurrent filings with the new form. An applicant who wishes to apply for employment authorization or adjustment of status will need to wait for PIP approval.
 - An applicant may submit a standalone Form I-130 petition either before or after the PIP filing.

General Eligibility

There are two groups of eligible applicants, namely the spouses and stepchildren of U.S. citizens. Applications will be considered on a case-by-case basis for a discretionary grant of parole-in-place.

Eligibility Requirements for Spouses of U.S. Citizens:

- Must be present in the United States without admission or parole;
- Must have been continuously present in the United States for at least 10 years as of June 17, 2024; and
- Must have a legally valid marriage to a U.S. citizen as of June 17, 2024.
 - The U.S. citizen spouse must have been a U.S. citizen on or before June 17, 2024. If the spouse was a Lawful Permanent Resident on or after this date, and subsequently becomes a U.S. citizen, the non-citizen is not eligible to apply for PIP.
 - Common law spouses may also apply for PIP, so long as the marriage took place on or before June 17, 2024.
 - A marriage will be recognized as valid for the purposes of parole in place if it is legally valid in the place of celebration. However, there are circumstances where USCIS may not recognize a marriage as valid for purposes of parole in place, including, but not limited to:
 - Civil unions, domestic partnerships, or other relationships that do not confer the same legal rights and responsibilities to the parties as in a marriage recognized by a civil authority.
 - Marriages that are contrary to public policy in the United States.
 - This includes polygamous marriages and marriages involving minors, or marriages involving close relatives.
 - Marriages where one or both parties to the marriage are not legally free to marry or have not given consent to the marriage.
 - An applicant may be eligible to apply for PIP, even if their U.S. citizen spouse is deceased, as long as the marriage occurred on or before June 17, 2024, and the applicant has not remarried.²
- In addition, individuals must not have a disqualifying criminal history or otherwise constitute a threat to national security, public safety, or border security and should otherwise merit a favorable exercise of discretion (See below section on Exercise of Discretion).

² To be eligible to adjust, a widow must have had an I-130 petition filed before the U.S. citizen spouse died or filed an I-360 petition within 2 years for the U.S. citizen spouse's death.

Eligibility Requirements for Stepchildren of U.S. Citizens

- Eligible stepchildren may apply separately from their noncitizen parents.
- Must be present in the United States without admission or parole.
- Have a qualifying stepchild relationship with a U.S. citizen parent, as defined by the INA, as of June 17, 2024.³
 - Stepchildren must be unmarried and under the age of 21 as of June 17, 2024.
 - USCIS will recognize a child’s age based on the Child Status Protection Act (CSPA). According to footnote 142 of the FRN, “an immediate relative child’s age is frozen at the time their Form I-130 or Form I-360 is filed in order to protect them from aging out before being able to adjust status.”
 - See INA sec. 201(f), 8 U.S.C. 1151(f).
 - The child’s noncitizen parent and U.S. citizen stepparent need to have been married before the child’s 18th birthday.
 - If the marriage between the noncitizen parent and U.S. citizen spouse is terminated, either through divorce or death of one or both parents, the stepchild may still be eligible for parole in place if a valid marriage was entered into on or before June 17, 2024 and all other criteria are met.
- Stepchildren are not subject to the 10-year presence requirement. However, they must have been present in the U.S. as of June 17, 2024 and demonstrate continuous physical presence from that date until the date of filing.
- It is **not** required that they demonstrate that their noncitizen parent satisfies the 10-year presence requirement.
- In addition, all individuals, including stepchildren, must not have a disqualifying criminal history or otherwise constitute a threat to national security, public safety, or border security and they should otherwise merit a favorable exercise of discretion.

Disqualifying Criminal History or Acts that Constitute a Threat to National Security, Public Safety or Border Security

Applicants may be ineligible for PIP if they have a disqualifying criminal history or otherwise constitute a threat to national security, public safety, or border security. Certain crimes will

³ A stepchild (i.e. a child of one’s spouse by a previous marriage) is defined in INA § 101(b)(1)(B) as “a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred.”

be automatically disqualifying, while other crimes create a presumption of ineligibility that may be overcome with positive discretionary factors.

The following crimes are automatically disqualifying:

- All pending criminal charges are disqualifying, regardless of the nature of the charges, until they are resolved.
- All felony charges, including felony DUIs are disqualifying.
- Certain crimes regardless of whether they are a felony are disqualifying:
 - Murder, torture, rape, or sexual abuse;
 - Offenses involving firearms, explosive materials, or destructive devices;
 - Offenses relating to peonage, slavery, involuntary servitude, and trafficking in persons;
 - Aggravated assault;
 - Offenses relating to child pornography, sexual abuse or exploitation of minors, or solicitation of minors;
 - Domestic violence, stalking, child abuse, child neglect, or child abandonment; and
 - Controlled substance offenses (other than simple possession of 30 grams or less of marijuana).

All other criminal convictions, excluding minor traffic offenses, will result in a rebuttable presumption of ineligibility for PIP. These crimes may be rebutted on a case-by-case basis in consideration of the seriousness of the crime. This may include convictions that were dismissed, expunged, vacated, pardoned, deferred, annulled, invalidated, withheld, or sealed, even if they may no longer constitute convictions for immigration purposes. Factors that will be considered to overcome ineligibility include:

- Age of the conviction(s) (remoteness in time);
- Age of the applicant at the time of the offense and conviction, including whether the requestor was a juvenile at the time of the offense;
- Sentence or penalty imposed;
- Evidence of subsequent rehabilitation;
- Nature of the conviction, including whether the conduct at issue was non-violent;
- Whether the conviction was an isolated offense when considered against the rest of the requestor's history (including consideration of whether multiple criminal convictions were on the same date and may have arisen out of the same act);

- Existence of a mental or physical condition that may have contributed to the criminal conduct;
- Applicant’s particular vulnerability, including any physical or mental condition requiring treatment or care in the United States;
- Whether the applicant was a victim of or witness to criminal activity, including domestic violence, or civil rights violation or labor rights violation under investigation by a labor agency, particularly if related to the criminal conduct at issue;
- Applicant’s status, or that of their U.S. citizen spouse, as a current or former member of the U.S. military;
- Role as the primary caregiver for a U.S. citizen child or elderly parent or in-law;
- Evidence of good character, such as property ties, business ties, or value and service to the community;
- Length of presence in the United States;
- Role as a caregiver for an individual with disabilities, including U.S. citizen in-laws or siblings;
- Impact on other family members, including family members who are U.S. citizens and LPRs;
- Whether the conviction was expunged or vacated under state law, the reasons for the expungement or vacatur, including the nature of the underlying offense; or
- Other factors USCIS considers relevant in its exercise of discretion.

Eligibility for Adjustment of Status

In the initial June 18, 2024, announcement of the PIP program, it was noted that to be eligible for PIP, the individual must be “otherwise eligible to adjust status.” However, the FRN and Form I-131F no longer explicitly state this requirement as a prerequisite to eligibility and specifically note that a full inadmissibility screening will only occur during the Form I-485 adjudication. Background checks will be conducted to determine whether an applicant has criminal and/or immigration related issues that may affect eligibility for adjustment of status. As noted above, while certain criminal inadmissibility and prior status history issues, such as an EWI after an order of exclusion, deportation, or removal, categorically disqualify an individual for PIP, other potential inadmissibility issues will not be fully considered until the adjustment of status phase.

In its FAQ, USCIS states “requestors do not need to demonstrate that they are not inadmissible as part of this process. However, USCIS may consider facts and circumstances that may give rise to one’s inadmissibility in making the case-by-case discretionary parole

determination, and requestors who subsequently apply for adjustment of status will be evaluated for admissibility at that stage.” The FAQ further notes that an individual who is granted parole may not be adjustable due to certain grounds of inadmissibility, including those under INA 212(a)(9)(B) and (C).

It is important to note that parole will be granted for a period of up to 3 years and DHS is not considering a reparole process at this time. Therefore, an applicant who may not be eligible for adjustment of status may have to consider the consequences of parole being terminated upon their ability to remain and work in the United States.

Eligibility for Individuals in Removal Proceedings or with a Removal Order

Individuals who are currently in removal proceedings, including those whose cases were administratively closed or are pending appeal before the BIA, can apply for PIP if otherwise eligible. After parole is granted, the person will need to take steps to have the removal proceedings re-calendared, terminated or dismissed in order to apply for adjustment of status. Those individuals should contact their local ICE Office of the Principal Legal Advisor (OPLA) to seek their agreement with a motion.

People with unexecuted final removal orders (including someone who failed to comply with a voluntary departure) may apply for PIP but are considered presumptively ineligible. Such persons may be able to overcome that presumption of ineligibility by presenting facts or evidence favoring a grant of parole. In evaluating whether the presumption has been overcome, USCIS will consider circumstances related to the removal order (such as lack of counsel, age at the time the order was issued, or the adequacy of notice) and whether there are extenuating circumstances or mitigating factors (such as language access issues, status as a victim of violence, or lack of resources). If USCIS grants the parole request, the individual should consider filing a motion to reopen the case with EOIR and seek ICE OPLA's agreement.

People who were removed or departed the United States under an outstanding order of exclusion, deportation, or removal and subsequently reentered without being admitted or paroled are not eligible for PIP.

As noted previously, there are no inadmissibility screening questions on the new form, but background checks will be conducted for an applicant's criminal and immigration history. USCIS does not anticipate that applicant information will be shared for enforcement purposes, unless the individual is a national security threat or falls into an enforcement priority category.

Exercise of Discretion

Even if an applicant meets all eligibility criteria, USCIS will nevertheless examine the totality of the circumstances to determine whether the applicant merits a grant of parole in place as a matter of discretion, based on a case-by-case analysis. The factors for which applicants may provide evidence to establish that they merit a favorable exercise of discretion include, but are not limited by, the following non-exhaustive list:

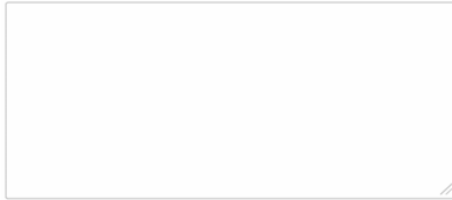
- Community ties;
- Advanced or young age;
- Length of presence in the United States;
- Status as a parent or caregiver of a U.S. citizen child or elderly parent or in-law;
- Status as a caregiver for an individual with disabilities, including U.S. citizen in-laws or siblings;
- Physical or mental condition requiring care or treatment in the United States;
- Status as a victim of or witness to a crime or civil rights violation, or labor rights violation under investigation by a labor agency;
- Impact on other family members, including family members who are U.S. citizens and Lawful Permanent Residents;
- Status, or that of their U.S. citizen spouse, as a current or former member of the U.S. military; or
- Other positive factors about which the requestor wishes to provide information.

Form I-131F includes the following item which applicants must complete to explain why they merit a favorable exercise of discretion. Note that the explanation must begin directly on the form (at least the first 750 characters) and that it may be continued in a separate document that may be uploaded at the “Additional Evidence You Want to Provide” section of the application.

Explain how you qualify for parole in place, including information regarding the significant public benefit or urgent humanitarian reasons warranting a grant of parole, and why you believe you merit a favorable exercise of discretion.

You must explain how you qualify for parole in place as a noncitizen spouse or stepchild of a U.S. citizen in the space provided, including any specific factors that support your request or may be considered in overcoming a rebuttable presumption of ineligibility. Include copies of any supporting documents or evidence you want USCIS to consider. USCIS will use the information provided in your parole request and supporting evidence, along with the results of background and security checks and any other relevant information available to or requested by USCIS, to determine whether parole is warranted based on a significant public benefit or urgent humanitarian reasons and whether you merit a favorable exercise of discretion.

Provide an explanation. Your answer must be at least 750 characters. *



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Additional Evidence You Want To Provide

You can provide any additional evidence demonstrating the significant public benefit or urgent humanitarian reasons warranting a grant of parole and evidence of any additional favorable discretionary factors that you would like us to consider, including any information that may be considered in overcoming a rebuttable presumption of ineligibility.

File requirements

- Clear and readable
- Accepted file formats: JPG, JPEG, PDF, TIF or TIFF
- No encrypted or password-protected files
- If your documents are in a foreign language, upload a full English translation and the translator's certification with each original document.
- Upload no more than five documents at a time
- Accepted file name characters: English letters, numbers, spaces, periods, hyphens, underscores, and parentheses
- Maximum size: 12MB per file

[Choose](#) or drop files here to upload

Evidence

The burden is on the applicant to demonstrate by a preponderance of the evidence that they meet the eligibility criteria, and that parole is warranted as a matter of discretion for urgent humanitarian reasons or significant public benefit.

Documenting Physical Presence

PIP applicants must establish continual physical presence in the United States since June 17, 2014, for spouses of U.S. citizens and since June 17, 2024, for stepchildren of U.S. citizens. The burden is on the applicant to demonstrate by a preponderance of the evidence that they meet the eligibility criteria, and that parole is warranted as a matter of discretion for urgent humanitarian reasons or significant public benefit.

Applicants should provide documentation to account for as much of the 10-year continuous presence period as reasonably possible. There is no requirement that every day or month of that period be accounted for through direct evidence. USCIS will evaluate the totality of the evidence to determine whether eligibility has been established by a preponderance of evidence.

In an FAQ, USCIS clarified that a “brief, casual, and innocent absence” from the United States will not interrupt the continuous physical presence period if:

1. The absence was short and reasonably calculated to accomplish the purpose for the absence;
2. The absence was not because of a departure under an order of exclusion, deportation, or removal;
3. The absence was not because of an order of voluntary departure, or an administrative grant of voluntary departure before you were placed in exclusion, deportation, or removal proceedings;
4. The purpose of the absence and the applicant’s actions while outside the United States were not contrary to law; and
5. The applicant is not a threat to border security (apprehended while attempting to unlawfully enter the United States on/after Nov. 1, 2020, or apprehended in the United States after unlawfully entering after Nov. 1, 2020). See DHS’s Sept. 30, 2021, [Guidelines for the Enforcement of Civil Immigration Law \(PDF\)](#).

USCIS notes that while parole in place may be granted even with a brief, casual and innocent absence, an individual may still be subject to INA 212(a)(9)(B) or (C) and be ineligible for adjustment of status.

Acceptable documents evidencing physical presence may include:

- Any Immigration and Naturalization Service (INS) or Department of Homeland Security (DHS) document listing a date of entry, such as Form I-862, Notice to Appear.

- Rent receipts or utility bills;
- School records (letters, report cards, etc.);
- Hospital or medical records;
- Attestations to the applicant’s residence by religious entities, unions, or other organizations, identifying you by name;
- Official records from a religious entity confirming participation in a religious ceremony;
- Money order receipts for money sent into or out of the United States;
- Birth certificates of children born in the United States;
- Dated bank transactions;
- Automobile license receipts, title, or registration;
- Deeds, mortgages, or rental agreement contracts;
- Insurance policies; or
- Tax returns or tax receipts.

For eligible stepchildren, evidence of eligibility may include:

- Evidence of the child’s relationship to the noncitizen parent, such as a birth certificate or adoption decree;
- Evidence of the noncitizen parent’s legally valid marriage to a U.S. citizen as of June 17, 2024, such as a marriage certificate; and
- Evidence of the child’s presence in the United States as of June 17, 2024

While a single document may suffice in limited circumstances, numerous documents will often be required to establish physical presence. Applicants should provide documentation to account for as much of the period as reasonably possible, but there is no requirement that applicants document every day or month through direct evidence.

- USCIS will evaluate the totality of the evidence to determine whether the applicant has established, by a preponderance of the evidence, continuous physical presence for the required period of time.
- If USCIS believes additional evidence is required, a Request for Evidence will likely be issued.

Adjudication Timeline and Other Considerations

USCIS has stated that they are expecting a high volume of applications and will have staffing and resourcing to be prepared. The USCIS Service Center Operations Directorate (SCOPS) will be adjudicating these cases. Currently, there are no estimated processing times for the new form.

As the parole application process is highly discretionary, USCIS may issue a denial without a request for evidence or a notice of intent to deny. There is no administrative appeal from a denial. If granted, parole will generally be given for a period of up to three years. USCIS may impose conditions on a grant of parole and may request verification of the noncitizen's compliance with any such condition. Violation of any condition may lead to termination of parole. Parole may be terminated at any time upon notice at DHS's discretion pursuant to 8 CFR 212.5(e)(2)(i). DHS does not contemplate having a reparole process.

If an application is approved, the applicant will be issued a Form I-797 Approval Notice and a Form I-94. Thereafter, the applicant may:

- apply for employment authorization pursuant to 8 CFR 274a.12(c)(11) and may be eligible for a fee waiver if filed on paper;
- apply for adjustment of status and related employment authorization 8 CFR 274a.12(c)(9); and
- apply for Advance Parole. It is important to note that being granted parole in place does not authorize travel outside of the United States. Attorneys should carefully assess any risks that may be associated with travel on advance parole by an applicant granted PIP.

Impact on other application benefit requests

- Form I-130 – An applicant can submit an I-130 petition at any time.
- Form I-601A – USCIS has reached out to applicants with pending Form I-601A applications to let them know that they *may* be eligible for parole in place. USCIS may prioritize the adjudication of Form I-131F applications for those who have previously filed Form I-601A.
 - USCIS has determined that prioritizing this subset of potential applicants will likely have a positive impact on the volume of pending Forms I-601A and enable these applicants to avoid the financial and personal challenges that may result from consular processing.
 - For Form I-131F applications to be prioritized, all biographic information on Form I-131F must exactly match the information provided on Form I-601A.
- DACA and TPS – Current DACA recipients or TPS beneficiaries may request parole in place if the applicant is currently present in the United States without admission or parole and is otherwise eligible.
 - It is important to note that if the applicant previously departed the United States and re-entered with a TPS Travel Authorization Document or an Advance Parole Document, the applicant has already been admitted or paroled into the United States and therefore is not eligible for PIP.

- Additionally, if an applicant is in a valid period of parole at the time the DACA renewal request is adjudicated, USCIS will deny the DACA renewal request as a matter of discretion.

AILA is monitoring the implementation of the Keeping Families Together Parole in Place Program. If you experience any problematic issues during the application process, please email reports@aila.org.