

BENEFITING FROM STATESIDE PROCESSING OF PROVISIONAL WAIVERS

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It has been over four months since the Citizen and Immigration Service, (CIS), changed procedures to process pardons (waivers) for unlawfully present persons required to consular process to immigrate. Before these changes, unlawfully present intending immigrants had to apply to waive their past unlawful presence after departing the United States to consular process. Waivers of unlawful presence generally take four to six months to decide, causing extreme hardship to immigrant families.

Now, spouses and adult sons and daughters of US citizens can apply for “provisional waivers” of their unlawful presence prior to departing the United States. When approved, in most cases, consular processing will take only a week, eliminating the unnecessary suffering caused by prolonged family separation.

The benefit of provisional waivers is not available to someone whose consular interview was scheduled prior to January 4, 2013. Those intending immigrants, who must consular process, either proceed outside the United States to apply for their waivers or forfeit their case.

Yet, such forfeit is temporary. The consulate will close an intending immigrant’s file a year after not appearing for an interview. During this period of time, a new immigrant petition can be filed, and the approval of the following immigrant petition is followed by consular processing where the intending immigrant can take advantage of stateside provisional waiver processing, keeping immigrant families together. This makes the delay worth the wait.