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In the 601 waiver process extreme hardship to a “qualifying relative” must be established.

Qualifying relatives are citizen or permanent resident spouses or parents of the intending immigrant. Many clients come to us trying to apply for the waiver because they have US citizen children. But note, only hardship to the spouse or parents applies because children are not “qualifying relatives” for purposes of this type of waiver (In other scenarios they are).

Who Can Use the New 601A Waiver?

The waiver applicant must be either a child, son or daughter or spouse of a U.S. citizen or a lawful permanent resident. Note carefully that the waiver applicant cannot be the parent of a U.S. citizen or of a lawful permanent resident.

It is important to note that the qualifying relative for hardship purposes and the qualifying relative need not be the same person. For example, where an undocumented immigrant’s spouse is a permanent resident, and the couple have a daughter who is 25 years old, the daughter will file the petition for the mother, but as explained above the child cannot be the qualifying relative. In this case the spouse is the qualifying relative. By using both wife and child, the immigration processing time can be greatly reduced.