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Original page: [I am a U.S. Citizen married to an illegal Brazilian. Can I apply for the 601A waiver?](http://www.601waiverlawyers.com/page-552.I-am-a-US-Citizen-married-to-an-illegal-Brazilian-Can-I-apply-for-the-601A-waiver.html)

Please wait

I am a U.S. Citizen married to an undocumented immigrant. Can I apply for the 601A waiver?

Under current law an undocumented spouse that entered illegally or remained past the visa date (unless an immediate relative) may not apply for adjustment of status and become lawful permanent resident unless they return to the their home country and reenters properly.

The big drawback with this scenario occurs when the undocumented resident remained in the U.S. illegally for any period greater than six months. In such a case, they are subject to the 3/10-year bar to re-entry. This means that they will have to remain abroad, anywhere between three to ten years, unless the U.S. citizens is granted a waiver. The catch is that such a waiver (I-601) can only be filed after the undocumented spouse leaves the U.S.

The processing time for these waivers can take over a year; a long time to separate families The provisional unlawful presence waiver process allows immediate relatives who only need a waiver of inadmissibility for unlawful presence to apply for that waiver in the United States before they depart for their immigrant visa interview.

This new 601A waiver was developed to shorten the time that U.S. citizens are separated from their immediate relatives while those family members are obtaining immigrant visas to become lawful permanent residents of the United States. If the waiver were approved, the immigrant spouse would be given a temporary waiver but still would have to return to his country to apply for the permanent resident visa (green card) to return to the United States.

Usually the intending immigrant can return to the U.S. in about 3 weeks.