

# Green Card Through Marriage: Process Guide

A comprehensive guide from EB5 Attorneys

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A U.S. citizen or lawful permanent resident can sponsor their spouse for a green card through marriage. For spouses of U.S. citizens, there is no visa backlog because the category is "immediate relative" under INA section 201(b)(2)(A)(i). The process involves filing Form I 130 (Petition for Alien Relative), followed by either adjustment of status (Form I 485) if the spouse is in the United States or consular processing (Form DS 260) if abroad. Total government filing fees run approximately \$2,700 to \$3,200, and processing typically takes 12 to 24 months from petition to green card.

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## Eligibility: Who Can Sponsor a Spouse

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The sponsoring spouse (the petitioner) must be either a U.S. citizen or a lawful permanent resident. The marriage must be legally valid in the jurisdiction where it was performed and recognized under U.S. federal law. USCIS does not require that the marriage conform to any particular cultural or religious format, but it must be a bona fide marriage entered into in good faith, not solely for immigration purposes (INA section 216(c)(1)(A)).

U.S. citizen petitioners confer "immediate relative" status on their spouses, which means no visa number limit and no priority date queue. LPR petitioners sponsor their spouses under the F2A family preference category, which is numerically limited and has historically experienced backlogs ranging from a few months to several years depending on the beneficiary's country of birth.

Same sex marriages are fully recognized for immigration purposes following the Supreme Court's decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015), and USCIS policy updates following *United States v. Windsor*, 570 U.S. 744 (2013). Proxy marriages (where one or both parties were not physically present) may be recognized if valid under the law of the jurisdiction where performed, provided the marriage was later consummated.

Common law marriages are recognized if valid under the law of the state or country where the common law marriage was established. The petitioner must provide evidence of the marriage's legal validity under that jurisdiction's requirements.

## Step 1: Filing Form I 130, Petition for Alien Relative

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The process begins when the U.S. citizen or LPR petitioner files Form I 130 with USCIS. The filing fee is \$535 as of April 2026. The petition must include proof of the petitioner's U.S. citizenship or LPR status (passport, naturalization certificate, or green card), a certified copy of the marriage certificate, passport photos of both spouses, and evidence that any prior marriages were legally terminated.

USCIS uses the I 130 to verify the legal relationship between the petitioner and beneficiary. Processing times vary by service center, typically 5 to 12 months for immediate relative petitions. During this period, USCIS may issue a Request for Evidence (RFE) if the initial submission was incomplete or if the officer has questions about the bona fides of the marriage.

Concurrent filing is available in many cases: if the beneficiary is in the United States and the petitioner is a U.S. citizen, the I 130 and I 485 can be filed simultaneously, which saves months of processing time. Concurrent filing also allows the beneficiary to apply for work authorization (Form I 765) and travel permission (Form I 131) while the case is pending.

## Proving a Bona Fide Marriage

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USCIS scrutinizes marriage based petitions for fraud because marriage fraud has historically been one of the most common forms of immigration fraud (INA section 275(c)). The petitioner and beneficiary must demonstrate that the marriage was entered in good faith, not primarily for immigration benefit.

Strong evidence of a bona fide marriage includes: joint financial accounts (bank statements, credit cards); joint ownership or lease of property (deeds, rental agreements listing both names); combined insurance policies (health, auto, life); birth certificates of children born to the marriage; joint tax returns filed as married filing jointly; photographs of the couple together at various events and over time; correspondence between the spouses (letters, emails, messaging history); and affidavits from friends and family members attesting to the genuine nature of the relationship.

No single document is dispositive; USCIS looks at the totality of the evidence. Couples who married after a short relationship, who have a significant age difference, or who have limited shared financial history should compile especially thorough documentation. The interview stage provides an additional opportunity to demonstrate the marriage's genuineness through consistent, detailed answers from both spouses about their daily life, relationship history, and future plans.

## Step 2: Adjustment of Status (I 485) or Consular Processing

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After the I 130 is approved (or concurrently, for eligible cases), the beneficiary applies for permanent residence.

Adjustment of status is available when the beneficiary is physically present in the United States and was lawfully admitted or paroled (INA section 245(a)). The filing fee for I 485 is \$1,440 plus \$85 for biometrics as of April 2026. The package includes Form I 693 (medical exam by a USCIS designated civil surgeon), passport photos, civil documents, and Form I 864 (Affidavit of Support). The medical exam typically costs \$200 to \$500 depending on the provider and vaccination needs.

Consular processing is used when the beneficiary is abroad. After I 130 approval, the case transfers to the National Visa Center (NVC), which collects Form DS 260, the I 864, civil documents, and the immigrant visa fee (\$325). Once documentarily complete, the NVC schedules an interview at the appropriate U.S. embassy or consulate. The consular officer makes the final visa decision.

The I 864 Affidavit of Support requires the petitioner to demonstrate household income at or above 125% of the Federal Poverty Guidelines. For a household of two in 2026, this is approximately \$24,650. If the petitioner's income is below the threshold, a joint sponsor can supplement it.

## The Conditional Green Card and Form I 751

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If the marriage was less than two years old at the time the beneficiary was admitted as a permanent resident, the green card issued is conditional, valid for only two years (INA section 216). This applies regardless of how long the couple has been together or how genuine the marriage is; the two year threshold is calculated from the legal marriage date to the date of admission.

To remove conditions, both spouses must jointly file Form I 751 (Petition to Remove Conditions on Residence) during the 90 day window before the conditional green card expires. The filing fee is \$595 as of April 2026. Evidence submitted with the I 751 should update and supplement the bona fide marriage evidence originally submitted: continued joint finances, property, insurance, taxes, photos, and any children born during the conditional period.

If the marriage ends in divorce before the I 751 is filed, the conditional resident may request a waiver of the joint filing requirement under INA section 216(c)(4). Three waiver grounds exist: the marriage was entered in good faith but terminated (requires evidence of good faith entry and circumstances of the divorce); removal would result in extreme hardship to the conditional resident; or the conditional resident was subjected to battering or extreme cruelty during the marriage. Waivers are adjudicated on a case by case basis and require substantial supporting evidence.

Failure to file I 751 before the conditional period expires results in automatic termination of permanent resident status. USCIS may initiate removal proceedings. Late filing may be excused if the conditional resident can demonstrate extraordinary circumstances.

## Common Mistakes and How to Avoid Them

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Several errors recur in marriage based green card cases. Filing without sufficient bona fide evidence is the most common: couples submit the marriage certificate and little else, forcing USCIS to issue an RFE and delaying the case by months. Compile financial, residential, and social evidence before filing.

Inconsistent interview answers cause problems when each spouse provides conflicting details about their daily routine, how they met, or household arrangements. Prepare by reviewing the facts together, not by rehearsing scripted answers. USCIS officers are trained to detect both fraud and coaching.

Missing the I 751 deadline triggers automatic status termination. Set calendar reminders for the 90 day filing window. If divorce proceedings prevent joint filing, file the I 751 with a waiver request before the deadline rather than waiting for the divorce to finalize.

Failure to disclose prior marriages or immigration history is a material misrepresentation under INA section 212(a)(6)(C), which can permanently bar the beneficiary from receiving a green card. Disclose everything, even if embarrassing, and let your attorney advise on how to address it.

Inadequate income on the I 864 results in rejection. If the petitioner's income is below the threshold, arrange a joint sponsor before filing. Do not rely on the beneficiary's assets alone unless they meet the asset test (assets worth at least five times the difference between the petitioner's income and the poverty guideline threshold).

## Timeline: From Filing to Green Card

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For U.S. citizen petitioners filing concurrently (I 130 + I 485): The total timeline is typically 12 to 18 months. Biometrics appointment occurs 4 to 8 weeks after filing. EAD and advance parole (combo card) arrive in 2 to 5 months. The interview is scheduled 8 to 14 months after filing, depending on the field office backlog. Approval may be given at the interview or within weeks after.

For U.S. citizen petitioners using consular processing: I 130 processing takes 5 to 12 months. NVC processing and document collection takes 2 to 6 months. Interview scheduling depends on embassy wait times, ranging from 1 to 6 months after the case becomes documentarily complete. Total timeline: approximately 12 to 24 months.

For LPR petitioners: The F2A category has a visa backlog that adds waiting time. After I 130 approval, the beneficiary waits for a visa number to become available per the Visa Bulletin. As of April 2026, the F2A wait ranges from current (no wait) for some countries to two or three years for others. The adjustment or consular processing phase then adds another 6 to 12 months.

## Costs: Government Fees and Attorney Fees

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Government filing fees for a typical marriage based case (U.S. citizen petitioner, adjustment of status) total approximately \$2,060 to \$2,560 as of April 2026: I 130 (\$535), I 485 (\$1,440), biometrics (\$85), and I 751 conditional removal (\$595 when that phase arrives). Medical exam costs add \$200 to \$500. Passport photos, document copies, and translations add additional costs.

For consular processing, fees include I 130 (\$535), immigrant visa fee (\$325 per applicant), I 864 processing, and the USCIS immigrant fee (\$220 after visa issuance).

Attorney fees for marriage based cases vary by market and case complexity. Straightforward cases with a U.S. citizen petitioner and no complicating factors typically cost \$1,500 to \$4,000. Cases involving prior immigration violations, criminal history, I 751 waiver requests, or complex financial documentation may cost \$5,000 to \$10,000 or more. Some attorneys offer flat fee arrangements for the entire case; others charge separately for each phase (I 130, I 485, interview prep, I 751).

# Frequently Asked Questions

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## 1. Can I work while my marriage green card is pending?

If you filed for adjustment of status (I 485), you can apply for an Employment Authorization Document (EAD) concurrently using Form I 765. USCIS issues combo cards that combine work and travel authorization. Processing typically takes 2 to 5 months from filing. If you already have work authorization through another visa (H 1B, L 1), that remains valid independently.

## 2. What happens at the green card interview?

A USCIS officer interviews both spouses together (or in some cases separately). The officer verifies identities, reviews documents, asks questions about the relationship history and daily life, and assesses whether the marriage is bona fide. Questions typically cover how you met, wedding details, living arrangements, finances, and future plans. The officer may approve the case at the interview, request additional evidence, or schedule a follow up (known as a Stokes interview) if concerns arise.

## 3. My spouse entered the U.S. without inspection. Can they still get a green card?

Entry without inspection generally bars adjustment of status under INA section 245(a). However, if the beneficiary qualifies under INA section 245(i) (based on a petition or labor certification filed before April 30, 2001), they may adjust status by paying a \$1,000 penalty. Otherwise, consular processing may be necessary, but departing the U.S. after accruing unlawful presence triggers 3 or 10 year reentry bars under INA section 212(a)(9)(B). A provisional unlawful presence waiver (Form I 601A) may be available before departure for spouses of U.S. citizens. Attorney consultation is essential.

## 4. How long do I have to stay married after getting the green card?

There is no legal requirement to remain married after receiving a permanent green card. If your conditional green card was converted to a permanent (10 year) card through the I 751 process, divorce after that point does not affect your immigration status. However, if you divorce during the two year conditional period, you must file the I 751 with a waiver of the joint filing requirement before the conditional card expires, or risk losing permanent resident status.

## 5. Can a same sex married couple apply for a marriage green card?

Yes. Following *United States v. Windsor* (2013) and *Obergefell v. Hodges* (2015), USCIS recognizes same sex marriages for all immigration purposes, including I 130 petitions and adjustment of status. The marriage must be legally valid in the jurisdiction where it was performed. Evidence requirements for bona fide marriage are the same as for opposite sex couples.

## 6. What is the I 864 Affidavit of Support income requirement?

The petitioner must demonstrate household income at or above 125% of the Federal Poverty Guidelines for their household size. For a household of two in 2026, the threshold is approximately \$24,650. Income from the petitioner's household members and the beneficiary's employment (if authorized) can be included. If income is insufficient, a qualifying joint sponsor can supplement it. Active duty military petitioners need only demonstrate income at 100% of the poverty guideline.

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**Disclaimer:** This guide is provided for general informational purposes only and does not constitute legal advice. Every immigration case is unique. Consult a qualified immigration attorney for advice specific to your circumstances.

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