



DHS Establishes Interim Relief for Widows of U.S. Citizens

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U.S. Department of Homeland Security (DHS) Secretary Janet Napolitano today granted deferred action for two years to widows and widowers of U.S. citizens—as well as their unmarried children under 18 years old—who reside in the United States and who were married for less than two years prior to their spouse's death.

"Smart immigration policy balances strong enforcement practices with common-sense, practical solutions to complicated issues," said Secretary Napolitano. "Granting deferred action to the widows and widowers of U.S. citizens who otherwise would have been denied the right to remain in the United States allows these individuals and their children an opportunity to stay in the country that has become their home while their legal status is resolved."

Secretary Napolitano also directed U.S. Citizenship and Immigration Services (USCIS) to suspend adjudication of visa petitions and adjustment applications filed for widow(er)s where the sole reason for reassessment of immigration status was the death of a U.S. citizen spouse prior to the second anniversary of the marriage.

Additionally, U.S. Immigration and Customs Enforcement (ICE) will defer initiating or continuing removal proceedings, or executing final orders of removal against qualified widow(er)s and their eligible children.

USCIS will also consider favorably requests for humanitarian reinstatement where previously approved petitions for widow(er)s had been revoked because of the law. DHS will soon issue guidance instructing the public on how to apply for this relief.

These directives apply regardless of whether the citizen filed a petition for the alien spouse before death. Deferred action is generally an act of prosecutorial discretion to suspend removal proceedings against a particular individual or group of individuals for a specific timeframe; it cannot resolve an individual's underlying immigration status. Individuals granted deferred action may apply for work authorization if they can demonstrate economic necessity.

While Secretary Napolitano's directive provides a short-term arrangement for widow(er)s of deceased U.S. citizens, legislation is required to amend the definition of "immediate relatives" in the Immigration and Nationality Act to permit surviving spouses to remain indefinitely after the U.S. citizen spouse dies, enabling them to seek permanent resident status.

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