

1. What is an I-130?

It is the main petition form/the first step to helping an eligible relative apply to immigrate to the United States and obtain lawful permanent residency. The filing of this form or even approval does not give the relative any immigration status or benefit other than just having it filed/approved for the next step.

2. Which family members can be petitioned through Form I-130?

If you are a U.S. citizen, you must file a separate form I-130 for each eligible relative including your spouse, unmarried children under 21, unmarried or married sons or daughters over 21, siblings (petitioner must be at least 21 years of age), and parents (petitioner must be at least 21 years of age). If you are a lawful permanent resident, you can petition for your spouse (who can include their unmarried children under 21 as derivatives) or unmarried children of any age. LPR parents cannot petition married children!

4. Is there an age requirement for filing Form I-130?

A U.S. citizen must be 21 years of age to file for your parents or siblings, Although not an age requirement for spouses, keep in mind certain relationships may be subject to additional scrutiny, especially if there is a significant age difference between the couple.

5. Can I file Form I-130 for a same-sex spouse?

Yes, U.S. citizens and permanent residents can file I-130 petitions for same-sex spouses, just as they can for opposite-sex spouses. They are subject to the same requirements, but depending on the reviewing officer/their judgments, they may want to see different types of evidence of a bona fide marriage.

6. What documents are required for Form I-130 filing?

Required documents typically include the completed Form I-130, evidence of the petitioner's status (Birth Certificate if a U.S. citizen, Naturalization certificate, LPR card, U.S. passport), proof of the qualifying relationship (Marriage Certificate and any divorce decrees, Birth certificates), and any supporting documentation (joint bills, jointly filed taxes, reference letters about the relationship, sometimes passport photos, family photos, birth certificates of children in common, etc.)

7. How much does it cost to file Form I-130?

- As of January 2026, the filing fee for the I-130 is \$675.

8. Can I file Form I-130 if my relative is already in the United States?

Yes, Form I-130 can be filed for a relative already in the U.S., but it does not grant immediate immigration status. Additional steps, such as adjustment of status or consular processing, may be required, depending on how they entered the U.S.

9. How long does it take for USCIS to process Form I-130?

Processing times can vary depending on factors such as the petitioner's status, the relationship with the beneficiary, and the beneficiary's location and are constantly changing. For your convenience, we post the Processing Times of various applications on our website at LatorreLaw.com.

10. Can I appeal if USCIS denies my Form I-130 petition?

Yes, if your I-130 petition is denied, you may have the option to appeal the decision or, in some cases, refile the petition with additional evidence. This would be evaluated based on the reasons in the denial notice.

11. Can I check the status of my Form I-130 online?

Yes, USCIS provides an online case status check tool. You can use your receipt number to track the status of your petition on the USCIS website and also see if the case is outside normal processing times based on the receipt date and be directed to file for an inquiry.

12. What happens after USCIS approves Form I-130?

If it is marked on the form that the beneficiary will be doing Consular Processing, once USCIS approves the I-130 petition, it is forwarded to the National Visa Center (NVC), which will then send a case creation letter with information on the next steps. If the person is in the U.S. after accruing unlawful presence, they will need a waiver to forgive this, and this is filed and must be approved before the consular processing is done (before they leave for an interview). If it is marked on the form that the person will adjust their status, then it will remain with USCIS, and a separate form for the residency is filed.

13. Can I expedite the processing of my Form I-130?

USCIS may consider expedited processing in certain circumstances, such as extreme emergencies or urgent situations. You can make this request by calling the contact center at 1-800-375-5283 once you have already received a Receipt Notice. USCIS requires significant documentation proving why the petition should be expedited such as severe or terminal medical conditions. For these reasons, we generally do not recommend this request and because it can further delay processing times.

14. **What happens if my relative is in the U.S. undocumented?**

Form I-130 can still be filed for a relative in the U.S. undocumented, but they may need a waiver to forgive their time undocumented in the country and also to leave the country for consular processing. They would only have to do the consular processing once they have an approved waiver.