

Once posthumous citizenship is granted, the surviving spouse, parent, or child may qualify for immigration benefits under section 1703.

If the deceased service member was a Lawful Permanent Resident (LPR) who had filed a Petition for Alien Relative (Form I-130) for you as his or her spouse or child under section 203(a)(2)(A) of the INA before death, and the Form I-130 was approved, then once he or she has been granted posthumous citizenship you will be considered an “immediate relative” for purposes of immigration. This means that an immigration visa will be immediately available.

If the deceased service member had not filed Form I-130 for you, you may file Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant within two years of the date the deceased service member is granted posthumous citizenship.

Adjustment of Status to Permanent Residence (Form I-485)

If you filed an Application to Register Permanent Residence or Adjust Status (Form I-485) as the spouse, child, or parent of a service member prior to his or her death, USCIS will adjudicate that application as if the service member had not died if:

- The deceased service member served honorably in an active-duty status in the U.S. Armed Forces;
- The service member died as a result of injury or disease incurred in or aggravated by that service;
- The deceased service member was a citizen at the time of death or was granted posthumous citizenship under INA section 329A; and
- You write a letter to the USCIS office having jurisdiction over your case, or you indicate at the time of your adjustment interview that you are eligible for adjustment under Section 1703 of Public Law 108-136 and provide proof of eligibility.

Naturalization For Certain Relatives

Section 319(d) of the INA allows you to apply for naturalization without demonstrating residence or physical presence in the United States if you are the spouse, child, or parent of a deceased service member who was a citizen (including someone granted posthumous citizenship) and who was serving honorably on active duty in the U.S. Armed Forces at the time of death. You must meet all other naturalization requirements, such as being a Lawful Permanent Resident.

If you are a surviving spouse seeking naturalization under section 319(d), you must have been living in marital union with your spouse at the time of your spouse’s death. However, you remain eligible for naturalization under this section even if you remarry after your spouse’s death.

NOTE: When filing Form N-400, it is important to check box D. “Other” in Part 2 of the form and write “319(d).”

USCIS Resources

If you would like to learn more, please visit www.uscis.gov/military. You can download forms by clicking on “Forms” at the top of the page.

USCIS Military Help Line

You may also contact the toll-free USCIS Military Help Line, 1-877-CIS-4MIL (1-877-247-4645) to request forms or more information. USCIS customer service specialists are available to answer calls Monday through Friday from 8 a.m. until 4:30 p.m. (CST), except federal holidays. You may also send an e-mail to militaryinfo.nsc@dhs.gov. See the USCIS pamphlet, “USCIS Military Help Line” (M-671), for more information.



Survivor Benefits for Non-Citizen Relatives of Military Personnel

Information and Customer Service Division



U.S. Citizenship and Immigration Services

In his Second Inaugural Address, Abraham Lincoln spoke of the Nation's obligation to care for those who had borne the battle, and for their widows and orphans. In that spirit, U.S. immigration law provides special immigration benefits to the widow(ers), children and parents of U.S. citizens who serve honorably in the Armed Forces, and die as a result of injury or disease incurred in or aggravated by combat.

This special provision is found in section 1703 of Public Law 108-136, National Defense Authorization Act for Fiscal Year 2004, which amended the Immigration and Nationality Act (INA). It extends immigration benefits to the survivors of those who have served on active duty in the U.S. Armed Forces. Thus, the benefit is available to the survivors of those who have served on active duty in the Army, Navy, Marine Corps, Air Force, and Coast Guard. It also includes certain service in the National Guard and Selected Reserve of the Ready Reserve.

If the U.S. Armed Forces Member Was a U.S. Citizen

If you are the spouse, parent, or child of a U.S. citizen who served on active duty and whose death was combat related, you may qualify to immigrate as an immediate relative despite his or her death. To qualify, you must file a visa petition (Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant) no later than two years after the date of his or her death.

The Surviving Spouse:

You will be considered an immediate relative for immigration purposes if all of the requirements below are met:

- You were married to a U.S. citizen who served honorably on active duty



and you were not legally separated at the time of his or her death;

- Your deceased spouse died as a result of injury or disease incurred in or aggravated by that military service;
- You file Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant within two years of the death of the deceased spouse;
- You do not remarry prior to obtaining lawful permanent residence based on your relationship to the deceased citizen.

NOTE: When filing Form I-360, it is important to check box M. "Other" in Part 2 of the form and write "PUBLIC LAW 108-136."

The Surviving Children and Parents:

USCIS will consider a child (unmarried and under 21 at the time of the parent's death) or parent of a U.S. citizen service member an immediate relative for immigration purposes if:

- The service member's death was combat related;
- The service member served honorably in an active-duty status in the U.S. Armed Forces;
- The service member died as a result of injury or disease incurred in or aggravated by combat; and
- The child or parent files Form I-360 within two years of the service member's death.

NOTE: Ordinarily, a citizen has to be at least 21 to file a visa petition for his or her parent. If you are the parent of a deceased service member who was a citizen and whose death was combat related, you may file Form I-360 even if your son or daughter was not yet 21 at the time of death.

For a child of a deceased service member, you may remain eligible even if you married or reached the age of 21 after your parent died.



If the U.S. Armed Forces Member Was Not a U.S. Citizen at Death

Section 1703 can also benefit the spouse, children, and parents of active duty service members who were not citizens, but who served honorably on active duty and whose deaths were combat related.

The first step is to obtain posthumous citizenship on behalf of the deceased service member by filing an Application for Posthumous Citizenship, Form N-644. The deceased service member may be naturalized after death if:

- Application for Posthumous Citizenship, Form N-644 is filed no later than two years after the death of the service member; and
- The military certifies that the service member served honorably in an active duty status during a qualifying period of armed conflict and died as a result of injury or disease incurred in or aggravated by that service.

If USCIS approves the Application for Posthumous Citizenship, USCIS will send a certificate of citizenship to the next-of-kin. The deceased service member will be considered to have been a U.S. citizen at the time of death.