

Refugee/Asylee Relative Petition (Form I-730)



U.S. Citizenship
and Immigration
Services

Essential Criteria for Form I-730

Who can file a Form I-730?

- A principal refugee or asylee; or
- A lawful permanent resident who acquired that status as a principal refugee or asylee.



Essential Criteria for Form I-730

What is the time limitation to file Form I-730?

- A petitioning asylee must file within two years of the date he/she was granted asylum by a USCIS asylum office or an immigration judge.
- A petitioning refugee must file within two years of the date of admission as a refugee to the U.S.



Essential Criteria for Form I-730

If the asylee or refugee has not filed the I-730 within the prescribed 2-year period, can this requirement be waived?

USCIS can grant an extension of the two-year filing period for humanitarian reasons:

- USCIS may exercise discretion and grant an extension of the two-year filing period for humanitarian reasons based on a request by the petitioner.
- Although a waiver request by the petitioner is normally required, USCIS also retains discretion to grant, on its own initiative (e.g., sua sponte), an extension of the filing requirement for humanitarian reasons.



Essential Criteria for Form I-730

May the asylee or refugee request a waiver of the two-year limitation in order to file the I-730 after two years? (Cont.)

- Please note, USCIS determines eligibility for the humanitarian waiver on a case by case basis. Therefore, a petitioner should completely explain the circumstances that prevented him/her from filing timely and provide the necessary documentation to support his/her claims.



Essential Criteria for Form I-730

On whose behalf may a refugee or asylee file the I-730?

- An asylee or refugee petitioner may petition for his/her:
 - Spouse of a marriage that existed as of the date of admission to the U.S. as a refugee or the date of the grant of asylum;
 - Unmarried children who were under the age of 21 at the time the refugee or asylum application was filed;
 - Children in utero at the time of the parent's admission to the U.S. as a refugee or date of grant of asylum.



Essential Criteria for Form I-730

Are there any special rules for stepchildren?

- In order for USCIS to consider someone as the petitioning asylee's or refugee's stepchild:
 - The marriage that created the relationship must have occurred before the child became 18 years old.



Essential Criteria for Form I-730

Are there any special rules for adopted children?

▪ In order for USCIS to consider someone as the petitioning asylee's or refugee's adopted child:

– The adoption must have occurred before the child became 16 years old and the child must have been in legal custody and residing with the adoptive parent or parents for at least 2 years. There is an exception to the 2 year residence requirement for certain children who have been battered or subjected to extreme cruelty.

For immigration purposes under the INA, an adoption order must satisfy these three essential elements: the order must:

1. Be valid under the law of the country or place granting the adoption; and
2. Create a legal permanent parent-child relationship between a child and someone who is not already the child's legal parent; and
3. Terminate the legal parent-child relationship with the prior legal parent(s).



Essential Criteria for Form I-730

Are there any ineligible family members?

An asylee or refugee petitioner may not petition for his/her:

- Parent
- Brother or sister
- Uncle or aunt
- Grandparent
- A spouse or child who has previously been granted refugee or asylee status
- A person who is not a spouse or child as defined in section 101 of the INA (unless the child is covered under the Child Status Protection Act (CSPA))



Essential Criteria for Form I-730

How do I know if a child is covered under the CSPA?*

- The child falls under CSPA if the child remains unmarried and the child was under 21 when his/her parent filed the principal refugee or asylee application.

*Note: General information provided for information purposes only. For detailed guidance, please go to: <http://www.uscis.gov/portal/site/uscis> and conduct a search under “Child Status Protection Act”.



Fees for Form I-730

Are there any fees or costs associated with the I-730?

- There is no fee to file the I-730.
- A fee or fee waiver request is required to file Form I-290B for a motion to reopen/reconsider.



Documentation for Form I-730

What documents should I send to USCIS to establish that I am an asylee or refugee?

Examples of the Most Common Documentation of Refugee or Asylee Status:

- Copy of passport or Form I-94 containing an admission stamp indicating refugee status.
- Copy of the approval letter from the USCIS Asylum Office granting asylum.
- Copy of the decision by the immigration judge or Board of Immigration Appeals (BIA) granting asylum.



Documentation for Form I-730

What documents should I send to USCIS to establish that the beneficiary is my spouse?

- Refer to the Department of State reciprocity table for list of evidence available by the country where marriage occurred. In most cases, it will be a civilly registered marriage certificate in the country where the marriage occurred.

- http://travel.state.gov/visa/fees/fees_3272.html

- Please note, marriage certificates issued by religious organizations, churches, or temples are generally not sufficient in most cases unless supported by foreign law that establishes they are legally recognized in the country where the marriage occurred.

- Proof of legal termination of all previous marriages of both the petitioner and the beneficiary.

NOTE: Same-sex marriages, where legally valid in the place of celebration, are recognized for purposes of I-730 petitions. *Matter of Zeleniak*, 26 I&N Dec. 158 (BIA 2013).



Documentation for Form I-730

What other documents should I send to USCIS to establish that the beneficiary is my spouse?

- Although not required in all cases, it is best to send copies of any documents that establish the bona fides of the relationship.



Documentation for Form I-730

What documents should I send to USCIS to establish that the beneficiary is my child?

- Refer to the Department of State reciprocity table for list of evidence available by the country where birth occurred. In most cases, it will be a civilly registered birth certificate in the country where the child was born.

- http://travel.state.gov/visa/fees/fees_3272.html



Documentation for Form I-730

What documents should I send to USCIS to establish that the beneficiary is my child? (Continued)

- Please note, baptismal or birth certificates issued by religious organizations, churches, or temples are generally not sufficient in most cases unless supported by foreign law that established they are legally recognized in the country of the child's birth.
 - The birth certificate for a biological child must include both the child's name and the petitioning parent's name listed on the record.



Documentation for Form I-730

What is the legal definition of child for immigration purposes?

The legal definition of child is found in section 101(b)(1) of the Act and means an unmarried person under 21 years of age who is--

(A) a child born in wedlock;

(B) a stepchild – born in or out of wedlock, provided the child had not reached the age of 18 years at the time the marriage creating the relationship occurred;

(C) a legitimated child – the legitimation must have occurred under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in or outside the United States; the legitimation must take place before the child turns 18; and the child must be in the legal custody of the legitimating parent or parents at the time of legitimation;



Documentation for Form I-730

What documents should I send to USCIS to establish that the beneficiary is my child?

Adopted Child:

- Legal document from the court or government granting full adoption of the child by the petitioning asylee or refugee before the child's 16th birthday.

- An “adoption” can be the basis for immigrant benefits only if it:
 - Terminates the legal parent-child relationship between the child and any prior parent(s); and
 - Creates a permanent legal parent-child relationship between the child and the adopter.

- Documentary evidence that the adoptive parent(s) had legal custody of, and resided with, the adopted child for 2 years before their refugee admission or asylum grant.



Documentation for Form I-730

What documents should I send to USCIS to establish that the beneficiary is my child? (continued)

- Evidence may include:
 - School records of child citing adopting parent's name;
 - Medical records of child citing adopting parent's name;
 - Financial records of child citing adopting parent's name;
 - Common residence of both adopted child and adopting parent.
- If the child was not in the legal custody of/did not reside with the adoptive parent or parents for 2 years because of battery or extreme cruelty by the adoptive parent(s) or by a family member residing in the same household, evidence such as police reports or medical records establishing the beneficiary qualifies for the exception should be submitted.



Documentation for Form I-730

What documents should I send to USCIS to establish that the beneficiary is my child?

Stepchild:

- Birth certificate (or other record of birth) that has both the child's name and the biological parent's name listed on the record
- For adopted stepchildren, provide documentation necessary to establish an adoption.
- Marriage certificate between the petitioning stepparent and the child's biological or adopting parent showing the marriage occurred before the stepchild reached the age of 18.
- Marriage must also have occurred before the petitioner entered as a refugee or was granted asylum.
- Evidence of the termination of any prior marriages of the petitioner and natural parent of the stepchild.



Documentation for Form I-730

What if I do not have the regular documents to show that the beneficiary is my spouse or child?

- All other documents outside of records of birth, marriage, or adoption decrees are called “secondary evidence” and may be accepted in the discretion of USCIS.
- It is best to send as many secondary documents as possible in order to show a true relationship between the petitioning asylee or refugee and the beneficiary.



Blood or DNA Tests

What if I do not have any documents to show that the beneficiary is my child?

- Voluntary DNA testing can be used to establish the paternity of the beneficiary.
- In general, overseas consulates and USCIS offices will not process DNA tests until USCIS issues a request to the Petitioner for voluntary DNA testing.
- If no other documentary evidence is available/sufficient to establish eligibility, the petitioning asylee or refugee may be asked to conduct a voluntary DNA test to establish the birth and parentage of the beneficiary child.



Blood or DNA Tests

What if I do not have any documents to show that the beneficiary is my child? (continued)

When USCIS requests voluntary DNA testing, an information packet will be sent to the petitioner that provides instructions on how to obtain a DNA test. The testing must be conducted by a parentage testing laboratory that is accredited by the American Association of Blood Banks (AABB).

- Note: USCIS highly recommends that petitioners do not incur unnecessary expense by utilizing any testing facility that is not accredited by the AABB. Test results from unaccredited sources will be rejected.



Blood or DNA Tests

What if I do not have any documents to show that the beneficiary is my child? (continued)

- Beneficiaries who are overseas and who need to be tested will be contacted by the appropriate USCIS office or Embassy to come in for a DNA swab, following USCIS/Embassy guidelines. The DNA testing is voluntary for the petitioner and beneficiary. The burden, however, is always on the petitioner and beneficiary to establish the required relationship.
 - A current list of the AABB accredited parentage testing laboratories can be viewed at the following website: www.aabb.org.
- **NOTE: The cost of any blood test or DNA test is conducted solely at the expense of the petitioner and does not guarantee approval of the I-730.**



Processing Form I-730

Who can I contact once I file my I-730?

The Form I-730 is filed with the USCIS Service Center with jurisdiction:

- Nebraska Service Center: NSCFollowup.NCSC@uscis.dhs.gov
- Texas Service Center: tsc.ncscfollowup@dhs.gov or ASYLUM.TSC@uscis.dhs.gov

Approved I-730s are sent to the National Visa Center(NVC):

NVCInquiry@state.gov

The NVC forwards the I-730 on to the appropriate U.S. Consulate, Embassy or USCIS office:

- Type “International Offices: in the Search function on www.uscis.gov to obtain contact information for the 25 USCIS offices overseas.
- U.S. Embassies: Embassy-specific contact information is available at www.travel.state.gov, under How to Contact Us. Links to specific Embassy and Consulate websites may be found at www.usembassy.gov. Attorneys of record can direct inquiries by email to legalnet@state.gov. Petitioners may call Visa Services, Public Inquiries Division at (202) 663-1225.



The Virtual Law Library

How can I familiarize myself with current immigration interpretations concerning family relationships?

- Several binding decisions from the Board of Immigration Appeals (BIA) dictate eligibility concerning the I-730, such as polygamous marriage cases, customary marriage cases, same-sex marriage cases, and adoption requirements, to name a few.
 - These decisions are invaluable for determining eligibility on the I-730 and are available to the public at the website: www.justice.gov/eoir/vll/intdec/lib_indecitnet.html.





U.S. Citizenship and Immigration Services