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Child Status Protection Act (CSPA)

The Child Status Protection Act (CSPA) amended the Immigration Nationality Act (INA) by changing who qualifies as a child for purposes of immigrant. This permits certain beneficiaries (see the glossary for a definition of the term "beneficiary") to retain classification as a "child," even if he or she has reached the age of 21.

Age Out

A "child" is defined as an individual who is unmarried and under the age of 21. Before CSPA took effect on August 6, 2002, a beneficiary who turned 21 at any time prior to receiving permanent residence could not be considered a child for immigration purposes. This situation is described as "aging out." Congress recognized that many beneficiaries were aging out because of large backlogs and long processing times for visa petitions. CSPA is designed to protect a beneficiary's immigration classification as a child when he or she ages out due to excessive processing times. CSPA can protect "child" status for family-based immigrants, employment-based immigrants, and some humanitarian program immigrants (refugees, asylees, VAWA).

How to Qualify for CSPA

Immediate Relative	Preference Classification for Permanent Residence or Derivative
<ul style="list-style-type: none"> ● If the petition (Form I-130, Petition for Alien Relative) was filed by a U.S. citizen parent for his or her child, the beneficiary's age "freezes" on the date of filing. ● If the petition (Form I-130) was filed by a permanent resident parent and the parent naturalizes before the beneficiary turns 21, the beneficiary's age "freezes" on the date the petitioner naturalized. 	<ul style="list-style-type: none"> ● CSPA allows the time a visa petition was pending to be subtracted from the beneficiary's biological age at the time of visa availability so that the applicant is not penalized for the time in which USCIS did not adjudicate the petition.

Eligibility Criteria

- Must be the beneficiary of a pending or approved visa petition on or after August 6, 2002.
- The beneficiary must not have had a final decision on an application for adjustment of status or an immigrant visa before August 6, 2002.
- The child must "seek to acquire" permanent residence within 1 year of a visa becoming available. USCIS interprets "seek to acquire" as having a Form I-824, Application for Action on an Approved Application or Petition, filed on the child's behalf or the filing of a Form I-485, Application to Register Permanent Residence or Adjust Status, or submit Form DS-230, Application for Immigrant Visa and Alien Registration from the Department of State. The date of visa availability means the first day of the first month a visa in the appropriate category was listed as available in the Department of State's visa bulletin or the date the visa petition was approved, whichever is later.

Note: Individuals may be eligible to apply for permanent residence under CSPA after 1 year of a visa becoming available if all of the following are true:

- They are a beneficiary of a visa petition that was approved prior to August 6, 2002
- They had not received a final decision on an application for permanent residence based or immigrant visa on that visa petition prior to August 6, 2002
- The visa became available on or after August 7, 2001
- They met all of the other eligibility requirements for CSPA (see above)

Opt-Out

CSPA provides another type of relief referred to as the "opt-out." This is very limited in scope. If a permanent resident petitioner filed a Form I-130, Petition for Alien Relative, for an unmarried son/daughter and then the petitioner naturalized, the beneficiary can choose to remain in the second preference classification instead of automatically converting to a 1st preference classification. The reason that this may be beneficial is that sometimes the waiting time for the second preference visa is shorter than the waiting time for the first preference visa. If this situation applies, check the visa bulletin (see link to the right) to see if the opt-out may be helpful. If the beneficiary wants to opt-out, he or she must make a request in writing to USCIS.

Refugee and Asylee Protections

CSPA provides protections for refugee and asylee children who aged out on or after August 6, 2002. The child must remain unmarried to benefit from CSPA protection.

Derivatives

The child's age is determined based on the time the parent's Form I-589, Application for Asylum and Withholding of Removal, or Form I-590, Registration for Classification as a Refugee, was filed. After August 6, 2002, as long as the child was unmarried and under 21 at the time either of these forms was filed, and the child was listed on the Form I-589 or I-590, the child will remain a "child" regardless of age and can continue adjustment of status or consular processing on that basis.

Form I-730, Refugee/Asylee Relative Petition, and Section 209

More Information

Forms

- [I-485, Application to Register Permanent Residence or Adjust Status](#)
- [I-589, Application for Asylum and Withholding of Removal](#)
- [I-730, Refugee/Asylee Relative Petition](#)
- [I-824, Application for Action on an Approved Application or Petition](#)
- [Green Card Based Forms](#)

Other USCIS Links

- [Family](#)
- [Green Card Resources](#)
- [Immigration & Nationality Act \(INA\)](#)

External Links

- [U.S. Department of State: Visa Bulletin](#)

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Adjustment

For Forms I-730 or I-485, Application to Register Permanent Residence and Adjust Status, (under Section 209) that were pending on or after August 6, 2002, the child's age is determined by using the age on the date the principal filed Form I-589 or Form I-590, as long as the child was unmarried and under 21 at that time and remains unmarried.

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