

# THE FILIPINO **EXPRESS**

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## **New Visa for Immigrants' Spouses and Children**

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The new law, better known as the Legal Immigration and Family Equity (LIFE) Act, signed into law by President Clinton on December 21, 2000, addresses the issue of spouses and minor children of permanent residents who have long been waiting to come to the U.S. Their lengthy waiting period is primarily due to the severe backlog in the availability of visa numbers. As of January 2001, the priority dates for Filipinos, classified under the family-based second preference category (F2A), being processed for visa numbers are those earlier than August 1, 1996. This backlog translates to approximately 7 to 10 years of waiting time.

Under the new law, these beneficiaries of permanent residents will be allowed to come to the U.S. and work by means of a new visa, the "V" visa. Prior to the new law, they could not come to the U.S. legally, even for a short visit, as they are considered intending immigrants.

### **Criteria to Qualify for the V Visa**

To qualify, the sponsoring permanent resident must first have filed a petition with the INS for the spouse or minor child by December 21, 2000, the date the LIFE Act was enacted. Second, the petition must have been pending with the INS for three years or more. If it has been approved, the spouse or the child must have been waiting "in line" to be issued a green card for a minimum of three years.

### **Grounds for Inadmissibility and Adjustment of Status Waived**

A period of unauthorized stay in the U.S. notwithstanding, an individual may still secure a V visa, as provided by the law. Furthermore, the law permits individuals to apply for adjustment of status, even if they are taking unlawful residence in the U.S. By virtue of the reinstated Section 245(i), a person in possession of a V visa will be qualified to adjust his or her status to legal permanent resident.

### **Temporary Status for Spouses of U.S. Citizens**

The new law also expands the use of the K visa. Under the present law, a K visa is issued to fiancé(e)s of U.S. citizens so they can enter the U.S. for the purpose of getting married. The new law will grant a K visa to a spouse (already married to a U.S. citizen) who is waiting for the approval of his or her immigrant visa petition. Accompanying minor children may be included in the petition. Moreover, K visa holders are allowed to work.

### **Criteria for Spouses of U.S. Citizens**

To qualify for this expanded use of the K visa, the U.S. citizen must have filed an immigrant visa petition on behalf of the spouse. The U.S. citizen must file the K petition **in** the U.S. and the recipient must be **outside** the U.S. The law only authorizes the visa to be issued by the consular officer outside the U.S. Presently, there is no law that permits adjustment of status for a K individual already in the U.S. in an unlawful status.