

# **Preparing Hardship Cases**

Speaker:

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Sponsored By:

Chicago Volunteer Legal Services

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**12:15 am – 1:15 pm**

## **Factors and Considerations**

### **Family Ties & Separation**

- Qualifying relative’s ties to family members living in the United States, including age, status, and length of residence of any children.
- Responsibility for the care of any family members in the United States, particularly children, elderly adults, and disabled adults.
- The qualifying relative’s ties, including family ties, to the country of relocation, if any.
- Nature of relationship between the applicant and the qualifying relative, including any facts about the particular relationship that would either aggravate or lessen the hardship resulting from separation
- Qualifying relative’s age.
- Length of qualifying relative’s residence in the United States.
- Length of qualifying relative’s prior residence in the country of relocation, if any.
- Prior or current military service of qualifying relative.
- Impact on the cognitive, social, or emotional well-being of a qualifying relative who is left to replace the applicant as caregiver for someone else, or impact on the qualifying relative (for example, child or parent) for whom such care is required.

### **Economic detriment**

- Economic impact of applicant’s departure on the qualifying relative, including the applicant’s or qualifying relative’s ability to obtain employment in the country of relocation.
- Economic impact resulting from the sale of a home, business, or other asset.
- Economic impact resulting from the termination of a professional practice.
- Decline in the standard of living, including due to significant unemployment, underemployment, or other lack of economic opportunity in the country of relocation.
- Ability to recoup losses, or repay student loan debt.
- Cost of extraordinary needs, such as special education or training for children.
- Cost of care for family members, including children and elderly, sick, or disabled parents.

## **Social and Cultural Impact and Difficulties of readjusting to life in the new country**

- Loss of access to the U.S. courts and the criminal justice system, including the loss of opportunity to request or provide testimony in criminal investigations or prosecutions; to participate in proceedings to enforce labor, employment, or civil rights laws; to participate in family law proceedings, victim's compensation proceedings, or other civil proceedings; or to obtain court orders regarding protection, child support, maintenance, child custody, or visitation.
- Fear of persecution or societal discrimination.
- Prior grant of U nonimmigrant status.
- Existence of laws and social practices in the country of relocation that would punish the qualifying relative because he or she has been in the United States or is perceived to have Western values.
- Access or lack of access to social institutions and structures (official and unofficial) for support, guidance, or protection.
- Social ostracism or stigma based on characteristics such as gender, gender identity, sexual orientation, religion, race, national origin, ethnicity, citizenship, age, political opinion, marital status, or disability.
- Qualifying relative's community ties in the United States and in the country of relocation.
- Extent to which the qualifying relative has integrated into U.S. culture, including language, skills, and acculturation.
- Extent to which the qualifying relative would have difficulty integrating into the country of relocation, including understanding and adopting social norms and established customs, including gender roles and ethical or moral codes.
- Difficulty and expense of travel/communication to maintain ties between qualifying relative and applicant, if the qualifying relative does not relocate.
- Qualifying relative's present inability to communicate in the language of the country of relocation, as well as the time and difficulty that learning that language would entail.
- Availability and quality of educational opportunities for qualifying relative (and children, if any) in the country of relocation.
- Availability and quality of job training, including technical or vocational opportunities, for qualifying relative (and children, if any) in the country of relocation.
- The quality and availability of educational opportunities abroad;
- Ability to pursue a chosen employment abroad.

### **Health Conditions & Care and Inferior quality of medical services and facilities abroad**

- Health conditions and the availability and quality of any required medical treatment in the country to which the applicant would be returned, including length and cost of treatment.
- Psychological impact on the qualifying relative due to either separation from the applicant or departure from the United States, including separation from other family members living in the United States.
- Psychological impact on the qualifying relative due to the suffering of the applicant.
- Prior trauma suffered by the qualifying relative that may aggravate the psychological impact of separation or relocation, including trauma evidenced by prior grants of asylum, refugee status, or other forms of humanitarian protection.

### **Country Conditions**

- Conditions in the country of relocation, including civil unrest or generalized levels of violence, current U.S. military operations in the country, active U.S. economic sanctions against the country, ability of country to address significant crime, environmental catastrophes like flooding or earthquakes, and other socio-economic or political conditions that jeopardize safe repatriation or lead to reasonable fear of physical harm.
- Temporary Protected Status (TPS) designation.
- Danger Pay for U.S. government workers stationed in the country of nationality.
- Withdrawal of Peace Corps from the country of nationality for security reasons.
- DOS Travel Warnings or Alerts, whether or not they constitute a particularly significant factor, as set forth in Part E below.

### **Particularly Significant Factors**

1. Qualifying Relative Previously Granted Iraqi or Afghan Special Immigrant Status, T Nonimmigrant Status, or Asylum or Refugee Status in the United States from the country of relocation
2. Qualifying Relative or Related Family Member's Disability
3. Qualifying Relative's Military Service
4. DOS Travel Warnings