

INS Deadline Encourages Immigrant Rush to Marry

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Byline: Sylvia Moreno, Washington Post Staff Writer

Body

Twelve years ago, they fell in love. Ten years ago, they had a child. This year, Ana Julia Avilez and Jose Arnulfo Montoya got interested in getting married.

Was it amor or was it the promise of a green card? Both, say the Honduran immigrants, who live in the District.

They are among the thousands of couples rushing to county and city clerks' offices in the Washington area and across the country to tie the knot before April 30, the expiration date of a federal law that makes it easier for undocumented immigrants to legalize their status in the United States if they are married to a citizen or legal permanent resident.

The provision, known as Section 245(i), is part of the Legal Immigration Family Equity Act signed into law by President Bill Clinton in late December. The law was designed to help illegal immigrants and their spouses or close relatives obtain a legal status.

The clause in the law that has attracted widespread attention -- and a certain amount of confusion, as well, was in effect from October 1994 through September 1997, when it expired. Under its provisions, immigrants who are living illegally in the United States may apply for a green card and adjust their legal status here without returning to their native country to obtain an entry visa through a U.S. embassy.

The law was allowed to expire the first time after Congress tightened immigration law with stringent rules for reentering the United States. Under the stricter law, immigrants who had lived here illegally for more than six months and left the United States were prohibited from coming back for three years, even after obtaining a legal entry visa in their home countries. Those who had lived here illegally for more than one year were barred from reentry for 10 years.

Immigrants who wanted to legalize their residency were required to go home to await entry visas, but they then faced prohibitions to returning.

At the time, proponents of the strict prohibitions believed "people will go home, and they won't come back," said Dawn Lurie, president of the D.C. chapter of the American Immigration Lawyers Association.

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Instead, many such immigrants simply stayed, she said, working in marginal low-skill service industry jobs and living in fear of discovery. "They stay, and they remain out of status forever," Lurie said.

The temporary reinstatement of Section 245(i) in December sought to remedy that situation. Until April 30, immigrants can apply to legalize residency through marriage to a U.S. citizen or a permanent legal resident, through a parent or sibling who is a citizen or legal resident, or through an employer who is willing to act as a sponsor.

That's the first step. The second step, which does not have to be taken immediately, is to file for adjustment of status under Section 245(i) and to apply for a green card. At that time, the immigrant can pay a \$ 1,000 fine to the INS for having lived here illegally.

Immigration and Naturalization Service officials say as many as 640,000 immigrants could apply to adjust their residency status under 245(i) through fiscal 2003. When it was in effect before, in fiscal 1995-97, 545,000 people adjusted their residency under that provision.

It is the promise of that law that has sent marriage rates skyrocketing across the nation, particularly in immigrant strongholds such as New York, Chicago, Los Angeles and Houston.

And in the Washington area, the number of marriage licenses issued in the first three months of this year, compared with the same period in 2000, jumped by 50 percent in Arlington County and the City of Alexandria, 30 percent in Montgomery County, 25 percent in Fairfax and Loudoun counties, and almost 19 percent in Prince William and Baltimore counties.

"I walked in the office the other day and said, 'What the heck is going on?' " recounted Arlington Circuit Court Clerk David Bell. "Are we having a sale on marriage licenses, and I don't know about it?"

Montgomery County court clerks, empowered by judges to perform marriages, are marrying 23 couples back-to-back daily -- almost double the number of weddings performed at this time last year -- in a special courthouse room equipped with mahogany benches and a dais.

"We've been booked," said Geraldine Stark, supervisor of Montgomery's license department. "And January, February and March are usually our slowest months."

Proponents for tougher immigration controls, such as members of the Federation for American Immigration Reform and the Center for Immigration Studies, contend that the law is an incentive for marriage fraud and that it provides an unfair loophole to the tough 1996 immigration law.

Dan Stein, executive director of FAIR, said reenactment of 245(i) "makes a mockery of the reentry bar. You get to pay a \$ 1,000 fine and adjust your legal status inside the country. . . . It essentially creates a preferred class of people who buy their way around the sanctions for illegal conduct."

Widespread confusion among immigrants has prompted lawyers, churches and INS officials to run seminars throughout the Washington region to try to dispel myths. Some immigrants mistakenly believe that Section 245(i) guarantees amnesty or a green card. Others are looking simply to get married.

The specifics of the law and the consequences of fraudulent marriages were the subjects of recent seminars at St. Camillus Church in Silver Spring and St. Anthony of Padua Parish in Falls Church. Discussions were conducted in English, Spanish and French.

"This doesn't give [illegal immigrants] the right to get the green card, but it allows them to stay here while they're getting it," said Angela Kelly, deputy director of the National Immigration Forum, an organization that lobbied for the reinstatement of 245(i).

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That's what Montoya, 37, is banking on. He's been working as a welder for six years, and his boss is sponsoring him for a green card, Montoya said. When Montoya becomes a legal resident -- and that could be years away -- he can petition for the legalization of Avilez, 36. But first they must marry.

The nattily dressed bridegroom arrived at the Arlington County clerk's office on a biting cold, blustery March morning with Avilez.

Thirty dollars in cash and two valid photo IDs got them a marriage license. Because there is no waiting period in Virginia to get married, they and their two witnesses and a friend simply walked across the street to the courthouse. The entourage took one wrong turn out of the building, then backtracked. The bride lost one of her gold hoop earrings but recovered it on the sidewalk. Finally, they arrived in the office of one of Arlington's three civil magistrates, windblown and chilled -- especially Avilez in her gauzy white floor-length, spaghetti-strap dress.

"You sure you want to do this?" Gerald Williams asked. The two solemnly nodded. "Okay, should I do this in English or my broken Spanish?"

"Espan ol," came the quick reply.

"Anillos?" Williams asked. Rings?

"Si," Montoya said as he extracted matching gold bands from a pants pocket.

Next stop for the couple: the office of their lawyer, to make their marriage license part of the official immigration file.

Fraudulent marriages do occur and usually are obvious, said assistant Arlington Circuit Court clerk Aida Duncan. "Some of them don't know each other well. One is Hispanic; the other is American. The American is asking the other person questions for the license," she said. "Then they come back in two or three months and ask how to get an annulment."

That is "about the worst thing you can do," said INS spokesman Bill Strassberger.

Someone caught in marriage fraud can permanently lose the right to legal residency in the United States. "That person has much more to lose," Strassberger said.

Marriages that help one of the partners legalize residency may be subject to INS investigation for as long as two years after the couple says, "I do," or "Yo acepto," as in the case of Avilez and Montoya. That was stressed recently at St. Camillus, where immigrant parishioners represent 110 nationalities.

"Be honest and follow the laws of the country. That's the best advice we can give to anyone," said the Rev. Jacques LaPointe, associate pastor. "Because, definitely, anyone who is caught lying or with false information, they're jeopardizing their whole future in terms of ever coming into this country."

That's the last thing Jenny Ruz wants. Ruz arrived in Silver Spring from Chile in November 1998 as a legal permanent resident, along with her two children, under a family petition filed by her father. He arrived in 1986, became a citizen in 1995 and urged her not to marry because bringing her here single was much easier under U.S. immigration laws.

A few months after she arrived, so did her longtime companion, the father of her children. His tourist visa expired long ago. Last weekend, with their daughter, 8, and son, 5, as attendants, Ruz and Hector Orozco finally married in her parents' home. Now, Ruz, 32, can petition to legalize her husband's status, as long as she does so before the end of the month.

"I originally wanted to get married in June or July when the weather is nice, and we could do this in the back yard and have a really nice outdoor party," Ruz said. "Then we found out about this law, so we had to hurry up."

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She added: "We just moved it up and [got married in the basement. But it was fine. The ideal is for both of us to be legal, to be safe and to be at peace."

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