



IMMIGRANT
JUSTICE
NETWORK

COMMUNITY ALERT

“KEEPING FAMILIES TOGETHER” PAROLE IN PLACE PROGRAM

On August 26, 2024, a federal judge in Texas issued a temporary stay on granting approvals. Check the status of the program before submitting an application.

The immigrants’ rights movement has been clear: we demand a path to lawful status for all of our undocumented community members! As our communities know all too well, undocumented people face many barriers to changing their immigration status, including if they are married to a United States citizen.¹

The recently announced Keeping Families Together Parole-in-Place process will grant temporary permission to remain and work in the United States to certain people, as well as enable them to apply for a green card. This could potentially help hundreds of thousands of people who are either married to U.S. citizens or who are the stepchildren of U.S. citizens. It does nothing for undocumented people who have not married U.S. citizens or who are not the stepchild of U.S. citizens. However, even for those people, there are many barriers that can impact eligibility and access to this process.

Unfortunately, the Biden Administration has placed harsh restrictions on who can be granted this benefit, unfairly penalizing immigrants who have had contact with the police and the criminal legal system. These contacts can in some cases, make a person ineligible for the program altogether - or they can make it very difficult to be approved.

We know well that the criminal legal system is rooted in racist policing and prosecution practices. Therefore, immigrants who have had these contacts will be subject to double punishment and unjustly left out of this process altogether. They will continue to face the risk of deportation, lack of a path to lawful residency, and separation from their families, despite this program’s stated intent to keep families together.

¹ In order to get a green card and “adjust status” from undocumented to a permanent resident while remaining in the United States, a person must have what is called a “lawful admission.” If a person entered the United States without permission, then (in most cases) they must go back to their country of origin to get a green card. However, once they leave the U.S., immigration law may prevent them from coming back for years. As a result, many people are trapped here in undocumented status, even if they have married U.S. citizens.

We want to make sure everyone understands the basics of the program eligibility, and the risks and benefits of applying, and why we have to fight for more. This alert does not cover everything. We are primarily flagging some basic information about eligibility and the criminal history requirements. As people begin to apply, we expect there to be more questions and answers about the process and how the government will interpret its requirements.

I. KFT Parole Eligibility

The administration began accepting applications for KFT Parole on August 19th, 2024.

In order to be eligible for KFT Parole you must meet the following criteria:

- Have entered the US without permission
If you entered with a visa and overstayed that visa, you will not qualify for KFT Parole. This is because you already have a lawful admission and don't need KFT Parole to apply for a green card through your spouse.
- Be legally married to a US citizen as of June 17, 2024
- Have lived in the US since June 17, 2014
If you left the US and returned after this time, then you will need to talk to an expert about whether you are still eligible.
- Have no “disqualifying criminal history” (see more on this below)
- Are not a “threat to national security, public safety, or border security”

Some noncitizen stepchildren of US citizens will also be eligible for this program, as long as they meet the criteria and do not have disqualifying criminal history.

More detail about this criteria is in government materials [here](#) and [here](#). DHS materials also state that they will review applications on a case-by-case basis to determine whether the person deserves KFT Parole.

II. Criminal Bars and Waivers

If you have had ANY interaction with the criminal legal system please consult an attorney who is an expert in criminal-immigration law. This includes any arrest or charges without a conviction.

The following will disqualify you from applying for KFT Parole:

- Any pending charges
 - *If you have an “open” criminal case, then the application will be rejected and you will lose your application fee. You must wait until your criminal case is finished and then apply if you are still eligible.*
- Any felony conviction
 - *This means any local, state or federal conviction that could have been punished by more than one year in prison, regardless of the actual sentence. Some states call these types of convictions by a name other than felony (for example, in New Jersey, “fourth degree” offenses and higher would be considered a “felony” for KFT Parole).*
- Any conviction for the following offenses, regardless of whether they are felonies, misdemeanors or other type of offense:
 - Murder, torture, rape, or sexual abuse
 - Firearm offenses
 - Aggravated assault

- Domestic violence
- Stalking
- Child abuse, child neglect, or child abandonment
- Drug offenses - except one non-felony conviction for simple possession of 30 grams or less of marijuana
- Offenses related to slavery, peonage, involuntary servitude, and human trafficking
- Offenses relating to child pornography, sexual abuse or exploitation of minors, or solicitation of minors.

If you have any other kind of conviction, except for minor non-felony traffic offenses (like driving without a license), USCIS will assume that you are ineligible. In this case, you would have to convince the government that you still deserve KFT Parole and that the positive qualities in your life outweigh the criminal history or negatives.

- This includes juvenile delinquency adjudications and convictions that were dismissed, expunged, vacated, pardoned, deferred, annulled, invalidated, withheld, or sealed - even when the criminal court or immigration law does not consider them convictions!

Arrests or charges that did not result in a conviction – so long as the criminal case is over – do not make someone ineligible.

The government’s [FAQs](#) provide more information about the types of factors they will consider when deciding whether a person with one of these criminal case outcomes deserves KFT Parole.

III. Risk of Applying for People with Criminal Records

If you apply for the expanded KFT Parole process, you are sharing your information with USCIS, which is a part of the Department of Homeland Security (DHS). ICE and CBP are also part of DHS, meaning that it is the agency that is also responsible for immigration enforcement. In the past, applicants for benefits programs like KFT Parole have faced the threat that the information from their applications could be used by DHS for enforcement purposes. While USCIS has said they will not generally use KFT Parole applications for enforcement purposes, they have left a broad exception for any person who presents a “threat to public safety, national security or border security.” These are extremely broad exceptions without clear definitions. USCIS may also ask for arrest records, police reports and other court records about a criminal case. These documents can be unreliable, inaccurate and in some cases, harmful to immigration cases. An applicant for KFT Parole with any arrest or contact with the criminal system should consult with an attorney experienced in the intersection between the criminal legal system and immigration system before submitting any applications or supporting documents.

We hope that many members of our community will benefit from this program, which has been possible only because of strong public pressure and strategic advocacy. However, we have further to go to get the kind of broad, inclusive, and just programs we need to ensure that all undocumented people have status and protection and that our families and communities remain whole. KFT Parole is a limited victory, but we believe that together we can achieve more.