



SERVING IMMIGRANTS

All Are Created Equal: 5 Legal Issues Faced by Members of the LGBTQ Community

While there is no doubt that there have been many beneficial changes in the laws of the United States when it comes to the LGBTQ community, there is still a long way to go. When it comes to immigration law, there are many ongoing challenges that need to be addressed in the law, and on a case by case basis. Up until 2013, for example, same-sex couples were prohibited from receiving the same rights as heterosexual couples when it comes to immigration situations. Thankfully, that has changed in the United States.

The reality is, however, that many other countries around the world don't recognize same-sex marriages and often discriminate against those in the LGBTQ community in many ways. This can make it very difficult to get the necessary documentation to immigrate to the United States. The following are some of the more common problems that may be faced and how you can work to overcome them when you or a loved one is going through any type of immigration related situation.

Seeking Asylum Based on Discrimination Due to Sexual Orientation

There are many countries around the world where any type of same-sex relationships are legally prohibited, and the penalties can be very severe. Even in countries where the laws don't directly discriminate against those in same-sex relationships, there are many types of discrimination, and even violence, that takes place. If you or a loved one is living in a country where publicly acknowledging your sexual attractions can result in violence or other types of discrimination, you may qualify for asylum in the United States.

Asylum seekers who are at risk of violence or political retribution may be able to get streamlined through the immigration process so that they can come to the country as quickly as possible. For those who are already in the United States, either on a visa of some sort or even illegally, asylum can help ensure they aren't deported and allow them to normalize their immigration status.

Seeking Asylum Based on Gender Identity

Similar to those who are discriminated against based on sexuality, those in the trans community also face challenges around the world. This can come in many forms including direct violence, prohibition of living as desired, and much more. The United States now recognizes discrimination based on gender identity as a justification for seeking asylum. The process for seeking asylum is still complicated, but it is often the fastest (and safest) way to legally immigrate to the United States.

Proving a Same-Sex Marriage

Another challenge that many same-sex couples face is the need to prove their relationship. Heterosexual marriages are recognized throughout the world, so if a couple with one US citizen and one non-citizen get married outside the country, it is easy to prove their relationship. For those in same-sex marriages that aren't recognized by their country of origin, this can be far more difficult. In the past several years, however, the United States has made it easier for people in this type of situation to enter the country. In some cases, it may be necessary to have an additional wedding performed in the US so all the documents are in order, but this doesn't have to be a major hurdle for immigration.

Dealing with Uneducated (or Discriminatory) Immigration Officials

While the laws in the US are clear when it comes to discriminating against people based on sexual orientation or gender identity, not everyone agrees with them. Those who work in the immigration system may not be able to directly and openly discriminate, but they sometimes still get away with making the whole process more difficult for those who they know are part of the LGBTQ community.

Getting through these added roadblocks is important not only for ensuring you or your loved one is able to enter (or stay in) the country legally, but also help put an end to this type of injustice for future immigrants. Taking a firm stance in defense of your legal rights has long been an important part of the LGBTQ community, and we believe that applies to immigration situations as well.

Finding the Right Visa for Yours Situation

One of the most difficult challenges when it comes to immigration for the LGBTQ community is finding the right type of visa for your situation. Of course, this is going to be a challenge for all immigrants, but you may face additional questions and confusion. The following are some of the different visas that may be used:

- **K-1 Fiancé Visa** – This is the visa used by those who are planning to marry a US citizen. Whether engaging in heterosexual marriage or same-sex marriage, this is likely the ideal option. Just keep in mind, when using the K-1 visa, you need to get married within 90 days of arrival in the United States.
- **K-3 Marriage Visa** – This is a popular visa option that generally lasts for two years and can allow an immigrant to enter and leave the country as needed. You do need to be married to a US citizen, who would actually be the one to apply on your behalf.
- **L-1 Intracompany Transferee** – This is a visa that can go along with a primary L-2 visa holder. With the L-1 intracompany visa, you are able to gain employment in the US as long as it is filed and approved with the USCIS.
- **Many Employment Visas** – There are quite a few work-related visas that people can apply for, including those designed for investors and business owners. The spouse (including same-sex spouses) and children of the employment visa holder can typically come to the country to so that the family can stay together.

Always Work with An Attorney

While a lot of progress has been made when it comes to LGBTQ issues in immigration law, the system is far from perfect. Dealing with immigration issues is often very complex and confusing regardless, and this can be magnified for those in the LGBTQ community. In order to streamline the process and avoid any unnecessary delays or issues, it is always smart to have an experienced immigration attorney at your side. Please contact Cuprys & Associates to go over your unique situation and get the help you need today.