

US K1 VISA

Legal Guide

SÍAM
LEGAL



WHAT IS A K1 VISA FROM THAILAND?

A K1 Visa is a US Visa that allows you as an American to take your Thai fiancée to the United States with the intention to get married when in the United States. You may attempt to take your Thai fiancée to the US on a different US Visa however this may be viewed at a later date as you having had the intention to take your Thai fiancée to the US without applying for a K1 Visa and thereby evading the checks and balances set by the United States Immigration Services with the K1 Visa.

If you are already married and have a Thai wife you would not be permitted to use a K1 Visa application from Thailand to take her back to the US as the K1 Visa was created for the sole purpose of a fiancée and not a wife. As a married American you have to apply for a K3 Visa which is Spouse Visa. See our [US website](#) or our other pages on the [K3 Visa Thailand](#).

Many clients wonder what the benefits are of the K1 fiancée visa compared to other US Visa options. We have listed below the many benefits of applying for a K1 Visa for your Thai fiancée. If you are considering using a US Tourist Visa for your fiancée – don't. The K1 Visa is the better option for a number of reasons as mentioned in [K1 Visa Process](#).



Benefits of Applying for K1 Visa

The [K1 Visa Thailand](#) is easier to obtain than the [K3 Visa](#). Comparing the two, the K1 Visa is much faster. The average K1 Visa application from submission to having a K1 Visa in your Thai fiancée's passport is on average 4-6 months with us at Siam-Legal.

Your Thai fiancée during the K1 Visa application process can have her child/children added to the K1-Visa petition as a K2 derivative. Once she is granted the K1 Visa the children would then also be granted a [K2 Visa](#).

For the purposes of the K1 Visa Thailand, children falling under the K2 derivative have to be unmarried and under the age of 21.

Once your fiancée has her K1 Visa from Thailand and is in the United States, she can apply for a work permit to engage in lawful employment by filing a Form I-765.

These points as listed above would be the main benefits of taking your Thai fiancée back to the United States with a K1 Visa.

ELIGIBILITY

Only U.S. citizens can sponsor their fiancée for a K1 visa. Both you and your Thai fiancée must be free to marry. If either of you have ever been married, you must show that you are eligible to remarry with official documents showing divorce or the death of any previous spouse.

Unless religious tradition prohibits you and your fiancée from meeting before marriage, you must be able to show that you met face to face within the last two years.

Your fiancée may be or may not be eligible for a K1 visa for a number of reasons. There may be a waiver available in some cases, but this will extend the process. In other cases, your fiancée may never be allowed to enter the U.S. and you should consider living somewhere else.

If you have already applied for two K1 visas or have had a K1 visa granted in the past two years, you will need special permission to apply again, which will be denied if you have been convicted of a violent crime.

In order to ensure that your Thai spouse will not require government assistance to live in the United States, you must demonstrate that your annual household income is at least 100% of the poverty line. If you make less than required, you can make up the income difference by demonstrating assets that are at least 5 times the difference between the income required and your annual income.





REQUIREMENTS FOR THE K1 VISA THAILAND

K-1 Visa requirements and **K-3 Visa requirements** are essentially, Immigration officials want to ensure that the immigrant spouse or fiancé will not become a public charge (welfare recipient) once he or she enters the United States

When bringing a spouse or fiancé from Thailand to live permanently in the U.S, a petitioner must accept legal responsibility for financially supporting the spouse or fiancé. The petitioner accepts this responsibility and becomes a K-1 or K-3 sponsor by completing and signing a document called an Affidavit of Support.

Income Requirement

In order to ensure that your Thai spouse will not require government assistance to live in the United States, you must demonstrate that your annual household income is at least 125% of the poverty line. If you and your spouse-to-be will be living in the 48 contiguous states and your household will consist of only the two of you, the minimum annual income (as of 2011) is \$18,387. The more members of your household, the higher the minimum requirement will be. If you and your fiancée will live in Alaska or Hawaii, the required annual income is slightly higher.

If you make less than required, you can make up the income difference by demonstrating assets (such as real estate, stocks, bonds, and savings accounts) that are at least 5 times the difference between the income required and your annual income. If you have an annual income of \$13,610, for example, you can satisfy a \$14,710 income requirement by showing that you have \$5,500 ($\$1,100 \times 5$) in the bank.

If you have no annual income, you can satisfy the income requirement by showing you have assets worth five times the required annual income.

Petitioner for a K-1 Visa who does not meet the K-1 Visa Income Requirement

[K-1 visa requirements](#) and [K-3 visa requirements](#) does not have a hard and fast formula for qualifying a person as a sponsor. The most weight will be placed on income from current employment and the total unadjusted income shown on the three most recent tax returns. In most cases, a sponsor who is employed and can demonstrate the ability to earn income at or above 125% of the poverty line for the number of persons who will be supported will be found eligible. Immigration will look at the “whole picture” with regard to financial status if a petitioner does not have sufficient income to meet the K-1 visa requirements. USCIS (U.S. Citizenship and Immigration Services) will look at assets such as stocks, bonds, bank account balances, real estate, and any businesses owned by the petitioner.

Assets such as these are only counted at 1/5th of their current market value after subtraction of any debt, mortgages or liens.



K1 VISA PROCESS

STEP 1: Filing an I-129F Petition

You start the K1 visa application process by filing a petition (Form I-129F) with USCIS in the U.S. It takes the USCIS two to three months on average to review the petition. If everything is in order and the petition is approved, your fiancée's visa application is forwarded to the National Visa Center (NVC). The National Visa Center then forwards the application to the U.S. Embassy in Bangkok. This takes about a month.

The application requires you to disclose whether or not you met your fiancée through a marriage broker, but it will not disqualify your fiancée from receiving a K1 visa. This is merely to determine whether or not the marriage broker followed legal procedures.

You will also have to disclose court and police records related to any convictions you may have for certain crimes, even if the records were sealed or you were told you no longer have a record. This information will be shared with your fiancée at the Embassy, so make sure you don't have any secrets!

Step 2: Gathering the Required Documentation

After about 4 months, when the U.S. Embassy in Bangkok receives the [K1 visa application](#) they will send your fiancée a list of required documents and application forms. At this point in the process there is about two months to go. The documents required include but are not limited to your fiancée's passport, birth certificate, and police records from any country where your fiancée has lived. If either of you was previously married, you will have to produce a divorce decree or death certificate to show you are free to remarry.

The U.S. Embassy's job is to detect fraudulent visa applications. You must submit enough proof of your relationship to convince the embassy that your marriage plans are legitimate. Telephone records, pictures, emails, and instant messages can all be submitted as proof of your ongoing relationship.

Step 3: Interview and Medical Examination

After you and your fiancée assemble and submit the required documents, the embassy will schedule an interview with your fiancée. Before the interview your fiancée will be required to submit to a medical examination, which can be conducted at approved locations in Bangkok and Chiang Mai. Your fiancée may be required to undergo additional vaccinations.









The final step in the [K1 visa application](#) process is an interview with a visa officer at the U.S. Embassy in Bangkok. This can take several hours. The visa officer will review your fiancée's documentation, make sure there is no reason your fiancée is inadmissible to the U.S., and attempt to confirm that your relationship is sincere. If your fiancée's K1 visa is approved, it should be available about two business days after the interview.

After the Visa is Issued

Your fiancée then has six months to travel to the United States. Because the visa approval process is discretionary, you should not make travel plans before receiving your fiancée's K1 visa. Once your fiancée arrives in the U.S. on a K1 visa, you have 90 days to marry. After your wedding, your new spouse can apply for adjustment of status to get a green card.



Siam Legal (Thailand) Co., Ltd.

-  Interchange 21 Building., 23rd Floor., 399 Sukhumvit Road, North Klongtoey, Wattana, Bangkok 10110
-  **UK 0207 101 9301**
-  **US Toll Free 1-877-252-8831**
-  **Thailand : +662-259-8100**
-  **Fax : 02-259-8025**
-  info@siam-legal.com
-  www.siam-legal.com
-  Business Hours: Monday to Friday 8am to 6pm. Closed on Saturday and Sunday