

9 FAM 40.101 NOTES

(CT:VISA-1509; 09-09-2010)
(Office of Origin: CA/VO/L/R)

9 FAM 40.101 N1 POLYGAMY DEFINED

(CT:VISA-1509; 09-09-2010)

Polygamy is the historical custom or religious practice of having more than one wife or husband at the same time. It is also called plural marriage. It is distinguished from bigamy which is a criminal act resulting from having more than one spouse at a time without benefit of a prior divorce. Bigamy *may imply* wrongdoing on the part of one of the spouses in failing to inform the other spouse and the authorities of an existing marriage. A finding that an alien is a bigamist would not preclude the issuance of an immigrant visa under INA 212(a)(2)(A)(i)(I), although *may render an alien ineligible for an immigrant visa under INA 212(a)(10)(A) if the alien purposely married more than one wife or husband at the same time based on historical custom or religious practice.* A conviction for or an admission of bigamy might preclude issuance under INA 212(a)(2)(A)(i)(I)-crime involving moral turpitude. [See generally, *Matter of G___*, 61&N9.]

9 FAM 40.101 N2 DISTINGUISHING CURRENT PRACTICE FROM ADVOCACY, BELIEF, OR PAST PRACTICE

(CT:VISA-1368; 10-29-2009)

In order for ineligibility to result, the alien must intend to actually practice polygamy in the United States. The alien's mere advocacy of or belief in the practice, or the fact that the alien at one time in the past may actually have practiced polygamy, would not be sufficient to render a finding of inadmissibility unless you have available facts which would lead a reasonable person to conclude that the alien intends to take up or resume the practice once in the United States. For example, an alien who believes in the practice of polygamy and who has divorced all but one of his wives just prior to visa application would arouse suspicion if it were known that the divorced spouse had recently obtained a nonimmigrant visa.

9 FAM 40.101 N3 ALIEN COMING TO UNITED STATES TO PRACTICE POLYGAMY

(CT:VISA-1368; 10-29-2009)

We interpret the phrase "...coming to the United States to practice polygamy..." to mean that an alien who intends to practice polygamy when he or she enters the United States in any immigrant category is ineligible, not that the alien necessarily must be coming to the United States in a spousal category. Thus, an immigrant who seeks an immigrant visa based upon his or her employment in the United States and who intends to practice polygamy upon entry is inadmissible.

9 FAM 40.101 N4 INAPPLICABLE TO NONIMMIGRANTS

(CT:VISA-1368; 10-29-2009)

This section is not applicable to nonimmigrants. However, those visa categories which confer derivative status for the spouse of a principal alien do not allow for issuance of derivative visas to multiple spouses. You may, however, use discretion in issuing the additional spouse(s) a B-2 visa, if otherwise eligible and qualified.