

## **Seeking Asylum in Canada on the US-Canada Border:** **The Exceptions to the Safe Third Country Agreement (STCA)**

If you seek asylum in Canada anywhere along the Canada-US border, you will be allowed to enter Canada **only if you** meet one of the exceptions to the Safe Third Country Agreement. Canada Border Services Agency (CBSA) will ask for proof that you meet ONE of the four exceptions to the STCA to be able to stay in Canada.

**EXCEPTION #1: Family member exception:** You can qualify under this exception if you have a family member in Canada ('anchor' family member) who is one of the following AND has the right immigration status in Canada AND is physically present in Canada:

1. Spouse or same-sex spouse 2. Common-law spouse (a person of the same or opposite sex with whom you have cohabited for at least one uninterrupted year) 3. Mother, father, adoptive parent or legal guardian 4. Grandmother or grandfather 5. Child or grandchild 6. Sister or brother (also half-sister or half-brother or adopted sister or brother) 7. Aunt or uncle (also an aunt or uncle who is half-sister or half-brother to one of your parents) 8. Nephew or niece **Important:** Cousins are NOT eligible to be anchor relatives. Your relative will have NO financial responsibility for you once you are in Canada.

**A qualifying family member MUST be one of the following:**

1.a Canadian citizen 2. a permanent resident of Canada 3. a person accepted by Canada as a refugee (a Convention refugee or a Protected Person) 4. a person whose removal order was stayed on humanitarian and compassionate grounds 5. a person with a valid Canadian work permit or study permit 6. a person at least 18 years old who has made a claim for asylum (refugee protection) that has been **referred** to the IRB for a decision (**and** has **not** been rejected, abandoned or withdrawn).

**Important:** if the person is still waiting for a referral to the IRB, they MAY be able to act as your anchor relative (due to current delays).

**EXCEPTION #2: Unaccompanied children under 18 exception (minors)** You can qualify if: 1. you are not accompanied by a parent or legal guardian; 2. you do not have a spouse or common-law partner; 3. you do not have a parent or legal guardian in Canada or the United States.

**EXCEPTION #3: Document (visa) holder exceptions.** You can qualify if you: 1. Hold a valid Canadian visa (other than a transit visa) 2. Hold a valid work permit or a valid study permit 3. Hold a travel document (for permanent residents or refugees) 4. Hold another valid admission document issued by Canada 5. Are a national of a country who does not need a visa to enter Canada, but does need a visa to enter the United States (for example, Mexicans).

**EXCEPTION #4: Public interest exception (death penalty).** You **may** qualify under this exception if: You have been charged with or convicted of an offence that could subject you to the death penalty in the United States or in another country **and** you can prove this.

### **PROOF:**

In order to decide if you qualify for an exception, Canadian border officials (CBSA) will interview you (and, if relevant, your family member in Canada), examine any documents you provide and consult Canadian databases. (continued)

1. **If you qualify for Exception #1** (family member exception) **read** the document on this web page: *How to prove your relationship with a family member.*

2. **Get help preparing for an STCA interview.** Contact one of the experts listed on this web page (Vive Shelter, the Peace Bridge New Comers Centre or a Canadian refugee lawyer)

## **NEXT STEPS**

### **1. What Happens if I do NOT qualify for an exception under the STCA?**

You will be issued with an exclusion order from Canada and will be returned to the United States Customs and Border Patrol the same day. You can NEVER make another asylum claim in Canada. You will have 15 days to appeal this decision.

### **2. What happens if I have been allowed to enter Canada?**

You will undergo an eligibility interview to decide if you qualify to make a refugee claim in Canada.

**Here are the reasons you will not be eligible:**

- you already claimed asylum in Canada (this includes the following situations: your claim was accepted, refused, withdrawn, abandoned or found to be ineligible)
- you have been recognized as a refugee in another country (and can be returned there);
- it is decided that you can't be admitted to Canada: 1. because of security reasons; 2. because you have violated human or international rights; 3. because you committed a serious crime or were involved in organized criminality.
- **If your claim is found to be ineligible**, Canadian authorities will usually begin a process to deport you back to your country of origin. You may be detained. In most cases you can apply for a Pre-Removal Risk Assessment (PRRA). If your PRRA is successful, you will be recognized as a convention refugee or protected person in Canada.

### **3. If you have already made an asylum claim in the United States (or the United Kingdom, Australia or New Zealand)**

If you have already made an asylum claim in one of these four countries, **you are not eligible to make an asylum claim in Canada, BUT**, you will be able to go through the Pre-Removal Risk Assessment process (PRRA). You should be able to have a lawyer to represent you. If successful you will be recognized as a convention refugee or a protected person in Canada.

**Canadian Government information on the Safe Third Country Agreement:**

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement.html>

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