

HOMELAND SECURITY ACT OF 2002

DEPARTMENT OF HOMELAND SECURITY (DHS)

- ▶ Directorate of Border and Transportation Security
- ▶ Customs and Border Protection
- ▶ Immigration and Customs Enforcement
- ▶ United States Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS)

- ▶ Governs all aspects of immigration and citizenship issues
- ▶ Replaced the responsibilities of the Immigration and Naturalization Service (INS)

<http://www.uscis.gov>

A "Alien" Is:

- ▶ Any person who is not a citizen of the United States
- ▶ Any person who is present in the United States without the legal right to be here (undocumented alien)
- ▶ Any non-citizen legally present in the United States as either an immigrant or a nonimmigrant visa holder

Proof of Legal Status

- ▶ Birth certificate
- ▶ Naturalization documents
- ▶ Alien Registration card – aka a “green card”
- ▶ Passport – if foreign it will have a current visa stamp identifying type of non-immigrant status

Immigrant vs. Non-Immigrant

- ▶ Immigration status allows permanent residence in the United States – you can live and work here indefinitely
- ▶ Non-immigrant status allows temporary and conditional presence in the United States – you can visit, study, sometimes work but you do not intend to stay permanently

How is status acquired?

- ▶ Through birth – if you are born in the U.S. you automatically are a citizen
- ▶ Naturalization – you acquire citizenship through a legal process
- ▶ Petition – someone else (usually) requests that you be granted immigration status

Immigration and Nationality Act

- ▶ Enacted in 1952
- ▶ Governs all aspects of immigration law
- ▶ It is a very large body of law – approximately 300,000 words
- ▶ It is amended periodically to reflect legislative changes

Legal Permanent Resident (LPR)

- ▶ Holds a “green card” (Alien Registration Card)
- ▶ Can live and work in the U.S. permanently
- ▶ Usually acquired through:
 - A family sponsor (the ‘petitioner’ must be a U.S. citizen or an LPR)
 - Employer
 - Diversity lottery
 - Asylee, refugee, parolee status
 - Special immigrant category
 - Sometimes through amnesty programs

Non-Immigrant Visas

- ▶ Issued by consular officials overseas (they exist as a stamp in a passport)
- ▶ Issued for a specific purpose or activity
- ▶ All are temporary and conditional

Common types are:

- ▶ B2 Tourist visa
- ▶ F1 Student visa
- ▶ H1B Specialty occupation
- ▶ K1 Fiance of US citizen

Undocumented Persons

- ▶ Individuals who have overstayed their visa

OR

- ▶ EWI – Entered Without Inspection – they crossed the border without being stopped by customs officials or border patrol officers

PRUCOL

- ▶ **Person Residing Under Color of Law**
 - ▶ An individual who lacks lawful immigration status
 - ▶ USCIS is aware of their presence
 - ▶ USCIS has not made an effort to deport them
 - ▶ They may be entitled to some public benefits if they can prove their status
- ▶ **Note:** This is a VERY grey area of the law; always refer such an individual to qualified immigration experts for assistance and advice

Immigration Status

- ▶ Is not simply a matter of “legal” vs. “illegal”
- ▶ USCIS is responsible to determine whether someone is here legally or not
- ▶ Status affects access to entitlements, services and benefits

**ALWAYS REFER INDIVIDUALS TO QUALIFIED
IMMIGRATION EXPERTS**

Status and Access to Services/Benefits

- ▶ Personal Responsibility and Work Opportunity Reconciliation Act 1996
- ▶ “Qualified” and “Unqualified” aliens
- ▶ Legal permanent residents, asylees, refugees and some special immigrant categories have access to federally funded benefits and services; there may be a waiting period
- ▶ Non-resident visa holders and others are usually unqualified
- ▶ Undocumented immigrants may access emergency medical aid, prenatal care and education through the 12th grade

Status and Access to Services/Benefits

- ▶ Access to state-funded benefits
- ▶ “Mixed status” families
- ▶ ‘Public charge’
- ▶ Language Access
- ▶ Confidentiality

Special Immigrant Juvenile Status

- ▶ Issued to certain young persons who are either in or eligible for long-term foster care
- ▶ Individuals are eligible up to the age of 21 years
- ▶ They must be in care of the state to apply – parental rights don't have to be terminated
- ▶ Application is made in two parts:
 - ▶ Family Court
 - ▶ USCIS

Special Immigrant Juvenile Status – cont'd

If you think that you have an individual on your case load that may qualify for this status – IMMEDIATELY –

- ▶ Notify supervisor
- ▶ Refer them to a qualified immigration expert for a consultation
- ▶ Start legal process EARLY

VAWA

▶ Violence Against Women Act

- Allows certain spouses and children who have been abused by a U.S. citizen or LPR to self-petition for adjustment of status
- Restrictions apply
- Refer immigrant victims of domestic violence or child abuse to a qualified immigration expert for consultation and advice

V and U Visas

- ▶ Victims of trafficking or severe crime
- ▶ Individuals who have been trafficked into the United States for the purposes of either employment or sexual exploitation are entitled to immigration relief
- ▶ Individuals who are victims of severe crimes may also be eligible for immigration relief
- ▶ Restrictions apply
- ▶ Refer these individuals to qualified legal experts for advice and consultation

Immigration Status Affects Individuals in Many Ways:

It can:

- ▶ Create fear of deportation
- ▶ Instill fear of separation from children/spouses
- ▶ Subject individuals to job exploitation
- ▶ Allow for substandard or dangerous housing
- ▶ Force individuals to stay in abusive relationships
- ▶ Prevent individuals from seeking help when they need it
- ▶ Prevent individuals from reporting criminal activities

Resources

- ▶ Legal Services of New Jersey: www.lsnj.org
- ▶ National Immigration Law Center: www.nilc.org
- ▶ New Jersey Immigration Policy Network: www.njipn.org
- ▶ Bridging Refugee Youth and Children's Services: www.brycs.org

For further information:

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