

# **Defending Non-Citizens in Illinois, Indiana, and Wisconsin**

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## Glossary of Immigration Terms and Abbreviations

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**A-file (Alien file):** Record of a non-citizen who is currently under investigation by the DHS, has had contact with the DHS or the former INS in the past, or is an informant or witness assisting the DHS. The record contains copies of documents and information for all transactions related to the non-citizen throughout the U.S. immigration and inspection process. This is different than the Record of Proceeding (“ROP”) maintained by the Executive Office for Immigration Review for non-citizens placed in removal, deportation, or exclusion proceedings before the immigration courts.

**Adjustment of Status:** The process by which a non-citizen becomes a lawful permanent resident in the U.S. Adjustment of status may be granted by the CIS or an immigration judge.

**Admissibility:** To be admissible, a non-citizen must demonstrate that he or she is not barred by one of the grounds of inadmissibility in order to enter the U.S. temporarily with a non-immigrant visa, to enter the U.S. as a lawful permanent resident, to adjust his or her immigration status to become a lawful permanent resident, or to return as a lawful permanent resident to the U.S. after a trip abroad. Grounds of inadmissibility include, but are not limited to, lack of proof of vaccinations, unlawful presence in the U.S., and certain criminal convictions.

**Admission/Admitted:** Defined at 8 U.S.C. § 1101(a)(13), it means the lawful entry of a non-citizen into the U.S. after inspection and authorization by an immigration officer.

**Advance Parole:** Travel document that allows a non-citizen applying for adjustment of status to leave and reenter the U.S. while the adjustment application is pending.

**Aggravated Felony:** The term “aggravated felony” is defined at 8 U.S.C. § 1101(a)(43). The definition of an aggravated felony is expansive and includes certain misdemeanor offenses as well as felony offenses. A conviction for an aggravated felony disqualifies a non-citizen from almost all forms of relief from removal.

**Alien:** A person who is not a U.S. citizen or national.

**Amnesty Program:** Program created in the Immigration Reform and Control Act of 1996 for non-citizens who were physically present in the U.S. on or before January 1, 1982. Amnesty applicants whose applications were approved became lawful permanent residents.

**Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA):** Legislation enacted on April 24, 1996 that restricted the availability of waivers of deportation for lawful permanent residents convicted of certain crimes, including controlled substance violations, and created new immigration provisions relating to domestic and international terrorism. Waivers under 8 U.S.C. § 1182(c) may still be available to lawful permanent residents who pled guilty to certain offenses prior to April 24, 1996.

**Application Support Center (ASC):** Center run by CIS where applicants for certain immigration benefits have their biometrics (fingerprints and photograph) taken as part of the processing of their applications (i.e. adjustment of status and employment authorization document (EAD)).

**Asylee:** A non-citizen who has been granted asylum within the U.S. by an immigration judge or a CIS asylum officer. An asylee is automatically authorized to work within the U.S. and may apply for lawful permanent residence after having been an asylee for one year.

**Asylum:** A form of relief from removal, deportation, or exclusion for a non-citizen who has suffered past persecution or has a well-founded fear of future persecution on account of her race, religion, nationality, membership in a particular social group, or political opinion. The CIS Asylum Office or an immigration judge may grant a non-citizen asylum.

**Asylum Applicant:** A non-citizen who has applied for asylum with the CIS Asylum Office or with the immigration court. This non-citizen may have entered the country legally with inspection (i.e. with a tourist or student visa) or without inspection by an immigration officer.

## B

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**Bag & Baggage Notice:** Notice issued by ICE (and former INS in cases before March 1, 2003) to a non-citizen after a final order of removal has been entered, stating when and where the non-citizen must appear for his removal from the U.S.

**Board of Immigration Appeals (BIA):** The federal administrative law appellate board located in Falls Church, Virginia which reviews appeals from decisions of the immigration judges and CIS denials of I-130 immigrant visa petitions. The BIA is an administrative agency within the Executive Office for Immigration Review. Published BIA decisions are binding on immigration judges who preside in Illinois unless the Seventh Circuit Court of Appeals or the U.S. Supreme Court has ruled on the particular issue in question.

## C

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**Cancellation of Removal for Certain Permanent Residents (“LPR cancellation”):** Cancellation of removal is a form of discretionary relief that may be granted by an immigration judge to a long-term lawful permanent resident. An applicant must be a lawful permanent resident for at least five years, have resided continuously in the U.S. for at least seven years after having been admitted in any status, and not have been convicted of an aggravated felony. Continuous residence is terminated for eligibility purposes upon the commission of certain criminal offenses as well as the issuance of the Notice to Appear by the DHS.

**Cancellation of Removal and Adjustment of Status for Nonpermanent Residents (“non-LPR cancellation”):** Cancellation of removal is a form of discretionary relief that may be granted by an immigration judge to a non-citizen who is not a lawful permanent resident. In general, a non-citizen must have been continuously physically present in the U.S. for a period of not less than ten years before being placed in removal proceedings, been a person of good moral character during such period, and not have been convicted of certain offenses. In addition, she must demonstrate that her removal would result in exceptional and extremely unusual hardship to a U.S. citizen or lawful permanent resident spouse, parent, or child. Different requirements exist for battered immigrants and children (“VAWA cancellation”) as well as for eligible non-citizens from El Salvador, Guatemala, the former Soviet Union, and Eastern European countries (“NACARA cancellation or suspension”).

**Citizenship (U.S.):** In general, a person who was born in the United States or who has naturalized to become a U.S. citizen. Persons born in Guam, Puerto Rico, Panama, the Panama Canal Zone, and the U.S. Virgin Islands may be U.S. citizens, depending upon when they were born. United States citizenship may also be acquired or derived from one or both parents who are or were U.S. citizens.

**Citizenship and Immigration Service (CIS):** Branch within the Department of Homeland Security (DHS) that processes and adjudicates immigrant visa petitions and certain applications for immigration benefits, including adjustment of status, employment authorization, asylum, and naturalization.

**Conditional Resident:** A non-citizen who has been married for less than two years to a U.S. citizen when applying for lawful permanent residency is granted conditional residency (a conditional green card) for two years. Prior to the end of the two year period, the non-citizen must apply to have the conditions removed, and once the conditions are removed, the non-citizen is a lawful permanent resident.

**Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”):** This treaty prohibits removal of an individual to a country where he faces probable torture by that country’s government officials or persons acting with the acquiescence of the government officials. The U.S. is a party to the CAT. A non-citizen who has been convicted of an aggravated felony and fears probable torture in the country designated for removal may apply for withholding of removal and/or deferral of removal before the immigration court.

**Conviction:** For immigration purposes, a conviction is defined as a formal judgment of guilt entered by a court. Where an adjudication of guilt has been withheld, a conviction also exists where a judge or jury has found the non-citizen guilty, the non-citizen entered a plea of guilty or nolo contendere, or the non-citizen admitted sufficient facts to warrant a finding of guilt and the judge ordered a form of punishment, penalty or restraint on liberty imposed on the non-citizen. Thus, under 8 U.S.C. § 1101(a)(48)(A), a non-citizen may have a conviction for purposes of federal immigration law even though he may not have a conviction under state law.

**Crime Involving Moral Turpitude (CIMT):** As defined by the BIA, “Conduct which is inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general.” *Matter of Franklin*, 20 I&N Dec. 867 (BIA 1994), *aff’d* 72 F.3d 571 (8<sup>th</sup> Cir. 1995). CIMTs are determined by reviewing the elements of the statutes defining the offenses and, in some cases, other evidence. They are generally offenses involving fraud, theft, shoplifting, evil intent, intent to cause serious bodily harm, and malice.

**Customs and Border Protection (CBP):** Agency that patrols the U.S. borders and carries out inspections of goods and persons at air, land, and sea ports.

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**Declaratory Action:** A lawsuit filed in federal district court, requesting that the court render a declaratory judgment in favor of the non-citizen regarding an application for an immigration benefit (i.e. naturalization, a visa petition, or adjustment of status) when the CIS has delayed its adjudication or denied the application.

**Deferred Action:** If this temporary form of relief is granted by CIS or ICE, the DHS will refrain from placing a non-citizen in removal proceedings or to executing a deportation, exclusion or removal order. It is also a form of interim relief granted by the DHS for non-citizens who, prior to the promulgation of the U visa regulations, demonstrated *prima facie* eligibility for a U visa. Deferred action is commonly issued for non-citizens who have approved battered spouse/child self-petitions but who do not have a current immigrant visa available to be able to apply for adjustment of status. The non-citizen is eligible for certain benefits, including employment authorization. The non-citizen must apply to renew deferred action status and employment authorization each year.

**Deferred Inspection:** If a CBP officer at a port of entry questions the admissibility of the non-citizen during the customs/entry procedure, the officer may temporarily parole him into the U.S. to attend an appointment with CBP for a determination of his admissibility.

**Department of Homeland Security (DHS):** The federal agency created on March 1, 2003 whose overall mission is to protect the nation against future terrorist threats and attacks. The DHS

replaced the INS after the enactment of the Homeland Security Act of 2002. The agency is comprised of the CIS, ICE, and CBP and is responsible for adjudicating immigration relief applications, enforcing the Immigration and Nationality Act (INA), and securing the U.S. borders.

**Department of State:** A federal department under the Secretary of State responsible for foreign relations and policies. It is responsible for processing and issuing all nonimmigrant visas, such as visitor, student, and temporary worker visas, and immigrant visas filed at U.S. Embassies and Consulates abroad. It also issues waivers of the grounds of inadmissibility for nonimmigrant visas with the approval of the DHS.

**Deportability:** Also called “removability.” A non-citizen is deportable for having violated a section of the INA, such as overstaying the time permitted by the DHS on his visa or having been convicted of certain crimes. ICE serves a charging document with allegations of deportability on a non-citizen and then files it with the Immigration Court to initiate proceedings to remove him from the U.S. An immigration judge determines whether a non-citizen is deportable and has a defense to removal from the U.S. In expedited removal proceedings for certain non-citizens who are not lawful permanent residents under 8 U.S.C. § 1228(b), ICE will make the determination whether a non-citizen is deportable and enter a final order of removal.

**Deportation:** The physical removal or expulsion of a non-citizen from the United States.

## E

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**Employment Authorization Document (EAD):** Also known as a work permit, an EAD provides evidence of eligibility to work in the U.S. A non-citizen with an EAD does not have lawful permanent resident status in the U.S. Non-citizens with certain pending applications and some temporary non-citizens in the U.S. may be eligible for an EAD. Asylees and refugees are authorized to accept employment pursuant to their status without having an EAD.

**Exclusion:** The physical removal of a non-citizen from the United States based on one of the grounds of excludability (currently known as grounds of inadmissibility). An excluded non-citizen who was stopped at the border, at a seaport, or in an airport may have been physically present in the U.S. but did not legally enter the U.S.

**Executive Office for Immigration Review (EOIR):** Federal administrative agency in the Department of Justice which includes the following entities: 1) the Office of the Chief Immigration Judge which oversees the immigration courts; 2) the Board of Immigration Appeals which reviews appeals of immigration court decisions; and 3) the Office of the Chief Administrative Hearing Officer which adjudicates employment-related immigration cases.

**Expungement:** A criminal court order which seals a criminal record so that it does not appear for criminal background checks. An expungement does not eliminate a conviction for immigration purposes, although it may do so for certain state law purposes.

**Extreme Hardship:** One of several standards for certain waivers of inadmissibility and deportability, requiring that the applicant demonstrate that qualifying LPR or US citizen family members will suffer extreme hardship if the applicant is removed from the U.S. The BIA has found that it encompasses both present and future hardship. In order to meet the extreme hardship standard, the applicant must prove that removal would result in more than just the usual emotional or economic hardship of separation; there must be additional factors present, such as but not limited to illness, clinical depression, or severe conditions in the country of removal. Certain statutory and regulatory provisions require similar or heightened standards, such as “exceptional hardship,” and “exceptional and extremely unusual hardship.” Once the extreme hardship has been demonstrated,

the applicant must also show that he or she merits a favorable exercise of discretion in the

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**Final Order of Deportation/Removal:** An administrative order that exists where: 1. the BIA either reverses or upholds a grant of discretionary relief, the 30 day period for seeking BIA review of a decision by the Immigration Court has expired, or an alien has waived his or her right to appeal; and 2. where the ICE has issued a final administrative order of removal under 8 U.S.C. § 1228(b).

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**Good Moral Character:** Statutory requirement for certain immigration benefits, including naturalization, cancellation of removal, and voluntary departure. It is also considered in applications for discretionary relief, such as asylum and waivers. Certain conduct bars applicants from establishing good moral character, including being convicted of an aggravated felony on or after November 29, 1990, participating in prostitution (whether or not convicted), smuggling aliens, and trafficking in a controlled substance.

**Green Card:** Also known as an I-551 card, it is the alien registration card issued to lawful permanent residents and conditional residents. The card contains the non-citizen's alien registration number which begins with the letter "A" and is followed by seven, eight, or nine digits. Where a lawful permanent resident or conditional resident loses his card, he can request an I-551 stamp be placed in it from the CIS as temporary evidence of his immigration status.

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**Hardship:** See Extreme Hardship.

**Humanitarian Parole:** Temporary parole into the U.S. of an otherwise inadmissible non-citizen based on emergency or humanitarian reasons.

## I

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**Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA):** Enacted on September 30, 1996, this legislation overhauled the immigration laws, greatly expanding the definition of aggravated felony, creating removal proceedings in lieu of deportation/exclusion proceedings with different and yet similar forms of relief from removal (deportation), and adding new grounds of deportability and inadmissibility.

**Immediate Relative:** The spouse, parent, or unmarried child under age 21 of a U.S. citizen.

**Immigrant:** A non-citizen who has the intention to reside permanently in the United States.

**Immigrant Visa:** Visa issued by the Department of State at a U.S. Embassy or Consulate abroad, allowing the immigrant to enter the U.S. as a lawful permanent resident.

**Immigration and Customs Enforcement (ICE):** As the enforcement branch of the DHS, it issues warrants, arrest orders, and Notices to Appear for Immigration Court for non-citizens who it alleges have violated U.S. immigration law. It is also responsible for initially reviewing and deciding the custody status of non-citizens. It removes non-citizens from the U.S.

**Immigration and Nationality Act (INA):** The federal immigration law enacted in 1952 which has since been amended more than 50 times.

**Immigration and Nationality Act of 1990 (IMMACT 1990):** Enacted in December 1990, this legislation expanded the definition of aggravated felony, created Temporary Protected Status (TPS), and implemented other major changes in immigration law.

**Immigration and Naturalization Service (INS):** Abolished on March 1, 2003 by the Homeland Security Act of 2002, it was a federal administrative agency within the Department of Justice charged with enforcing the Immigration and Nationality Act (INA).

**Inadmissibility:** This term includes numerous grounds for which the admission of a non-citizen to the U.S. may be precluded, such as being unlawfully present in the U.S. or having committed certain crimes. The DHS or an immigration judge may make the determination that a non-citizen is inadmissible and whether he is eligible to apply for a waiver of that ground of inadmissibility. For non-citizens physically outside of the U.S., this determination is initially made by the U.S. Department of State and requests for waivers are decided by the designated CIS office abroad.

**Individual (Merits) Hearing:** Often the final hearing in removal proceedings, it is the hearing where all of the evidence and testimony in a case are presented to the immigration judge and the judge enters a decision either ordering removal or granting relief.

**International Marriage Broker Regulation Act (IMBRA):** This statute was designed to regulate the international marriage broker market and protect beneficiaries of the fiancé(e) visa petition from USC or LPR petitioners who have been convicted of certain domestic violence related crimes.

## L

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**Laser visa:** Serving both as what was previously known as a border crossing card and a non-immigrant visitor/business visa, this visa allows a non-citizen residing in Mexico to cross into the U.S. as a temporary visitor. If the visa was issued as a border crossing card, the non-citizen must remain within 25 miles of the border for 72 hours or less. This document is most commonly issued to non-citizens who live in Mexico and work in the U.S. If the visa was issued as a non-immigrant visitor/business visa, the non-citizen can travel anywhere within the U.S. for the period of time permitted by the DHS upon admission to the U.S.

**Lawful permanent resident (LPR):** A non-citizen who has been granted lawful permanent residence (a “green card”). A lawful permanent resident may be subject to removal from the U.S. for certain convictions and other violations of immigration law.

## M

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**Mandamus:** A writ by which a federal district court orders the CIS to perform a certain ministerial (non-discretionary) act as required by law. A non-citizen may request that the district court issue a mandamus order to the CIS when the CIS has not timely adjudicated an application for immigration relief (i.e. adjustment of status), despite repeated requests to do so.

**Master Calendar Hearing:** Initial hearing(s) where the immigration judge reviews the DHS charges of inadmissibility or deportability against the non-citizen and determines eligibility for immigration relief.

## N

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**National Security Entry/Exit Registration System (NSEERS):** System established in 2002 to meet the terms of the Congressionally-mandated requirement for a comprehensive entry-exit program by 2005. A national registry was created for non-immigrants from certain countries or those who meet a combination of intelligence-based criteria and are identified as presenting an elevated national security concern. Non-citizens from the designated countries had to comply with certain registration and re-registration requirements. In December 2006, the DHS officially withdrew the original NSEERS regulations regarding re-registration. Currently, the system is only in effect at certain ports of entry.

**Naturalization:** The process by which a non-citizen becomes a U.S. citizen.

**Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA):** Legislation enacted in November 1997 which allows Nicaraguans and Cubans present in the U.S. on or before December 1, 1995 to apply for adjustment of status to become lawful permanent residents. The NACARA also allows Salvadorans and Guatemalans who entered the U.S. in 1990 (and meet other requirements) as well as persons from the former Soviet Union and Eastern Bloc countries who entered the U.S. on or before 1990 and applied for asylum prior to December 1991 to apply for cancellation of removal under the former standards of suspension of deportation.

**Non-citizen:** A person who is not a U.S. citizen. A non-citizen is referred to as an “alien” in the Immigration and Nationality Act (INA).

**Nonimmigrant:** A non-citizen who intends to come to the U.S. for a temporary period, such as a tourist (B-1/B-2), an exchange student (F-1), or for a specified period of employment in certain fields (i.e. H-1B).

**“Notario” (Notary Public):** In the U.S., this is a person who can administer oaths, witness and authenticate documents, and perform various other acts defined differently by jurisdiction. Being a notary public by itself does not authorize a person to perform any acts that require the provision of legal advice or counsel. In the U.S., a notary public need not be a licensed attorney. In other countries, notaries public (known as “notarios” in Spanish-speaking countries) may be granted powers that are similar or equal to that of an attorney. As a result, many notaries public or “notarios” have taken advantage of non-citizens who have immigrated to the U.S. and believe that notary publics have the power of an attorney to assist them in their immigration legal matters. Such services may constitute the unauthorized practice of law where the notary public is not a licensed attorney or accredited by the DHS or Board of Immigration Appeals.

**Notice to Appear (NTA):** The charging document (Form I-862) served by ICE on non-citizens to initiate removal proceedings for alleged immigration law violations. The notice may either state a date at which to appear before an immigration judge or may state that notice of a hearing will be sent later.

## O

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**Order of Deportation/Deportation Order:** An order issued by an immigration judge to deport a non-citizen from the U.S. at government expense where the charging document (Order to Show Cause) was issued by the former INS prior to April 1, 1997.

**Order of Removal/Removal Order:** An order issued by an immigration judge to remove (deport) a non-citizen from the U.S. at government expense where the charging document (Notice to Appear) was issued by the DHS or former INS on or after April 1, 1997.

**Order of Release on Own Recognizance (OR):** An order entered by an ICE (or former INS) officer or an immigration judge releasing a non-citizen from immigration custody without a bond.

**Order to Show Cause (OSC):** The charging document (Form I-221) that the former INS issued and served on non-citizens prior to April 1, 1997 to initiate deportation proceedings.

**Order of Supervision:** A detained non-citizen may be granted release from ICE custody where ICE cannot carry out a removal order, such as where ICE cannot obtain travel documentation or permission from a receiving country to remove a non-citizen, a federal court has ordered a stay of removal, or a provision of law provides for a stay of removal. After reviewing a non-citizen's custody file and considering factors such as her U.S. citizen or lawful permanent resident family members, employment, community involvement, flight risk and any danger to the community, ICE may release the non-citizen from custody and place her under an order of supervision. Release is usually granted 90-180 days after a removal order has become final. As part of the requirements of supervision, the non-citizen must comply with regular check-in requirements and/or be subject to electronic monitoring ("ankle bracelet").

**Overstay:** Non-citizen who was admitted to the U.S. for a temporary period of time after being inspected by a DHS official or former INS official but has stayed beyond the period authorized.

## P

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**Pardon:** Use of executive power, either by a governor or the president, to nullify punishment or other legal consequences of a crime and restore civil liberties. A pardon is an important option for inadmissible and deportable non-citizens who are ineligible for other forms of immigration relief or waivers based on certain convictions. A full and unconditional pardon does not, however, eliminate grounds of inadmissibility or deportability for controlled substance offenses, crimes of domestic violence, stalking, child abuse, child neglect, and child abandonment.

**Petition for Writ of Habeas Corpus:** This petition is filed with the federal district court to request that the court order the entity or agency where the non-citizen is detained to appear before the court and defend the legal basis for the non-citizen's detention. The district court may order the release of the non-citizen where his continued detention is unlawful.

**Petition for Review:** This petition is filed with the federal circuit court of appeals having jurisdiction over the immigration court where the deportation, exclusion, or removal proceedings were completed or where the final administrative removal order was issued by ICE or former ICE. The Seventh Circuit Court of Appeals reviews a final order of removal through a petition for review where such proceedings took place in Indiana, Illinois, or Wisconsin.

**Priority Date:** The date on which a family visa petition (Form I-130) is filed with the CIS, labor certification is filed with the U.S. Department of Labor, an immigrant petition for an alien worker (Form I-140) is filed with the CIS, VAWA/special juvenile immigrant status/widow(er) self-petition (Form I-360) is filed with the CIS, or religious worker petition (Form I-360) is filed with the CIS. Each month the U.S. Department of State publishes its Visa Bulletin which lists the cutoff dates for different immigration categories and countries. An application for adjustment of status or consular processing for an immigrant visa may be filed only when the Visa Bulletin reflects the priority date.

as being current.

## R

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**Refugee:** A non-citizen who has been recognized overseas by the DHS or a U.S. Embassy or Consulate as having suffered persecution or having a well-founded fear of future persecution on account of his/her race, religion, nationality, membership in a particular social group, or political opinion. A refugee is authorized to be employed as part of his status. One year after admission to the U.S. as a refugee, the refugee may apply for lawful permanent residence.

**Removal:** The physical removal or expulsion of a non-citizen from the United States.

**Request for Evidence (RFE):** A notice from the CIS requesting further documentation to support eligibility for certain immigrant visa petitions or applications after the original application and documents have been filed (i.e. requesting a marriage certificate that was not originally filed in order to determine eligibility for a family visa petition).

## S

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**S Visa:** Nonimmigrant visa granted to non-citizens who provide testimony or information to law enforcement authorities. The non-citizen must be physically present in the U.S. and cooperate with law enforcement authorities in the investigation or prosecution of a crime. Status is granted for a maximum period of 3 years with no extension possible. The non-citizen is granted employment authorization and may be eligible to apply for adjustment of status.

**Service Center:** The following five CIS centers accept and process certain petitions and applications, generally (but not always) depending on the individual's physical place of residence:

**California Service Center (CSC):** California, Arizona, Nevada, Hawaii. Also accepts and processes certain applications and petitions from locations across the country.

**Nebraska Service Center (NSC):** Alaska, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming.

**Texas Service Center (TSC):** Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, South Carolina, Oklahoma, Tennessee, and Texas.

**Vermont Service Center (VSC):** Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, Washington D.C., and West Virginia.

**National Benefits Center (NBC):** Initially processes certain types of immigration benefit applications sent to the Chicago Lockbox. The applications may then be transferred for adjudication to one of the other four service centers or to a local CIS office for an interview.

**SEVIS (Student and Exchange Visitor Information System):** An ICE program and database to track and monitor international students and others in the U.S. on non-immigrant F, J, and M visa status. Access to the database is given to ICE, DOS, and participating schools and programs that are authorized to accept students and others in these visa categories.

**Special Agricultural Workers Program (SAW):** Program created by the Immigration Reform and Control Act of 1986 for non-citizens who had worked in agriculture (i.e. farm workers) for 90 days between May 1985 and May 1986. Most SAW applicants became lawful permanent residents in December 1990.

**Stay of Removal (Deportation):** A stay of removal is a formal decision by ICE, an immigration judge, the Board of Immigration Appeals, or an order by a federal circuit court of appeals or the U.S. Supreme Court which prevents the removal of a non-citizen from the U.S. A stay of removal may be granted by the BIA or an immigration judge where a motion to reopen or reconsider a final order is pending before the BIA. When a motion to reopen proceedings has been filed before an immigration judge, the judge may also order that the removal be stayed.

**Suspension of Deportation (7 years):** This form of relief from deportation for non-citizens in deportation proceedings is only available for certain Salvadorans, Guatemalans, Eastern Europeans, and non-citizens who were applicants for the relief prior to April 1, 1997. A non-citizen may also be retroactively eligible. In order to be eligible, the non-citizen must have resided continuously in the U.S. for at least seven years, have been a person of good moral character, and be able to demonstrate that extreme hardship would result to himself or his U.S. citizen or lawful permanent resident spouse, parent, or child. Special rules exist for qualifying battered non-citizen adults and children.

**Suspension of Deportation (10 years):** A form of relief similar to seven year suspension of deportation except for several differences: 1) the non-citizen must have physical presence in the U.S. for a period of at least ten years; 2) he must demonstrate that exceptional and extremely unusual hardship would result to himself or his U.S. citizen or lawful permanent resident spouse, children, or parents if ordered deported. This is a much higher standard than extreme hardship, as required with seven year suspension; and 3) deportation can be suspended for more serious crimes, including crimes involving moral turpitude and narcotics. Special rules exist for qualifying battered non-citizen adults and children.

## T

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**Temporary Protected Status (TPS):** Temporary permission may be granted by the CIS or an immigration judge to remain and work in the United States. The Attorney General has the authority to designate the countries from which nationals or citizens are eligible for TPS based on a natural disaster or civil chaos. Such designations are made initially for 12 months and may be renewed by the Attorney General. Some countries for which TPS status has been designated in the past include Bosnia-Herzegovina, Burundi, El Salvador, Honduras, Kosovo, Lebanon, Liberia, Montserrat, Nicaragua, Rwanda, Sierra Leone, Somalia, and Sudan. As of May 2009, the following countries are designated for TPS: Burundi, El Salvador, Honduras, Liberia, Nicaragua, Sudan, and Somalia.

**T (Trafficking) Visa:** This nonimmigrant visa is available to non-citizen victims of trafficking who have been forced or coerced into the sex trade, involuntary servitude, peonage, debt bondage, or slavery. The non-citizen must be physically present in the U.S. and, unless she is 18 years old or younger, she must cooperate with law enforcement authorities in the investigation or prosecution of

the traffickers. Status is granted for a maximum period of 4 years and is not renewable unless law enforcement authorities determine that the non-citizen's assistance is still necessary in the investigation or prosecution of the crime. The non-citizen may be granted employment authorization and is eligible to apply for adjustment of status after three years of physical presence in the U.S. as a T visa holder or until the completion of the investigation or prosecution of the trafficking case, whichever time period is less.

## U

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**Undocumented Immigrant:** A non-citizen who either entered the U.S. without inspection (illegally) or entered the U.S. lawfully on a temporary visa which she has overstayed or violated and has not obtained legal authorization to remain in the U.S. A non-citizen who entered without inspection is often referred to as an "EWI".

**United States Border Patrol:** Federal administrative agency within Customs and Border Protection of the DHS along the borders of the U.S. The agency is responsible for arresting non-citizens suspected of having violated the immigration law and initiating the process of removing them from the U.S.

**United States National:** A person who is a citizen of the United States or who, though not a citizen of the United States, owes permanent allegiance to the United States. See I.N.A. § 101(a)(22), 8 U.S.C. § 1101(a)(22); I.N.A. § 308, 8 U.S.C. § 1408; *In re Navas-Acosta*, 23 I&N Dec. 586 (BIA Apr. 29, 2003) (holding that a non-citizen who takes an oath of allegiance during an interview for naturalization does not acquire U.S. nationality; where a person is born abroad and does not acquire United States nationality by birth, naturalization, or congressional action, he is not a U.S. national).

**U Visa:** This nonimmigrant visa may be granted to non-citizens who have suffered from physical, sexual, or mental abuse as a victim of certain types of crimes, including rape, trafficking, domestic violence, torture etc., and who assist law enforcement authorities in the investigation or prosecution of the crime. Prior to the implementation of the U regulations in 2007, the CIS granted deferred action status, along with employment authorization, for 12 month periods. Broad waivers for the grounds of inadmissibility may be granted in the national or public interest. A non-citizen who has been granted a U visa or deferred action status by the CIS may apply for adjustment of status three years after being granted the U visa or deferred action status.

## V

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**Visa Waiver Program:** This program allows nationals from certain countries to enter the U.S. temporarily without first obtaining a visa from a U.S. Embassy or Consulate. As of May 2009, the 35 participating countries are: Andorra, Australia, Austria, Belgium, Brunei, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, and the United Kingdom.

**Violence Against Women Act (VAWA):** Enacted first in 1994 and reauthorized in 2000 and 2005, this legislation provides immigration relief to non-citizen victims of domestic battery or extreme cruelty. It allows victims of physical, sexual, or mental abuse by a lawful permanent resident spouse or parent or by a U.S. citizen spouse, parent, son or daughter to file an immigrant visa self-petition without the cooperation of the abuser. If the immigrant visa self-petition is granted by the CIS, the

non-citizen victim may be eligible to file for adjustment of status. She may also be eligible to apply for VAWA cancellation of removal if ICE initiates removal proceedings against her.

**Voluntary Departure:** A form of relief granted by an immigration judge, the DHS, or the Board of Immigration Appeals to a non-citizen to leave the U.S. at his or her own expense in lieu of a deportation or removal order. Failure to depart by the specified date may lead to a 5 or 10 year bar, depending on the date of the order of voluntary departure, from being able to apply to adjust his or her status to become a lawful permanent resident as well as other forms of discretionary relief.

**Voluntary Deportation/Removal:** Order issued by the DHS or former INS in which a non-citizen has agreed to be deported or removed by ICE and waives his rights to a hearing before an immigration judge.

**Voluntary Return:** A non-citizen agrees to voluntarily return to Mexico or Canada at his or her own expense after being arrested by the U.S. Border Patrol, ICE, or the former INS and waiving her right to a hearing before an immigration judge.

## **W**

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**Waiver:** A form of discretionary relief that waives prior violations of criminal or immigration law, thereby allowing a non-citizen to apply for and be granted certain immigration benefits by the CIS or an immigration judge in removal proceedings. Common waivers include: §212(c) (long-term permanent residents with old convictions), §212(h) waiver (crimes), §212(i) waiver (fraud/misrepresentation), §212(a)(9)(B) (unlawful presence), §212(d)(3) (nonimmigrant waiver), and cancellation of removal for lawful permanent residents.