

Siskind's Immigration Bulletin – February 9, 2011

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Siskind Susser serves immigration clients throughout the world from its offices in the US and its affiliate offices across the world. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>

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1. Openers

Dear Readers:

When I was a kid, I was a big fan of the Peanuts cartoons and comic strip. I've found over the years that lots of situations in life remind me of Charlie Brown, Snoopy and the gang. Like when Lucy holds the football for Charlie Brown. You've got to admire Charlie Brown for his limitless optimism that Lucy's finally going to keep the ball in place long enough for Charlie Brown to kick the field goal. But sometimes I feel like Congress – particularly Republicans – are the Lucy when it comes to finally making progress on immigration issues.

Just look at the last few weeks. First, the Republicans surprised pro-immigration groups when they decided to pass firebrand Steve King of Iowa up as chair of the House Immigration Subcommittee. Granted, the replacement was the more subdued, but still very tough Elton Gallegly of California. But the message sent was still clear.

Then we got a surprise when President Obama decided to bring up the DREAM Act and visa relief for science and technology professionals in the State of the Union address. He was very careful to pick to issues where Republicans have historically showed an interest in cooperating with Democrats. And then this week there have been hints that Republicans John McCain and Lindsey Graham may be ready to come back to the table to talk about comprehensive immigration reform.

I'm trying to be like Charlie Brown, honest I am. You never know when Lucy will finally come around. Of course, it's easy to be cynical about immigration politics. Even with the positive words coming from the President and a couple of Senators, there is still the House and state legislatures around the country on a relentless pursuit of passing ever more radical anti-immigration legislation. But it's still possible to hope.

In firm news, I participated on an interesting panel last week sponsored by the Nashville Business Journal where I was matched with two legislators promoting anti-immigration legislation and was joined by two others on the pro-immigration side. I'm not sure we changed any minds or just affirmed what people in the audience already believed, but civil discussions of the subject of immigration are always better than the alternative.

[<http://www.bizjournals.com/nashville/news/2011/01/26/panel-discusses-immigration-reform.html>]

Lawyers from Visalaw International, our global immigration alliance, have co-written a book on immigration law and I've co-written the US chapter with Elaine Witty. The book is published by Carswell, a subsidiary of West, and has chapters covering immigration rules in a variety of countries.

[<http://www.carswell.com/description.asp?DocID=7026&pgid=description>]

Readers are reminded that they are welcome to contact my law office if they would like to schedule a telephone or in person consultation with me or one of my colleagues. If you are interested, please call my office at 901-682-6455.

Regards,

Greg Siskind

2. ABCs of Immigration Law: P Visas for Athletes and Entertainers

The P-1 visa category is the visa of choice for athletes and entertainers who do not meet the "extraordinary ability" standard required for an O visa. In practice, P visas are most often used for athletes and entertainers who perform as part of a team or entertainment group for trips of limited duration, such as a concert tour or a sports season. Because the P-1 visa is employer-specific, P-1 athletes and entertainers who are members of a team or group may not perform work or services separate and apart from the team or entertainment group during their P-1 time.

There are two ways for an athletic team or entertainment group to obtain P-1 status for its members. First, P-1 visas may be granted to an athletic team or entertainment group based on its own international reputation. When the visa is granted to the team or group, as a whole, each member of the team or group is given P-1 classification based on the reputation of the team or group. Second, a team or group may seek P-1 visas for individual members of the team or group based on their individual, international reputations.

It is important to note that an athletic team or entertainment group that employs a P-1 alien must be "internationally recognized," which the USCIS defines as "having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country."

P-1 Athletes

A clear advantage of the P-1 category is the wide variety of athletes who may qualify under its provisions. The P-1 category encompasses all athletes who perform at an internationally recognized level of performance and who fall into one of four sub-categories: 1) individual athletes, 2) athletes who are members of certain professional leagues, 3) athletes and coaches who participate in certain amateur leagues, or 4) athletes who participate in theatrical ice skating productions.

A P-1 athlete must be coming to the US to participate in an athletic competition that has a distinguished reputation and that requires participation of an athlete or athletic team that has an international reputation.

- An individual athlete may obtain P-1 classification if he or she is an internationally recognized athlete based on his or her own reputation and achievements as an individual or if he or she is as member of a foreign team that is internationally recognized. The alien must be coming to the US to perform services that require an internationally recognized athlete. Individual athletes must be coming to the US to participate in an athletic competition with a distinguished reputation that requires participation of an athlete or a foreign athletic team with an international reputation.
- Professional team athletes may qualify for a P-1 visa so long as they are employed by a team that either is a member of an association of 6 or more professional sports teams whose total combined revenue exceed \$10 million per year where the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage or is a minor league team that is affiliated with such an association.
- Amateur athletes and coaches may obtain a P-1 visa if they are part of a team or franchise that is located in the US and is a member of a foreign league or association of 15 or more amateur sports teams, if 1) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country; 2) participation in such league or association renders players ineligible to participate in sports at the collegiate level in the US under NCAA rules; and 3) a significant number of individuals who play in such league or association are drafted by a major sports league or its minor league affiliate.
- Finally, professional or amateur athletes who perform in a theatrical ice skating production may qualify for a P-1 visa. These athletes may come to the US either to perform in a specific theatrical ice skating production or tour *or* to perform as an athlete in a specific athletic competition. Thus, professional or amateur figure skaters who are part of such productions are not limited to seeking a P-1 visa for theatrical ice skating in the US .

Although the visa category requirements are fairly specific, most athletes who play for major and minor league sports leagues may qualify. The P-1 visa also has benefits for team administrators, because there is no limit on the number of athletes for whom a team may petition, and there is no national cap on the number of nonimmigrants who may enter the US on a P-1 visa as there is with the H-2B visa category that most minor league teams used previously. This flexibility will allow teams to more easily add players mid-season, assuming they encounter no difficulties from the USCIS or relevant consulate during the actual petition process.

Trades and Waivers: When a player is traded, released or put on waivers, additional issues are raised. A player who is traded may legally play for the new team prior to filing an appropriate petition, so long as the acquiring team files a new petition with the USCIS within 30 days of the trade. Once the 30-day deadline is met, the athlete will remain in status and will be able to play until the P-1 petition is decided. There is no need to premium process a trade petition, because the athlete is in legal status while the petition is pending.

The law does not specifically address the issue of players placed on waivers. "Waivers" refers to a player being released by a team whereby another team can pick up the player within 24 hours or the player is made a free agent. The rules are not clear whether a waiver is to be treated as a trade when the player is picked up by another team, though in practice USCIS appears to read the law broadly. Nevertheless, it would be considered good practice to file a new P-1 petition for the player. That player will not be able to enter the US to play until the new petition is decided. It is strongly advisable to premium process this type of petition so the player can resume play as soon as possible.

P-1 Entertainers

The P-1 visa category is also an attractive method for entertainers who are part of an entertainment group to come to the US to perform as an integral part of that group's performance. Dance troupes, acting companies, orchestras and vocal groups are examples of the type of groups that use the P-1 visa for their members. This visa category is usually reserved only for those entertainers who are part of a group. In fact, individual performers cannot obtain a P-1 visa, unless they are coming to the US to join a foreign entertainment group.

The group with which a P-1 entertainer will perform in the US must be internationally recognized as outstanding in the discipline for a "sustained and substantial period of time," although the government may waive this requirement where the group is nationally recognized for a sustained and substantial period of time in consideration of special circumstances. For example, this exception may be available where a group has had difficulty gaining recognition outside its home country because of lack of access to news media or because of geographical considerations. The group also must have been established for a minimum of one year.

The P-1 visa also requires that an entertainer have a "sustained and substantial" relationship with the group, which is usually at least one-year. This requirement has three exceptions, however. *First*, this requirement only applies to 75% of the group's performers and entertainers. Conversely, 25% of the group need not have a one-year relationship with the group. *Second*, the government may waive this requirement where an alien replaces an essential member of the group in the case of illness or unanticipated and exigent circumstances or where an alien augments the group by performing a critical role. *Third*, the one-year requirement does not apply to circus personnel who perform as part of a circus that is nationally recognized as outstanding for a sustained and substantial period of time.

Support Personnel

A P-1S visa may be available to aliens coming to the US to work as essential support personnel for P-1 athletes, teams or entertainment groups. In the context of a P-1

athlete or entertainer, an essential support alien is defined as a highly skilled, essential person who is an integral part of the performance of a P-1 athlete or entertainer, because he or she performs support services that cannot be readily performed by a US worker and that are essential to the successful performance of the P -1 athlete or entertainer. Essential support personnel must have appropriate qualifications to perform the services, critical knowledge if the specific services to be performed and experience in providing such support to the P-1 athlete or entertainer. For example, coaches, league officials or referees, front office personnel, camera operators, lighting technicians and stage personnel are all examples of individuals who might be categorized as P-1S essential support personnel.

Other P Categories

More than one alien may be included in a petition so long as each alien will complete the visa process in the same manner. For instance, all Canadian players for a sports team may be included on one petition as they will all be processed at a port of entry (Canadians do not require P-1 visas to be endorsed by a consular post). All other players (such as Russian, Slovakian, Finnish, etc) may be included on another petition together, as they will all consular process. Coaches must be listed on separate, individual petitions. Support personnel must also be listed on a separate petition. A petitioner may file for multiple aliens that are already in the US, but those aliens must be included on a petition that is separate from aliens that are outside the US.

Labor Consultation

To have a P-1 petition approved, the employer/petitioner must show that it consulted with a labor organization with experience in the field of athletics or entertainment involved and must submit with the petition an advisory opinion from that organization. In the alternative, if the petitioner establishes that no appropriate labor organization exists, the government may decide the petition without requiring an advisory opinion. If the petitioner does not submit an advisory opinion and does not establish that an appropriate labor organization does not exist, then the government will forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. The labor organization must then meet certain requirements for responding to the petition.

General P-1 Application Procedures

More than one alien may be included in a petition so long as each alien will complete the visa process in the same manner. For instance, all Canadian players for a sports team may be included on one petition as they will all be processed at a port of entry (Canadians do not require P-1 visas to be endorsed by a consular post). All other players (such as Russian, Slovakian, Finnish, etc) may be included on another petition together, as they will all consular process. Coaches must be listed on separate, individual petitions. Support personnel must also be listed on a separate petition. A petitioner may file for multiple aliens that are already in the US, but those aliens must be included on a petition that is separate from aliens that are outside the US.

Required Evidence to Support a P-1 Athlete or Athletic Team

When an application is filed on behalf of an individual athlete or athletic team, except for an application for a player in a league with six teams and \$10,000,000 in revenue (or an affiliated league), the petitioner must present a tendered contract with a major US sports league or team or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, and at least two of the following types of evidence:

- Participation to a significant extent in a prior season with a major US sports league;
- Participation on a national team at international events;
- Participation to a significant extent in a prior season with a US collegiate team;
- A written statement from an official in the governing body of the sport outlining how the athlete or team is internationally recognized;
- A written statement from a member of the sports media or other recognized expert outlining how the athlete or team is internationally recognized;
- Evidence that the alien is highly ranked if the sport uses a ranking system; and
- Evidence that the alien or team has received a significant award for performance.

For players on teams qualifying based on the size of the league and the league revenue, a contract with a team, evidence of the league meeting the threshold requirements noted above, evidence of the player's qualifications and either the labor consultation or documentation that no appropriate group exists.

Required Evidence to Support a P-1 Entertainer or Entertainment Group

When the application is being filed on behalf of an entertainment group, the petition must be supported by the following evidence:

- Evidence that the group has been established and performing regularly for at least one year;
- A statement from the petitioner listing each member of the group and the exact dates for which each member has been employed on a regular basis with the group; and
- Evidence that the group has been internationally recognized in the discipline for a sustained and substantial period of time, which may be shown in two ways: first, by nomination or receipt of awards for outstanding achievement in the field; second, by submitting three of the following types of evidence:
 - The group has and will continue to perform a starring role in productions or events with a distinguished reputation, evidenced by reviews, advertisements, press releases, contracts or endorsements;
 - The group has international recognition, evidenced by reviews in papers, trade journals, etc.;
 - The group has and will continue to perform a starring role in productions or events with a distinguished reputation, evidenced by articles in newspapers, trade journals, etc.;

- The group has had commercial success;
- The group has gained significant recognition for achievements from leaders in the field; or
- The group commands a high salary compared to others similarly situated.

Length of Status

A P-1 alien may be admitted for as much time as is approved for the subject competition, event or performance. If an alien is admitted on a P-1 as an individual athlete, the period of initial status may be any length of time not more than five years, and that period of time may be extended for a period of up to 5 years.

Processing Time

Premium processing is available for P-1 visas and ensures that the petition will be decided within 15 calendar days from the date USCIS receives it. Premium processing requires an extra government filing fee of \$1225. Without premium processing, the processing time for a P-1 visa is approximately two to four weeks.

Filing Fee

The filing fee for a P visa is \$325

3. Ask Visalaw.com

In our Ask Visalaw.com section of the SIB, attorney [Ari Sauer](#) answers immigration law questions sent in by our readers. If you enjoy reading this section, we encourage you to visit Ari's blog, [The Immigration Answer Man](#), where he provides more answers to your immigration questions. You can also follow The Immigration Answer Man on [Facebook](#) and [Twitter](#).

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

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1) Question:

My U.S. citizen husband has filed an I-130 for me. USCIS has not approved the I-130 yet and it is over the five month processing time posted on the USCIS website. What do you recommend we do now? Also I would also like to know if it's possible to visit the U.S. while my I-130 is still pending.

Answer:

If the I-130 has been pending for more than thirty days beyond the listed processing time (five months) you can call the National Customer Service Center at 1-800-375-5283 and ask them to send an inquiry to the Service Center.

It is extremely unlikely that a U.S. Consular Post would issue a visitor visa to the spouse of a U.S. citizen with a pending I-130. If you are a national of Canada or another country in the Visa Waiver Program, you can try coming to the U.S. to visit, but you should understand that officers have the discretion to deny you entry into the U.S. when you arrive. You should be prepared to explain your reason for traveling.

2) Question:

I have an upcoming interview date but I have not yet changed my passport to show my married name. Also, the minister made a mistake on the marriage certificate showing an incorrect name for husband. Do you think this will be an issue?

Answer:

A difference in the names on documents (birth certificates, passports, visas, etc.) shouldn't be a problem when the difference is due to a woman's name change upon getting married. This is because a marriage certificate is considered to be a legal name changing document, so the marriage certificate should clear up any difference in names.

However, when the difference in names on documents is due to an error, this can cause problems. Therefore an attempt should be made to correct the mistake. If the mistake cannot be corrected, it is helpful to get a letter from the government authority explaining why they cannot correct the mistake. For birth certificates and marriage certificates, the person should keep an original, or at least a copy of the original document, because the new document may have the current date, which could create a separate set of issues. If the document cannot be corrected, the person should be prepared to submit documentation, including a sworn statement, explaining the reason for the difference in names on the documents.

4. Border and Enforcement News:

Prison terms handed to green card counterfeiters

The San Antonio Express reports that four members of a counterfeiting ring that distributed over one thousand false immigration and identification documents in San Antonio and Austin were sentenced to prison. In May 2010, ICE agents raided locations in the two cities and recovered document-making equipment, blank identity cards, and Social Security cards. The ringleader, Carlos Saldaña, received a forty-one month prison sentence while the other three received 10 month sentences. Four other suspects who pled guilty will be sentenced at a later date.

http://www.mysanantonio.com/news/local_news/article/Prison-terms-handed-to-green-card-counterfeiters-951224.php

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'Number of cities' in Texas giving safe haven to illegally present immigrants

The Los Angeles Times reports that Texas Governor Rick Perry urged the new GOP-led state legislature to address the issue of 'sanctuary cities' that he says provide safe haven to illegally present immigrants. A spokeswoman for Governor Perry mentioned Houston as one such city, noting that law enforcement officials generally do not ask about citizenship during patrols or investigations. She said Governor Perry wants to stop cities from taking away the discretion officers have to enforce certain laws, including immigration laws.

<http://www.latimes.com/news/nationworld/nation/wire/sns-ap-us-immigration-sanctuary-cities,0,6908018.story>

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Chicago aldermen urge moratorium on 'cruel deportations'

The Chicago Sun Times reports that the Chicago City Council approved a resolution urging President Obama to use executive powers to halt deportations of undocumented workers that include either a U.S. citizen or a child that would be covered by the DREAM Act. The aldermen called the current deportation policy inhumane, noting that 1,100 families are separated each day. Finance Committee Chairman Edward M. Burke pointed to a City Council measure from the 1850s that prohibited law enforcement officials from tracking down fugitive slaves and said the immigration is a similar issue of 'compassion and morality.'

<http://www.suntimes.com/news/metro/3295280-418/immigration-aldermen-reform-chicago-issue.html>

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Feds to use 'proven technology' after failure of \$1 billion border fence

The Associated Press reports that Homeland Security Secretary Janet Napolitano officially ended SBInet, a high-tech fence along the border with Mexico ordered by Congress in 2006. The project cost nearly \$1 billion and proved ineffective in meeting 'its original objective of providing a single, integrated border security technology solution.' Napolitano said the lesson taken from the program's failure is that there is no 'one-size-fits-all' solution to border security and that a new strategy should use existing, proven technology tailored to each distinct region of the 2,000 mile U.S.-Mexico border.

<http://www.latimes.com/news/nationworld/nation/wire/sns-ap-us-border-security-virtual-fence,0,4815402.story>

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Report criticizes immigration enforcement

The Chicago Tribune reports that a study released by the Illinois Coalition of Immigrant and Issue Rights found that more than seventy-five percent of the roughly 630 illegally present immigrants in Illinois turned over to ICE because of the Secure Communities Program had no previous criminal convictions. Secure Communities is a federal program created in 2008 to find illegally present immigrants with criminal records by checking the fingerprints of inmates in a federal database. ICE officials defended the program by disputing the figures and pointing out that the number is only 44 percent nationwide. ICE emphasized that the

agency's highest priority is people convicted of aggravated felonies or multiple crimes or who pose a threat to national security.

<http://articles.chicagotribune.com/2011-01-13/news/ct-met-immigration->

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Contractor investigated over possible illegal hiring at National Guard site

The Associated Press reports that USCIS investigators are looking into whether Greg Hoberock employed illegally present immigrants to work on a Missouri National Guard aviation facility in Springfield. Hoberock claims he used the E-Verify database to check his employees, but investigators have asked to see original I-9 documents for approximately thirty employees.

<http://www.foxnews.com/politics/2011/01/27/contractor-investigated-possible-illegal-immigrant-hiring-national-guard-site/>

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Immigrant who worked undercover fights deportation

The Associated Press reports that Emilio Maya, an Argentine restaurant owner who worked as an undercover informant for ICE in a deal to gain citizenship, has been ordered to report for deportation on February 7th. Starting in 2005, Emilio and his sister Analia wore wires, infiltrated a prostitution ring, exposed a factory that was hiring undocumented workers, and provided information on human smuggling operations. Instead of receiving an S-visa which could lead to permanent legal status, they were informed by ICE in 2009 that their information was no longer useful and they could be deported. Rep. Maurice Hinchey (D-NY) introduced a private bill that had granted Emilio a one-year stay, but now that it is due to expire, ICE is again targeting him for deportation.

<http://online.wsj.com/article/AP20a10f26b59f4556bdb6e20087e07090.html>

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Lawmakers want more security on northern border

The Washington Post reports that the Government Accountability Office (GAO) issued a report that less than 1 percent of the 4,000-mile U.S.-Canada border is considered under the operational control of U.S. border officials. According to the report, Customs and Border Protection believes it can detect the entry of illegally present immigrants at only 32 miles of the border. The full report is available here:

<http://www.gao.gov/new.items/d1197.pdf>

<http://www.washingtonpost.com/wp-dyn/content/article/2011/02/01/AR2011020103040.html>

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Government spent about \$5 billion to remove 393,000 people in 2010

The Associated Press reports that ICE deputy director Kumar Kibble announced at a House subcommittee hearing that it costs \$12,500 to arrest, detain, and deport each person removed from the United States. In 2010, nearly 393,000 people were deported, costing \$5 billion.

<http://www.latimes.com/news/nationworld/nation/wire/sns-ap-us-immigration-costs,0,2256316.story>

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5. News from the Courts:

Arizona immigration law: Judge dismisses officer's challenge

The Associated Press reports that U.S. District Judge Susan Bolton officially dismissed Phoenix Officer David Salgado's lawsuit challenging Arizona's immigration law. The judge had given the officer 30 days to file additional court documents, but because no such records were filed, the case was officially dismissed. Despite this dismissal, the federal government's challenge to the law remains alive.

<http://www.azcentral.com/community/phoenix/articles/2011/01/19/20110119arizona-judge-dismisses-officer-challenge-immigration-law.html>

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Sixth Circuit upholds immigrants' right to reopen case outside of U.S.

Hispanically Speaking News reports that the U.S. Court of Appeals for the Sixth Circuit shot down a regulation by the Board of Immigration Appeals (BIA) that barred the review of motions filed by noncitizens outside the U.S. Under federal law, noncitizens have the right to file motions to submit new evidence after their removal orders become final. However, the BIA held that it could not consider such a motion if it was filed by a foreign national outside the U.S. The Sixth Circuit declared that this BIA regulation 'has no roots in any statutory source and misapprehends the authority delegated to the Board by Congress.'

<http://www.hispanicallyspeakingnews.com/notitas-de-noticias/details/federal-court-upholds-immigrants-right-to-reopen-immigration-cases-from-out/4970/>

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6. News Bytes:

Cuba and U.S. meet on immigration

The Associated Press reports that U.S. and Cuban diplomats met in Havana to discuss immigration issues. The talks focused on a 17-year-old agreement under which the United States issues 20,000 visas to Cubans each year.

The two sides also discussed some more contentious issues. Americans expressed their concern over the detention of Alan Gross, an American subcontractor jailed in Cuba for over a year for suspicion of spying. Cuban officials complained that a U.S. policy which allows any Cuban reaching American soil to remain there encourages human trafficking. Despite these issues, Cuba issued a statement saying that the meeting 'developed in an atmosphere of respect.'

http://www.dailybulletin.com/ci_17076120

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E-Verify use doubles in 2010

The Orlando Business Journal reports that for the fiscal year ending September 30th, 2010, the E-Verify system processed 583,052 queries compared to 241,328 in the previous year. E-Verify allows employers to verify the immigration status of their employees by entering their I-9 information into a federal database. Use of the program is expected to become more common over the next few years, especially because ten states now require their agencies and contractors to use it.

<http://www.bizjournals.com/orlando/print-edition/2011/01/14/e-verify-use-doubles-in-2010.html>

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Department of Labor issues new H-2B rule

Immigration Works USA reports that the Department of Labor issued a new rule that will require employers to pay H-2B workers whichever is higher: the federal, state, or local minimum wage. The rule will take effect in January 2012. In some sectors, H-2B wages are expected to rise as much as 50 percent.

http://www.immigrationworksusa.org/uploaded/1-24%20BNA%20-%20DoL_issues_final_H-2B_rule.pdf

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Arizona-style immigration law passes in Mississippi

Fox News Latino reports that an immigration law that would allow state law enforcement to check the status of people they suspect to be illegally present immigrants has passed the Mississippi state legislature. Although a number of other states are considering bills based on Arizona's law, Mississippi is the first state to pass such a bill. The bill passed the House 77-40 after it had passed the Senate 34-15 nine days earlier. The Senate version would have allowed people to sue cities, counties, or law enforcement officers for allegedly failing to enforce immigration laws, but the House version removed these lawsuits but would allow suits against employers. The two chambers must agree on a single version before Governor Haley Barbour can sign the legislation into law.

<http://www.thestatecolumn.com/articles/arizona-style-immigration-law-passes-in-mississippi-barbour-may-face-decision/>

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U.S. H-1B visa reaches mandated cap of 65,000

USCIS reports that applications for U.S. H-1B visas have reached the congressional mandated cap of 65,000 for the current fiscal year. There were more than 11,000 H-1B visas still available at the end of 2010, but USCIS received an unusually high number of petitions in the first four weeks of 2011. USCIS announced that January 26th was the final receipt date for new H-1B specialty occupation petitions requesting an employment start date in the fiscal year 2011. However, USCIS will continue to accept and process petitions that are exempt from the cap.

[USCIS.gov](http://uscis.gov)

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Arizona legislation targets automatic citizenship

The Associated Press reports that Arizona State Representative John Kavanaugh proposed legislation that challenges automatic citizenship for children of illegally present immigrants. Kavanaugh said the goal is not to have other states follow suit by enacting similar laws, but rather bring the dispute to the courts in hopes of reducing the costs associated with granting automatic citizenship. Similar legislation was filed in the Indiana General Assembly by Republican Rep. Eric Koch.

Opponents of the proposal say that it won't significantly help Arizona's immigration woes and will be declared unconstitutional by the courts. Kevin Johnson, a law professor who specializes in immigration law at the University of California Davis believes it is very unlikely that a state effort to curtail birthright citizenship will succeed in the courts when it is constitutionally protected by the 14th Amendment.

<http://www.google.com/hostednews/ap/article/ALeqM5joVha2DQogdpGePqHwdCJmH DU3xug?docId=ffec891b97da40d085bed24f6b1e6265>

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Extension of validity of medical certifications on form I-693

A memo issued by USCIS temporarily extends the validity of civil surgeon endorsements on Form I-693, which is filed in conjunction with I-485 applications for adjustment of status. Generally, such an endorsement on Form I-693, Report of Medical Examination and Vaccination Record, is valid for one year. However, due to delays associated with some applications, the validity of civil surgeon is now extended until the time of adjudication if no Class A or Class B medical condition is certified by the civil surgeon in section 2,3, or 4 of Part 2 of Form I-693.

<http://www.uscis.gov/USCIS/Outreach/Interim%20Guidance%20for%20Comment/medical-exam-extension-interim.pdf>

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7. Washington Watch:

Brash Congressman won't lead immigration panel

The Associated Press reports that House Judiciary Committee chairman Rep. Lamar Smith (R-TX) named Rep. Elton Gallegly (R-CA) as the next chairman of the subcommittee on immigration. This move came as a surprise to many who expected the position to be filled by Rep. Steve King (R-IA), the top ranking Republican on the subcommittee in the last Congress.

King has been an outspoken critic of birthright citizenship and introduced a bill that would deny automatic citizenship to U.S.-born children of immigrants. He also once suggested on the House floor that an electrified fence could be put on the border to curb immigration. Gallegly is considered by immigration policy observers to be quieter than King on his immigration views, but still favors tough immigration laws

and was given an 'A' rating by Numbers USA, an organization which lobbies to restrict immigration into the U.S.

<http://www.google.com/hostednews/ap/article/ALeqM5i0yr5xeVvGXqek5A5J3RQ7biCQuA?docId=746a02facd4c4be88518b6e6d522d247>

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Reid: Taxes, spending, and immigration reform top Senate agenda

The Hill reports that Senate Majority Leader Harry Reid listed comprehensive immigration reform atop his agenda for the 112th Congress. He hopes to find common ground with Republicans, some of whom have expressed interest in initiating reform. Senator Reid tried to pass the DREAM Act during the last Congress but failed when a Republican-led filibuster prevented the Senate from debating the legislation.

<http://thehill.com/blogs/blog-briefing-room/news/138759-reid-tax-spending-and-immigration-reform-top-senates-agenda>

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Republicans want a return to workplace immigration raids

The Los Angeles Times reports that Republicans will try to use their majority in the House to press for tougher enforcement of immigration laws and are calling for a renewal of workplace raids to arrest illegally present immigrants. The Obama administration has focused on deporting only those charged with serious crimes and shifted enforcement efforts against employers who knowingly hire undocumented workers. Since 2008, arrests from worksite-raids have dropped by 70%, but there was a 70% increase in the forced removal of immigrants with criminal records. In addition, businesses were fined nearly \$7 million in 2010, compared to only \$675,000 in 2008.

<http://www.latimes.com/news/nationworld/nation/la-na-immigration-raids-20110127,0,578382.story>

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Sens. Paul, Vitter introduce citizenship resolution

The Hill reports that Senators David Vitter (R-LA) and Rand Paul (R-KY) are introducing legislation that would alter the 14th amendment of the constitution to end the right to citizenship that comes with being born on U.S. soil. The resolution would grant American citizenship to a person born in the United States only if one or more of his or her parents is a legal citizen, legal immigrant, or member of the armed forces. Senator Vitter argued that his legislation would not prevent illegally present immigrants from gaining citizenship but instead would 'ensure that they have to go through the same process as anyone else who wants to become an American citizen.' Similar legislation to end birthright citizenship failed to pass in the 111th Congress.

<http://thehill.com/blogs/blog-briefing-room/news/140723-sens-paul-and-vitter-introduce-citizenship-resolution>

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President urges passage of contentious immigration bill

The Hill reports that President Obama urged Congress to approve the DREAM Act during the State of the Union address. Obama noted that many students are excelling in American schools and 'some are the children of undocumented workers, who had nothing to do with the actions of their parents. They grew up as Americans and pledge allegiance to our flag, and yet live every day with the threat of deportation.' The DREAM Act failed in the 111th Congress, but Obama has made immigration a top priority, calling for a bipartisan effort to address comprehensive immigration reform once and for all.

<http://thehill.com/blogs/blog-briefing-room/news/140235-obama-urges-passage-of-dream-act-in-sotu>

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8. Updates from the Visalaw.com Blogs

[Greg Siskind's Blog on ILW.com](#)

- [COLORADO SKI RESORTS WORRIED ABOUT ARIZONA-STYLE IMMIGRATION BILL](#)
- [CHIPOTLE PROBE EXPANDS](#)
- [FIGHT OVER STAR PLAYER'S IMMIGRATION STATUS JEOPARDIZES TEAM'S SEASON](#)
- [ARE MCCAIN AND GRAHAM REALLY WORKING ON IMMIGRATION REFORM AGAIN?](#)
- [IMMIGRANT OF THE DAY: MOHAMED EL-ERIAN - CEO](#)
- [ABC NEWS SEGMENT QUESTIONS HOW ORDINARY PEOPLE WILL REACT TO SB1070 IN ACTION](#)
- [IMMIGRANT OF THE DAY: ATARI BIGBY - GREEN BAY PACKER](#)
- [IMMIGRANT OF THE DAY: CHRIS KEMOEUATU - PITTSBURGH STEELER](#)
- [IMMIGRANT OF THE DAY: JOSEPH CHIRLEE - SOLDIER, RUNNER](#)
- [IMMIGRANT OF THE DAY: BENJAMIN MILLEPIED - DANCER, ACTOR, CHOREOGRAPHER](#)
- [WHAT PART OF ILLEGAL DON'T YOU UNDERSTAND](#)
- [IMM SUBCOMMITTEE CHAIR COMPARES ILLEGAL IMMIGRANTS TO SNUFF FILM PEDDLERS](#)
- [ARIZONA BILL ARCHITECT FACING RECALL EFFORT](#)
- [TEA PARTY SENATORS INTRODUCE BIRTHRIGHT CITIZENSHIP BILL](#)
- [NOMINATE SOMEONE FOR THE FREEDOM FROM FEAR AWARD](#)
- [PRESIDENT PUSHES DREAM, STEM IMMIGRATION REFORM IN STATE OF THE UNION](#)
- [H-1B CAP IN FINAL DAYS](#)
- [IMMIGRATION OBSTACLES PREVENTING TRANSPLANT DONORS FROM ENTERING US](#)
- [ICE I-9 FINES INCREASE 1000% OVER LAST TWO YEARS](#)
- [FEBRUARY VISA BULLETIN](#)
- [ARIZONA IMMIGRATION OBSESSION HURTING BUSINESS RECRUITMENT](#)
- [GAO REPORT DISCUSSES STATE OF E-VERIFY](#)
- [NFAP: GAO REPORT CONFIRMS H-1B WORKERS PAID AS MUCH AS COMPARABLE AMERICANS](#)
- [MISSISSIPPI SENATE APPROVES ARIZONA-STYLE BILL](#)
- [GOVERNMENT ACCOUNTABILITY OFFICE RELEASES REPORT ON H-1B PROGRAM](#)
- [A BRAIN GAIN](#)
- [GOP MOVING BACK TO CENTER ON IMMIGRATION?](#)

The SSB I-9, E-Verify, & Employer Immigration Compliance Blog

- [CHIPOTLE PROBE EXPANDS](#)
- [FIRST IMAGE EMPLOYER SIGNED UP IN MINNESOTA](#)
- [GAO REPORT DISCUSSES STATE OF E-VERIFY](#)
- [USCIS TOUTS NEW REPORT ON E-VERIFY](#)

The Visalaw Healthcare Immigration Blog

- [PATIENT FIGHTING TEXAS HOSPITAL OVER ACCESS TO SURGERY](#)
- [SENATOR CONRAD RETIRING](#)

Visalaw Fashion, Sports, & Entertainment

- [FIGHT OVER STAR PLAYER'S IMMIGRATION STATUS JEOPARDIZES TEAM'S SEASON](#)
- [ARMY RUNNER DENIED ABILITY TO COMPETE IN NATIONALS](#)
- [MEXICAN SINGER RUNS IN TO IMMIGRATION PROBLEMS](#)
- [USCIS RELEASES DRAFT P-1 MEMO RECOGNIZING US-BASED GROUPS AS ELIGIBLE FOR VISA](#)

The Visalaw H-1B Blog By H-1B Book Author Karen Weinstock

- [USCIS REACHES FY 2011 H-1B CAP](#)
- [USCIS UPDATES H-1B CAP COUNT FOR JANUARY 21, 2011 -- AT 62,800](#)
- [USCIS UPDATES H-1B CAP COUNT FOR JANUARY 14, 2011 -- AT 60,700](#)
- [NEW GAO REPORT RECOMMENDS REFORMS TO H-1B PROGRAM](#)

Karen Weinstock's Visalaw Georgia Immigration Blog

- [ADDITIONAL THOUGHTS ON WHY SB40 IS BAD](#)
- [GEORGIA PROPOSED LEGISLATION TO MANDATE E-VERIFY](#)
- [HALF DETAINED UNDER 287\(G\) PROGRAM FOR MINOR OFFENSES](#)
- [GEORGIA CHURCH GROUP OPPOSES BIRTHRIGHT CITIZENSHIP CHANGES](#)
- [ALPHARETTA IMMIGRATION ATTORNEY INDICTED FOR FRAUD](#)
- [GEORGIA LABOR COMMISSIONER ASKS FOR E-VERIFY FUNDING](#)
- [GEORGIA DEMOCRATIC SENATORS PUSH TO HOLD MEETINGS ON IMMIGRATION](#)
- [GEORGIA DETENTION CENTER LARGEST IN THE COUNTRY](#)
- [NEW REPORT: EVEN LOW-SKILLED IMMIGRATION BRINGS MOSTLY ECONOMIC BENEFITS TO THE U.S.](#)

9. HHS Releases New Poverty Guidelines

The Department of Health and Human Services (HHS) has released an update of the HHS poverty guidelines to account for last year's increase in prices as measured by the Consumer Price Index. The guidelines are important in immigration applications because applicants' sponsors must show they make 125% of the applicable poverty guideline.

2011 Poverty Guidelines for the 48 Contiguous States and the District of Columbia:

Size of family unit	Poverty guideline
1	\$10,890
2	\$14,710

3	\$18,530
4	\$22,350
5	\$26,170
6	\$29,990
7	\$33,810
8	\$37,630

Family units with more than eight members should add \$3,820 for each additional member.

2011 Poverty Guidelines for Alaska

Size of family unit	Poverty guideline
1	\$13,60
2	\$18,380
3	\$23,160
4	\$27,940
5	\$32,720
6	\$37,500
7	\$42,280
8	\$47,060

Family units with more than eight members should add \$4,780 for each additional member.

2011 Poverty Guidelines for Hawaii

Size of family unit	Poverty guideline
1	\$12,540
2	\$16,930
3	\$21,320
4	\$25,710
5	\$30,100
6	\$34,490
7	\$38,880
8	\$43,270

Family units with more than eight members should add \$4,390 for each additional member.