

Siskind's Immigration Bulletin – May 23, 2011

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1. Openers

Dear Readers:

Immigration seems to be back on the radar screen at the White House. The President gave a major address last week which didn't introduce new ideas – basically it could have been the same speech given by President Bush – except to suggest that if comprehensive immigration reform, the ideal option, were not to happen that perhaps smaller fixes like the DREAM Act or legal immigration reform could move forward. He also suggested that executive action was not in the cards and that only Congress can address immigration reform.

While it is nice to see the White House re-engaged on the subject of immigration, one is left to wonder where the President was two years ago when he had a sizeable majority in both Houses of Congress. The President was largely absent from the debate and he clearly did not expend political capital on this issue the way he did on health care reform. He also doesn't seem to be willing to risk anything this time. If he were willing to use his executive authority as many are urging, that might signal a seriousness to address the issue.

Instead we are left to believe that the President is worried more about losing Latino voters than failing to keep his promise to reform the immigration system in his first year in office. Recent opinion polls show a drop of as much as 25% in his support in the Hispanic community. These are voters that the polls show care a lot more about immigration reform than the general population and they are voters who tipped a number of elections for the Democrats in 2008 and 2010.

There is a year and a half until the next election. If we are still hearing the President talk about how Republicans in Congress killed immigration reform and if you elect Democrats, everything will be better, then I suspect Latino voters will either vote on other issues. And on other issues, Republican candidates could seem attractive. If instead the President can point to accomplishments in improving immigration (and that means more than just talking about enforcement statistics), we'll know he was serious and he'll more than deserve the votes of people who consider themselves pro-immigration.

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: R-1 Religious Visas

Religious workers seeking to temporarily enter the US to pursue work in their field are likely to enter using the R nonimmigrant visa.

On November 21, 2008, USCIS released a final rule that made substantial changes to the R-1 religious worker program. The rule was mandated by Congress when it extended the special immigrant religious worker categories for non-ministers that expired on October 1, 2008. The new rule is designed to address various concerns regarding fraud and also to clarify various issues that have arisen over the years with the R-1 program.

Who qualifies for an R visa?

To qualify for an R visa, the applicant must be

- A minister,
- A person working in a professional capacity in a religious occupation or vocation, or
- A person who works for a religious organization or an affiliate in a religious occupation who has been a member of the religious group for at least the two years immediately preceding the application.

The applicant must be a member of the religious denomination for at least two years immediately preceding the time of application for admission and be coming to work at least part time.

What is a “Religious Denomination”?

A religious denomination is defined as a religious group that have some form of ecclesiastical government, a common belief or statement of faith, some form of worship, a set of religious guidelines, religious services and ceremonies, established places for worship, religious congregations or comparable evidence of a bona fide religious organization.

USCIS has noted that a denomination does not mean that there must be a governing hierarchy. Rather, the focus is on “the commonality of the faith and internal organization of the denomination. An individual church that shares a common creed with other churches, but which does not share a common organizational structure or governing hierarchy can still satisfy the “ecclesiastical government” requirement by submitting a description of its own internal governing or organizational structure.

What are examples of “Religious Occupations”?

A religious occupation is an activity relating to “traditional religious functions.” The work must be recognized as a religious occupation within the denomination and the duties must be primarily related to, and must clearly involve inculcating or carrying out the religious creed and beliefs of the denomination.

Note that USCIS no longer includes a list of example occupations in its regulations. But over the years, USCIS has approved R-1 religious occupation petitions for liturgical workers, religious instructors, religious counselors, cantors, workers in religious hospitals or religious health care facilities, missionaries, religious translators and religious broadcasters.

Maintenance workers, janitors and clerical employees do not qualify. And positions primarily administrative in nature also do not qualify. Positions that are strictly related to fundraising do not qualify for R-1 status, though USCIS has acknowledged that selling literature may not bar someone if they have other religious functions in their position. And religious study or training for religious work does not constitute a religious occupation (though a religious worker may pursue study or training incident to status).

The 2008 R-1 rule requires religious organizations to submit evidence identifying religious occupations that are specific to that denomination and that the alien's proposed duties meet the religious occupation's requirements.

What is a "Religious Vocation"?

A religious vocation is defined under the 2008 R-1 rule as "a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life." Examples include nuns, monks, religious brothers and sisters.

What is a "Minister"?

The 2008 R-1 rule adds a new definition of "minister". Under the rule, a minister is "an individual authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and to perform other duties as usually performed by authorized members of the clergy of that denomination." Lay preachers are not included in this definition.

How do I apply for an R visa?

Until release of the November 2008 rule, an applicant outside the US could apply for a visa directly at a US consulate without prior USCIS approval. The new rule now requires all R-1 applicants, whether applying for a change of status in the US or for consular processing abroad, to get an I-129 and R visa supplement approved by USCIS.

As of November 2008, all R-1 and immigrant religious worker petitions are filed at the USCIS California Service Center. Premium processing was not available as of November 2008 and in the 2008 rule USCIS indicated it was not likely to change this any time soon.

What attestations must an employer make regarding the petition?

Under the 2008 rule, Employers must now complete, sign and date an attestation and submit it along with the petition attesting to the following:

1. The employer is a bona fide non-profit religious organization or religious organization affiliated with a religious denomination and is exempt from taxation;
2. The worker has been a member of the denomination for at least two years and that the alien is otherwise qualified for the position offered;
3. The number of members of the prospective employer's organization;
4. The number of employees working at the location where the beneficiary will be employed and a summary of the type of responsibilities of those employees. USCIS may request a list of the employees, their titles and a brief description of their duties;
5. The number of individuals holding religious worker status (both special immigrant and nonimmigrant) within the preceding five years;
6. The number of individuals the organization filed for religious worker status (both special immigrant and nonimmigrant) within the preceding five years;
7. The title of the position offered to the alien and a detailed description of the alien's proposed daily duties;
8. The complete package of salaried or non-salaried compensation being offered; and
9. That an alien seeking nonimmigrant religious worker status will be employed for at least 20 hours per week (the rule also imposed a 35 hour per week requirement for immigrant petitions);
10. The specific location or locations of the proposed employment; and
11. That the alien will not be engaged in secular employment.

What additional documentation must be submitted regarding the qualifications of the petitioning organization?

Aside from the attestation, the employer must submit with the I-129 and fee,

- a currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization
- documentation of the religious nature and purpose of the organization, such as a copy of the organizing instrument of the organization that specifies the purposes of the organization;
- organizational literature, such as books, articles, brochures, calendars, flyers, and other literature describing the religious purpose and nature of the activities of the organization; and

- a religious denomination certification (the organization must complete, sign and date a statement certifying that the petitioning organization is affiliated with the religious denomination)

What additional documentation must be submitted regarding the qualifications of a minister?

For ministers, the following documentation must be submitted:

1. a copy of the certificate of ordination or similar document reflecting acceptance of the alien's qualifications as a minister in the religious denomination;
2. documentation that the worker has completed any course of prescribed theological education at an accredited or normally recognized institution including transcripts, curriculum, and documentation that establishes that the theological education is accredited, or
3. For denominations that don't require a prescribed theological education, evidence of
 - a. The denomination's ordination requirements;
 - b. The duties allowed to be performed by virtue of ordination;
 - c. The denomination's level of ordination, if any; and
 - d. The alien's completion of the denomination's requirements for ordination

What documentation must be submitted regarding compensation?

The petitioner must explain how it intends to compensate the R-1 worker, including specific monetary and in-kind compensation or whether the worker will be self-supporting (if the work is for temporary, uncompensated missionary work that is part of a broader international program of missionary work sponsored by the denomination). If compensation is being paid, evidence may include

- Past evidence of compensation for similar positions;
 - Budgets showing monies set aside for salaries, leases, etc.;
 - Verifiable documentation that room and board will be provided; or
 - Other evidence acceptable to USCIS
- Plus, IRS documentation such as W-2s or certified tax returns must be submitted if available.

How does an organization show it is a qualifying religious organization?

An organization petitioning for an R-1 religious workers must show that it is a "bona fide non-profit religious organization in the United States" or a "bona fide organization which is affiliated with the religious denomination."

To qualify, an organization must be tax exempt under Section 501(c)(3) of the Internal Revenue Code. And to demonstrate this, under the 2008 rule, an employer must provide USCIS with a copy of a valid determination letter from the IRS confirming such exemption. To qualify based on an affiliation, the organization must show it is "closely associated" with a religious denomination that is tax exempt under Section 501(c)(3).

In the 2008 regulation, USCIS has expressly barred 501(d) religious organizations from applying for R-1 status even though an organization is tax-exempt under that section of the IRC.

The 2008 rule added a requirement that an R-1 sponsor must file a determination letter from the Internal Revenue Service (IRS) of the tax-exempt status of the petitioning religious organization under the Internal Revenue Code (IRC) 501(c)(3). The organization need not get a new determination for each petition and determination letters do not expire. If an organization changes addresses from the address on the letter, the same determination letter may be used as long as an explanation is provided in the petition.

The sponsoring organization also needs to submit a letter on behalf of the R-1 visa holder. This letter should outline the applicant's two-year minimum membership, including where that membership occurred, in or out of the US. It should also include a statement that the foreign-based religious group and the US based religious group for which the applicant will work belong to the same denomination. It must state the name and location of the organization in the US for which the applicant will work. Finally, it should outline the applicant's qualifications and salary.

What is the new inspection requirement under the R-1 rule?

USCIS has been conducting on site inspections of R-1 change of status petitions for some time, but now all R-1 sponsors will need to have an on site inspection even if the religious worker is applying for consular processing. Technically, the rule says that USCIS can verify the evidence being submitted by a petitioning organization "through any appropriate means" but the USCIS has made it clear that on site inspections are the means that will be used for this purpose.

At an inspection, USCIS may tour the facilities, interview organization officials and review organization records relating to the organization's compliance with immigration laws and regulations.

Is there a minimum salary an R-1 religious worker must be paid?

There is no prevailing wage requirement like H-1B cases, but the 2008 R-1 rule has added a requirement that an R-1 nonimmigrant must be compensated either by salaried or non-salaried compensation and the petitioner must provide verifiable evidence of such compensation. If there is no compensation, the petitioner must prove that the non-compensated worker is participating in a traditionally non-compensated missionary program within the denomination which is part of a broader "international program of missionary work" sponsored by the denomination. Plus, the petitioner must provide evidence of how the aliens will be supported while

participating in the program. This is stricter than the old rule which generally allowed uncompensated, self-supporting nonimmigrants to see R-1 visas.

To qualify for R-1 status based on temporary, uncompensated missionary work, the petitioner must show it is a missionary program in which: (1) foreign workers, whether compensated or uncompensated, have previously participated in R-1 status; (2) missionary workers are traditionally uncompensated; (3) the organization provides formal training for missionaries; and (4) participation in such missionary work is an established element of religious development in that denomination. A petitioner may submit evidence in the form of books, articles, brochures or similar documents that describe the missionary program, the religious duties associated with the missionary work and proof that the alien has been accepted in to the program and describing the alien's responsibilities. Plus, the organization must demonstrate that the alien has the means to support himself or herself or has otherwise provided for the alien's support.

Note that it may still be possible to seek a B-1 visitor status classification if this test cannot be met.

Petitioners must show proof of past compensation or support for nonimmigrants when apply for an extension.

How long can I have R status?

The maximum stay in R-1 status is 5 years. A person can obtain R-1 status again after remaining outside the US for one year before making another application. Under the 2008 R-1 rule, R-1s can be initially admitted for a period up to 30 months (down from the prior 36 month limit) and an extension of up to 30 months may be issued by USCIS. If a person's employment in the US is seasonal or intermittent or for an aggregate of six months or less per year, the five year limit does not apply. It also doesn't apply to people who reside abroad and regularly commute to the US to engage in part-time employment. To demonstrate this, an applicant needs to show arrival and departure records, tax returns and employment records outside the US.

Can I have more than one employer if I am an R-1?

Yes. But each qualifying employer must submit a separate petition with all of the required documentation.

What visa status do the spouse and children of an R-1 nonimmigrant receive?

Spouses and children of R-1 nonimmigrants and classified as R-2. They are not permitted to work unless they have their own work visas. R-2 status is granted for the same period of time and subject to the same time limits as the R-1 regardless of the time the spouse and children may have spent in the US in R-2 status.

Are there any differences between the special immigrant religious worker category for green card applicants and R-1 non-immigrant visas?

The most important difference between the two religious worker categories is that the R-1 visa is temporary and the special immigrant religious worker visa is permanent. An applicant for a green card as a special immigrant religious worker must have been working for the religious group for at least two years prior to making the application. This work may be done either in or out of the US. In most cases where the work is done in the US, the person has been in the US on an R-1 visa. Another difference between the two is the forms involved. A special immigrant religious worker applies using Form I-360 in place of the I-129 and R supplement. Also, under the 2008 rule, special immigrant religious workers must work at least 36 hours per week while R-1 visa holders can work 20 hours per week.

Generally speaking, the evidence that should accompany the special immigrant religious worker petition and the role of the beneficiary within the religious organization are the same as for the R-1 applicant.

Are R-1 visas “dual intent”?

The 2008 rule for the first time addresses the impact a green card petition has on R-1 status. The new rule states that R classification may not be denied solely because a labor certification or preference petition, including a Form I-360, has been filed by or on behalf of the alien.

Can R-1 denials be appealed?

Yes. The 2008 R-1 rule provides a right to appeal a denial of an R-1 petition. This now makes the R-1 similar to H, L, O, P and Q visas.

Can R-1 approvals be revoked?

Yes. The 2008 R-1 rule provides for USCIS to be able to revoke an R-1 petition.

What are an employer’s obligations if the R-1 is working less than 20 hours per week or has been terminated from employment before the expiration of the authorized R-1 stay?

The employer must notify DHS within 14 days.

What alternatives are available if the R-1 is not an option?

There are a number of other nonimmigrant categories that may be fit if the R-1 is out. They include the L-1 intracompany transfer category, the H-1B specialty occupation and J-1 trainee status. Unpaid workers may qualify for B-1 status. And F-1 students may be able to engage in some employment activities such as on campus work and curricular training off campus.

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.

* * *

1) Question:

I am from Sri Lanka. My fiancé is living in the U.S. as a green card holder. He has been in the U.S. for two years. We are planning on marrying next year. How long will it take for me to get a visa to come to the U.S. after we marry?

Answer:

According to the May 2011 Visa Bulletin, visas are now available under the F-2A category (spouses and minor children of U.S. Permanent Residents) for I-130 petitions filed in June of 2007. So there would be approximately four years of petitions ahead of you in line before you would be eligible to receive a visa to come to the U.S. This means that the wait for a visa, based on a petition filed by your U.S. Permanent Resident husband, will likely be from two to six years.

Your husband may be eligible to apply for naturalization and become a U.S. citizen in another three years. If so, you will then be an Immediate Relative, as the spouse of a U.S. citizen, and will be eligible to receive a visa at that point, without waiting for a visa under the Visa Bulletin.

But you may be eligible to come to the U.S. on a different basis, such as an H-1B, L, or F-1 nonimmigrant visa. So you should consult with an attorney to see what other options may be available to you.

2) Question:

I am currently on H-4 visa. I want to transfer my visa to F1.

1. Can I transfer my visa while I am in the U.S. or do I have to go back to my home country and apply for a new visa?
2. Since I am on an H-4 and my husband is on an H-1B, what are the chances of my F-1 being rejected?
3. If my F-1 is rejected, will my H-4 be cancelled?
4. If I change my status in the U.S., will I be able to go back to my home country during the tenure of my studies?

Answer:

If your husband will be continuing as an H-1B nonimmigrant and you are planning on remaining married, then there is no need to change your status to become an F-1 (student) nonimmigrant. While the F-1 status does allow you to attend SEVIS authorized schools, so do many other statuses. As an H-4 nonimmigrant, you are eligible to attend school, even though you are not eligible for employment authorization. In fact, as an H-4 your options for educational programs are broader, since you are able to attend schools that are not on the SEVIS list and you are not required to take a full course load. Also, as an H-4 you can change schools without having to receive SEVIS authorization first.

If you do need to change to F-1 status, this can be done while you are in the U.S. However, there is no way to premium process a change of status to F-1, so it takes several months for the change of status to be approved. A new visa can be applied for at the Consular Post in your home country in a matter of weeks. Many foreign nationals choose to apply for a new visa abroad rather than wait for a change of status in the U.S.

It is possible to change status from H-4 to F-1, but you will still have to prove strong ties to your home country. The fact that your husband is working in the U.S. on an H-1B is not an automatic reason for your change of status to be denied, but USCIS could use it as a factor in determining that your ties to your home country are not strong enough. If your change of status is denied, you will remain in H-4 status.

If you change your status in the U.S. you will be able to travel abroad, but when you go abroad you will need to apply to have a new visa put in your passport before you can return to the U.S. in F-1 status.

4. Border and Enforcement News:

Immigration chief agrees to review abuse allegations in Michigan

The Detroit Free Press reports that ICE director John Morton traveled to Detroit to review cases involving allegations of abuse by agents in Michigan. In one incident, ICE agents followed parents as they dropped their kids off at Hope Elementary in Detroit. Community leaders are concerned that recent crack downs represent a growing pattern of harassment and profiling by the agency.

<http://freep.com/article/20110416/NEWS05/104160371/1007/NEWS05/Immigration-chief-agrees-review-abuse-allegations-Michigan>

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Zoe Lofgren calls on Obama to end deportations of same-sex partners

The San Francisco Chronicle reports that in a letter to Homeland Security Director Janet Napolitano, Rep. Zoe Lofgren (D-CA) asked the Obama administration to suspend deportations of same-sex partners of U.S. citizens. The letter was signed by 47 House members and calls for an end to the deportations in light of the administration's decision to stop defending the Defense of Marriage Act (DOMA). DOMA bars all federal benefits, including immigration rights, to same-sex couples.

Rep. Lofgren is also a cosponsor of 'The Uniting Families Act,' a bill that would allow citizens and legal residents to sponsor their same-sex partners for immigration.

http://www.sfgate.com/cgi-bin/blogs/nov05election/detail?entry_id=87093

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Judge sets \$500K bail for Army scam suspect

The Associated Press reports that Yupeng Den, a Chinese national, appeared in court on charges of posing as a U.S. Army recruiter in order to swindle fellow immigrants out of thousands of dollars in fees. The elaborate scheme included setting up a fake office and giving out fake military ID cards and uniforms.

<http://www.signonsandiego.com/news/2011/apr/13/judge-sets-500k-bail-for-army-scam-suspect>

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DHS wants new measure for border security

The Washington Times reports that Homeland Security Secretary Janet Napolitano and the Obama administration are looking to develop a new yardstick for measuring the state of border security. Defined by Congress in a 2006 law, 'operational control' measures the ability to prevent all unlawful entries into the United States. The Government Accountability Office says less than half of the U.S.-Mexico border is a under operational control, a number the Obama administration says does not reflect recent improvements made there. Napolitano said she wants to new measurement to include how many people have been deterred from trying to cross the border and stats that show the collateral damage of violence created by the drug trade.

<http://www.washingtontimes.com/news/2011/may/4/dhs-wants-new-yardstick-for-improvements/>

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5. News from the Courts:

BALCA panel rules on university hiring

The *U.S. Department of Labor* reports that the Board of Alien Labor Certification Appeals (BALCA) said that in cases involving a college or university teaching position, the employer may select the alien over less qualified U.S. workers regardless of whether the employer uses the basic recruitment process. The Certifying Officer (CO) therefore erred in denying certification on those grounds, but the panel still upheld the CO's denial on the grounds that the advertisements contained requirements not included in the application.

<http://www.nafsa.org/resourcelibrary/Default.aspx?id=26339>

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U.S. argues Arizona has no right to sue over border security

Capitol Media Services reports that Assistant Attorney General Tony West asked U.S. District Court Judge Susan Bolton not to review Arizona's argument that the

Department of Homeland Security is not enforcing law 'achieve and maintain operational control for the Arizona-Mexico border.' In February, Arizona issued a response to the federal government's challenge of SB 1070, claiming that the state was forced to step-in because of the federal government's failure to enforce immigration laws. Arizona is also seeking reimbursement for costs incurred by the state incarcerating illegally present immigrants convicted of state crimes.

West told Bolton that 'the regulation of immigration and control over the borders are matters firmly entrusted to the political branches' of the government, making the issue of whether or not the federal government is properly enforcing immigration law a 'non-justiciable political question.'

http://azstarnet.com/article_727b95bd-783b-53a8-b230-43fa0edb7fed.html

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H-1B workers with pending extension pleas can stay

The Christian Science Monitor reports that a federal judge in Connecticut ruled that workers in the U.S. on H-1B visas may not be arrested for 'overstaying' while their visa extension applications are still pending. The judge recognized that regulations allow H-1B employees to continue working for 240 days while their extension applications are pending.

In the case before the Connecticut judge, the plaintiff, a Lebanese national working as a medical researcher, was arrested for allegedly 'overstaying' his initial visa despite the fact that his employer had requested an H-1B extension nearly seven months earlier and a month before his H-1B status expired.

<http://economictimes.indiatimes.com/news/nri/visa-and-immigration/h-1b-workers-with-pending-extension-pleas-can-stay-us-court/articleshow/7991126.cms>

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6. News Bytes:

Indiana House passes watered-down immigration bill

The Indianapolis Business Journal reports that the Indiana House passed a bill that would revoke some state tax credits for businesses that hire illegally present immigrants. The original measure that had cleared the Senate included an Arizona-style provision that would have allowed police to ask people for proof of immigration status if they were suspected of being illegally present immigrants.

<http://www.ibj.com/indiana-house-oks-watereddown-immigration-bill/PARAMS/article/26741>

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Alabama Senate passes immigration bill

The Birmingham News reports that the Alabama Senate passed an Arizona-style immigration bill that would allow law enforcement to detain people they suspect of being illegally present immigrants. The Alabama House passed a similar bill, but with a few key differences that include a provision requiring businesses with more

than 25 employees to use the federal database E-Verify to check the immigration status of workers.

http://blog.al.com/spotnews/2011/04/alabama_senate_passes_immigrat.html

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Army, Navy add citizenship option to boot camp

The Associated Press reports that the Army and Navy are implementing a citizenship program for recruits in basic training. Citing the need for specialists and language skills in wartime, both military branches will change the no-visitor policy during boot camp to allow federal immigration officers to access the recruits. Military officers stressed that the military route will not offer a short-cut for foreigners to gain U.S. citizenship, noting that only legal immigrants can apply and must complete five years of honorable service.

http://news.yahoo.com/s/ap/20110421/ap_on_re_us/us_military_new_citizens

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Congresswoman wants investigation of Secure Communities

The Los Angeles Times reports that Rep. Lofgren (D-CA) called for an investigation into claims by federal immigration officials that counties and states had the right to opt out of the Secure Communities program. Several California counties have asked that their fingerprint data not be sent to ICE as part of the program, but have been told they have no say in the matter. However, Rep. Lofgren received letters in September 2010 from Homeland Security Secretary Janet Napolitano and Assistant Attorney General Ronald Weich asserting that officials could opt out of the program. Secure Communities was launched in 2008 and uses fingerprint data to target immigrants with a criminal record.

The Department of Homeland Security's Office of Inspector General launched an investigation of the program to 'determine the extent to which ICE uses the program to identify and remove dangerous criminal aliens from the United States.' The investigation will also examine 'the accuracy of ICE's data collection.'

<http://articles.latimes.com/2011/apr/23/local/la-me-immig-jails-20110423>

http://www.latimes.com/news/nationworld/nation/la-na-secure-communities-20110519_0,3087175.story

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Atlanta asks for reconsideration of immigration bill

The Atlanta Journal Constitution reports that despite pressure from the Atlanta City Council not to sign House Bill 87, Governor Nathan Deal has signed the controversial Arizona-like legislation. Council members are concerned that conventions and organizations may begin to boycott the city, causing a serious financial blow to the city's multi-billion-dollar tourism business. The bill will set up new requirements for Georgia businesses to use E-verify to make sure they are not hiring illegally present immigrants and will also allow law enforcement to check the immigration status of certain suspects.

<http://www.ajc.com/news/atlanta/atlanta-asks-for-reconsideration-916627.html>

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Colorado House panel rejects tuition break for illegally present immigrants

Fox News Latino reports that a Colorado House committee rejected legislation that would have allowed illegally present immigrants to attend college at in-state tuition rates. Similar measures to grant undocumented immigrants lower tuition rates had failed to pass on four previous attempts. Supporters of the legislation argued that allowing more students the opportunity to attend college would be an economic boost for the state's future. Eleven other states have passed laws granting in-state tuition to illegally present immigrants, including Kansas, Texas, California, and Illinois.

<http://latino.foxnews.com/latino/politics/2011/04/27/colorado-legislative-committee-mull-state-college-tuition-undocumented-students/>

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U.S. lawmaker seeks probe into Infosys' visa norm violations

Silicon India reports that Senator Chuck Grassley (R-IA) called for a probe into allegations that the Indian IT company Infosys was using the U.S. B-1 business visitor visa program to circumvent the cap and prevailing wage requirements of the H-1B program. In letters to Secretary of State Hillary Clinton and Secretary of Homeland Security Janet Napolitano, Senator Grassley referenced a formal complaint against Infosys alleging that the company was importing foreign workers as B-1 business visitors under the guise of attending meetings rather than working for a wage.

http://www.siliconindia.com/shownews/US_lawmaker_seeks_probe_into_Infosys_visa_norm_violations-nid-82158-cid-3.html

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Illinois Senate OKs Dream Act for immigrants' kids

The Chicago Sun Times reports that the Illinois Senate passed the Illinois Dream Act, which would establish a state commission to dole out privately funded scholarships to children of illegally present immigrants. The measure would also allow illegally present immigrants ages 18 to 29 with taxpayer-identification cards to invest in the state's Bright Start and College Illinois program.

<http://www.suntimes.com/news/politics/5190575-418/state-senate-oks-dream-act-for-immigrants-kids.html>

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7. Washington Watch:

Bloomberg talks immigration with Obama

Politico reports that New York City Mayor Michael Bloomberg met with President Obama and senior administration officials in Washington D.C. to discuss immigration reform. Former governor of California Arnold Schwarzenegger, San Antonio Mayor

Julian Castro, and Philadelphia Police Commissioner Charles Ramsey were also present. The meeting was closed to reporters.

http://www.politico.com/blogs/bensmith/0411/Bloomberg_will_talk_immigration_wit_h_Obama.html

<http://www.newsmax.com/InsideCover/BNALL-BNK-BNSTAFF-BNTEAMS/2011/04/19/id/393419>

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10 lawmakers named to immigration group's 'Hall of Shame'

The Hill reports that the Immigrants' List political action committee compiled a list of ten lawmakers that pose 'the biggest obstacles' to achieving comprehensive immigration reform. Rep. Steve King (R-IA) was ranked first on the list, which included eight other Republicans and one Democrat, Rep. Heath Shuler (D-NC).

Amy Novick, the executive director of Immigrants' List, pointed to King's comments on the House floor in 2008 in which he compared immigrants to livestock. Rep Lamar Smith (R-TX), chairman of the House Judiciary Committee, was ranked second on the list for his opposition to granting citizenship to children born in the United States to illegally present immigrants.

<http://thehill.com/homenews/news/156707-handful-of-gop-lawmakers-make-immigration-reform-groups-hall-of-shame->

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Congressman urges lawsuit on Utah immigration law

The Associated Press reports that the head of the U.S. House Judiciary Committee, Rep. Lamar Smith (R-TX), accused the Justice Department of being 'hypocritical' for not pursuing legal action against a Utah law that approves a guest-worker program for illegally present immigrants. Smith argued that the Utah law is unconstitutional and called the department's inaction a 'stark contrast' to the lawsuit against Arizona for a law 'that merely complements and assists in the enforcement of a federal law.'

<http://www.washingtontimes.com/news/2011/apr/20/congressman-urges-lawsuit-on-utah-immigration-law/>

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8. Updates from the Visalaw.com Blogs

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

- [In Defense of the Lottery](#)
- [DHS Inspector to Investigate Secure Communities Program](#)
- [H-1B Usage Still Weak](#)
- [Senate Holding Hearing on Immigration Courts Today](#)
- [ICE Raiding a Texas Worksite](#)
- [TPS Extended for Haitians](#)
- [WHITE HOUSE USES EXECUTIVE ACTION TO ASSIST STEM STUDENTS](#)
- [THE WALL'S ENVIRONMENTAL IMPACT](#)
- [GINGRICH ENDORSES LEGALIZATION OF THE UNDOCUMENTED](#)
- [JUNE VISA BULLETIN RELEASED](#)
- [DREAM ACTIVISTS SLAM PRESIDENT FOR FUNDRAISING AD](#)
- [IMMIGRANT OF THE DAY: ANA HERNANDEZ LUNA - LEGISLATOR](#)
- [BREAKING: UTAH IMMIGRATION LAW ENJOINED BY JUDGE](#)
- [OBAMA SPEECH PART 3](#)
- [OBAMA IMMIGRATION SPEECH PART 2](#)
- [OBAMA IMMIGRATION SPEECH](#)
- [LIVEBLOGGING THE OBAMA SPEECH](#)
- [JUDGE SUSPENDS DEPORTATION PROCESS FOR SAME SEX COUPLE](#)
- [NATION'S INTERNATIONAL EDUCATORS PUSH FOR DREAM ACT](#)
- [HOLDER VACATES DECISION ON SAME SEX CIVIL UNIONS](#)
- [ALABAMA SENATE BILL WOULD BAR UNDOCUMENTED KIDS FROM GOING TO THE PROM](#)
- [ILLINOIS WITHDRAWS FROM SECURE COMMUNITIES](#)
- [I CAN KILL BIN LADIN, BUT I'M HELPLESS ON IMMIGRATION](#)
- [THE SACRIFICE BUNT VISA](#)
- [RUMBLE IN MANHATTAN](#)
- [AIC: PRESIDENT HAS THE AUTHORITY TO FIX IMMIGRATION PROBLEMS IF HE WISHES](#)
- [OBAMA MEETS WITH CELEBRITIES TO TALK ABOUT THE NEED FOR IMMIGRATION REFORM](#)
- [IMMIGRANT OF THE DAY: SUPERMAN - MAN OF STEEL](#)
- [WE WIN RECOGNITION FOR SOMETHING COMPLETELY UNEXPECTED](#)
- [UNAUTHORIZED IMMIGRANTS PAID \\$11 BILLION IN TAXES LAST YEAR; GE PAID NON](#)
- [LOFGREN CALLS FOR INVESTIGATION OF DHS REPRESENTATIONS ON SECURED COMMUNITIES](#)
- [PEW: HISPANIC VOTERS WILL TURN SOUTH PURPLE](#)
- [GINGRICH SMELLS OPPORTUNITY AS OBAMA HISPANIC SUPPORT FADES](#)
- [IMMIGRANT OF THE DAY: SIMON WINCHESTER - JOURNALIST AND AUTHOR](#)
- [WIKILEAKS CABLES REVEAL H-1B FRAUD UNCOVERED AT CONSULATES](#)
- [OBAMA STRATEGY: TALK ABOUT IMMIGRATION, BUT AVOID ACTUALLY DOING ANYTHING ABOUT IT](#)
- [H-1B USAGE OFF TO SLOW START](#)
- [SENATE DEMS TO OBAMA: STOP DEPORTING DREAM ACT KIDS](#)
- [OMBUDSMAN WEIGHS IN ON SPECIAL IMMIGRANT JUVENILES](#)
- [SCHUMER INTRODUCES BILL TO ALLOW MORE F-1 STUDENTS TO ATTEND PUBLIC SCHOOLS](#)
- [GEORGIA GOING THE WAY OF ARIZONA](#)
- [MEG WHITMAN: GOP MUST CHANGE ON IMMIGRATION](#)
- [THEY'RE BAAAACK! - SOCIAL SECURITY NO MATCH LETTERS RETURN](#)
- [9TH CIRCUIT DECISION](#)
- [BREAKING NEWS: NINTH CIRCUIT UPHOLDS INJUNCTION OF ARIZONA'S SB1070](#)

- [MAY 2011 VISA BULLETIN SHOWS SOME MOVEMENT FOR EB-2 INDIA](#)

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

- [USCIS LAUNCHES I-9 PORTAL](#)
- [ICE PROBE OF CHIPOTLE EXPANDS](#)
- [WENDY'S RESTAURANTS IN MAINE SETTLE DISCRIMINATION CASE](#)
- [RESTAURANT SHUT DOWN UNDER SOUTH CAROLINA LAW](#)
- [GEORGIA SENATE STRIPS OUT E-VERIFY PROVISIONS](#)

The Visalaw Healthcare Immigration Blog

- PT Board Settles Lawsuit Challenging Bar on Exams for Filipinos and Other Nationalities
- IMMIGRANT ELIGIBILITY FOR HEALTH CARE BECOMES ISSUE IN VERMONT DEBATE
- [CUBAN DOCTORS FACE OBSTACLES IN THEIR ASYLUM PETITIONS](#)

Karen Weinstock's Visalaw Georgia Immigration Blog

- [GA POLICE CHIEFS WEIGH HB87](#)
- [METRO ATLANTA BUSINESSES HANG POSTERS TO OPPOSE HB87](#)
- [SANTANA BASHES GEORGIA'S HB87](#)
- [GOVERNOR DEAL SIGNED HB87 TODAY](#)
- [BREAKING NEWS: UTAH IMMIGRATION LAW ENJOINED BY FEDERAL JUDGE](#)
- [SAM ZAMARRIPA'S LETTER TO GOVERNOR REVEALS HB87 FLAWS](#)
- [PRESIDENT OBAMA SLAMS GEORGIA IMMIGRATION BILL](#)
- [GEORGIA GOVERNOR ON TIGHT IMMIGRATION SPOT](#)

9. Notaries and the Immigration Process

Notaries and the Immigration Process

By Jeremy Belmont

Jeremy Belmont is the owner of www.123notary.com, a successful mobile notary internet directory.

There are many steps necessary in the immigration process, and lots of waiting between them. It's smart to have an attorney helping you if you can afford one. But, where do notaries fit into this picture? Notaries have been involved with immigration documentation for decades. They have been so integral to the process, that most states have legislature about notaries and immigration.

Notary Law and Immigration

First of all, most states forbid notary publics from using the term, "Notario Publico", since it will confuse Latino immigrants into thinking that they have a position of very

high status, almost as high as an attorney. In Hispanic countries, notaries are a very elevated position, and they are qualified to give all types of advice that American notaries are forbidden from even discussing informally. Additionally, in some states, the law requires notaries who advertise in a foreign language to state that they are not an immigration expert, and that they can not give immigration advice.

What is the role of the notary?

Notaries take acknowledgments, execute jurats, take oaths, and certify copies. In some states they can act as witnesses as an official capacity. For immigration documents, they would simply notarize signatures on the Affidavit of Support and have the signer take a quick oath for each signature. Affidavits typically use the Jurat notary act which requires a signature in the presence of a notary in addition to a quick oath where the affiant swears that the contents of the document are true and correct, and that they agree to abide by the terms in the document. It's quick and easy.

Does the notary need to understand the document?

No, the notary not only doesn't need to understand the documents they notarize signatures on, but they are also not at liberty to explain the document. Otherwise, they are engaged in the unauthorized practice of law according to many states. The notary simply notarizes signatures on documents and takes Oaths when necessary.

Sorry, no English?

What if the document signer doesn't know English? Can a notary still notarize his signature? In most states, the notary must be able to converse directly with the signer without the use of a translator or intermediary of any sort. If the notary knows a bit of Spanish, Korean or whatever other language the signer might speak, enough to talk to the signer about the business at hand, then that will suffice. Having the signer's daughter explain what the mother said is completely illegal. If you are a bilingual notary public, you might be very valuable in many big cities as a result of these laws.

Where can you find a notary?

At www.123notary.com you can find a mobile notary in any state to help you with document signings of any type, day or night. There are notaries who service homes, offices, hospitals, and jails too. Also, please visit the [123Notary Blog](#) to read more about issues effecting notaries.