

# Index to Precedent Decisions

## Interim Decisions 2526 to 3642

This index covers Interim Decisions 2526 through 3642 distributed in loose-leaf form prior to their publication in bound volumes and supersedes the previous index in Volume 23. See Volume 15 for the cumulative index to Volumes 1 through 15.

### A

**ABANDONMENT OF PERMANENT RESIDENCE:** *see* Lawful permanent resident

**ACCOMPANYING OR FOLLOWING TO JOIN:**

accompanying relative, question of; #3005  
derivative status, eligibility for; #3153  
nonimmigrant preceded principal alien to U.S.; #3005

**ACCREDITATION OF REPRESENTATIVES:** *see* Recognition and accreditation

**ADDRESS REPORTING REQUIREMENTS:**

exemption from; #3458  
in absentia removal not authorized by violation of; #3458  
noncompliance with; #3205, 3458

**ADJUSTMENT OF STATUS:** *see also* Exclusion grounds

Chinese Student Protection Act of 1992:  
in conjunction with sec. 245(i) application; #3533  
requirements for eligibility:  
inspected and admitted; #3533  
sec. 1, Act of Nov. 2, 1966:

effective date of acquisition of lawful permanent resident status; #3069, 3092  
jurisdiction of Immigration Judge to consider application for; #3450, 3639  
statute of limitations for rescission of adjustment of Cuban aliens; #2627

sec. 13, Act of September 11, 1957:  
immediate family of principal alien admitted under sec. 101(a)(15)(G)(i), eligibility of derivative child; #2877

sec. 107, Act of October 28, 1977:  
visa petition not required for spouse of Indochinese refugee; #2676

sec. 203(g) and (h), 1952 Act, as amended:

period of parole required; #2806

sec. 209, 1952 Act, as amended:  
asylee; #2857, 2905, 2922, 2958, 3118, 3163, 3499

jurisdiction; #3499

prior acquisition of lawful permanent resident status bars eligibility for; #3586

waiver of inadmissibility: *see* waivers: sec. 209(c)

sec. 210(a), 1952 Act, as amended: *see* Legalization: special agricultural worker

sec. 214(d), 1952 Act, as amended: *see* Nonimmigrant: specific classification: fiancé

sec. 245, 1952 Act, as amended:

accompanying relative preceded principal alien to U.S. as nonimmigrant, eligibility for; #3005

“admission” made at time of; #3384

assimilation to position of alien seeking admission to U.S.; #2578, 2640, 2845, 2976, 3153, 3184, 3191, 3213, 3272, 3320, 3384

“clear ineligibility” as standard for denial of adjournment or reopening; #2684, 2740, 3173, 3640

concurrent application for sec. 212(c) relief; #3213, 3260, 3320, 3505

conditional grant of adjustment improper; #2755

conditional permanent resident: *see* Conditional permanent resident

conviction: *see* Conviction of crime; Crime involving moral turpitude

deportable offense not a ground of exclusion as basis for ineligibility; #2640, 3191, 3200, 3213

discretion:

criteria for exercise of; #2530, 2750, 2866, 2928, 3036, 3272, 3640

fifth amendment claim, effect on; #2607

preconceived intent as factor: *see* Adjustment of status: sec. 245, 1952 Act, as amended: preconceived intent

to grant continuance or motion to reopen when application filed simultaneously with visa petition; #2634, 2684, 3173, 3640

unauthorized employment, effect of; #2530, 2628, 2821  
 discretionary denial; #2530, 2551, 2556, 2607, 2818, 2866, 2928  
 discretionary grant; #2628, 2750, 2821  
 entry not made at time of; #2976, 3177, 3191  
 exchange visitor: *see* Nonimmigrant: specific classification  
 exclusion proceedings, availability in; #2598, 3010, 3279  
 fiancé, requirements for eligibility as: *see* Nonimmigrant: specific classification: fiancé  
 ineligibility for:  
   alien in violation of sec. 242B; #3253  
   failure to maintain lawful status; #3501  
 jurisdiction; #2598, 2616, 2642, 2740, 2908, 3279, 3561, 3639  
 labor certification: *see also* Labor certification  
   does not operate as employment authorization under sec. 245(c)(2); #2639, 2734  
   exemption from, question of: *see* Labor certification  
   investor exemption, effect of amended regulations on application filed prior to amendment; #2581  
 lawful permanent resident in deportation proceedings, eligibility for; #2555, 2568, 2845, 3213, 3272, 3568  
 marriage:  
   entered into while alien in proceedings; #3034, 3173, 3394, 3463  
   viability at time of adjustment, question of; #2798, 2811  
 preconceived intent; #2551, 2556, 2750, 2866, 2928, 3036  
 refugee; #2563, 2619, 2740, 3414  
 removal proceedings, availability in; #3450, 3639  
 renewal of application; #3533, 3639  
 reopening of proceedings to apply for: *see* Motions: reopening of proceedings  
 requirements for eligibility:  
   admissibility: *see also* Exclusion grounds; #2619, 2634, 2740, 3123, 3173, 3184, 3191, 3200, 3213, 3272, 3335, 3424, 3449, 3524, 3531, 3590, 3591, 3640  
   application made; #3173, 3191, 3213, 3272, 3335, 3449, 3527  
   approved visa petition; #2555, 2634, 2740, 3173, 3191, 3200, 3527, 3533, 3640  
   eligibility through time of adjudication; #3153, 3335, 3449, 3527, 3640  
   inspected and admitted; #2634, 2775, 3147, 3184, 3213, 3272, 3335, 3533, 3590, 3640  
   visa availability; #2616, 2619, 2634, 2697, 2740, 3173, 3184, 3191, 3213, 3272, 3335, 3449, 3527, 3539, 3551, 3640  
 rescission of: *see* Rescission of adjustment of status  
 retroactive, authority to grant; #3153  
 sec. 245(i); #3235, 3335, 3501, 3524, 3531, 3533, 3577, 3590, 3591  
*Silva* aliens found excludable require motion by Service to hold adjustment application in abeyance; #3010  
 simultaneous filing; #2634, 2684, 2734, 2738, 2740, 3021, 3173  
 special agricultural worker: *see* Legalization  
 unauthorized employment:  
   alien within provisions of sec. 245(c), question of; #2530, 2588, 2623, 2628, 2639, 2734, 2738, 2798, 2808, 2821, 2897, 2915, 2955, 3036  
   effect on discretion: *see* Adjustment of status: sec. 245, 1952 Act, as amended: discretion  
   filing date of application; #2734, 2738  
   immediate relative, question of viability of marriage; #2798  
   management of qualifying investment not employment; #2776  
   minister or missionary, duties and activities of; #2897, 2915, 2955  
   waivers of inadmissibility: *see* Waivers: sec. 212(c), sec. 212(e), sec. 212(h)  
   sec. 249, 1952 Act, as amended:  
     good moral character; #3156  
     requirements for eligibility; #3156  
     residence, continuous; #3070  
**ADMINISTRATIVE NOTICE:** *see* Board of Immigration Appeals; Immigration Judge  
**ADMINISTRATIVE PROCEDURE ACT:** immigration proceedings exempt from hearing requirements; #3105  
 notice of proposed rulemaking requirement; #2625  
**ADMISSIBILITY:** *see* Application for admission to United States; Exclusion; Exclusion grounds; Inadmissibility grounds; Returning lawful permanent resident  
**ADMISSION:** *see also* Adjustment of status; Application for admission to United States; Entry  
 adjustment of status as constituting; #3384, 3513, 3531  
 defined; #2775, 3157, 3333, 3384, 3477, 3513

seeking, exceptions for certain lawful permanent residents; #3386

**ADOPTION:** *see* Child: adopted

**AGGRAVATED FELONY:** *see* Bond, delivery; Cancellation of removal; Conviction of crime; Persecution; Suspension of deportation, Voluntary departure; Waivers: sec. 212(c)

**AIDING AND ABETTING:** *see* Conviction of crime; Crime involving moral turpitude; Smuggling aliens for gain

**ALIENAGE:** *see also* Burden of proof presumption of: *see* Evidence: presumptions proof of:  
admission by attorney; #2547  
admission by respondent; #2717  
immigrant visa; #2559  
silence of alien; #3143

**ALIEN COMING TEMPORARILY TO PERFORM SERVICES:** *see* Nonimmigrant: specific classification: worker coming temporarily to perform services

**ALIEN OF DISTINGUISHED MERIT AND ABILITY:** *see* Nonimmigrant: specific classification: worker coming temporarily to perform services: distinguished merit and ability

**ALIEN REGISTRATION:**  
duty to carry and exhibit to Service officer upon request; #2647

**ALIEN WITH EXTRAORDINARY ABILITY:** *see* Quota preference: employment-based

**AMERICAN INDIANS BORN IN CANADA:**  
deportability and excludability; #2664

**AMICUS CURIAE:**  
role of; #2704

**ANNULMENT:** *see* Marriage

**APPEAL:**  
adequacy of stated reasons for appeal; #2954, 3006, 3128, 3039, 3077, 3128, 3181  
affirmance without opinion; #3548  
briefs; #2540, 2541, 2638, 3006, 3077, 3126, 3142, 3510  
by:  
beneficiary of denied visa petition; #2999  
Service; #2638  
“clearly erroneous” standard of review; #3495, 3523, 3563, 3608, 3609, 3628, 3630, 3634, 3638  
continuances: *see* Fair hearing: adjournment of hearing  
de novo review; #2878, 3134, 3177, 3229, 3276, 3336, 3338, 3478, 3488, 3495, 3496, 3563, 3601, 3608, 3609, 3628, 3634  
departure from U.S., effect of; #2834, 3128, 3259  
determination of conditions of release from custody; #2891, 3301, 3302, 3313  
dismissal of renders Immigration Judge order final; #3253  
evidence submitted on: *see* Evidence fact-finding; #3478, 3525, 3608, 3609, 3630, 3634  
fee waiver request; #2964, 2970  
frivolous or filed solely for purpose of delay: *see* Appeal: summary dismissal from:  
automatic revocation of visa petition; #2998  
denial of deferred action status; #2930  
interlocutory order:  
appeal from not required to preserve objections to; #3472  
criteria for consideration by Board; #2728, 2785, 2892, 2909, 2973, 3063, 3064, 3091, 3133, 3143, 3163, 3168, 3174, 3259, 3472, 3561  
specific issues:  
administrative closing of case; #3063, 3064, 3135, 3136, 3259  
change of venue; #2728, 2785, 2892, 2909, 3133, 3174  
conditional grant of waiver; #3168  
continuance to establish rehabilitation; #3168  
eligibility for withholding of deportation; #3163  
jurisdiction on remand for background checks; #3561  
motion to reconsider; #3259  
motion to reopen; #2973  
preliminary finding of deportability; #3131, 3143  
issue not raised below; #3291  
mootness, question of; #3128, 3259, 3395  
notice of; #2638  
objections not raised below; #2756, 3134  
oral argument, denial of; #3039  
proper filing; #3323  
record; #2540, 2541, 2591, 2638, 2804, 2954, 3077, 3257, 3258  
right to; #2878, 3206, 3448  
Service appeal of deportation charges not sustained by Immigration Judge; #3220  
service of decision on withdrawn counsel; #3135  
summary dismissal:  
inappropriate; #3053  
reasons for:  
conceded fact or law; #3095  
failure to specify reasons; #3006, 3039, 3059, 3077, 3128, 3181, 3472  
frivolous or filed for delay; #3015, 3025

requested relief was granted; #3141  
transcript; #2954, 3077  
timeliness of; #2944, 3042, 3169, 3206,  
3323, 3343, 3448, 3472, 3487, 3540  
transcript; #2591, 2599, 2638, 2804,  
2954, 3077, 3143  
voluntary departure, grant of:  
effect of appeal on; #2572  
effect of frivolous appeal on; #3015  
waiver of; #3206, 3429, 3431, 3441,  
3448  
withdrawal of; #3105, 3128, 3395, 3626  
**APPLICATION FOR ADMISSION TO  
UNITED STATES:**  
abandoned or withdrawn, when deemed;  
#2614, 2984  
admissibility determined on law and facts  
existing at time application finally  
considered; #2911, 2961, 3184, 3219  
authority to adjudicate; #3111  
withdrawal of, grant of permission for:  
concurrence of Service; #3283  
factors to be considered; #3047  
when concurrence of Service may be  
necessary; #3047  
**ARMED FORCES OF UNITED  
STATES:** *see* Exclusion grounds  
**ARREST:**  
legality irrelevant if deportability estab-  
lished by evidence unrelated to the  
arrest; #2538, 2547, 2596  
legality of, question of; #2527, 2536,  
2538, 2582, 2596, 2647, 2778, 2784  
**ARRIVING ALIEN:**  
adjustment of status; #3450, 3639  
bond; #3344  
defined; #3344, 3568, 3571  
**ASYLUM:** *see* Persecution: asylum, perse-  
cution claim, specific countries  
**ATTORNEYS AND REPRESENTA-  
TIVES:** *see also* Recognition and  
accreditation  
actions binding on client; #3011, 3059,  
3367  
attorney fees (EAJA); #3105, 3106  
counsel, right to: *see* Due process:  
counsel  
deficient performance of; #3632  
definition of attorney; #3237  
disciplinary proceedings:  
burden of proof: *see* Burden of proof  
grounds for; #2624, 2722, 3237, 3496,  
3521, 3547, 3580, 3583, 3633  
reinstatement after discipline; #3582,  
3583  
frivolous applications, duty not to file;  
#3367  
ineffective assistance of counsel: *see*  
Due process: counsel  
“limited” appearance of counsel; #3011,  
3312  
notice of entry of appearance; #3237

notice to serves as notice to client;  
#2992, 3142, 3296, 3312, 3628  
right to counsel: *see* Due process:  
counsel  
statements by counsel not evidence;  
#2820, 2951, 3042  
withdrawal from representation; #3064,  
3135, 3162, 3199

## B

**BIRTH CERTIFICATE:** *see also* Visa  
petition: evidence  
delayed: *see* Citizenship; Visa petition:  
evidence: birth records  
use of birth certificate not belonging to  
alien’s wife to obtain visa as spouse;  
#2544  
**BOARD OF IMMIGRATION APPEALS:**  
*see also* Appeal; Motions  
administrative notice; #3104, 3182, 3204,  
3251, 3303, 3530, 3563  
affirmance without opinion: *see* Appeal  
Attorney General:  
authority delegated by; #3105, 3106,  
3153, 3192, 3199, 3262, 3411, 3488,  
3518  
decisions of, binding on; #2968, 3192,  
3199, 3243, 3243, 3267, 3291, 3488,  
3532, 3542, 3611  
effect on decisions certified to; #3269,  
3345, 3488, 3506, 3518, 3605  
policy guidelines for Service, applica-  
bility to; #3107  
regulations of, binding on; #3105,  
3106, 3176, 3215, 3261, 3262, 3317,  
3368, 3532, 3626  
standard of review; #3488, 3515, 3535  
authority to:  
apply equitable estoppel; #3153, 3396  
engage in fact-finding; #3478, 3525,  
3563, 3591, 3608, 3609, 3630  
extend time to file an appeal; #3540  
grant equitable exceptions to penalties  
for failure to voluntarily depart;  
#3552  
grant relief without background checks;  
#3526  
increase level of attorney discipline;  
#3496  
remand for factfinding; #3515  
sua sponte reopen or reconsider cases;  
#3323, 3352, 3409, 3418, 3425, 3626  
waive “material support” bar; #3605  
certification:  
by Board to review appeal by benefi-  
ciary of visa petition; #2999  
by Board to review Service’s withdrawn  
appeal; #3302  
discretion; #3472  
exceptional circumstances; #3540

“clearly erroneous” standard review: *see* Appeal  
 court review of decisions, limited scope of; #2878  
 court ruling, effect on Board:  
   circuit court of appeals; #2564, 2819, 3105, 3152, 3161, 3176, 3177, 3209, 3220, 3254, 3262, 3297, 3364, 3422, 3453, 3468, 3473, 3487, 3537, 3592, 3621, 3624, 3637  
   district court:  
     cases arising within same district; #2539, 3209, 3542  
     where appeal is pending in circuit court; #2539  
   in extradition proceedings; #2831, 3400  
   Supreme Court remand to circuit court; #2819  
 decisions of as “actions taken”; #3321, 3412, 3416  
 de novo review: *see* Appeal  
 DHS memoranda not binding on; #3590  
 dismissal of appeal renders Immigration Judge order final; #3253  
 excludability, duty to find if evidence supports allegations of; #3282  
 Executive Office for Immigration Review; #3142, 3229, 3259, 3488  
 independent of Service; #3142, 3229, 3235, 3259  
 jurisdiction of defined by regulations; #2999, 3365, 3366  
 jurisdiction, question of authority to consider:  
   abandonment of lawful permanent resident status in visa petition proceedings; #2655, 3173  
   adjustment of status; #2740, 3153, 3279  
   appeal by beneficiary of visa petition; #2999  
   appeal from exclusion order; #2753  
   appeal from in absentia order; #3198, 3392  
   appeal from sec. 242B in absentia order; #3266  
   applicability of *Fleuti* doctrine to returning legalization applicant; #3282  
   asylum application; #2571, 2857, 2922, 2958, 3118  
   attorney discipline; #3496, 3580  
   attorney fees request (EAJA); #3105, 3106  
   automatic revocation of visa petition; #2998, 3031  
   bond; #2890, 2891, 2910, 3152, 3301, 3306, 3387, 3398, 3417, 3451  
   collateral attack on conviction; #3158, 3180  
   constitutionality of statute; #2571, 2604, 2929, 3083, 3105, 3106, 3152, 3153, 3180, 3297, 3318, 3320, 3322, 3364, 3385, 3387, 3400, 3413, 3473  
   crewman’s admissibility; #2659  
   custody status, change of; #2890, 2891, 2910, 3152, 3427  
   deferred action status; #2930, 3078  
   extended voluntary departure; #2625, 2930, 3078  
   extension of stay application; #2848  
   fines, imposition of; #2894  
   guilt of convicted alien; #2663, 2715, 3134, 3158, 3180, 3218  
   implementation of policy matters by regulation; #3074  
   institution of proceedings by district director:  
     deportation; #2666, 2820, 2848, 3152, 3185, 3267, 3268, 3366  
     rescission; #3056  
   interlocutory appeal: *see* Appeal: interlocutory order  
   motion to reconsider dismissal of untimely appeal; #3343  
   motion to reopen after jurisdiction divested by remand; #2670  
   motion to reopen or reconsider after alien’s departure; #2747, 3227, 3259, 3666, 3457, 3626  
   naturalization eligibility; #3555  
   parole; #2614, 2753, 2847, 2927, 3152, 3282  
   permission to reapply after deportation; #2723, 3268  
   precertification under Schedule A; #2642  
   refugee classification; #2571, 2619, 2740, 2986, 3118  
   regulations, validity of; #3105, 3106, 3153, 3180  
   reinstatement of nonimmigrant status; #2625, 2848  
   reinstatement of prior order of removal; #3366, 3557  
   rescission of adjustment of status by special agricultural worker; #3419  
   rescission order of district director; #3115  
   special immigrant status; #2673  
   “successive” asylum applications; #3589  
   temporary resident status; #3154, 3282  
   time-barred motion to remand; #3409  
   Torture Convention application; #3365  
   untimely appeal; #2944, 3540  
   visa petition; #3173, 3351  
   voluntary departure:  
     denial of prehearing grant or post-hearing extension; #2625, 2834  
     setting of terms and conditions for; #2572, 3511

waived appeal; #3206, 3429, 3431, 3448  
 waiver:  
     sec. 209(c); #3414  
     sec. 212(d)(3)(B); #3114  
     sec. 212(d)(4)(A); #2911, 2961  
     sec. 216(c)(4); #3231  
 Operations Instructions, not binding on; #2750, 2866, 2892, 3190  
 precedent decisions; #2923, 3345, 3518, 3542  
 role of; #3142, 3246  
 Service Commissioner, opinion of, not binding on; #3372, 3380, 3597  
 Service General Counsel, opinion of, not binding on; #3215  
 standard of review; #3229, 3338, 3478, 3496, 3523, 3563, 3586, 3590, 3608, 3609  
 Service memoranda not binding on; #3597  
 unpublished decision, effect of; #2878, 3138, 3173  
**BOND, DELIVERY:**  
 aggravated felon, eligibility for; #3131, 3137, 3155, 3176, 3197, 3221, 3301, 3313, 3387, 3398, 3417, 3427, 3451  
 authority to:  
     determine or review conditions of release; #2661, 2890, 2891, 2910, 2931, 3124, 3139, 3152, 3165, 3301, 3306, 3344, 3387, 3398, 3417, 3451, 3488, 3510, 3544, 3620, 3634  
     revoke bond after redetermination hearing; #2851  
 breach for failure to surrender:  
     failure to produce alien upon each demand; #2567, 2972  
     petition for writ of habeas corpus; effect of alien's filing; #2972  
     substantial performance of bond, question of; #2942, 2972  
     substantial violation of conditions of bond; #2567, 2972  
 commencement of proceedings; #3139  
 condition barring unauthorized employment:  
     factors considered in imposing; #2890, 2910  
     improperly imposed pursuant to regulation no longer in effect; #2977  
     injunction against enforcement of controlling regulation, effect of; #2977  
 custody, question of:  
     conditions on release from detention; #3634  
     detainer; #3139, 3634  
 discretionary determination; #3488, 3544  
 eligibility for release after expiration of removal period; #3427  
 factors considered in custody determination after expiration of removal period; #3427  
 factors considered in determining bond; #2661, 2744, 2851, 2890, 2910, 2931, 3037, 3165, 3255, 3301, 3302, 3313, 3417, 3488, 3510, 3544  
 hearing, right to; #3488, 3634  
 mandatory detention, question of; #3387, 3398, 3417, 3438, 3451, 3469, 3510, 3558, 3620  
 modification not limited; #2910, 3124, 3306  
 motion to reopen; #3124, 3255  
 notice to obligor to surrender alien, adequacy of; #2567  
 procedures for determining conditions of release; #2890, 2891, 2910, 2931, 3124, 3165, 3255, 3301, 3302, 3313, 3417  
 reasons for determination must be stated by district director; #2931  
 redetermination hearing is separate from deportation proceedings; #2599, 3159, 3165, 3544  
 redetermination hearing is separate from removal proceedings; #3417, 3495  
 stay of release order; #3387, 3398  
 Visa Waiver Program; #3263  
**BOND, MAINTENANCE OF STATUS AND DEPARTURE:** *see also* Voluntary Departure  
 appeal of decision to breach bond, proper party to; #2759  
 breach, question of; #2759, 2863  
**BOND, PUBLIC CHARGE:**  
 breach of; #2991  
 demand for repayment not required; #2991  
**BROTHER OR SISTER:** *see* Child; Marriage; Parent  
**BURDEN OF PROOF:**  
 attorney or representative disciplinary proceedings; #2624, 3237, 3521, 3547, 3580, 3633  
 bond proceedings; #3155, 3197, 3221, 3304, 3398, 3417, 3427, 3544  
 deportation proceedings:  
     admissibility of a document; #2536, 2725, 2778, 2820, 3054  
     citizenship, U.S., claimed; #2536, 2593, 2601, 2748, 3454, 3603  
     clear, unequivocal, and convincing evidence; #2536, 2544, 2689, 2690, 2748, 2813, 2986, 3075, 3099, 3143, 3176, 3184, 3213, 3273, 3274, 3275, 3277, 3293, 3376, 3400, 3416  
     conditional permanent resident status, termination of; #3151  
     fifth amendment claim, effect of; #2536, 3143  
     going forward to rebut prima facie showing by Service; #2544  
     materiality of misrepresentation; #2732  
     presumption under sec. 291: *see also*

Deportation grounds: entry without inspection, excludable at entry applicable to any charge relating to time, place, or manner of entry; #2979  
 examples of charges to which presumption applies; #2979  
 shifts burden to alien once alienage established; #2536, 2547, 2559, 2601, 2717, 2725, 2979, 3277, 3293, 3397, 3454  
 silence insufficient to shift burden; #3143  
 discretionary/mandatory relief:  
 adjustment of status; #2530, 2607, 2646, 2775, 2807, 3123, 3191, 3463, 3527  
 asylum and withholding of deportation or removal; #2679, 2695, 2831, 2847, 2872, 2884, 2905, 2914, 2927, 2958, 2967, 2974, 2986, 2996, 3028, 3033, 3040, 3041, 3050, 3104, 3107, 3118, 3121, 3122, 3127, 3162, 3170, 3182, 3204, 3215, 3251, 3276, 3278, 3287, 3303, 3307, 3308, 3311, 3334, 3336, 3337, 3338, 3339, 3368, 3403, 3433, 3472, 3492, 3515, 3523, 3534, 3569, 3575, 3576, 3584, 3599, 3608, 3617, 3618, 3622  
 burden of production; #3638  
 cancellation of removal:  
 sec. 240A(a); #3460  
 sec. 240A(b); #3447, 3467, 3638  
 filing date of application governs applicability of REAL ID Act; #3638  
 permission to reapply for admission; #3114  
 registry; #3156  
 suspension of deportation; #3004, 3230, 3309, 3446  
 voluntary departure; #2613, 2832, 3151, 3169, 3245  
 waivers:  
 sec. 212(c); #2666, 2703, 2926, 3058, 3069, 3148, 3229, 3272, 3340  
 sec. 212(h); #3272  
 sec. 216(c)(4); #3383  
 sec. 241(f)(2); #3075  
 exclusion proceedings:  
 burden to establish:  
 admissibility; #2533, 2660, 2716, 2829, 2861, 2885, 2911, 2958, 3024, 3079, 3111, 3162, 3219, 3282  
 impropriety of exclusion proceedings; #2913, 2927, 3208, 3215  
 going forward to rebut prima facie showing by alien; #3111  
 returning resident:  
 burden on Service; #2650, 2741, 2813, 3079, 3215  
 standard of proof; #3079  
 expatriation; #2593, 2650, 2983  
 fine proceedings; #3190, 3304  
 foreign law; #3118  
 frivolous asylum claim; #3563  
 legalization; #3113, 3205  
 motions; #3425, 3463, 3575, 3578  
 recognition and accreditation proceedings; #3210  
 removal proceedings:  
 alien:  
 finding of removability shifts burden; #3425  
 presumption under sec. 291 shifts burden once alienage established; #3483  
 citizenship, U.S., claimed; #3612  
 crime involving moral turpitude; #3631  
 Service:  
 notice provided; #3483, 3484  
 removability; #3425, 3562  
 rescission proceedings; #2610, 3056, 3152, 3419  
 standards of proof compared; #3083, 3151  
 Torture Convention relief; #3430, 3464, 3466, 3471, 3472, 3480, 3532, 3579, 3609  
 visa petition proceedings:  
 adoption; #3117, 3129  
 burden on petitioner; #2558, 2566, 2618, 2620, 2621, 2626, 2629, 2641, 2643, 2656, 2657, 2672, 2690, 2698, 2712, 2757, 2790, 2799, 2813, 2830, 2864, 2871, 2887, 2895, 2901, 2951, 2953, 2966, 3030, 3067, 3076, 3081, 3083, 3112, 3117, 3129, 3160, 3328, 3329, 3347, 3351, 3378, 3606  
 citizenship; #2681, 2968, 2983  
 common law marriage; #2677  
 foreign law; #2620, 2698, 2830, 2864, 2871, 2887, 2895, 2953, 3244, 3606  
 lawful permanent resident status; #2690, 2813, 3083  
 marriage; #2951, 3042, 3081, 3083, 3086, 3100, 3140, 3173, 3203, 3358, 3577  
 relationship previously undisclosed; #3160  
 revocation of visa petition approval; #3029, 3051, 3130  
 standard of proof; #3083, 3160, 3328, 3329  
**BUSINESS VISITOR:** *see* Nonimmigrant:  
 specific classification: visitor: business

## C

**CANCELLATION OF REMOVAL:** *see also* Discretionary relief  
 sec. 240A(a):  
 aggravated felon; #3342, 3386, 3482, 3592, 3593  
 burden of proof: *see* Burden of proof

continuous residence; #3389, 3428, 3477, 3491, 3542, 3543, 3572  
 discretion, factors considered; #3342  
 lawfully admitted for permanent residence; #3342, 3486, 3572  
 rehabilitation; #3342  
 sec. 240A(b):  
   continuous physical presence; #3389, 3428, 3447, 3475, 3500, 3516, 3517, 3528, 3565, 3619  
   convicted of specified offense; #3570, 3613, 3638  
   exceptional and extremely unusual hardship; #3447, 3467, 3479, 3528  
   good moral character: *see also* Crime involving moral turpitude; Good moral character  
   calculation of period of; 3516, 3528, 3565  
   qualifying relatives; #3528  
**CERTIFICATION OF SEC. OF LABOR:**  
   *see* Adjustment of status: labor certification; Labor certification  
**CHILD:** *see also* Minor  
 adopted:  
   abuse of immigration laws as concern; #2899, 3207  
   adoption by power of attorney; #2620  
   barred from conferring benefits on natural parent; #3207  
   jurisdiction of state court where child resides elsewhere; #2584  
   legal custody and/or residence requirements; #2577, 2686, 2801, 2971, 3051, 3117, 3129  
   legislative history; #3129  
   orphan, adoption of by U.S. citizen; #2764  
   parental control; #3117, 3129  
   “proxy” adoption, effect of; #2577  
   sibling of child adopted under 16 years of age; #3597  
   sibling relationship, question of; #2737, 3207, 3351  
   specific jurisdictions, adoption in:  
     Burma; #2553  
     China; #2558, 2649, 2887, 2966, 3051  
     Colorado; #2764  
     Dominica, West Indies; #2901  
     Haiti; #2686  
     Hawaii; #2584  
     India:  
       Hindu law; #2620, 2801  
       Moslem law; #2975  
     Korea; #2577, 2606  
     Mexico:  
       Chihuahua; #2705  
       Coahuila; #2580  
       Tamaulipas; #2630, 2896  
     People’s Republic of China; #2887, 2966  
     Philippines; #2869, 2971, 3117, 3129  
     Tonga; #2698, 2899  
   termination of adoption, effect of; #2737, 3244  
   validity of, governed by place of adoption; #2630, 2705, 2975  
 age of for classification as immediate relative determined by date visa petition was filed; #3551  
 definition of, for purposes of establishing sibling relationship; #2531, 2558, 2560, 2618, 2643, 2645, 2737, 2754, 2882, 3207  
 eligible orphan:  
   adopted in U.S. after parole; ineligible under sec. 101(b)(1)(F); #2764  
   adoption not completed after entry into the U.S.; #2655, 2945  
   barred from conferring benefits on natural parent; #2945, 3207  
   illegitimate child as; #2854  
 illegitimate (born out of wedlock):  
   legal differences from legitimate children abolished:  
     specific jurisdictions:  
       Barbados; #2935  
       Cape Verde; #2952  
       Colombia; #2953  
       Cuba; #2941  
       Dominican Republic; #3294, 3329  
       El Salvador; #3459  
       Guatemala; #2712  
       Guyana; #3216, 3536  
       Haiti; #2898, 2919, 2956  
       Honduras; #2687  
       Jamaica; #3612  
       People’s Republic of China; #2682  
       Peru; #3347  
       Puerto Rico; #2731  
       Republic of Trinidad and Tobago; #3076  
       Yugoslavia; #2799  
   status sought by siblings with common father through relationship to natural mother as stepmother; #2645  
   status sought by virtue of relationship to natural father after 1986 amendment:  
     bona fide parent-child relationship, question of; #3061, 3112, 3328, 3329  
     petition pending on effective date of amendment, effect of; #3023, 3061  
   imputation of parent’s lawful permanent residence to; #3572, 3619  
 legitimate or legitimated:  
   beneficiary over 18 at time of legitimation; #2586, 2600, 2603, 2645, 2852, 2935, 2953, 3329  
   legal custody requirement; #2636, 2730, 2802, 2919, 3378

legitimate, definition of; #2621, 2626, 2641, 2712, 2731, 2799, 2822, 2953, 3023  
 legitimated, definition of; #2822, 3328, 3347, 3459  
 petition pending at time of legitimation, effect of; #2880  
 requirements for legitimation; #2822, 3328, 3329, 3347, 3378, 3459  
 residence or domicile in jurisdiction prior to child's 18th birthday; #3020, 3329  
 rights of legitimated child retroactive to date of birth; #2600, 2603  
 specific jurisdictions:  
   Bolivia; #2824  
   California; #2636, 2816, 2874  
   Cape Verde; #2952  
   China; #2603, 2682  
   Colombia; #2953  
   Cuba; #2941  
   Curacao, Netherlands Antilles; #2882  
   Dominican Republic; #2641, 2822, 3061, 3294, 3329  
   Ecuador; #2545, 2940  
   El Salvador; #2586, 3459  
   Guatemala; #2712  
   Guyana; #3216, 3536  
   Haiti; #2830, 2898, 2919, 2956  
   Hawaii; #2626  
   Honduras; #2687  
   Illinois; #2898  
   Jamaica; #2643, 2852, 3612  
   Korea; #2606  
   Maryland; #2730  
   Massachusetts; #2946  
   Mexico; #2629, 2871  
   Michigan; #2603  
   Netherlands Antilles; #2882  
   New Jersey; #2935, 3020  
   New York; #2621, 2641, 2953, 2956, 3061  
   Panama; #2683  
   Peru; #2574, 2959, 3347  
   Philippines; #2626, 2636  
   Puerto Rico; #2731  
   Republic of Trinidad and Tobago; #3076  
   Virgin Islands; #2600  
   Yugoslavia; #2799  
 parents, deportation of, does not deprive child of constitutional rights; #2539  
 stepchild:  
   adulterine child, qualification as; #2754  
   beneficiary under 18 years of age when relationship created; #2560, 2844  
   criteria for determining existence of step-relationship; #2720, 2754, 2792, 2844, 2882, 3056  
   derivative citizenship; #3642  
   illegitimacy of child; #2618, 2645, 2720, 2754, 2792, 2840, 2844  
   marriage creating relationship:  
     nonviable; #2846  
     not recognized by state law; #2672  
     sham; #3056, 3129  
     terminated; #2846  
   requirement for stepparent-stepchild relationship:  
     active parental interest; #2720, 2749, 2754, 2792  
     close family unit; #2618  
     marriage only; #2840, 2844  
   petition for mother no bar to step-mother petition; #2749  
   polygamous marriage, question of; #2656, 2749  
   sibling relationship, question of; #2560, 2618, 2645, 2754, 2882  
   widow or widower, classification of child of; #3421  
**CITIZENSHIP:**  
 acquisition of:  
   at birth by child born abroad; #2816  
   by birth in the U.S., "Horcon Tract"; #2748  
 burden of proof: *see* Burden of proof  
 citizenship clause of U.S. Constitution, meaning of; #2748  
 country of, for designation of place of deportation: *see* Place of deportation  
 delayed birth certificate, as proof of; #2681  
 derivative; #3316, 3454, 3536, 3603, 3612, 3621, 3642  
 dual nationality:  
   relinquishment of U.S. citizenship, question of; #2593  
   treaty investor status, effect on; #2947  
   treaty trader status, effect on; #2774  
 ineligibility for:  
   military service evasion; #3424  
 loss of citizenship:  
   effect of crimes committed while lawful permanent resident; #3604  
   legitimation of child acquiring citizenship through mother; #2548  
   naturalization in foreign state:  
     accompanied by:  
       oath of allegiance; #2593  
       State Department affidavit; #2983  
   renunciation of U.S. citizenship, formal; #2650  
   retention requirements; #2816  
   voluntariness, question of; #2593, 2650, 2983  
   proof of, by U.S. passport; #2968  
**CLASSIFIED INFORMATION:** *see* Evidence: admissibility; Visa petition: evidence  
**COLLATERAL ESTOPPEL:** *see* Estoppel: collateral  
**COMMERCIAL OR AGRICULTURAL ENTERPRISE:** *see* Labor certification  
**COMMUTER:**

applicability of *Fleuti* doctrine; #2576  
loss of lawful permanent resident status,  
question of:  
abandonment of domicile in U.S.;  
#2579, 2751, 2926  
employment, part-time; #2652

**CONDITIONAL PERMANENT RESIDENT:** *see also* Deportation grounds;  
Waivers: sec. 216(c)(4)  
adjustment of status; #3150  
deportability of: *see* Deportation grounds  
hardship waiver: *see* Waivers: sec.  
216(c)(4)  
joint petition; #3151, 3224, 3231, 3233,  
3240, 3383  
notice of termination of status; #3151,  
3224, 3238, 3383

**CONSTITUTIONAL RIGHTS:** *see also*  
Due process  
equal protection not denied by differ-  
ing rules in different judicial districts;  
#2792  
ex post facto laws; #3180, 3242, 3364  
right against self-incrimination; #2527,  
2536, 2559, 2582, 2585, 2596, 2607,  
2622, 2647, 2717, 2725, 2820, 2969,  
2979, 3011, 3054, 3143  
rights of:  
aliens who have not made entry; #2571,  
2847, 3400  
minor children not affected by deporta-  
tion of parents; #2539  
returning lawful permanent resident;  
#3079

**CONSTITUTIONALITY OF STATUTES:**  
deportability for criminal offenses;  
#2929, 3152  
jurisdiction of Board to consider: *see*  
Board of Immigration Appeals  
jurisdiction of Immigration Judge to con-  
sider: *see* Immigration Judge  
jurisdiction of Service to consider; #3052  
new immigration consequences may  
attach to past conduct; #3364  
sec. 101(b)(1)(C) and (D); #2603  
sec. 212(c); #3318

**CONTINUANCE:** *see* Fair hearing: ad-  
journment of hearing

**CONVENTION AGAINST TORTURE:**  
*see* Persecution: persecution claim: Torture  
Convention

**CONVICTION OF CRIME:**  
aggravated felony:  
bar to discretionary relief from removal;  
#3586  
concurrent sentences as aggregate term  
of imprisonment; #3410  
definition; #3131, 3148, 3152, 3155,  
3163, 3176, 3181, 3200, 3223, 3234,  
3254, 3261, 3270, 3297, 3317, 3321,  
3341, 3370, 3373, 3376, 3390, 3391,  
3411, 3412, 3416, 3422, 3437, 3440,  
3443, 3461, 3468, 3473, 3474, 3476,  
3481, 3482  
“described in,” meaning of; #3440,  
3461  
detention upon completion of sen-  
tence; #3137  
divisible statute; #3456, 3498, 3556,  
3585, 3638  
enhanced penalties for violation of  
immigration laws; #3176  
inadmissibility, conviction for not a  
ground of; #3449  
ineligibility for relief from deportation:  
*see* Cancellation of removal;  
Persecution; Suspension of deportation;  
Voluntary departure; Waivers: sec.  
212(c), sec. 212(h)  
“ineligible to citizenship,” question of;  
#3424  
legislative history; #3137, 3146, 3317,  
3370, 3443, 3481  
misdemeanor offense; #3443, 3474,  
3476, 3481, 3482, 3592, 3593, 3600  
nonpolitical crime of violence; #3164  
persecution claim: *see* Persecution:  
persecution claim: exemptions from  
eligibility for relief  
question whether crime relates to:  
alien smuggling; #3376, 3391  
specific offenses:  
aiding and abetting illegal entry;  
#3391  
attempt; #3181, 3379, 3437  
bringing illegal alien into U.S.; #3386  
burglary of a vehicle; #3432  
conspiracy; #3181, 3586, 3600  
crime of violence under 18 U.S.C.  
§ 16:  
definition; #3220, 3223, 3341,  
3373, 3390, 3410, 3412, 3468,  
3481, 3497, 3498  
divisible statute; #3390, 3497, 3498  
specific offenses:  
aggravated driving under the  
influence; #3341  
armed robbery; #3223, 3374  
arson; #3373  
assault and battery with a dan-  
gerous weapon; #3218, 3223  
assault, third degree (intentional  
physical injury); #3481  
criminal contempt; #3410  
criminally negligent child abuse;  
#3390  
domestic battery; #3537  
driving while intoxicated; #3412,  
3445, 3453, 3468

manslaughter:  
     first degree; #3497  
     involuntary; #3220  
     second degree; #3472  
 robbery with a deadly weapon  
     (handgun); #3322  
     second degree manslaughter;  
     #3472  
     sexual abuse of a minor; #3476  
     stalking; #3498  
     statutory rape; #3270  
     terrorism; #3317  
     unauthorized use of a vehicle;  
     #3514  
 drug offenses: *see* Conviction of  
     crime: drug offenses  
 firearms trafficking; #3176  
 forgery; #3410  
 fraud; #3379, 3585, 3586, 3596  
 murder; #3176, 3218  
 obstruction of justice; #3321, 3398  
 perjury; #3456  
 possession of firearm by a felon;  
     #3440, 3461  
 prostitution for commercial advantage,  
     transportation to engage in; #3556  
 robbery with a deadly weapon; #3322  
 sexual abuse of a minor; #3411, 3443,  
     3457, 3476, 3523  
 theft offense:  
     possession of stolen property; #3413,  
     3437  
     prison term of at least 1 year; #3455,  
     3522  
     unlawful driving and taking of a  
     vehicle; #3434, 3549, 3638  
     welfare fraud; #3596  
 trafficking in fraudulent documents;  
     #3291  
 transporting illegal alien; #3376,  
     3391  
 standard for determining; #3432, 3556,  
     3585, 3596  
 waiver: *see* Waivers: sec. 212(c), sec.  
     212(h)  
 cancellation of removal: *see* cancellation of  
     removal  
 conviction not required to establish:  
     deportability for smuggling aliens;  
     #2747  
     excludability for drug trafficking;  
     #2576, 2707, 3181  
 crime involving moral turpitude: *see*  
     Crime involving moral turpitude  
 crime of violence under 18 U.S.C. § 16:  
     *see* Conviction of crime: aggravated  
     felony: specific offenses  
 deportability under:  
     sec. 241(a)(3)(B)(iii) for conviction;  
     #3291  
     sec. 241(a)(5) for conviction; #2617,  
     2640, 2980  
     sec. 241(a)(14) for possession of  
     sawed-off shotgun; #2701  
 domestic violence or child abuse; #3494,  
     3537, 3610  
 drug offenses:  
     aggravated felony; #3131, 3146, 3148,  
     3152, 3155, 3163, 3176, 3181, 3200,  
     3234, 3254, 3261, 3321, 3422, 3462,  
     3473, 3474, 3482, 3592, 3593, 3600  
     congressional policy; #2689, 2707,  
     2875, 2936, 2965, 2995, 3044, 3055,  
     3102, 3131, 3137, 3152, 3226, 3229,  
     3250, 3330, 3377, 3549  
     conviction for crime involving:  
         discretionary relief, effect on appli-  
         cation for; #2561, 2613, 2666, 3058,  
         3148, 3176, 3229  
         expunction of, effect on deporta-  
         bility; #2537, 2543, 2875, 2936,  
         2965, 3044, 3267, 3325, 3377, 3462,  
         3593  
         sec. 212(c) relief, effect on applica-  
         tion for in Ninth Circuit; #2819,  
         2875  
     divisible statute; #2719  
     guilty knowledge; #2561, 2613, 2706,  
     2786, 3226  
     possession of minimal amount of mari-  
     juana; #2612, 3226, 3549, 3594  
     question whether crime relates to:  
         controlled substance:  
             accessory after the fact; #3321  
             aiding and abetting; #3119, 3179  
             attempt; #3178, 3179, 3321  
             conspiracy; #3179, 3321  
             facilitation; #3119, 3179, 3321  
             misprision; #2601, 3179, 3321  
             solicitation; #3179, 3321, 3637  
             use of a controlled substance;  
             #3055, 3226  
         illicit possession or traffic in drugs:  
             misprision of felony relating to  
             marijuana; #2601  
             possession of controlled substance;  
             #2719  
             unlawful carrying of firearm during  
             illicit possession of narcotic drug;  
             #2678  
             use of communication facility to  
             further conspiracy to import  
             cocaine; #2550  
     trafficking:  
         definition for determining aggravated  
         felony; #3131, 3148, 3152, 3155,  
         3181, 3234, 3254, 3261, 3422, 3473,  
         3474, 3482, 3592, 3593, 3600  
         excludability absent conviction,  
         question of; #2576, 2707, 3239  
     enhancement of sentence: *see* Conviction  
     of crime: firearms violation, sentence  
     entry, use of any for basis of charge;  
     #2751

expunction of crime involving moral turpitude, policy to defer deportation proceedings pending; #2803, 3267  
 felony, definition of; #3181, 3220, 3234, 3254, 3443, 3482, 3592, 3593  
 final conviction for immigration purposes, question of:  
   adjudication of guilt or entry of judgment; #3044, 3248, 3364, 3507, 3607, 3641  
   adjudication of guilt withheld; #2589, 2594, 2689, 2832, 2858, 2995, 3044, 3248, 3364, 3377, 3462, 3507  
   court-martial conviction; #3607  
   direct appellate review exhausted or waived; #3044, 3177, 3232, 3245, 3248, 3261, 3364, 3641  
   discretionary appellate review; #3232, 3641  
   expunction of record of conviction; #2537, 2543, 2875, 2936, 2965, 3044, 3250, 3267, 3325, 3377, 3462, 3507, 3508, 3593  
   Federal Youth Corrections Act; #2707, 3377  
   first offender statutes; #2589, 2594, 2689, 2832, 2858, 2875, 2936, 2965, 2995, 3102, 3250, 3325, 3377, 3462  
   imposition of sentence suspended; #2709, 3317  
   judicial recommendation against deportation (JRAD): *see* Recommendation against deportation; #3607  
   juvenile delinquency adjudication; #3435  
   nolo contendere plea; #2791, 3044  
   post-conviction remedy sought; #3177, 3213, 3261, 3377, 3379, 3641  
   pretrial intervention program; #3103  
   pronouncement of judgment suspended; #2608  
   punishment, penalty, or restraint on liberty imposed, question of:  
     cost and surcharges; #3601  
     restitution; #3601  
   right to consular notification under Vienna Convention, question of; #3607  
   specific jurisdictions:  
     California; #2543, 2608, 2709  
     Colorado; #3248  
     Florida; #2858, 3103, 3601  
     Georgia; #2832  
     Maryland; #3044, 3102  
     Michigan; #2594  
     New Hampshire; #2537  
     New Jersey; #3232  
     New York; #3436, 3641  
     Ohio; #3525  
     Oregon; #2936, 3502  
     Texas; #2965, 2995, 3364, 3462  
     Virginia; #2689  
     Washington; #2875  
     Wisconsin; #2589  
   standard for determining; #3044, 3102, 3103, 3364, 3377, 3578, 3607  
   vacated conviction; #3377, 3436, 3493, 3507, 3525, 3578, 3593  
   “violation” adjudication; #3502  
 firearms violation:  
   application of new statute to past convictions; #3199, 3202, 3295  
   conviction necessary; #3194, 3273, 3274, 3275  
   deportation ground only; #3191, 3192, 3202, 3243, 3295  
   discharge of firearm not required; #3200  
   divisible statute; #3273, 3274, 3275  
   enhancement of sentence as, question of; #3189, 3200, 3201, 3202  
   evidence to establish; #3273, 3274, 3275  
   expunction of, effect on deportability; #3267  
   legality of acquisition irrelevant; #3200  
   procedure for determining; #3273, 3275  
   specific offenses:  
     armed burglary; #3201  
     attempt; #3178, 3295  
     murder with a firearm; #3202  
     possession; #3273, 3274, 3275  
     robbery with a firearm; #3201  
     trafficking: *see* Conviction of crime:  
       aggravated felony  
       use of firearm during drug-trafficking crime; #3200  
   waiver of: *see also* Waivers: sec. 212(c)  
     in conjunction with adjustment application; #3213, 3505  
 foreign conviction:  
   admission of foreign crime; #2861  
   amnesty; #3325  
   authentication of foreign record; #2825  
   drug offense; #2561, 2613, 2706, 2786, 3181, 3325  
   expungement; #3325  
   juvenile delinquency, question of; #2884, 2885  
   pardon:  
     conviction for crime involving moral turpitude; #3043, 3325  
     conviction for drug offense; #3325, 3493  
   petty offense exception; #2715  
   U.S. standards govern; #2663, 2884, 2885, 3502  
   guilt or innocence, inquiry into precluded; #2663, 2715, 2823, 2859, 3068, 3134, 3148, 3158, 3180, 3218, 3272, 3274,

3275, 3317, 3380, 3386, 3400, 3413, 3641

guilty plea:  
 as admission of commission of crime involving moral turpitude; #2832, 3638  
 establishes elements of offense; #2859  
 set aside after deportation; #2747

juvenile delinquency, question of; #2884, 2885, 3435

lawful permanent resident status:  
 admission of alien in, precludes later deportability under sec. 241(a)(5) for conviction prior to entry; #2617  
 effect of conviction on; #2925  
 effect of crimes committed by denaturalized alien while in; #3604  
 not terminated by conviction for purposes of sec. 212(c) relief; #2703  
 legislative history; #3178, 3226, 3317, 3364, 3377, 3435, 3549, 3641

pardon:  
 crime involving moral turpitude; #3043, 3325  
 domestic violence or child abuse; #3494  
 drug offense; #2543, 3325

probation as a form of punishment or restraint; #3364

record of conviction:  
 admissibility; #2559, 3125, 3273, 3274, 3275, 3376, 3585, 3610  
 authentication of foreign record; #2825  
 defined; #2685, 2719, 3273, 3274, 3275, 3376, 3416, 3585, 3586, 3631, 3638  
 transcript of criminal arraignment included; #2719  
 unnecessary for finding of inadmissibility:  
 crime involving moral turpitude; #2861  
 drug trafficking; #2576, 2707

sentence:  
 actually imposed; #3073, 3243, 3317  
 concurrent; #3410, 3434  
 confinement for a year or more; #2902, 3317  
 defined; #3137, 3321  
 enhancement of; #3189, 3200, 3201, 3202, 3592, 3593, 3594  
 execution of, suspended; #3073, 3243, 3317  
 imposition of, suspended; #2709, 3073, 3243, 3317  
 indeterminate; #3223, 3317  
 resentencing by trial court; #2902, 3435, 3455, 3522

waivers: *see* Waivers: sec. 212(c), sec. 212(h), sec. 241(f)(2)

**COUNSEL:** *see* Attorneys and representatives; Due process; Evidence; Fair hearing

**CREWMAN:** *see* Exclusion proceedings: propriety of; Fine; Nonimmigrant: specific classification; Suspension of deportation; Voluntary departure

**CRIME:** *see* Bond, delivery; Conviction of crime; Crime involving moral turpitude; Waivers

**CRIME INVOLVING MORAL TURPITUDE:**  
 divisible statute; #3125, 3635, 3638  
 effect of sec. 212(c) waiver on; #3159, 3340  
 excludability established without conviction; #2861  
 expunction of conviction: *see* Conviction of crime: final conviction for immigration purposes, question of  
 guilty plea as admission of commission of crime; #2832, 3638  
 juvenile offender exception; #2884, 2885  
 moral turpitude defined; #2663, 2752, 3068, 3125, 3158, 3188, 3194, 3228, 3271, 3285, 3330, 3382, 3405, 3423, 3449, 3529, 3537, 3542, 3543, 3553, 3559, 3562, 3573, 3574, 3631, 3635  
 necessity as a defense; #2885  
 petty offense exception; #2715, 2833, 3073, 3188, 3340, 3490, 3491, 3543, 3613, 3638  
 political offense exception; #3538  
 procedure for determining; #2685, 3125, 3188, 3228, 3271, 3285, 3382, 3405, 3423, 3449, 3537, 3553, 3562, 3573, 3574, 3631, 3635, 3638  
 single scheme of criminal misconduct; #3317  
 specific offenses:  
 accessory; #3125  
 aggravated driving while intoxicated; #3423  
 aggravated stalking; #3405  
 aiding and abetting; #3125, 3538  
 assault:  
 causing bodily harm; #3194, 3285, 3537  
 on police officer; #3068, 3537  
 simple; #2791, 3068, 3125, 3194, 3285, 3573, 3574  
 with a deadly weapon; #2791, 3068, 3537  
 with bodily harm to a spouse; #3491, 3537  
 with intent to cause physical injury; #3574  
 with intent to commit felony; #3125

attempt:  
 generally; #3178, 3179, 3181  
 grand larceny; #2721

battery: *see also* Conviction of crime:  
   domestic violence or child abuse;  
   Crime involving moral turpitude:  
   specific offenses: assault, domestic  
   battery, willful infliction of corporal  
   injury  
   defined; #3537, 3573  
 burglary; #2559, 2841, 2885, 2906,  
 3022, 3271, 3635  
 check, insufficient funds; #2721, 2791,  
 2823, 2858, 2879, 3166, 3167, 3188  
 child abuse; #3271, 3562  
 conspiracy:  
   generally; #2663, 2752, 2825, 3099,  
   3158, 3181  
   to commit offense against U.S.;  
   #2752, 3158  
   to defraud investing public; #2663  
   to defraud the public of money;  
   #2825  
 counterfeit:  
   alien registration documents, uttering  
   of; #2752  
   coins and coin molds, making and  
   possession of; #2752  
   U.S. obligations, transfer of; #2611,  
   3073  
 domestic battery; #3537  
 driving while intoxicated; #3423, 3449  
 drug possession, sale, or importation;  
 #3188, 3330  
 embezzlement from bank; #2709  
 forgery; #2832  
 fraud:  
   check, insufficient funds; #2791,  
   2823, 2858, 2879, 3166, 3167,  
   3188  
   credit card; #3177  
   defraud investing public, Canada;  
   #2663  
   defraud the public of money, Canada;  
   #2825  
   mail; #2751, 3184  
   misapplication of funds; #2709  
   money laundering; #3158, 3382, 3553  
   obtaining money by false pretense,  
   Canada; #2833  
   obtaining passport by false state-  
   ment; #3169  
   trafficking in counterfeit goods; #3559  
   transfer of counterfeit money; #2611  
   uttering counterfeit alien registra-  
   tion documents; #2752  
 grand theft; #3559  
 impersonating a federal officer; #2564  
 indecency with a child; #3631  
 interference with law enforcement  
 officer; #2791  
 kickbacks on government contracts;  
 #3184  
 larceny; #2685, 2721, 2841, 2885,  
 3184, 3543, 3559  
 mail fraud; #2751, 3184  
 malicious trespass; #2685  
 manslaughter; #2879, 3228, 3472  
 misprision of felony; #3542  
 murder; #3176, 3202, 3538  
 obtaining money by false pretense,  
 Canada; #2833  
 obtaining passport by false statement;  
 #3169  
 oral sex perversion; #2559  
 petty larceny; #2685, 2885, 3184, 3188  
 possession of altered immigration  
 document; #3188  
 possession of burglary tools; #3188  
 possession of child pornography; #3529  
 possession of concealed sawed-off  
 shotgun; #2701  
 possession of concealed weapon;  
 #3188  
 possession of counterfeit items; #3188  
 possession of stolen property; #2715,  
 3188  
 possession with intent to commit  
 crime involving moral turpitude;  
 #3188  
 possession with intent to defraud;  
 #3188  
 retail theft; #3543  
 robbery; #2735, 2815, 2902, 3007  
 sex offender, failure to register as;  
 #3562  
 sexual intercourse with female child;  
 #3272  
 sexual misconduct with female under  
 16, Israel; #2595  
 smuggling aliens; #3099, 3386  
 spousal abuse: *see* Crime involving  
 moral turpitude: specific offenses:  
 willful infliction of corporal injury  
 statutory rape; #3562  
 unsworn falsification to authorities;  
 #3543  
 use of altered immigration document;  
 #3188  
 vehicle theft; #3638  
 willful infliction of corporal injury:  
   cohabitant; #3271  
   parent of perpetrator's child; #3271  
   spouse; #3271, 3490  
 standard of care:  
   guilty knowledge; #2715, 2721, 2791,  
   2858, 3194, 3382, 3423, 3449  
   intent; #2611, 2685, 2710, 2752, 2823,  
   2825, 2833, 2858, 3099, 3188, 3194,  
   3271, 3382, 3574, 3635  
   negligence; #3194  
   recklessness; #2879, 3194, 3228, 3285  
   strict liability; #2595  
 voluntary departure, eligibility of alien  
 convicted of: *see* Voluntary departure:  
 eligibility for

waiver: *see* Waivers: sec. 212(c), sec. 212(h)  
within 5 years of entry, question of; #3177, 3202  
within 5/10 years after admission, question of; #3513

**CUBAN REFUGEE, ADJUSTMENT OF STATUS:** *see* Adjustment of Status: Act of Nov. 2, 1966

## D

**DEFECTOR STATUS:** *see* Subversive

**DEPARTURE FROM UNITED STATES:**

*see also* Suspension of deportation: continuous physical presence  
alien seeking refugee status in Canada; #3571  
during pendency of appeal from exclusion order; #3128, 3259  
during pendency of deportation proceedings; #3277  
during pendency of Service appeal; #3395  
effect of on alien ordered removed; #3626  
motion to reconsider mooted by; #3227, 3259  
motion to reopen withdrawn by; #3457  
return during pendency of deportation proceeding, effect of; #2924  
under threat of deportation; #3475  
while deportation order outstanding; #2474, 2834

**DEPORTATION:** *see also* Deportation grounds; Deportation proceedings; Evidence; Fair hearing; Removal  
Canadian Indian, question whether subject to; #2664  
civil nature of; #2914, 2929, 2996, 3002, 3152  
constitutional rights of minor citizen children not affected by deportation of parents; #2539  
country of: *see* Place of deportation  
departure from U.S. while under order of; #2834, 3366, 3475  
evidence: *see* Evidence  
exclusion, distinguished from; #3318  
failure to appear for, consequences of under sec. 242B; #3253, 3356, 3357  
hearing: *see* Deportation proceedings; Fair hearing  
order, finality of; #2878, 3045, 3152, 3154, 3184, 3206, 3253, 3297, 3409, 3441, 3442, 3448  
Order to Show Cause: *see* Deportation proceedings  
reinstated order of; #3366, 3557  
stay of:  
    motion to reopen in absentia order; #3198, 3266  
    special agricultural worker; #3154

time of departure decided by Service; #3165

**DEPORTATION GROUNDS:** (for deportation ground based upon a cause existing at time of entry, *see also* Exclusion grounds; Inadmissibility grounds)

address reporting requirements, noncompliance with: *see* Address reporting requirements

aggravated felony: *see* Conviction of crime

certification of Sec. of Labor, no valid; *see* Labor certification

conditional permanent resident, status terminated; #3151, 3224, 3238, 3383

conviction: *see* Conviction of crime; Crime involving moral turpitude

crimes: *see* Conviction of crime; Crime involving moral turpitude

entry without inspection:

    escape from carrier detention while awaiting return flight; #2984

    not eliminated by subsequent departure and readmission as lawful permanent resident; #2923, 2925

    prosecutorial discretion of Service not to charge alien in possession of documents; #2923

    sec. 291 presumption used to establish unlawful status; #2536, 2547, 2717, 2725, 3143

espionage; #3395

excludable at entry:

    exclusion grounds: *see* Exclusion grounds

    proper grounds charged after redesignation of sections in Act; #3186

    stowaway, use of sec. 291 presumption to establish; #2979

    use of any entry as basis for charge; #2751, 2818, 2923

failure of alien to prove time, place, and manner of entry: *see* Burden of proof: presumption under sec. 291; Deportation grounds: entry without inspection, excludable at entry

firearms violation: *see* Conviction of crime: aggravated felony, firearms violation

fraud or misrepresentation: *see* Fraud

narcotics: *see* Conviction of crime: drug offenses

Nazi persecution: *see* Nazi persecution

nonimmigrant:

    failure to maintain nonimmigrant status:

        alien of distinguished merit and ability accepted employment before Form I-129B approved; #2590

    student:

transferred school without prior Service permission; #2848  
 unauthorized employment; #2596, 2634, 2668  
 visitor for pleasure, accepted employment; #2955  
 remained longer than permitted; #2797, 3119  
 presence may have serious adverse foreign policy consequences; #3400  
 public charge: *see* Public charge  
 sec. 241(a)(5); #2617, 2980  
 sec. 241(f) exemption: *see* Waivers: sec. 241(f)  
 smuggling aliens: *see* Smuggling aliens  
 subversive: *see* Subversive  
 visa charge: *see* Exclusion grounds; Fraud or misrepresentation

**DEPORTATION PROCEEDINGS:**  
 adjournment of hearing: *see* Fair hearing  
 administrative closing: *see* Fair hearing  
 bond determination separate from deportation hearing; #2599, 3159, 3165  
 civil nature of; #2914, 2929, 2996, 3002, 3054, 3180, 3632  
 collateral attack:  
 criminal court judgment; #2663, 3180  
 prior order of exclusion or deportation; #2657, 3095, 3366  
 commencement of: *see* Deportation proceedings: Order to Show Cause  
 consolidation of hearings: *see* Fair hearing  
 denaturalization judgment, effect of; #2963  
 departure and return during pendency of proceedings, effect of; #2924, 3277  
 due process: *see* Due process; Evidence; Fair hearing  
 estoppel, doctrine of: *see* Estoppel  
 expeditious hearing; #3139, 3152, 3168, 3176, 3185  
 in absentia hearing: *see* Fair hearing  
 lodging of additional charges or allegations; #3143, 3340  
 notice of hearing: *see* Due process  
 Order to Show Cause:  
 “charging document” defined; #3133, 3309  
 commencement of deportation proceedings; #2820, 2909, 3034, 3045, 3133, 3139, 3140, 3183, 3246, 3309, 3358  
 explanation of contents; #3265  
 jurisdiction to review decision to issue; #2666, 2820, 3437  
 notice to appear, synonymous with; #3309  
 proper grounds charged after redesignation of sections in Act; #3186, 3199, 3202  
 purpose of; #2713

service of:  
 effect on continuous physical presence; #3309, 3385, 3426  
 means of; #3142, 3144, 3246, 3628  
 on a minor; #3293, 3397  
 sufficiency of; #3136, 3142, 3144, 3246, 3265, 3293  
 vests jurisdiction over asylum application with Immigration Judge; #3314  
 sufficiency of; #2713, 3310  
 superseded; #3142  
 validity after alien’s departure and return; #2924  
 Privacy Act; improper forum to assert violation; #2585  
 proceedings are pending until departure of alien from U.S.; #3045  
 remand, motion to: *see* Motions: remand  
 remand of record effective for consideration of all matters unless limited by Board; #2670  
 reopening of: *see* Motions: reopening of proceedings  
 voluntary departure pursuant to deportation order precludes subsequent challenge to validity of; #2834

**DERIVATIVE STATUS:** *see* Accompanying or following to join

**DISBARMENT:** *see* Attorneys and representatives

**DISCRETION, ADMINISTRATIVE:** *see* Discretionary relief and specific forms of relief

**DISCRETIONARY RELIEF:** *see also* Adjustment of status; Cancellation of removal; Good moral character; Permission to reapply; Persecution; Suspension of deportation; Voluntary departure; Waivers  
 abandonment of or failure to prosecute application for; #2726, 3024, 3053, 3116, 3142, 3182  
 admission of adverse evidence after concession of deportability; #2818  
 adultery: *see* Good moral character  
 adverse factors:  
 accruing eligibility through frivolous appeals; #3225  
 bigamous marriage; #2818  
 circumstances of crime; #3272  
 circumvention of refugee procedures; #2922, 2967, 3001, 3033  
 conviction lacking sufficient degree of finality; #3245  
 criminal activity; #2832, 3134, 3156, 3158, 3229, 3245, 3247, 3272, 3335, 3472, 3544  
 disrespect for immigration laws; #2752, 2992, 3225, 3369, 3406, 3587  
 entry with aid of smuggler; #2958

entry with fraudulently obtained U.S. documents; #2922, 2967, 3033  
 false testimony; #3372  
 fraud or misrepresentation; #3372, 3380, 3587  
 preconceived intent; #2551, 2556, 2750, 2866, 2928, 3036, 3104  
 aggravated felony conviction as bar to; #3586  
 application for does not allow alien to remain pending decision; #3004  
 background checks; #3526  
 barred by unlawful reentry after departure under removal order; #3475  
 burden of proof: *see* Burden of proof  
 discretionary denial, notwithstanding statutory eligibility; #2592, 2727, 2818, 2832, 2922, 3134, 3272, 3472  
 discretionary denial without determination of eligibility; #3158, 3272  
 evidence considered may not be admissible to prove deportability; #3273  
 favorable factors:  
   family ties; #3587  
   rehabilitation; #3247, 3272  
   residence of long duration; #3587  
   Service's intentional lack of enforcement of lawful order of deportation; #3225  
 fifth amendment claim, effect of; #2607  
 filing date of application governs applicability of REAL ID Act; #3638  
 law applicable at time of final administrative order; #3152, 3176  
 Nazi persecution as bar: *see* Nazi persecution  
 protective order violation bars eligibility for; #3495

**DISTRICT DIRECTOR:**

assurance not to prosecute, question whether equal to grant of immunity; #2717  
 authority to make nationwide policy; #3283  
 decisions of:  
   as precedent; #2955, 3207  
   not binding on Board; #3351  
 jurisdiction, question of authority to consider:  
   adjustment of status; #2740, 3153, 3279  
   applicability of *Fleuti* doctrine to returning legalization applicant; #3282  
   asylum; #2571, 2622, 2679, 2726, 2857, 2912, 2922, 2927, 2981  
   automatic revocation of visa petition after petitioner's death; #2998, 3031  
   bond; #2851, 2890, 2891, 2910, 3124, 3306, 3634  
   custody location; #3174  
   custody status, change of; #2890, 2891, 2910

2910  
 deferred action status; #2930  
 extended voluntary departure; #2930  
 extension of nonimmigrant stay; #2848  
 fines; #2894  
 institution of proceedings:  
   deportation; #2666, 2820, 3185  
   exclusion; #3282  
   rescission; #2610, 3056  
 parole; #2614, 2753, 2785, 2847, 2927, 3282  
 precertification under Schedule A; #2642  
 refugee classification; #2571, 2619, 2740  
 reinstatement of student status; #2848  
 special agricultural worker application; #3419  
 termination of proceedings; #2908  
 third-preference qualifications; #2634  
 venue; #2567, 2728, 2785, 2892, 2909, 3133, 3174  
 visa petition; #2555, 2657, 3031, 3130, 3173, 3394  
 voluntary departure, extension of; #2834  
 waiver:  
   sec. 212(c); #3151  
   sec. 212(d)(4)(A); #2911, 2961  
   sec. 212(e); #2562, 2994, 3004  
   sec. 212(h); #3151  
   sec. 212(i); #3151  
   sec. 212(k); #3031, 3151  
   sec. 216(c)(4); #3151, 3231  
 prosecutorial discretion; #2666, 2820, 2894, 2908, 2930, 3056, 3152, 3366, 3437  
 reasons for decision required; #2931, 3315  
 record of proceedings, responsibility for; #2931, 2941, 2954  
 remand of adjustment application by Immigration Judge, permissibility of; #2908  
 "standing" in visa petition proceedings, question of; #2691

**DIVORCE:**

bilateral; #2702, 2724  
 collateral attack on; #2724  
 conditional permanent resident status terminated by; #3151  
 consular divorce performed in U.S.; #2531  
 customary; #2534, 2542, 2997, 3606  
 domicile, question of; #2702, 2724, 3030  
 in absentia; #3030  
 recognition of foreign divorce:  
   specific jurisdictions:  
     California; #3030  
     Connecticut; #2672, 2691, 2702  
     Japan; #2895  
     New Jersey; #2692, 2864

New York; #2724, 2939  
“relation back” doctrine: *see* Marriage:  
annulment  
sham; #2948  
specific jurisdictions:

Dominican Republic:  
recognized by other jurisdiction;  
#2672, 2691, 2702, 2864, 2939  
requirements; #2575, 2688, 2867,  
2893, 2895, 2937  
Egypt, consular; #2531  
Ghana; #2534, 2699, 2997, 3606  
Hungary, in absentia; #3030  
Mexico; #2580  
Nigeria; #2542  
Portugal; #2692  
Puerto Rico; #2724

**DOCUMENTARY REQUIREMENTS:**

*see* Exclusion grounds: specific grounds:  
visa, no valid immigrant; Waivers: sec.  
211(b), sec. 212(d)(4)(A), sec. 212(k)

**DOMICILE:** *see* Commuter; Waivers: sec.  
212(c)

**DUAL NATIONAL:** *see* Citizenship: dual  
nationality

**DUE PROCESS:** *see also* Constitutional  
rights; Evidence; Fair hearing  
asylum proceedings for crewmen and  
stowaways; #3257, 3258

counsel:

actions of, binding on alien; #3011,  
3059

deficient performance of: *see* Attorneys  
and representatives

ineffective assistance of; #2927, 3059,  
3284, 3296, 3312, 3356, 3357, 3367,  
3379, 3487, 3552, 3563, 3632

“limited” appearance of; #3011, 3312  
right to; #2571, 2587, 2811, 2815,  
2969, 3059, 3105, 3174, 3180, 3200,  
3219, 3274, 3335, 3401, 3487, 3632

deportation based on subsequently set  
aside conviction; #2747

evidence: *see* Evidence

failure to advise of immigration conse-  
quences of guilty plea; #3180, 3413

fundamental fairness; #2587, 2597, 2717,  
2725, 2778, 2784, 2914, 2969, 3011,  
3054, 3215, 3257, 3258, 3397, 3487

harmless error doctrine; #2969

interpreter, right to; #2624, 3032, 3174,  
3180, 3223, 3258

interrogatories to State Department, right  
to; #2914

notice; #2547, 2638, 2756, 2969, 2992,  
3135, 3136, 3142, 3144, 3198, 3246,  
3265, 3296, 3310, 3312, 3315, 3353,  
3406, 3458, 3483, 3485

prejudice; #2725, 2914, 2969, 3200,  
3215, 3223, 3258, 3265, 3296, 3487,  
3527

reasonableness; #2597, 3011

simultaneous translation of entire hearing,  
right to; #2914, 2920, 2927  
stowaway asylum procedures; #3257,  
3258

**E**

**ENTRY:** *see also* Parole

adjustment of status not an entry; #2976,  
3177

attempted, as TRWOV in order to seek  
asylum; #2958

defined; #2653, 2751, 2800, 2818, 2900,  
2958, 2976, 3157, 3208, 3211, 3212,  
3215, 3333

deportation charge, use of any entry as  
basis for; #2751, 2818, 2923

landing, distinguished from; #2800

made while in excludable class, effect  
on lawful status; #2718, 2779, 2926

nationality, election of at entry as de-  
terminative of admissibility as treaty  
investor; #2947

parole, distinguished from: *see* Parole

question whether entry made:

crossing into U.S. territorial limits,  
question of; #3215

determined in exclusion proceedings;  
#3215, 3416

evasion of inspection, question of;  
#2900, 2913, 2984, 3208, 3215

freedom from official restraint, ques-  
tion of; #2653, 2751, 3157, 3208,  
3215

lawful permanent resident, returning  
from innocent, casual, and brief  
excursion: *see Fleuti* doctrine

specific circumstances:

apprehended after debarking from  
boat; #2571, 2913, 2927, 3208,  
3215

detention by airport customs officer  
after admission by Service; #3157

escaped from detention; #2900, 2984  
released from custody without bond;  
#2751

unconscious at arrival; #2653

status adjusted under sec. 210(a) while  
in exclusion proceedings; #3211

relief barred by unlawful reentry after  
departure under removal order; #3475

without inspection: *see* Deportation  
grounds

**ENTRY RECORD, AMENDMENT OR  
CREATION, TO SHOW ADMISSION  
FOR PERMANENT RESIDENCE:** *see*

Adjustment of Status: sec. 1, Act of  
Nov. 2, 1966

**EQUAL ACCESS TO JUSTICE ACT:**  
*see* Attorneys and representatives; Board  
of Immigration Appeals; Immigration  
Judge

**EQUAL PROTECTION:** *see* Constitutional rights

**ESTOPPEL:**

- collateral (*res judicata*):
  - applicability to:
    - acquittal in criminal case; #2839
    - court ruling on waiver eligibility; #2819
    - denaturalization judgment; #2963
    - extradition proceedings; #2831, 3400
- equitable:
  - authority to apply; #3153, 3396
  - definition of; #3153
  - delay from initiating exclusion proceedings against *Fleuti* alien; #3416
  - delay in adjudicating asylum application; #2679
  - delay in holding rescission hearing; #2886
  - failure to follow Operations Instructions regarding applicability of foreign residence requirement; #3004
  - failure to warn carrier of fines; #2894
  - refusal to recognize validity of foreign divorce; #3030
  - transfer of refugees to U.S. without visas; #2614
  - unauthorized approval of foreign residence requirement waiver; #2994

**EVIDENCE:** *see also* Burden of proof; Due process; Persecution; Visa petition

- administrative notice; #2742, 3104, 3111, 3204, 3566, 3567
- admissibility:
  - authentication; #2558, 2559, 2622, 2820, 2825, 3011, 3048, 3054
  - burden of proof: *see* Burden of proof
  - challenge to, procedure for; #2536, 2820, 3054
  - classified information; #2540, 2541, 3029
  - documents:
    - in Service possession:
      - affidavit; #2597, 2622, 2811, 2979, 3151
      - conviction records: *see* Conviction of crime: record of conviction
      - counsel's concession of deportability; #3011
      - Crewman's Landing Permit; #2647
      - memorandum of interrogation; #2556
      - police reports; #3075, 3273, 3527
      - probative, question of; #3397
      - Record of Deportable Alien; #2527, 2700, 2725, 2778, 2780, 2784, 2820, 3054, 3397
      - Request for Return to Mexico; #2778, 2780, 2820
      - transcript of hearing of alien's brother; #2700
      - visa petition; #2536
  - relating to persecution claim: *see* Persecution: persecution claim: evidence
  - relevant to discretionary determination; #2818, 3075, 3273
  - foreign documents; #2825
  - fundamental fairness; #2597, 2778, 2784, 2820, 3011, 3054, 3075
  - hearsay; #2527, 2597, 2700
  - illegally obtained:
    - exclusionary rule, applicability of; #2725, 2778, 2784, 2979, 3011, 3277
    - identity or physical presence of alien as "evidence"; #2527, 2538, 2725, 2820, 3277
    - illegal arrest, claim of; #2527, 2536, 2538, 2547, 2582, 2596, 2647, 2725, 2778, 2784, 3011
    - illegal search, claim of; #2725
    - interrogation without counsel; #2556, 2778, 2811
    - Miranda* warnings violated, question of; #2556, 2725, 2778, 2780, 2784
    - Privacy Act violated, question of; #2585
    - regulatory requirement violated, question of; #2780, 2820, 3054
    - voluntariness, question of; #2556, 2647, 2725, 2778, 2780, 2784, 2811, 2820, 3054, 3075
  - materiality; #2582, 2597
  - objection to, first raised on appeal; #3134
  - pleadings filed by attorney; #3011
  - privileged testimony; #2536
  - probative, question of; #2657, 2784, 2818, 2820, 2920, 3011, 3050, 3054, 3075
  - proffered testimony; #3011
  - reasonableness, question of; #2597, 3011, 3223
  - rescission proceedings, evidence in; #2597, 2742
  - statements from prior asylum proceeding; #3258
  - bond record, evidence relied on from removal proceedings must be incorporated into; #3417
  - confidential information; #3419
  - corroboration; #3576, 3638
  - counsel's statements as evidence; #2820, 2951, 3042, 3215, 3349
  - denaturalization judgment establishes "ultimate facts" in deportation proceedings; #2963
  - determinations made in prior immigration proceedings; #2654, 2657

discovery:  
interrogatories; #2914  
no right to; #3255  
records maintained about alien; #3101  
request for information; #2729, 2979  
subpoena; #2536, 2538, 3101  
false testimony; #3401  
foreign law: *see* Burden of proof: foreign law, visa petition proceedings; Visa petition: evidence: foreign documents  
identity, question of; #2536, 2544, 2559, 2725, 2820, 3334  
inference:  
from evidence; #3145, 3334  
from silence; #3143, 3334  
materiality; #3273, 3334, 3563, 3575  
presumptions:  
alien is an immigrant; #2533, 2716, 2847, 2911  
alien will be employed; #2708  
alienage from evidence of birth abroad; #2536, 2559, 2601, 2979, 3454, 3489, 3603, 3612  
attorney discipline; #3633  
detention of aggravated felon; #3155  
fraud in prior marriage; #3083  
notice following service by certified mail; #3485, 3628  
notice following service by regular mail; #3628, 3629  
persecution in present or future from past persecution; #3104, 3204, 3492, 3523, 3584, 3622  
presence in U.S. in violation of law; #2536, 2547, 2559, 2601, 2717, 2979, 3143  
public officers properly discharge duties; #3246  
reasonableness of counsel's tactics; #3011  
privileged testimony; #2536  
probative, question of; #3151, 3245  
proffered evidence; #3011, 3042  
rebuttal of evidence:  
in deportation proceedings:  
silence insufficient to rebut evidence; #3143, 3334  
in stowaway asylum proceedings; #3258  
in visa petition proceedings: *see* Visa petition  
in visa petition revocation proceedings; *see* Visa petition  
opportunity to rebut advisory opinion of State Department: *see* Persecution: persecution claim: evidence  
reliability; #2597, 3160, 3483  
right to present and confront; #2536, 2538, 2582, 2597, 2700, 2820, 3011, 3032, 3258

rules of evidence:  
generally; #2527, 2544, 2559, 2597, 2729, 2742, 2979, 3011, 3054, 3075  
regulatory; #2538, 2540, 2597, 2820, 2914, 3042, 3048, 3050  
self-incrimination, claim of privilege against; #2527, 2536, 2559, 2582, 2585, 2596, 2607, 2622, 2647, 2717, 2725, 2820, 2969, 2979, 3011, 3054, 3143  
Service role in providing evidence of country conditions; #3303  
submission on appeal; #3029, 3042, 3049, 3081, 3143, 3172, 3180, 3246, 3469  
sufficiency of evidence:  
determined by facts of each case; #2681, 2938, 2966, 3061, 3112, 3113, 3328  
hearsay statement; #2700  
to establish:  
alienage; #2547, 2717, 2820, 2979, 3143, 3397  
citizenship, U.S.; #2681, 2968  
conviction; #2825, 2861, 3169, 3273, 3274, 3275, 3638  
danger to persons or property, #3544  
danger to U.S. security; #3495  
deportability:  
adverse foreign policy consequences; #3400  
circumstantial; #3395  
concession of deportability by counsel; #3011  
entry without inspection; #2582, 2700, 2717, 3293  
ineligibility for visa; #2544  
labor certification requirement; #2544  
minor alien's factual admissions; #3293  
minor alien's Form I-213 at in absentia hearing; #3397, 3483  
silence of alien; #3143  
stowaway; #2979  
unauthorized employment; #2596  
familial relationship: *see* Visa petition  
frivolousness of an asylum claim; #3563  
legality of arrest; #2582, 2778  
legalization eligibility; #3113, 3205  
"loss" resulting from criminal activity; #3585  
marriage:  
common law; #2677  
fraudulent; #2597, 2657, 2798, 2811, 3083, 3086, 3130  
nonviability; #2798, 2811  
validity of; #2951, 3203, 3577  
persecution claim: *see* Persecution: persecution claim: evidence

to warrant:  
 reopening of proceedings: *see* Motions; reopening of proceedings  
 visa petition revocation: *see* Visa petition  
 visa petition: *see* Visa petition  
 weight assigned; #3245, 3608, 3609  
 witness:  
 credibility of; #2811, 2861, 3251, 3257, 3258, 3278, 3331, 3334, 3336  
 expert; #2825, 3609  
 right to cross-examine; #2582, 2597, 2700, 2820, 3151  
 right to subpoena; #2536, 2538  
 to authenticate documents; #2622, 2784, 2820

**EXCHANGE VISITOR:** *see* Foreign residence requirement; Nonimmigrant: specific classification; Suspension of deportation; Waivers: sec. 212(e)

**EXCLUSION:** *see also* Entry; Parole  
 Canadian Indian, question whether subject to; #2664  
 “charging document” defined; #3133  
 deportation, distinguished from; #3318  
 execution of order moots motion to reconsider; #3227  
 place of deportation: *see* Place of deportation  
 procedures for; #2847, 3283

**EXCLUSION GROUNDS:** *see also* Inadmissibility grounds  
 notice of additional grounds; #2716, 2741  
 proper grounds charged after redesignation of sections in Act; #3186  
 specific grounds:  
 armed services duty, departure to avoid; #2680  
 Communist party member: *see* Subversive  
 crimes: *see also* Conviction of crime; Crime involving moral turpitude  
 convicted of two or more offenses; #3243  
 deportability upon entry (futility doctrine); #3191  
 drug offenses:  
 conviction: *see* Conviction of crime trafficker; #2576, 2707, 3181, 3239  
 fraud or misrepresentation of fact: *see* Fraud  
 ineligible to citizenship; #3424  
 labor certification, no valid: *see* Labor certification  
 medical school graduate; #2814  
 Nazi persecution: *see* Nazi persecution  
 permission to reapply: *see* Permission to reapply  
 prostitution; #3613  
 psychopathic personality (homosexual); #2873  
 public charge: *see* Public charge  
 reentry after deportation; #3176, 3290  
 smuggling aliens: *see* Smuggling aliens  
 stowaway; #2981  
 subversive: *see* Subversive  
 terrorist activities; #3469  
 visa, no valid immigrant:  
 documents, no possession of; #2533, 2650, 2680, 2847, 2883, 2927, 2950  
 nonimmigrant, question whether entitled to status as:  
 intracompany transferee; #2602  
 student; #2716, 2961  
 treaty investor; #2633, 3111  
 visitor:  
 business; #2739, 2783, 2809, 3038  
 pleasure; #2716, 2911  
 presumption that alien is immigrant if nonimmigrant status is not established; #2716, 2911, 2961, 3209  
 validity of visa, question of:  
 abandonment of lawful permanent resident status; #2650, 2680, 2796  
 after final order of deportation; #3095  
 invalidated by entry without inspection; #2925  
 preference status, question whether entitled to classification specified in visa; #2549, 2690, 2713, 2812, 2837, 2874  
 procured by concealment of facts; #2544  
 waiver of: *see* Waivers

**EXCLUSION PROCEEDINGS:**  
 adjustment of status in; #2598, 3010, 3211, 3279  
 appeal, propriety of:  
 by alien; #2753, 2847  
 by Service; #2638  
 burden of proof: *see* Burden of proof  
 civil nature of; #2914  
 commencement of; #3193  
 continuance of; #2932  
 detention or parole pending; #3283  
 in absentia: *see* Fair hearing  
 notice of additional grounds; #2716, 2741  
 parole revocation required prior to institution of; #2614  
 persecution claim in; #2571, 2573, 2815, 2847, 2857, 2912, 2922, 2927, 2958, 2981  
 propriety of: *see also* Entry  
 alien involuntarily brought to U.S.; #2533, 3057  
 alien returned on advance parole; #3010, 3354, 3355  
 applicant’s status adjusted under sec. 210(a); #3211

burden of proof: *see* Burden of proof  
 commuter; #2576  
 crewman; #2659, 2704, 2981  
 entry made, question of; *see* Entry:  
 question whether entry made  
 lawful permanent resident, returning  
 from innocent, casual, and brief  
 excursion: *see* *Fleuti* doctrine  
 refugee; #2571, 2573, 2614, 3018  
 recusal of Immigration Judge; #2920  
 reopening of: *see* Motions  
 standard of proof; #2576  
 suspension of deportation, availability in;  
 #3010  
 venue, change of; #2571, 2785, 2892,  
 3024  
 withdrawal of application for admission;  
 #3047, 3283  
**EXPATRIATION:** *see* Citizenship: loss of  
 citizenship

## F

**FAIR HEARING:** *see also* Deportation  
 proceedings; Due process; Evidence;  
 Immigration Judge; Removal Proceedings  
 adjournment of hearing:  
 failure to appear at resumed hearing;  
 #2591, 3025, 3063, 3288  
 for purpose of:  
 adjudication by district director:  
 asylum application; #2622, 2679,  
 2726, 2740  
 deferred action status; #2930  
 establishing rehabilitation; #3168  
 refugee status; #2619, 2740  
 sec. 216(c)(4) waiver; #3383  
 visa petition; #2634, 2662, 2684,  
 3640  
 advisory opinion by State Depart-  
 ment: *see* Persecution: persecution  
 claim  
 establishing rehabilitation; #3168  
 expunction of conviction; #3267  
 preparation of the case; #2559, 2717,  
 2927, 2932  
 retention of counsel; #2969  
 submission of:  
 additional evidence; #2927, 2932,  
 3168  
 application for relief; #3527, 3640  
 brief; #2825  
 good cause required; #2559, 2932,  
 3025, 3091, 3168, 3267, 3288, 3527,  
 3640  
 motion for; #2993, 3288, 3640  
 notice of; #2547  
 administrative closing of case; #3063,  
 3135, 3136, 3142, 3259, 3286, 3640  
 affidavits, use of: *see* Evidence  
 bond redetermination hearing is separate  
 from deportation proceedings; #2599

briefs; #2778  
 consolidation of hearings; #2596  
 counsel, right to: *see* Due process  
 cross-examination: *see* Evidence: right to  
 present and confront  
 decision of Immigration Judge; #2591,  
 3217, 3375, 3413, 3598  
 evidence: *see* Evidence  
 ex parte statements: *see* Evidence: admis-  
 sibility: hearsay  
 in absentia hearing; #2591, 2993, 3024,  
 3025, 3053, 3060, 3063, 3072, 3116,  
 3135, 3136, 3142, 3144, 3182, 3198,  
 3246, 3266, 3283, 3284, 3288, 3296,  
 3310, 3312, 3324, 3331, 3348, 3349,  
 3350, 3353, 3356, 3357, 3369, 3381,  
 3392, 3397, 3406, 3420, 3458, 3483,  
 3484, 3485, 3628, 3629  
 interpreter, right to: *see* Due process  
 interrogatories: *see* Due process  
 master calendar hearing; #3408  
 notice: *see* Due process  
 prejudice of the case: *see* Immigration  
 Judge: impartiality of  
 pretermission of untimely filed  
 application; #3513  
 procedural errors; #2969, 3265  
 protective order; #3495  
 recorded verbatim, requirement of; #3091  
 recusal of Immigration Judge: *see* Immi-  
 gration Judge  
 service of documents; #2547, 3136,  
 3142, 3144, 3246, 3366, 3458, 3485  
 simultaneous translation of entire hearing:  
*see* Due process  
 subpoena: *see* Evidence  
 telephonic; #3310  
 venue; #2567, 2728, 2785, 2825, 2909,  
 2920, 3011, 3024, 3072, 3174, 3199  
**FIANCE(E) OF UNITED STATES  
 CITIZEN:** *see* Nonimmigrant: specific  
 classification  
**FINE:**  
 construction of statute; #2554, 2696,  
 2800  
 specific fine statutes:  
 sec. 231 (list of passengers):  
 documents required for transit without  
 visa passengers; #3444  
 liability; #3444  
 sec. 239 (inspection of aliens arriving  
 by civil aircraft):  
 inspection, question of; #2736  
 interview requirement; #2736  
 sec. 251 (crewmen: lists and reporting  
 of illegal landing):  
 liability; #2648  
 remission, unavailability of; #2648  
 sec. 254 (detention or deportation of  
 crewmen):  
 mitigation; #2648  
 multiple violations; #2648

sec. 256 (discharge of crewmen):  
 additional fine under sec. 254 for same offense not proper; #2637  
 essential element of violation; #2554, 2637  
 liability is in rem; #2637  
 pay off of crewman defined; #2554

sec. 271 (prevention of unauthorized landing):  
 carrier under contract as signatory line; #3082  
 crewmen, applicability to; #2648  
 international bridges, applicability to; #2583  
 landing distinguished from entry; #2800  
 liability; #2583, 2648  
 remission; #2583, 2648

sec. 273 (unlawful bringing of aliens):  
 passengers:  
 authority to impose fine; #2894  
 bringing, question of; #2894, 2903  
 carrier defined; #2904  
 chartered vessel:  
 agency relationship of owner and captain; #2903  
 bareboat charter defined; #2904  
 presumption of participation by owner; #2903, 2904  
 crewman, question of; #2696  
 defense; #3110  
 duress; #2862, 2883, 2894  
 estoppel: *see* Estoppel: equitable  
 lawful permanent resident status as defense; #3110, 3388  
 liability; #2862, 2883, 2894, 2903, 2904, 3110, 3149, 3304, 3315, 3388, 3396, 3452  
 mitigation, unavailability of; #2862  
 notice; #2609, 3304  
 passenger, question of; #2696  
 remission; #2862, 2883, 2894, 2903, 3110, 3149, 3304  
 visa, requirement of; #2883, 2894, 3388, 3396, 3452  
 waiver of documents; #3396, 3452  
 waiver of immigrant visa requirement; #3388

stowaways:  
 burden of proof; #3190  
 evidence to prove liability; #3190  
 liability; #3190  
 mitigation; #3190  
 prosecutorial discretion; #3190

**FIREARMS VIOLATION:** *see* Conviction of crime: aggravated felony, firearms violation

**FLEUTI DOCTRINE:**  
 exclusion proceedings proper forum to determine *Fleuti* applicability; #3416  
 inapplicable to returning lawful permanent residents regarded as seeking admission under IIRIRA; #3333

innocent, casual, and brief excursion not meaningfully interruptive of resident status, question of:  
 absence of long duration; #2741, 2796  
 commuter; #2576  
 examples of brief, but not innocent and casual absences; #2950  
 purpose in contravention of immigration laws:  
 drug trafficking; #2576, 2718, 2926  
 obtaining visa through sham marriage; #2853  
 smuggling aliens; #2859  
 lawful permanent resident status required; #2753, 2950, 3212  
 suspension of deportation; applicability to question of continuous physical presence; #2853, 2962, 3016, 3277, 3333

**FOREIGN RESIDENCE REQUIREMENT:** *see also* Nonimmigrant: specific classification: exchange visitor  
 applicability of; #2562, 2667, 2814, 3004, 3098  
 jurisdiction to determine applicability of; #2562, 3004, 3098  
 waiver of: *see* Waivers: sec. 212(e)

**FRAUD:** *see also* Crime involving moral turpitude  
 burden of proof: *see* Burden of proof  
 concealment of relevant facts:  
 identity; #2544, 2829  
 marital status; #2549, 2729, 2874, 3372  
 wartime activities; #3002  
 document fraud for violation of sec. 274C; #3264  
 excludability for:  
 entry by; #2958, 3162, 3219  
 presentation to government official required; #2958, 3162, 3219  
 procuring entry by; #3219  
 procuring visa or documents by; #2716, 2729, 2732, 2811, 2829, 2874, 2958, 3002, 3380  
 finding of, to invalidate:  
 labor certification; #2632, 3017  
 visa; #2544  
 fraudulent marriage:  
 annulment, relation back as cure; #2711, 2729  
 criminal liability for; #2597  
 deportability under sec. 241(c); #2657, 2675, 2960  
 insufficient to confer immigration benefits; #2978, 3056  
 intent at time of marriage, question of; #2782, 2951, 3081, 3083, 3100, 3203  
 presumption of; #3083  
 prior marriage of lawful permanent resident petitioner; #3083, 3100

steprelationship, marriage as basis for; #3056

visa petition, ineligibility for subsequent, under sec. 204(c):  
bigamous marriage; #2555  
fictitious marriage; #2529, 2568  
inapplicable to second petition involving same parties; #3203  
legislative history; #3203  
nonviable marriage; #2654  
prior collateral proceedings as basis for finding; #2654, 2657, 3130  
requirements for applicability of bar:  
attempt or conspiracy to enter into fraudulent marriage; #3086, 3130  
sought to obtain immigration benefit; #3086  
visa issuance based on marriage; #2794

knowledge of falsity; #2716, 3580  
materiality of misrepresentation; #2732, 2811, 2829, 2958, 3002, 3580  
waiver of: *see* Waivers: sec. 212(c), sec. 212(d)(3), sec. 212(i), sec. 237(a)(1)(H), sec. 241(a)(1)(H), sec. 241(f)  
willfulness; #2716, 3539

**FRIVOLOUS APPEAL:** *see* Appeal

## G

### **GOOD MORAL CHARACTER:**

adultery; #2635, 2746  
aggravated felony; #3218, 3386  
confinement to penal institution; #2838, 2858, 2929  
crime involving moral turpitude: *see also* Crime involving moral turpitude  
admission of crime; #2832, 3169  
conviction not basis of deportability; #2613, 3169  
petty offense exception; #3490, 3613  
recommendation against deportation; #2564  
voluntary departure, eligibility for of alien convicted of; #3059, 3169, 3188  
drug violation; #2579, 2613, 3103  
false claim to U.S. citizenship; #3623  
false testimony given under oath; #3054, 3401  
final conviction required for statutory ban; #3245  
immigration law violations; #2765, 2766, 2818  
murder; #3218  
prostitution; #3613

## H

**HEARING:** *see* Deportation proceedings; Exclusion proceedings; Fair hearing; Removal proceedings

## I

**ILLEGITIMATE:** *see* Child: illegitimate  
**IMMEDIATE RELATIVE:** *see* Adjustment of status; Child; Marriage; Parent; Visa petition

**IMMIGRANT:**  
defined; #2847  
intending: *see* Exclusion grounds: visa, no valid immigrant  
nonimmigrant classification, question whether entitled to: *see* Nonimmigrant preference allocation: *see* Quota preference

### **IMMIGRATION JUDGE:**

adjournment of hearing: *see* Fair hearing  
administrative notice; #3104, 3111, 3204, 3483

Attorney General:

authority delegated by; #3105, 3106, 3199, 3262, 3488  
decisions of, binding on; #3199, 3243, 3267, 3291, 3488, 3532  
policy guidelines for Service, applicability to; #3107  
regulations of, binding on; #3105, 3106, 3215, 3261, 3262, 3532

authority to:

apply equitable estoppel; #3153  
conduct bond hearing for Visa Waiver Program alien seeking asylum; #3263  
consider background checks; #3526  
defer DHS request for termination of asylee status pending decision on sec. 209 adjustment application; #3499  
extend appeal time; #3169  
grant conditional waiver; #3168  
grant immunity from criminal prosecution; #2647  
grant stay of deportation; #3169  
grant voluntary departure before completion of proceedings without express waiver of appeal rights; #3429  
introduce evidence; #3303  
issue subpoenas; #2538  
order detention pending voluntary departure; #3636  
question alien at hearing; #2673  
set conditions for voluntary departure; #3636  
set time limits for filing applications; #2726  
take appropriate and necessary action; #2598, 2785, 2911, 2994, 3288, 3499  
terminate asylee status; #3499  
terminate proceedings; #3366, 3557  
waive fees; #3256  
waive payment of sum required by sec. 245(i); #3256  
credibility findings; #2544, 2640, 2707, 2811, 2861, 2978, 3033, 3050, 3229,

3251, 3278, 3303, 3308, 3334, 3336, 3433, 3515, 3545, 3576  
 deportability, duty to determine if evidence supports charge of; #2820, 2848, 2908, 2930  
 duty to inform alien of eligibility for relief; #3375, 3408, 3429, 3532  
 excludability, duty to find if evidence supports allegations of; #3282  
 Executive Office for Immigration Review; #2954, 3142, 3229, 3246  
 finality of decision; #3206, 3306, 3431, 3441, 3442  
 impartiality of; #2717, 2725, 2825, 2920, 3215, 3431, 3495, 3532  
 in absentia hearing: *see also* Fair hearing  
   absence of parties, notation required on record; #2591  
   requirements to proceed with; #3283, 3458, 3484, 3485  
   rescission of order; #3198, 3266, 3284, 3288, 3356, 3357, 3369, 3392  
   written decision required; #2591  
 independent of Service; #3142, 3229, 3246  
 jurisdiction, question of authority to consider:  
   adjustment of status application:  
     arriving alien; #3450, 3639  
     asylee status as basis for; #3499  
     Cuban Adjustment Act of 1966; #3450, 3639  
     exclusion proceedings; #2598, 3279  
     on remand for background checks; #3561  
     refugee status as basis for; #2619, 2740, 3499  
     remand to district director improper; #2908  
   admissibility of alien not detained or paroled; #3283  
   admissibility of alien refused admission in Visa Waiver Program who seeks asylum; #3193  
   applicability of *Flauti* doctrine to returning legalization applicant; #3282  
   asylum application; #2622, 2679, 2726, 2753, 2857, 2912, 2920, 2922, 2927, 2958, 2981, 3118, 3164, 3314  
   attorney fees request (EAJA); #3105, 3106  
   automatic revocation of visa petition; #3031  
   bond; #2661, 2890, 2891, 2910, 3124, 3139, 3165, 3301, 3306, 3344, 3387, 3398, 3417, 3451, 3544, 3620  
   collateral attack on conviction; #3158, 3180  
   constitutionality of statute; #3180, 3413  
   crewman admissibility in exclusion proceedings; #2659, 2704, 2981  
   custody location; #3174  
   custody status, change of; #2661, 2890, 2891, 2910, 2931, 3510  
   deferred action status; #2930, 3078  
   deportability of alien in Visa Waiver Program who seeks asylum; #3183  
   evidence of “loss” resulting from criminal activity; #3585  
   extended voluntary departure; #2930, 3078  
   extension of stay; #2848  
   foreign residence requirement applicability; #2562, 3004  
   guilt of convicted alien; #2823, 2859, 3068, 3148, 3158, 3180, 3218, 3380  
   institution of proceedings by district director:  
     deportation; #2820, 2930, 3152, 3185, 3265, 3267, 3366  
     rescission; #3056  
   naturalization eligibility; #3555  
   parole; #2753, 2785, 2927, 3282  
   permission to reapply after deportation; #2723, 3031, 3151, 3268  
   precertification under Schedule A; #2642  
   recording of lawful permanent resident status for fiancé under sec. 214(d); #2694  
   refugee:  
     admissibility in exclusion proceedings; #3018  
     classification; #2571, 2619, 2740, 2986, 3118  
   regulations, validity of; #3105, 3106, 3180  
   reinstatement of nonimmigrant status; #2848  
   reinstatement of prior order of removal; #3366, 3557  
   rescission of adjustment of status by special agricultural worker; #3419  
   rescission order of district director; #3115  
   special immigrant status; #2673  
   stowaway admissibility in exclusion proceedings; #2981  
   “successive” asylum applications; #3589  
   temporary protected status; #3554  
   temporary resident status; #3154  
   third-preference classification; #2634  
   venue; #2567, 2728, 2785, 2892, 2909, 3072, 3133, 3174  
   visa petitions; #3031, 3173, 3394, 3519, 3640  
   voluntary departure:  
     denial of prehearing grant or post-hearing extension; #2834  
     setting of terms and conditions; #2572

waiver:  
 sec. 209(c); #3414, 3499  
 sec. 211(b); #3031, 3151  
 sec. 212(c); #3151  
 sec. 212(d)(3)(B); #3114  
 sec. 212(d)(4)(A); #2911, 2961  
 sec. 212(e); #2562, 2994  
 sec. 212(h); #3151  
 sec. 212(i); #3151  
 sec. 212(k); #3031, 3151  
 sec. 213; #3393  
 sec. 214(d) recordation application, filed with; #2694  
 sec. 216(c)(4); #3151, 3231, 3238, 3383  
 waiver of appeal, validity of; #3448  
 withholding of deportation in exclusion proceedings; #2571, 2622  
 jurisdiction, vesting of; #3139, 3246, 3561  
 order of:  
 attachments to; #3598  
 becomes final order of deportation upon dismissal of appeal; #3253  
 fact findings needed; #3478  
 notice of sec. 242B consequences in; #3253  
 removal order required with grant of withholding of removal without asylum; #3595  
 reasons for decision required; #2973, 3217, 3342, 3375, 3413, 3417  
 record of proceedings, responsibility for; #2541, 2591, 2804, 2954, 3077, 3417, 3598  
 recusal, question of; #2825, 2920  
 remand:  
 adjustment of status application to district director; #2908  
 background checks; #3561  
 effective for consideration of all appropriate matters; #2670, 3561  
 reopening of proceedings: *see also* Motions: reopening of proceedings  
 asylum request; #2726, 2974  
 clear ineligibility standard for adjustment of status application; #2684, 2740, 3173  
 reasons for decision required; #2973  
 rules of procedure; #3133, 3136, 3142  
 Service General Counsel, opinion of, not binding on; #3215  
 summary decision; #3375  
 witness, discretion to sequester; #3111

**IMMIGRATION OFFICER:**  
 asylum officer as member of tribunal; #3401  
 authority to:  
 administer oaths, take testimony, and receive evidence; #3401  
 cancel Notice to Appear; #3366  
 detain and interrogate alien without warrant; #2527, 2582

reinstate prior order of removal; #3557  
 definition of; #3557

**IN ABSENTIA HEARING:** *see* Board of Immigration Appeals: jurisdiction, question of authority to consider; Deportation: stay of; Fair hearing; Immigration Judge; Motions: reopening of proceedings: specific claims

**INADMISSIBILITY GROUNDS:** *see also* Exclusion grounds  
 specific grounds:  
 aggravated felony conviction not a ground; #3449  
 fraud or misrepresentation; #3539  
 no valid entry document; #3539  
 prostitution; #3613  
 reentry without admission after unlawful presence or removal; #3590  
 seeking admission after removal; #3524  
 seeking admission after unlawful presence; #3531, 3591  
 terrorist activities:  
 exceptions; #3534, 3581, 3605  
 material support; #3534, 3581, 3605  
 waiver of; #3534, 3581, 3605  
 waiver of: *see* Permission to reapply for admission; Waivers

**INDUSTRIAL TRAINEE:** *see* Nonimmigrant: specific classification: trainee

**INSPECTION:**  
 defined; #2775

**INTENT:** *see* Adjustment of status: sec. 245, 1952 Act, as amended: preconceived intent; Crime involving moral turpitude

**INTERLOCUTORY APPEAL:** *see* Appeal: interlocutory order

**INTRACOMPANY TRANSFEREE:** *see* Nonimmigrant: specific classification

**INVESTOR:** *see* Labor certification: exemption from: investor; Nonimmigrant: specific classification: treaty investor or trader; Quota preference: employment-based

## J

**JUDICIAL RECOMMENDATION AGAINST DEPORTATION (JRAD):** *see* Recommendation against deportation

**JURISDICTION:** *see also* Board of Immigration Appeals; District director; Immigration Judge; and specific types of proceedings and forms of relief  
 state trial court to order new trial; #2995

**JUVENILE DELINQUENCY:**  
 definition; #2884, 2885, 3435  
 deportation or exclusion ground, question of; #2884, 2885  
 resentencing following probation violation, effect of; #3435

standards to determine if foreign offense is crime or juvenile delinquency; #2884, 2885

## L

### LABOR CERTIFICATION:

eligibility for required at time of filing; #2570

employment authorization for adjustment of status purposes, not equivalent to; #2639, 2734

exemption from:

beneficiary of valid relative visa petition; #2544, 2553, 2874

investor; #2546, 2551, 2565, 2581, 2658, 2697, 2776, 2777, 2842, 3009  
no intention to work; #2588, 2651, 2708, 2773

precertification (blanket labor certification):

exceptional ability in sciences or arts; #2763

manager or executive; #2836, 2849, 2988, 3052

religious occupation; #2605, 2642, 3014

special immigrant:

minister; #2673, 2797, 2810, 3014

Western Hemisphere native, parent of U.S. citizen; #2662

under 16 years old; #2714

filing date of visa petition is date of labor certification application; #2566, 2570, 2734

invalidation of:

employing partnership no longer in existence; #2990

employment on which issued has terminated; #2578

fraud or misrepresentation; #2632, 3017

geographical area of employment different; #2768

subsequent finding of ineligibility; #2886

unrenewable after abandonment of lawful permanent residence; #3019

legislative history; #2874

qualifications for preference sought not determined by; #2570

requirement of, applicable to alien intending to work; #2544

**LAWFUL ADMISSION TO U.S. FOR PERMANENT RESIDENCE:** *see* Lawful permanent resident

**LAWFUL PERMANENT RESIDENT:** *see also* Conditional permanent resident; Entry; Exclusion proceedings; propriety of; Waivers: sec. 211(b), sec. 212(c)

abandonment of status as:

acts of parent imputed to minor; #2707, 2796

factors to determine; #2650, 2680, 3079

questioned in visa petition proceedings; #2813

deportability following lawful admission on basis of conduct prior to previous deportation or departure; #2617, 2923, 2925, 3191

family reunification policy; #3203

fiancé status: *see* Nonimmigrant: specific classification: fiancé

“lawful” admission required to obtain status as; #3486

meaningful interruption of residence, question of: *see Fleuti* doctrine

reentry permit: *see* Reentry permit

status of parent imputed to child; #3572, 3619

status required for derivative citizenship under sec. 321(a); #3621

status retained upon grant of sec. 241(f) waiver; #3214

status subject to scrutiny in visa petition proceedings, question of; #2690, 2813

termination of status as, question of:

conduct constituting a ground of excludability; #2718, 2779

conviction; #2703

entry without inspection; #2925

final administrative order of exclusion, deportation, or removal; #2878, 2926, 3095, 3161, 3172, 3371, 3568

### LEGALIZATION:

advance parole required for readmission of legalization applicant; #3282

beginning of temporary resident status; #3262

burden of proof: *see* Burden of proof

confidentiality of files and records; #3277, 3282

continuous unlawful residence; #3087, 3090, 3205

conviction defined; #3096

credibility findings; #3113

evidence to establish eligibility; #3113

filing period requirement; #3027

*Fleuti* doctrine, applicability to:

legalization applicant seeking suspension of deportation; #3277

returning legalization applicant in exclusion proceedings; #3282

temporary residents; #3212

immigrant in unlawful status; #3094

legislative intent; #3080, 3087, 3090, 3096

nonimmigrant:

foreign residence requirement; #3098

fraud:

in reentry; #3090

in reinstatement of status; #3080  
 known to the government; #3090, 3205  
 public charge; #3097  
 reopening of proceedings; #3098  
 special agricultural worker:  
   adjustment of status; #3154, 3211,  
   3384, 3419  
   confidentiality of information support-  
   ing application; #3419  
   deportability for offense committed  
   prior to acquisition of status; #3154  
   stay of execution of deportation or  
   exclusion order; #3154  
   termination of temporary resident  
   status:  
     automatic upon entry of final deporta-  
     tion order; #3154  
     notice requirements; #3154  
     procedural requirements; #3154  
     required prior to deportation pro-  
     ceedings, question if; #3154  
     waiver of; #3154  
   termination of temporary resident status:  
     required prior to deportation proceed-  
     ings, question if; #3138, 3154  
     special agricultural worker: *see* Legali-  
     zation: special agricultural worker  
   waiver of excludability; #3080, 3090,  
   3094, 3097, 3262  
**LEGITIMATION:** *see* Child: legitimate or  
 legitimated

## M

**MARIJUANA:** *see* Conviction of crime:  
 drug offenses; Exclusion grounds: specific  
 grounds: drug offenses  
**MARRIAGE:**  
 annulment:  
   “relation back” doctrine; #2549, 2711,  
   2729  
   specific jurisdictions:  
     California; #2549  
     Philippines; #2552, 2714  
     Washington; #2711, 2729  
 bigamous; #2555, 2895  
 common law; #2629, 2677  
 cousins, between; #2671, 2805  
 divorce: *see* Divorce  
 entered into during administrative or judi-  
 cial proceedings; #3034, 3140, 3173,  
 3272, 3358, 3394, 3463  
 fictitious; #2529, 2568  
 fraud: *see* Fraud: fraudulent marriage  
 legal separation; #2817  
 polygamous, question of; #2656, 2749  
 postoperative transsexual to person of  
 opposite sex; #3512  
 same-sex couples; #3512  
 sham: *see* Fraud: fraudulent marriage  
 specific jurisdictions:  
   Burma; #2526

China; #2656, 2749  
 Colombia; #2710  
 Mexico; #2629, 2871  
 Michigan; #2805  
 North Carolina; #3512  
 Philippines; #2552, 2671, 2714  
 Texas; #2677  
 spouse petition: *see* Fraud: fraudulent  
 marriage; Visa petition: evidence,  
 marriage  
 validity of:  
   evidence to establish; #2951, 3081,  
   3083, 3203, 3463, 3577  
   governed by law of place where cele-  
   brated; #2552, 2671, 2672, 2691,  
   3030, 3512  
   viability of; #2654, 2781, 2782, 2798,  
   2811, 2846  
**MINISTER:** *see* Adjustment of status: sec.  
 245, 1952 Act, as amended: unauthorized  
 employment; Labor certification:  
 exemption from; Special immigrant  
**MINOR:** *see also* Child  
 abandonment of status: *see* Lawful perma-  
 nent resident  
 asylum application untimely filed by;  
 #3465  
 constitutional rights of: *see* Constitu-  
 tional rights  
 factual admissions of: *see* Evidence:  
 sufficiency of evidence  
 service of Order to Show Cause on: *see*  
 Deportation proceedings: Order to Show  
 Cause  
**MISSIONARY:** *see also* Adjustment of  
 status: sec. 245, 1952 Act, as amended:  
 unauthorized employment; Labor  
 certification: exemption from  
 reentry as lawful permanent resident fol-  
 lowing absence for work as: *see* Reentry  
 permit  
**MORAL TURPITUDE:** *see* Conviction of  
 crime; Crime involving moral turpitude  
**MOTIONS:**  
 adjournment of hearing: *see* Fair hearing  
 continuance: *see* Fair hearing: adjournment  
 of hearing  
 reconsideration:  
   affirmance without opinion; #3548  
   amicus curiae not party to proceedings;  
   #2704  
   discretionary factors; #2592, 3418  
   dismissal of untimely appeal; #3343  
   exclusion and deportation render moot;  
   #3227, 3259  
   following a decision to remand; #3519  
   investor regulations amended; #2581  
   limitations of time and number; #3323,  
   3418, 3442, 3548, 3611  
   purpose of; #3161, 3343, 3468, 3548  
   requirements for; #2704, 3138, 3143,  
   3145, 3227, 3343, 3542, 3548

sua sponte; #3418, 3548  
timeliness; #3323, 3332, 3343, 3418

remand:  
background checks; #3561  
discretionary determination; #3172  
requirements for; #3172, 3230, 3240, 3246, 3327, 3409, 3441, 3561

reopening of proceedings:  
appeal from decision on; #2973, 3217  
authority for; #3172, 3352  
departure, filed subsequent to; #2747, 2834, 3626  
departure while pending; #3457  
discretionary determination; #2727, 2907, 2974, 2992, 3004, 3040, 3093, 3143, 3172, 3225, 3230, 3253, 3260, 3281, 3286, 3369, 3406, 3425, 3463, 3575, 3632  
filing of, not permission for alien to remain pending decision; #3004, 3290  
filing of, not “exceptional circumstances” under sec. 242B; #3290  
following administrative closing of case; #3286  
jurisdiction; #2670, 2747, 2974, 3105, 3115, 3352  
limitations of time and number; #3323, 3352, 3353, 3381, 3404, 3406, 3409, 3418, 3420, 3425, 3441, 3442, 3463, 3470, 3575, 3589  
matters subject to consideration on reopening; #2670

opposed motion requires written decision; #2973  
purpose of; #3161, 3369  
requirements for:  
deficient performance of counsel claim; #3632  
new evidence; #2726, 2872, 2974, 3040, 3060, 3093, 3109, 3116, 3143, 3172, 3182, 3230, 3260, 3286, 3323, 3369, 3406, 3409, 3430, 3575, 3578, 3587  
prima facie showing of eligibility; #2670, 2684, 2727, 2776, 2872, 2907, 2974, 3004, 3034, 3040, 3043, 3093, 3116, 3172, 3173, 3182, 3225, 3230, 3281, 3286, 3430, 3530, 3575, 3587  
reasonable explanation for failure to timely assert claim; #2726, 2974, 3004, 3093, 3182  
submission of supporting evidence; #2726, 2776, 2872, 2907, 2974, 3040, 3060, 3093, 3116, 3143, 3182, 3230, 3260, 3286, 3323, 3327, 3369, 3406, 3409, 3430, 3575, 3587

specific claims:  
conviction pardoned; #3043

deficient performance of counsel; #3632  
eligibility for new relief following entry of in absentia order without oral warnings; #3369  
in absentia hearing improper; #3060, 3116, 3198, 3246, 3266, 3284, 3288, 3296, 3312, 3324, 3331, 3348, 3349, 3350, 3353, 3381, 3392, 3420, 3485, 3628, 3629  
ineffective assistance of counsel; #3059, 3284, 3296, 3312, 3356, 3357, 3367, 3420, 3487, 3632  
specific forms of relief, application for:  
adjustment of status; #2684, 2740, 2776, 3034, 3173, 3253, 3286, 3326, 3394, 3463  
asylum or withholding of deportation or removal; #2726, 2843, 2868, 2872, 2974, 2985, 3040, 3093, 3182, 3323, 3406, 3430, 3470, 3530, 3575, 3589, 3611  
bond modification; #3124, 3255  
sec. 212(c) waiver; #2557, 2819, 3109, 3161, 3172, 3260  
suspension of deportation; #2670, 2907, 2973, 3004, 3225, 3230, 3281, 3290  
voluntary departure; #2592, 2992, 3004  
stay pending appeal of motion to reopen sec. 242B in absentia hearing; #3266, 3369  
sua sponte; #3418, 3425, 3470  
sufficiency of decision; #2931, 3217  
timeliness; #3323, 3404, 3420, 3425, 3441, 3442, 3589  
unopposed, deemed to be, absent timely response to; #3470  
severance of proceedings; #2596, 2670  
sua sponte motions: *see* Board of Immigration Appeals: authority to; Motions: reconsideration, reopening of proceedings  
suppression of evidence: *see also* Evidence  
burden of proof; #2536, 2725, 2778, 2820, 3054  
request for; #2527, 2536, 2547, 2582, 2596, 2647, 2725, 2778, 2784, 3011, 3054  
venue change: *see also* Venue; #2567, 2571, 2728, 2785, 2825, 2892, 2909, 2920, 3011, 3024, 3072, 3133, 3174, 3199

**N**

**NARCOTICS:** *see* Conviction of crime: drug offenses; Exclusion grounds: specific grounds: drug offenses

**NATIONAL:** *see* Noncitizen national of United States

**NATURALIZATION:** *see also* Citizenship acquisition of nationality by taking of oath of allegiance in application for, question of; #3489  
 good moral character requirement; #3424  
 jurisdiction, question of authority to consider eligibility for; #3555  
 legal custody of child on parent's date of, not required to accord derivative citizenship; #3603  
 residence requirement; #2769, 2828, 3003, 3084  
 termination of removal proceedings for; #3555

**NAZI PERSECUTION:**  
 eligibility for relief from deportation; #2949, 2963, 3002  
 intent irrelevant; #2949, 2963, 3002  
 legislative history; #2949, 2963  
 persecution defined; #2949, 2963, 3002

**NONCITIZEN NATIONAL OF UNITED STATES:**  
 acquisition of nationality; #3489  
 defined; #2650

**NONIMMIGRANT:**  
 adjustment of status; #2634  
 classification:  
   change of; #2762  
   question whether entitled to; #2602, 2633, 2716, 2783, 2809, 2911, 2961, 3111  
 domicile, question of lawfulness; #2878  
 extension of stay:  
   authority to adjudicate application for; #2848  
   effect of approval of Form I-129B; #2590  
   extraordinary circumstances required for H-1 extension; #3062  
 failure to:  
   establish status as; #2716  
   maintain status; #2634, 2753, 2848, 2878  
 preconceived intent at time of entry to remain permanently: *see* Adjustment of status: sec. 245, Act of 1952, as amended: preconceived intent; Discretionary relief: adverse factors  
 specific classification:  
   border crossing card holder; #3477  
   crewman:  
     exclusion procedures; #2659, 2704, 2981  
     qualifications for; #2878  
     standards for granting voluntary departure; #2647  
     summary deportation proceedings under sec. 252(b); #2943  
     suspension of deportation, eligibility for; #2943  
   exchange visitor:  
     adjustment of status of; #2562, 2814, 2994  
     foreign residence requirement:  
       applicability of: *see* Foreign residence requirement  
       authority to determine applicability of; #2562, 3004  
       waiver of; *see* Waivers: sec. 212(e)  
     reinstatement of status as; #2562, 3004  
     Skills List, whether subject to; #2562, 3004  
     suspension of deportation, eligibility for; #2667, 2957, 3004  
   fiancé:  
     labor certification requirement, applicability of; #2615  
     marriage nonviable or terminated; #2615  
     procedural requirements for recordation of lawful admission for permanent residence; #2694  
     requirements for classification as; #2805  
   intracompany transferee:  
     affiliate or subsidiary:  
       abroad, not required; #2602, 2889  
       intent to establish in U.S.; #2881  
       qualification by firm that is branch of foreign government; #2856  
       question of; #2849, 2917, 3008, 3052  
     corporation as separate entity from stockholder; #2826, 2849  
     employment, continuous for one year:  
       employment as B-1 nonimmigrant in U.S. as sole qualifying experience; #2918  
       experience required at time of filing; #2758  
     extension of stay; #3108  
     religious personnel, eligibility of for classification; #3052  
     specialized knowledge, question of; #2758, 2865, 2881, 3067  
     temporary period of employment, question of; #2933  
   student:  
     admissibility as visitor for pleasure; #2716, 2911  
     alien seeks entry as student when returning to full-time employment; #2753  
     failure to pay fees where school permits continued attendance, effect of; #2788  
     Iranian reporting regulations; #2788  
     passport validity for at least next 6 months; #2961

school transfer:  
 effect of school transfer without Service permission; #2848  
 transferred before permission granted; #2848  
 trainee; #2888, 2921  
 transit without visa (TRWOV); #2958, 2984, 3162  
 treaty investor or trader:  
 dual nationality; #2774, 2947  
 employee of; #2633, 3111  
 qualifying investment; #2760, 2762, 3111  
 visitor:  
 business:  
 project specialist; #2739  
 railroad clerk; #3038  
 truck driver; #2783, 2809  
 pleasure; #2716, 2911  
 worker coming temporarily to perform services:  
 adjustment of status to sixth preference; #2807  
 distinguished merit and ability:  
 classification:  
 as member of professions, question of; #2827, 2916, 2982, 3046, 3085, 3089  
 based on approval of Form I-129B petition subsequent to acceptance of employment; #2590  
 experience substituting for education as qualification as professional; #2982, 3085, 3089  
 extension of stay; #3108  
 occupation in transition from non-professional to professional status; #3085  
 profession defined; #2982, 3085, 3089  
 reinstatement of lapsed status not within jurisdiction of Board; #2625  
 specific occupations:  
 bank employee; #2982  
 business executive; #3085  
 dentist; #2876  
 engineer; #2827, 2916, 3089  
 industrial designer; #3046  
 research scientist; #3062  
 technical publications writer; #2835  
 temporary engineering services (“job shop”); #2916  
 effect of approval of Form I-129B; #2590  
 role of Department of Labor; #2987  
 “temporary services,” question of; #2876, 2916, 2934, 2987  
 visa, authority to issue; #3111  
 waiver: *see* Waivers: sec. 212(d)(3), sec.

212(d)(4)(A), sec. 212(e), sec. 217  
**NONQUOTA IMMIGRANT:** *see* Immediate relative; Special immigrant  
**NOTICE:** *see* Appeal; Attorneys and representatives; Bond, delivery; Conditional permanent resident; Due process; Exclusion proceedings; Fine; Recommendation against deportation; Rescission of adjustment of status; Visa petition  
**NOTICE TO APPEAR:** *see* Removal proceedings  
**NUNC PRO TUNC RELIEF:**  
 permission to reapply for admission: *see* Permission to reapply for admission  
 permission to work: *see* Adjustment of status: sec. 245, 1952 Act, as amended: unauthorized employment  
 waivers: *see* Waivers: sec. 211(b), sec. 212(c), sec. 212(d)(3), sec. 212(h), sec. 241(f)

## O

**OPERATIONS INSTRUCTIONS:**  
 not binding on Immigration Judges or Board; #2750, 2866, 2892, 3190  
**ORDER TO SHOW CAUSE:** *see* Deportation proceedings

## P

**PARDON:**  
 conviction: *see* Conviction of crime violation of Military Selective Service Act; #2665, 2680  
**PARENT:** *see also* Child; Marriage  
 abandonment of lawful permanent resident status imputed to minor child; #2796  
 deportation of does not deprive child of constitutional rights; #2539  
 parent-child relationship:  
 bona fide, between child and natural father; #3023, 3061  
 “once qualified” rule; #2531, 2558, 2560, 2618, 2643, 2645, 2737, 2754, 2882, 3051, 3061, 3207  
 stepparent: *see* Child: stepchild  
**PAROLE:**  
 advance; #2614, 3010, 3282, 3344, 3354, 3355, 3639  
 authority to grant; #2614, 2753, 2785, 2847, 2927, 3282, 3396  
 deportation proceedings, relationship to; #2753, 2785, 2900, 3010, 3354, 3355  
 entry, distinguished from; #2573, 2718, 2779, 2847, 2900, 3211  
 prosecution, paroled for purpose of; #2718, 3057  
 refugee; #2573, 2614, 2806, 2883, 3018, 3571  
 status at arrival not changed by; #2981,

3283, 3354  
 termination prior to exclusion proceedings; #2614, 2847  
 venue change following; #2785  
**PASSENGER:** *see* Fine: specific fine statutes: sec. 273  
**PASSPORT:**  
 proof of U.S. citizenship; #2968  
**PERMANENT RESIDENCE:** *see also*  
 Lawful permanent resident; Naturalization defined; #3621  
**PERMISSION TO REAPPLY FOR ADMISSION:**  
 advance; #2723, 3524  
 arrested and deported, question of; #2943, 3114  
 authority to grant; #3524, 3590  
 conditions of grant; #2723  
 effect of grant of; #3524  
 exclusion grounds:  
 after deportation; #2535, 2943, 3095, 3114, 3176, 3268  
 after exclusion; #2723, 3114  
 factors considered; #2765, 2766  
 nunc pro tunc; #2723, 3095, 3114, 3031, 3151, 3268  
 retroactive; #3524  
**PERSECUTION:**  
 asylum:  
 adjustment of status; #2857, 2905, 2922, 2958, 3118, 3163  
 appeal availability; #2571, 2573, 2679  
 considered as withholding of deportation in exclusion or deportation proceedings; #2841, 2847, 2857, 2861, 2870, 2872, 2884, 2905, 2914, 2920, 2927, 2974, 2986, 2996, 3001, 3074, 3127  
 de novo review of renewed application; #3164  
 deportation proceedings, availability in; #2679, 2815, 2857, 2922, 2958  
 discretionary (humanitarian) relief; #2831, 2857, 2922, 2958, 2967, 2986, 3001, 3007, 3022, 3028, 3033, 3050, 3071, 3092, 3104, 3118, 3122, 3126, 3127, 3162, 3204, 3252, 3276, 3278, 3339, 3368, 3433, 3472, 3515, 3564, 3584, 3599, 3602  
 examination of applicant in person required; #3053, 3121  
 exclusion proceedings, availability in; #2571, 2753, 2815, 2847, 2857, 2912, 2922, 2927, 2958, 2981  
 filing date of application, question of; #3164, 3180, 3511, 3545, 3584, 3630  
 filing of application form required; #2912  
 firm resettlement: *see* Persecution: refugee  
 grant for limited time; #2905  
 jurisdiction; #2571, 2619, 2622, 2679, 2726, 2740, 2753, 2857, 2912, 2920, 2922, 2927, 2958, 2981, 3314  
 notification of right to apply for; #3199  
 physical presence in U.S.; #2883  
 renewal in deportation or exclusion proceedings; #2592, 2622, 2884, 2912, 2912, 3164  
 status subject to review and termination; #2905, 3104, 3499  
 untimely filing for by unaccompanied minor; #3465  
 Visa Waiver Program: *see* Visa Waiver Program  
 persecution claim:  
 abandonment of claim; #2726, 3024, 3053, 3116  
 adjournment of hearing for:  
 adjudication by district director; #2619, 2622, 2679, 2726, 2740  
 advisory opinion by State Department; #2571, 2573, 2870, 2927, 3007, 3074  
 advisory opinion of State Department; #2567, 2622, 2695, 2870, 2906, 2914, 2920, 2922, 2927, 2958, 3050, 3118, 3122, 3126, 3127, 3195, 3209, 3368  
 burden of proof: *see* Burden of proof  
 Convention against Torture: *see* Persecution: persecution claim: Torture Convention  
 country conditions changed, question of; #3251, 3276, 3287, 3311, 3319, 3323, 3338, 3368, 3406, 3433, 3472, 3575, 3589, 3599  
 credibility; #3251, 3276, 3278, 3303, 3311, 3334, 3336, 3433, 3515, 3545, 3576  
 customary international law; #3078, 3338  
 distinctions between forms of relief; #2571, 2679, 2815, 2831, 2841, 2847, 2857, 2922, 2986, 3028, 3033, 3050, 3071, 3074, 3122, 3127, 3170, 3236  
 evidence:  
 admissibility of:  
 advisory opinion of State Department; #3050, 3307  
 background information; #2872, 2920, 2927, 3007, 3050, 3303  
 findings of fact from court opinion; #2927  
 statements made in prior asylum proceedings; #3258  
 burden of proof and persuasion; #2986, 2996, 3033, 3041, 3107, 3118, 3122, 3170, 3276, 3307, 3308, 3334, 3336, 3337, 3339, 3368, 3403, 3472, 3534, 3576, 3599, 3608  
 corroboration; #3576  
 country conditions reports; #3307, 3308, 3338, 3368, 3433, 3495,

3566, 3567, 3575  
 governmental statements; #3093  
 opportunity to:  
   inspect, explain, and rebut; #2870, 2914, 2927  
   present; #3032  
 roles of Service and Immigration Judge in providing; #3303  
 sufficiency of:  
   application unsupported by testimony; #3121  
   background evidence of a country's conditions; #2679, 2695, 2831, 2872, 2920, 2996, 3050, 3303, 3338, 3530, 3566, 3567, 3569, 3575  
   circumstantial evidence of motivation for persecution; #3287, 3338, 3569  
   undocumented claims or testimony of applicant; #2679, 2695, 2847, 2861, 2885, 2914, 2927, 3028, 3050, 3065, 3107, 3122, 3251, 3278, 3303, 3308, 3311, 3337, 3339, 3367, 3433, 3569  
 examination of applicant required; #3053, 3066, 3121  
 exemptions from eligibility for relief:  
   aggravated felony; #3152, 3163, 3164, 3176, 3180, 3200, 3223, 3234, 3254, 3270, 3276, 3300, 3317, 3322, 3365, 3374, 3386, 3430, 3464, 3472, 3588  
   danger to U.S. security; #3469, 3495, 3515  
   participation in persecution; #2829, 2857, 2922, 2967, 2986, 3065, 3071, 3074, 3088, 3276, 3515  
   particularly serious crime; #2857, 2906, 2985, 3007, 3022, 3066, 3071, 3092, 3152, 3155, 3163, 3164, 3176, 3180, 3201, 3222, 3223, 3276, 3300, 3322, 3365, 3374, 3386, 3414, 3430, 3464, 3588  
   serious nonpolitical crime; #2815, 2831, 2841, 2857, 2861, 2884, 2906, 2967, 2985, 3300  
   terrorist activities; #3469, 3534, 3581, 3605  
 frivolous claim; #2592, 3563  
 fundamental change in circumstances; #3492, 3584, 3622  
 Geneva Convention; #3078, 3287, 3300, 3338, 3368, 3374  
 grounds of persecution:  
   enumerated; #2571, 2831, 2847, 2857, 2884, 2885, 2872, 2905, 2914, 2967, 2986, 2996, 3028, 3033, 3040, 3041, 3050, 3065, 3093, 3104, 3107, 3118, 3122, 3126, 3127, 3162, 3170, 3187, 3195, 3204, 3215, 3276, 3287, 3305, 3307, 3308, 3311, 3337, 3338, 3339, 3406, 3430, 3433, 3472, 3495, 3617  
   mixed motivations; #3287, 3307, 3308, 3430, 3569  
   nationality; #3093, 3346, 3569  
   "on account of," question of; #3276, 3278, 3287, 3307, 3308, 3338, 3403, 3430, 3504, 3617, 3618, 3624, 3625  
   particular social group; #2974, 2986, 2996, 3050, 3065, 3093, 3107, 3187, 3195, 3219, 3222, 3276, 3278, 3308, 3403, 3430, 3504, 3535, 3550, 3579, 3584, 3602, 3617, 3618, 3622, 3624  
   political opinion:  
     illegal departure; #2695, 2914, 2927, 3215, 3541, 3566  
     imputed opinion; #3041, 3074, 3215, 3287, 3305, 3307, 3308, 3311, 3368, 3403, 3430, 3569, 3617, 3618  
     neutrality; #3041, 3050, 3170  
   political beliefs or activities; #2815, 2831, 2847, 2857, 2872, 2885, 2905, 2922, 2949, 2967, 2986, 3028, 3033, 3040, 3093, 3122, 3126, 3127, 3162, 3187, 3195, 3204, 3209, 3251, 3252, 3311, 3338, 3472, 3495, 3617, 3618  
   resistance to coercive population control program; #3107, 3215, 3299, 3319, 3352, 3470, 3492, 3530, 3541, 3564, 3566, 3567, 3575, 3611, 3625  
   race or ethnicity; #3339, 3511  
   religious beliefs; #2847, 2996, 3074, 3104, 3118, 3195, 3209, 3252, 3346, 3368, 3433, 3495, 3501, 3511, 3523, 3576  
   specific claims:  
     conscientious objector; #3040, 3074  
     forcible recruitment; #3050, 3074, 3127, 3170, 3182, 3187, 3195, 3209, 3617, 3618  
     former guerrilla; #3065, 3088, 3170  
     former policeman; #3065  
     former soldier; #3305  
     perceived gang affiliation; #3618  
 Handbook; #2815, 2906, 2949, 2967, 2986, 2996, 3028, 3040, 3041, 3050, 3071, 3074, 3104, 3121, 3122, 3195, 3300, 3303, 3368, 3374  
 legislative history; #2815, 2831, 2906, 2986, 2996, 3007, 3018, 3071, 3078, 3118, 3300, 3611  
 Nazi persecution: *see* Nazi persecution

past persecution; #3104, 3162, 3170, 3204, 3209, 3219, 3251, 3276, 3287, 3299, 3308, 3319, 3346, 3433, 3492, 3511, 3541, 3584, 3599, 3602, 3622  
 pattern or practice of persecution; #3511, 3566, 3567  
 persecution:  
   arranged marriage; #3584, 3622  
   by individual or nongovernmental group; #2831, 2857, 2967, 2986, 3028, 3041, 3050, 3065, 3126, 3170, 3187, 3195, 3209, 3219, 3276, 3278, 3305, 3307, 3308, 3338, 3346, 3403, 3430, 3433, 3617, 3618  
   civil strife or general violence; #2872, 2986, 2996, 3028, 3040, 3041, 3050, 3065, 3088, 3187, 3195, 3209, 3276, 3287, 3311, 3323, 3430  
   confinement; #2847, 3002, 3093, 3127, 3162, 3222  
   constitutional rights, violation of; #3107  
   country-wide (relocation, question of); #2986, 3065, 3195, 3209, 3276, 3278, 3305, 3338, 3579, 3584, 3599  
   defined; #2949, 2963, 2967, 2986, 2996, 3002, 3041, 3088, 3276, 3319  
   deprivation of livelihood; #3162, 3204, 3564  
   domestic violence; #3403, 3504, 3624  
   economic sanctions; #3564, 3566, 3567, 3575  
   extortion; #3307  
   investigation of terrorism; #3636  
   family members threatened or harmed; #3311, 3338, 3472, 3579, 3617, 3618  
   female genital mutilation; #3278, 3579, 3584, 3602, 3622  
   fine or tax; #2679, 3307, 3564  
   forced donation of goods or services; #3187, 3195, 3209  
   harm incidental to achievement of political goal; #3088  
   human rights, violation of; #3107, 3187, 3195, 3209, 3276  
   kidnapping for ransom; #3308  
   population control, enforced; #3107, 3215, 3299, 3319, 3352, 3470, 3492, 3530, 3541, 3564, 3566, 3567, 3575, 3611, 3625  
   question of what constitutes; #2679, 2872, 2922, 2949, 2963, 2967, 2986, 2996, 3002, 3028, 3040, 3041, 3088, 3107, 3182, 3187, 3195, 3204, 3209, 3215, 3219, 3252, 3276, 3278, 3299, 3305, 3307, 3308, 3319, 3338, 3346, 3403, 3523, 3564, 3625  
   refusal of country to accept return of nationals; #2974  
   threat against life or freedom; #2831, 2857, 3307, 3346  
   presumption of future persecution from past persecution: *see* Evidence: presumptions  
   Refugee Act; #2815, 2829, 2831, 2857, 2883, 2922, 2986, 2996, 3007, 3018, 3041, 3071, 3074, 3078, 3118, 3182, 3276  
   reopening of proceedings: *see* Motions: reopening of proceedings  
   standard of proof:  
     clear probability; #2679, 2831, 2872, 2884, 2905, 2927, 2974, 2986, 2996, 3001, 3028, 3033, 3040, 3041, 3050, 3065, 3074, 3093, 3104, 3107, 3118, 3122, 3126, 3127, 3162, 3170, 3182, 3195, 3204, 3209, 3215, 3219, 3222, 3251, 3252, 3276, 3305, 3307, 3308, 3309, 3311, 3334, 3337, 3338, 3339, 3430, 3636  
     more likely than not; #3523  
     well-founded fear; #2679, 2905, 2914, 2927, 2974, 2986, 2996, 3001, 3028, 3040, 3041, 3050, 3065, 3074, 3093, 3104, 3107, 3118, 3122, 3126, 3127, 3162, 3170, 3182, 3195, 3204, 3209, 3215, 3219, 3251, 3252, 3276, 3287, 3305, 3307, 3308, 3309, 3311, 3334, 3337, 3338, 3339, 3368, 3433, 3472, 3492, 3495, 3599, 3608  
   stowaway, claim by; #3257, 3258  
 Torture Convention:  
   burden of proof: *see* Burden of proof  
   consent or acquiescence of public official; #3430, 3464, 3471, 3472, 3511, 3569, 3579  
   evidence, sufficiency of; #3464, 3466, 3471, 3480, 3576, 3584, 3636  
   jurisdiction; #3365  
   standard of proof; #3430, 3464, 3466, 3471, 3480, 3515, 3532, 3584, 3609  
   torture:  
     definition of; #3466, 3471  
     question of what constitutes; #3466, 3471, 3532  
 refugee:  
   adjustment of status; #2563, 2619, 2740, 2806, 3414, 3499  
   admission as permanent resident under sec. 203(g); #2806  
   claim of status under Convention and/or Protocol; #2571, 2573, 2622, 2679

definition; #2571, 2614, 2857, 2872, 2967, 2986, 2996, 3028, 3033, 3040, 3050, 3074, 3093, 3104, 3107, 3118, 3122, 3126, 3127, 3170, 3195, 3204, 3251, 3252, 3276, 3287, 3299, 3319, 3338, 3339, 3403, 3470, 3564, 3569, 3584, 3599, 3611  
 derivative status; #2958, 3611  
 evacuees from Vietnam; #2614  
 exclusion proceedings:  
     claim made in; #2571, 2573, 2614, 3018, 3276, 3278, 3287  
     propriety of; #3018  
 expulsion of; #2571, 2573, 3078  
 firm resettlement; #2740, 2829, 2857, 2905, 2922, 3118, 3162, 3276, 3560  
 jurisdiction; #2571, 2619, 2622, 2740, 2883, 2986  
 parole; #2573, 2614, 2806, 2883, 3018, 3571  
 refugee travel document; #2573, 3033  
 termination of status; #3018, 3520  
 waiver; #2883, 2922, 3018, 3071, 3414, 3472, 3499  
 war refugee or displaced person; #3078  
 specific countries:  
     Afghanistan; #2922, 2958, 3127, 3251, 3368, 3406  
     Algeria; #3515  
     Burma; #3581, 3605  
     China; #2592, 2857, 3104, 3107, 3215, 3299, 3319, 3470, 3492, 3530, 3541, 3564, 3566, 3567, 3575, 3576, 3611, 3625  
     Colombia; #3535  
     Cuba; #2815, 2841, 2847, 2861, 2884, 2885, 2905, 2974, 3007, 3022, 3093, 3162, 3222  
     Dominican Republic; #3464, 3532  
     Egypt; #3523  
     El Salvador; #2872, 2986, 2996, 3040, 3041, 3050, 3065, 3074, 3078, 3088, 3126, 3170, 3617  
     Guatemala; #3305, 3403, 3550, 3608, 3624  
     Haiti; #2571, 2695, 2914, 2920, 2927, 3219, 3252, 3311, 3464, 3466, 3472  
     Honduras; #3618  
     Hong Kong; #2857  
     India; #3122, 3195, 3209  
     Indonesia; #3511  
     Iran; #2843, 2868, 3001, 3028, 3118, 3471  
     Ireland; #2831, 2967  
     Jamaica; #3464  
     Kenya; #3599  
     Korea; #3560  
     Lebanon; #3495  
     Liberia; #3323  
     Mali; #3584, 3622  
     Mauritania; #3334, 3337, 3339  
     Morocco; #3433  
     Nicaragua; #3182, 3204, 3309  
     Nigeria; #3480  
     Peru; #2679, 3338  
     Philippines; #3307, 3308  
     Qatar; #3636  
     Rwanda; #3569  
     Senegal; #3579  
     Singapore; #3534  
     Somalia; #3276, 3602  
     Sri Lanka; #3187, 3287  
     Togo; #3278  
     Ukraine; #3501, 3586, 3609  
     Yugoslavia; #3033  
 withholding of deportation:  
     availability in:  
         deportation proceedings; #2592, 2679, 2815, 3001, 3365  
         exclusion proceedings; #2571, 2815, 3001  
         country-specific relief; #2740, 2857, 2922, 2986, 3163, 3222, 3252  
         mandatory relief; #2831, 2922, 3028, 3126, 3222, 3515  
         notification of right to apply for; #2740, 3199  
 withholding of removal:  
     affords no permanent right to remain; #3595  
     availability to alien with reinstated order of removal; #3557  
     exemptions from eligibility for:  
         aggravated felony; #3410, 3430, 3434  
         particularly serious crime; #3410, 3430, 3434  
     grant of without asylum requires order of removal; #3595  
     mandatory relief; #3595  
     prevents removal only to specified country of risk; #3595  
     standard of proof; #3511, 3584  
**PETTY OFFENSE:** *see* Crime involving moral turpitude  
**PLACE OF DEPORTATION:**  
     exclusion proceedings; #2614, 2922  
     procedures for determining; #2693, 2922, 2958, 3000, 3176, 3400  
     specific countries:  
         Canada; #3176  
         China; #2693, 2787  
         Republic of Estonia; #3000  
     withholding of deportation granted without asylum; #3118  
**PLACE OF DESIGNATION:** *see* Place of deportation  
**PREFERENCE:** *see* Quota preference  
**PREJUDICIAL OF U.S. INTERESTS:**  
     *see* Subversive

**PRESUMPTIONS AND INFERENCES:**

*see* Burden of proof: deportation proceedings; Deportation grounds: failure of alien to prove time, place, and manner of entry; Evidence: presumptions; Exclusion grounds: specific grounds: visa, no valid immigrant; Fine: sec. 273; Fraud: fraudulent marriage; Visa petition: evidence

**PRIOR DETERMINATIONS:** *see also*

Deportation proceedings: collateral attack; Estoppel: collateral  
U.S. citizenship, proof of; #2968

**PROFESSION:** *see* Nonimmigrant:

specific classification: worker coming temporarily to perform services: distinguished merit and ability

**PUBLIC CHARGE:**

affidavit of support, consideration given; #2761

factors considered; #2563, 2761, 3097

waiver: *see* Waivers: sec. 213

**Q****QUOTA PREFERENCE:**

employment-based (post-1990 Act):

advanced degree professional; #3363

alien entrepreneur (investor); #3359, 3360, 3361, 3362

alien of exceptional ability; #3363

alien with extraordinary ability; #3241

professional or exceptional ability in sciences or arts (third):

filing date as date of labor certification application; #2570, 2734

requirements:

baccalaureate degree or equivalent; #2757, 2835, 2988

intent to engage in profession; #2757

precertification for labor certification: *see* Labor certification:

exemption from

prospects for employment in foreseeable future; #2757

specific professions:

chemist; #2757

manager of marketing and sales firm; #2988

medical school graduate; #2850

professor of environmental epidemiology; #2850

technical writer; #2835

refugees (seventh): *see also* Persecution: refugee

adjustment of status:

admissibility, question of; #2563

eligibility for as bar to admission as permanent resident under sec. 203(g); #2806

jurisdiction; #2619

simultaneous filing with adjustment application; #2619, 2740

unauthorized employment; #2806

eligibility for refugee status; #2740

relative (first, second, fourth, and fifth): *see* Child; Divorce; Marriage; Visa petition

skilled or unskilled laborers (sixth):

corporate petitioner filing for stockholder; #2772, 2849

filing date as date of labor certification application; #2566, 2734

nonimmigrant ineligible to offer permanent employment; #2860

nonpreference qualification as bar to preference status; #2849

requirements:

ability of petitioner to pay wage offered; #2566, 3035

eligibility when labor certification filed; #2566, 2570

job different from prior temporary work as nonimmigrant; #2807

labor certification: *see* Labor certification

permanent employment, offer of by qualified petitioner; #2860, 3013

**R****RECOGNITION AND ACCREDITATION:**

*see also* Attorneys and representatives

accreditation of alien refugee law graduate; #2743

application, proper filing of; #3132, 3196, 3614, 3615

nominal charges; #3012, 3132, 3196, 3210, 3292, 3614

nonprofit status; #3210

requirements for; #3132, 3196, 3210, 3292, 3614, 3615

withdrawal of recognition; #3210

**RECOMMENDATION AGAINST DEPORTATION:**

bars use of conviction for deportability; #3159

discretionary relief, consideration of conviction; #2564

notice to Service; #3120

protection only from conviction for which granted; #2845

repealed by 1990 Act; #3159, 3607

smuggling for gain, ineffective against charge of; #3099

timeliness; #2608

**RECONSIDERATION:** *see* Motions: reconsideration**RECORD OF LAWFUL ADMISSION:**

*see* Adjustment of status: sec. 249, 1952 Act, as amended

**RECORD OF PROCEEDINGS:** *see* Appeal; Fair hearing; Immigration Judge

**REENTRY PERMIT:**  
abandonment of residence, question of; #2828

**REFUGEE:** *see* Persecution: refugee

**REFUGEE ACT OF 1980:** *see* Persecution: persecution claim

**REGISTRATION REQUIREMENTS:** *see also* Address reporting requirements  
duty to register; #3458

**REGISTRY:** *see* Adjustment of status: sec. 249, 1952 Act, as amended

**REGULATIONS:**  
agency's interpretation of entitled to controlling weight; #3626  
Attorney General, effect of regulations by; #3105, 3106, 3176, 3261, 3317, 3365, 3368, 3388, 3407, 3425, 3513, 3626  
interpretation of; #2788, 3142, 3144, 3151, 3293, 3310, 3314, 3327, 3353, 3368, 3381, 3394, 3413, 3414, 3416, 3419, 3420, 3425, 3430, 3441, 3442, 3458, 3466, 3485, 3486, 3488, 3492, 3495, 3496, 3499, 3506, 3510, 3518, 3521, 3524, 3526, 3527, 3533, 3580, 3582, 3583, 3587, 3589, 3626, 3630, 3634, 3639  
jurisdiction to consider challenge to; #3105, 3106, 3153, 3180  
Service, effect of regulations by; #3183  
transfer of, pursuant to Homeland Security Act of 2002; #3488, 3492, 3495, 3496, 3499  
violation of; #2756, 2780, 2969, 3142, 3153, 3183, 3265, 3366, 3397, 3495  
Visa Waiver Program: *see* Visa Waiver Program

**RELIEF FROM DEPORTATION:** *see* Adjustment of status; Cancellation of removal; Discretionary relief; Permission to reapply; Persecution; Recommendation against deportation; Suspension of deportation; Voluntary departure; Waivers

**RELIGIOUS WORKER:** *see* Adjustment of status; Labor certification; Special immigrant

**REMAND:** *see* Motions

**REMOVAL:**  
aliens are only persons subject to; #3489  
departure from U.S. while under order of; #3475  
reinstated order of; #3557

**REMOVAL GROUNDS:** *see* Deportation grounds; Inadmissibility grounds

**REMOVAL PROCEEDINGS:**  
civil nature of; #3632  
expedited:  
credible fear determination; #3510  
jurisdiction to determine custody status; #3510  
finality of; #3626, 3634  
Notice to Appear: *see also* Deportation proceedings: Order to Show Cause  
contents of; #3458, 3484  
service of:  
means of; #3458, 3484, 3485, 3628, 3629  
on a minor; #3483, 3484  
sufficiency of; #3458, 3484, 3485, 3628, 3629  
terminates continuous residence or physical presence; #3475, 3477, 3500, 3516, 3517, 3528  
termination of refugee status as precondition to; #3520

**REOPENING OF PROCEEDINGS:** *see* Motions

**REPRESENTATIVES:** *see* Attorneys and representatives; Recognition and accreditation

**RESCISSION OF ADJUSTMENT OF STATUS:**  
burden of proof: *see* Burden of proof  
conditional grant of adjustment of status must be rescinded; #2755  
deportation proceedings:  
not barred after 5-year limitation period runs; #2793  
not permitted within 5 years of adjustment without prior rescission; #2610  
eligibility for other numerical classifications; #2742  
estoppel; #2886, 2994, 3056, 3153  
evidence; #2597, 2742, 2811, 3419  
jurisdiction to:  
institute proceedings; #2610, 3056  
rescind status of special agricultural worker; #3419  
review district director's order; #3115  
review Immigration Judge's decision; #3153  
terminate proceedings; #3056  
labor certification invalid; #2632, 2886  
marriage on which adjustment based:  
fraudulent; #2597, 2793, 2811, 2978, 3056  
nonviable; #2781, 2811  
terminated; #2811  
notice of intention to rescind:  
sufficiency of; #2610, 2742  
tolls time limitation; #2978  
time limitation on proceedings; #2610, 2627, 2755, 2793, 2886, 2978  
waiver:  
sec. 212(e), invalidity of; #2994  
sec. 241(f) not available in rescission proceedings; #2978

**RESIDENCE:** *see* Commuter; Lawful permanent resident; Reentry permit; Waivers: sec. 212(c)

**RES JUDICATA:** *see* Estoppel: collateral

**RETURNING LAWFUL PERMANENT RESIDENT ALIEN:**  
abandonment of status: *see* Lawful permanent resident

burden of proof when colorable claim to status made: *see* Burden of proof: exclusion proceedings  
 deportability following entry without inspection; #2923, 2925  
 entry: *see* *Fleuti* doctrine  
 exclusion proceedings, propriety of: *see* *Fleuti* doctrine  
 reentry permit: *see* Reentry permit  
 returning resident immigrant defined; #2796  
 seeking admission:  
   applicability of *Fleuti* doctrine; #3333  
   committed criminal offense; #3333, 3568  
   temporary absence, question of; #2741, 2796, 2828  
 termination of status: *see* Lawful permanent resident  
 visa, validity of after entry without inspection; #2925  
 waiver of documents: *see* Waivers: sec. 211(b)  
 waiver of grounds of excludability: *see* Waivers: sec. 212(c)

**REVOCATION OF APPROVAL OF VISA PETITION:** *see* Visa petition: revocation of

## S

**SEAMAN:** *see* Fine; Nonimmigrant: specific classification: crewman  
**SEC. 101(a)(48):** *see* Conviction of crime  
**SEC. 201(f)(1):** *see* Child  
**SEC. 204(c):** *see* Fraud: fraudulent marriage  
**SEC. 204(h):** *see* Visa petition: marriage: spouse petition  
**SEC. 209(c):** *see* Waivers  
**SEC. 211(b):** *see* Waivers  
**SEC. 212(a)(14):** *see* Labor certification  
**SEC. 212(a)(28)(I):** *see* Subversives  
**SEC. 212(c):** *see* Waivers  
**SEC. 212(d)(5):** *see* Parole  
**SEC. 212(d)(11):** *see* Smuggling aliens  
**SEC. 212(e):** *see* Waivers  
**SEC. 212(i) [formerly sec. 212(h)]:** *see* Waivers  
**SEC. 212(k):** *see* Waivers  
**SEC. 216(b):** *see* Conditional permanent resident  
**SEC. 216(c)(4):** *see* Waivers  
**SEC. 217:** *see* Visa Waiver Program  
**SEC. 240A:** *see* Cancellation of removal  
**SEC. 240B:** *see* Voluntary departure  
**SEC. 241(a)(1)(E)(iii):** *see* Smuggling aliens  
**SEC. 241(a)(1)(H):** *see* Waivers  
**SEC. 241(b)(3)(B):** *see* Persecution: persecution claim: exemptions from eligibility for relief  
**SEC. 241(f):** *see* Waivers  
**SEC. 242(i):** *see* Deportation proceedings: expeditious handling of  
**SEC. 242B:** *see also* Adjustment of status; Board of Immigration Appeals: jurisdiction, question of authority to consider; Deportation; Fair hearing: in absentia hearing; Immigration Judge: order of; Motions: reopening of proceedings: specific claims: in absentia hearing improper; Suspension of deportation; Voluntary departure  
 exceptional circumstances, question of:  
   counsel error; #3253, 3284, 3296  
   employment; #3288  
   illegibility of notice, claim of; #3349  
   illness of family member; #3324, 3332  
   illness or injury of alien; #3332, 3348, 3350  
   motion to reopen filed during voluntary departure period; #3290  
 failure to appear for:  
   deportation; #3253  
   hearing; #3288, 3348, 3349, 3350, 3369  
 failure to file sec. 242B(c)(3)(A) motion to rescind within 180 days; #3356, 3357  
 failure to timely depart voluntarily; #3290, 3332  
 notice; #3253, 3265, 3288, 3296, 3310, 3349, 3369  
 prejudice, showing of not required; #3284, 3296  
 rescission of in absentia order; #3369  
 stay pending adjudication of motion to reopen; #3266, 3369  
**SEC. 243(h):** *see* Persecution: persecution, withholding of deportation  
**SEC. 244(a):** *see* Suspension of deportation  
**SEC. 244(e):** *see* Voluntary departure  
**SEC. 245:** *see* Adjustment of status  
**SEC. 245(e)(1) and (2):** *see* Fraud: fraudulent marriage  
**SEC. 249:** *see* Adjustment of status: sec. 249, 1952 Act, as amended  
**SEC. 265:** *see* Address reporting requirements; Legalization: continuous unlawful residence  
**SEC. 266:** *see* Address reporting requirements  
**SEC. 274C:** *see* Fraud; Voluntary departure: eligibility for  
**SENTENCED TO CONFINEMENT:** *see* Conviction of crime: sentence  
**SEVENTH PROVISOR:** *see* Waivers: sec. 212(c)  
**SILVA v. LEVI:** *see also* Adjustment of status; Suspension of deportation; Voluntary departure  
 injunction in; #2745, 2775, 2818, 3010  
**SMUGGLING ALIENS:**  
 conviction unnecessary; #2747

crime involving moral turpitude, question of: *see* Crime involving moral turpitude

family members; #3269

“for gain” requirement; #2660, 2859, 3099, 3145, 3249, 3269

legislative history; #3269

waiver of; #3249, 3269

**SON OR DAUGHTER:** *see* Child; Marriage; Parent

**SPECIAL AGRICULTURAL WORKER:** *see* Legalization

**SPECIAL IMMIGRANT:**

jurisdiction to determine status; #2673

labor certification: *see* Labor certification: exemption from minister:

qualification as; #2673, 2797, 2810, 3014

unauthorized employment; #2915, 2955

suspension of deportation, eligibility for; #2569

Western Hemisphere native; #2662, 2794

**SPECIAL INQUIRY OFFICER:** *see* Immigration Judge

**STATUS:** *see* Adjustment of Status; Conditional permanent resident; Deportation grounds; Lawful permanent resident; Legalization; Noncitizen national of United States; Nonimmigrant; Persecution: refugee

**STATUTE:**

constitutionality of: *see* Constitutionality of statutes

construction of:

fine: *see* Fine

deference given to agency’s interpretation; #3111

legislative history, consideration of; #3151, 3300, 3309, 3356, 3357, 3364, 3377, 3385, 3389, 3426, 3443, 3454, 3512, 3551, 3569, 3597

rules of:

absurdity principle; #3318

apply to regulations; #3136, 3381, 3414, 3419, 3450, 3527, 3630

constitutional invalidity to be avoided; #3318

construed to avoid surplusage; #3309, 3369, 3389, 3414, 3419, 3428, 3450, 3527

construed to be consistent; #3094, 3235, 3243, 3253, 3300, 3309, 3318, 3369, 3381, 3385, 3414, 3417, 3419, 3451, 3454, 3549, 3569

*ejusdem generis*; #2986

*expressio unius est exclusio alterius*; #3179, 3256, 3335, 3369, 3435, 3450, 3469

general rule applicable to all but exceptions; #3385

permissive (“may”) versus mandatory (“shall”) language; #3499

plain meaning of language:

ambiguous; #3269, 3438, 3443, 3451, 3454, 3551, 3626

controls interpretation; #3151, 3207, 3233, 3235, 3246, 3288, 3295, 3297, 3301, 3309, 3318, 3335, 3356, 3357, 3364, 3369, 3385, 3389, 3391, 3411, 3414, 3419, 3428, 3440, 3443, 3447, 3450, 3451, 3458, 3461, 3469, 3494, 3499, 3512, 3543, 3554, 3590, 3597

given no effect if it frustrates purpose; #3178

not limited by title or heading; #3591

starting point for interpretation; #3131, 3137, 3163, 3175, 3176, 3181, 3191, 3249, 3256, 3290, 3295, 3300, 3301, 3356, 3357, 3364, 3376, 3388, 3417, 3438, 3440, 3443, 3447, 3451, 3454, 3499, 3512, 3551, 3569, 3589

presumption that Congress:

acts intentionally in disparate inclusion or omission; #3118, 3264, 3289, 3377, 3411, 3494, 3551, 3590, 3610

expresses intent by ordinary meaning of words chosen; #3131, 3151, 3163, 3176, 3178, 3181, 3191, 3207, 3233, 3249, 3256, 3288, 3300, 3301, 3356, 3357, 3364, 3369, 3376, 3391, 3411, 3414, 3419, 3428, 3435, 3438, 3447, 3499, 3569, 3589, 3597

intended statute to have meaningful effect; #3155, 3289, 3301, 3309, 3483, 3590

knows prior construction of statute; #3073, 3163, 3447

repeal by implication disfavored; #3235, 3300

retroactivity disfavored; #3242, 3289, 3297, 3454

specific provision prevails over general one; #3099

statutory language prevails over legislative history; #3389, 3443, 3591, 3597

temporary provisions not in permanent law; #3385

divisible; #2719; 3125, 3273, 3274, 3275, 3390, 3498, 3610

effective date; #3152, 3163, 3176, 3186, 3199, 3289, 3297, 3299, 3301, 3309, 3321, 3326, 3340, 3364, 3385, 3416, 3426, 3551, 3570

law applicable when Act amended pending hearing or appeal; #3152, 3176, 3184, 3297, 3301, 3302, 3313, 3317, 3416

retroactive application of; #3002, 3083, 3152, 3176, 3199, 3202, 3242, 3289, 3295, 3297, 3301, 3302, 3309, 3317, 3320, 3326, 3364, 3380, 3389, 3413, 3416, 3473, 3505, 3531, 3542

**STEPCHILD:** *see* Child: stepchild

**STEPPARENT:** *see* Child: stepchild

**STOWAWAY:**

- asylum claim by: *see* Due process; Persecution: persecution claim
- exclusion, procedure for; #2981
- fine for bringing to U.S.: *see* Fine: specific fine statutes: sec. 273

**STUDENT:** *see* Nonimmigrant: specific classification

**SUBPOENA:**

- authority to issue subpoena; #2538
- right to; #2536, 2538

**SUBVERSIVE:**

- exclusion ground, exception for nonimmigrants; #3123
- involuntary membership in proscribed organization; #2646, 3123
- “meaningful association” test; #3123

**SUSPENSION FROM PRACTICE:** *see* Attorneys and representatives

**SUSPENSION OF DEPORTATION:** *see also* Discretionary relief

- burden of proof: *see* Burden of proof
- continuous physical presence; #2853, 2962, 3016, 3073, 3277, 3309, 3385, 3475
- discretion; #2818, 3225, 3280, 3281
- eligibility for:
  - aggravated felon; #3218, 3223
  - alien in exclusion proceedings; #3354
  - alien in violation of sec. 242B; #3290
  - crewman; #2943
  - exchange visitor; #2667, 2957, 3004
  - native of contiguous country; #2535, 2569
  - Nazi persecution participant; #2949, 2963, 3002
  - Silva* alien; #3010
  - special immigrant; #2569
- extreme hardship; #2541, 2669, 2679, 2907, 2973, 3225, 3230, 3236, 3280, 3281, 3298, 3446
- good moral character: *see* Crime involving moral turpitude; Good moral character
- persecution claim, extreme hardship not established by; #3281
- reopening of proceedings to apply for: *see* Motions

## T

**TEMPORARY PROTECTED STATUS:**

- authority to adjudicate; #3554
- availability in removal proceedings; #3554
- ineligibility:
  - convicted of felony; #3163

**TEMPORARY RESIDENT STATUS:**

- see* Legalization

**TEMPORARY WORKER:** *see* Nonimmigrant: specific classification

**TERRORIST ACTIVITIES:** *see* Inadmissibility grounds; Persecution: persecution: exemptions from eligibility for relief

**TRAINEE:** *see* Nonimmigrant: specific classification

**TRANSCRIPT:** *see also* Evidence: admissibility: documents

- appeal: *see* Appeal
- criminal proceeding, as part of record of conviction; #2719

**TRANSIT WITHOUT VISA (TRWOV):**

- see* Fine: specific fine statutes: sec. 231; Nonimmigrant: specific classification

**TREATY INVESTOR OR TRADER:** *see* Nonimmigrant: specific classification

## U

**UNAUTHORIZED EMPLOYMENT:** *see* Adjustment of status

## V

**VENUE:** *see also* Motions: venue change

- authority of Immigration Judge to change: *see* Immigration Judge
- custody location not affected by venue change; #3174
- motion for change of venue: *see* Motions: venue change
- proper place of; #2571, 3072, 3174, 3199
- reasons for decision required; #3174
- regulations:
  - bond proceedings excluded; #3133
  - exclusion proceedings; #3133

**VIETNAM:**

- evacuees from; #2614

**VISA:** *see* Exclusion grounds; Fraud; Nonimmigrant

**VISA CHARGE:** *see* Exclusion grounds; Fraud; Nonimmigrant

**VISA PETITION:** *see also* Child; Divorce; Marriage; Parent; Quota preference

- appeal only by petitioner; #2699, 2874, 2999, 3130
- approval of:
  - required for adjustment of status; #2555, 2634, 3173, 3551, 3577
  - vests no rights; #3051

beneficiary of prima facie approvable petition, deportation of; #2684, 3640

burden of proof: *see* Burden of proof

eligibility at time of filing; #2566, 2570, 2880, 2901, 3023, 3061, 3100, 3171, 3577

evidence:

- adoption records; #2620, 2698, 2887, 2966, 3026, 3244
- appeal, submission on; #3029, 3042, 3049, 3081
- birth records; #2558, 2674, 2681, 2682, 2790, 2938, 3048, 3160, 3328
- blood tests; #3378
- Chinese notarial certificates; #3160
- citizenship; #2681, 2968
- classified information; #2540, 3029
- discrepancies; #2674, 2790, 2966, 3051
- divorce; #2699, 2997, 3606
- foreign documents:
  - authenticity of; #2558, 3606
  - reliability of; #2790, 2938, 2966, 3160
  - sufficiency of; #2558, 2790, 2938, 2996, 3026, 3160
- marriage:
  - bona fides of; #2657, 2782, 2951, 3081, 3083, 3086, 3140, 3203, 3463, 3577
  - common law; #2677
  - notice of evidentiary requirements; #3081, 3117
  - original documents required; #3048
  - parental control; #3117, 3129
  - parent-child relationship; #3061, 3112, 3328, 3329
  - presumption of fraud in prior marriage; #3083
  - right to inspect and rebut; #2540, 2555, 3042, 3081
- filing date of; #3171
- lawful permanent resident:
  - ability to confer immigration benefits; #2690, 2813, 3083
  - adjustment of status in deportation proceedings; #2555
- marriage:
  - fraud: *see* Fraud: fraudulent marriage
  - legal separation; #2817
  - spouse petition:
    - adjudication procedures under *Stokes v. INS*; #3021
    - marriage entered into while alien in proceedings; #3034, 3140, 3173, 3358, 3394, 3463
    - prior fraudulent marriage of lawful permanent resident petitioner; #3083, 3100
    - validity: *see* Marriage: validity of
    - viability: *see* Marriage: viability of
  - notice of intention to deny; #3042
  - priority date, question of; #2566, 2570, 2734, 2880, 2901, 3023, 3035, 3100, 3171
  - resubmission of; #3171
  - reuse of; #3527
  - revocation of:
    - appeal:
      - from automatic revocation; #2998
      - petitioner, permitted only by; #2999
    - burden of proof: *see* Burden of proof
    - “good and sufficient cause”; #3029, 3049, 3130, 3207, 3351
    - inapplicable in exclusion proceedings; #2837
    - jurisdiction to review; #2998, 3031, 3351
    - notice of intention to revoke; #2741, 2837, 3029, 3049, 3130, 3207
    - requirements for; #3029, 3049, 3130, 3207
    - right to inspect and rebut evidence; #3029, 3042, 3049
    - sufficiency of evidence; #3029, 3049, 3051, 3129, 3130, 3207
  - simultaneous filing with adjustment application; #2634, 2684, 2734, 2738, 3021, 3173, 3394, 3463, 3640
  - standing of beneficiary; #2699, 2874, 2999
  - widow or widower, child of; #3421
  - withdrawn petition improperly denied; #2528

**VISA WAIVER PROGRAM:** *see also* Bond, delivery; Immigration Judge: authority to asylum applicant; #3183, 3193, 3263, 3407

  - bond redetermination; #3263
  - commencement of deportation proceedings; #3183, 3263
  - commencement of exclusion proceedings; #3193, 3263
  - commencement of removal proceedings; #3407
  - visa requirement waived; #3183, 3193
  - waiver of rights; #3183, 3193, 3263

**VISITOR:** *see* Nonimmigrant: specific classification

**VOLUNTARY DEPARTURE:** *see also* Discretionary relief

  - appeal:
    - frivolous or filed for purpose of delay; #3015, 3141
    - from order granting relief requested; #3141, 3399
    - time granted for reinstatement on; #2572, 3511
    - tolls running of time granted; #2572
  - bond; #3399, 3511, 3546, 3636
  - burden of proof: *see* Burden of proof
  - conditions of; #3636
  - departure pursuant to grant of precludes

subsequent challenge to deportation order; #2834

discretion:

- admissibility of evidence relating to exercise of; #2818
- facilitating return as immigrant; #2639
- factors considered; #2647, 2832, 2930, 2992, 3107, 3122, 3151, 3188, 3245
- removal proceedings; #3399

eligibility for:

- aggravated felon; #3131, 3176, 3218, 3223, 3386, 3408
- alien previously granted relief under sec. 240B; #3399
- arriving aliens placed in removal proceedings; #3399
- convicted of crime enumerated in sec. 241(a)(5); #3188
- convicted of crime involving moral turpitude; #3059
- convicted of crime not basis of deportability; #3188
- conviction barring eligibility not final; #3245
- crewman; #2647
- in violation of sec. 242B; #3290
- in violation of sec. 274C for document fraud; #3264
- Nazi persecution participant; #2949, 3002

extended or indefinite:

- jurisdiction: *see* Board of Immigration Appeals; District Director; Immigration Judge
- pending availability of visa; #3167
- pending issuance of visa abroad; #2750
- policy of Service; #2625, 3167
- termination of; #3167

extension of time granted; #2572, 2834, 3290, 3399, 3442

failure to depart:

- penalties for:
  - alien who failed to post bond not subject to; #3546
  - ineligibility for relief; #3399, 3546, 3552
  - voluntariness exception; #3552

failure to post voluntary departure bond, effect of; #3546

good moral character: *see also* Crime involving moral turpitude; Good moral character

- not required under sec. 240B(a); #3408
- required for 5 years preceding application; #2832, 3073, 3169, 3188, 3399, 3408, 3613
- required for 10 years following conviction for crime involving moral turpitude; #3059

jurisdiction: *see* Board of Immigration Appeals; District Director; Immigration Judge

- limitation on time granted; #2572, 2930, 3078, 3290, 3546
- motion to reopen does not toll running of time granted; #3290
- penalties for failure to depart; #3399
- prehearing grant; #2750, 2834, 3400, 3475, 3495
- reinstatement:
  - on appeal; #2572, 3015, 3511
  - requirements for; #2957, 2992
  - to facilitate return as immigrant; #2639
- removal proceedings, alien in; #3399, 3408, 3429
- reopening of proceedings to apply for: *see* Motions
- requirements for; #2572, 2832, 3059, 3078, 3245, 3290, 3399, 3408, 3429
- revocation or vacation of grant; #3167, 3399
- Service grant of prior to removal proceedings; #3399
- Silva* aliens; #2818
- testimony supporting application unavailable to establish deportability; #2725
- time period usually granted; #2930
- waiver of appeal rights; #3399, 3408, 3429

## W

**WAIVERS:** *see also* Discretionary relief

- sec. 207(c)(3):
  - refugee of special humanitarian concern; #2883, 3018, 3071, 3414
- sec. 209(c):
  - asylee applicant for adjustment of status; #3499
  - jurisdiction; #3499
  - prior acquisition of lawful permanent resident status bars eligibility for; #3586
  - refugee applicant for adjustment of status; #2922, 2958, 3071, 3414, 3472, 3499
- sec. 211(b):
  - available nunc pro tunc in deportation proceedings; #3031, 3151
  - denial of waiver not an adjudication of permanent resident status; #2813
  - fine liability, effect of waiver on; #3388
- sec. 212(c):
  - alien not under proceedings or planning departure; #2795
  - availability:
    - in deportation/removal proceedings:
      - in conjunction with:
        - adjustment application; #2557, 2631, 2819, 3213, 3260, 3320, 3505
        - request for nunc pro tunc permission to reapply; #3268, 3320

to:

- aggravated felon; #3146, 3148, 3176, 3185, 3192, 3229, 3242, 3254, 3261, 3262, 3289, 3340, 3416, 3439, 3505, 3509, 3514
- alien granted sec. 241(f) waiver; #3214
- drug offender in Ninth Circuit; #2819, 2875
- incarcerated alien; #2703
- nondeparting alien; #2532, 2537, 2557, 2604, 2608, 2701, 2703, 2795, 3058, 3134, 3147, 3148, 3172, 3213, 3214, 3261, 3262, 3291, 3295, 3514
- specified criminal aliens; #3289, 3318, 3320, 3340, 3377, 3416
- waive deportation grounds; #2532, 2557, 2559, 2701, 2703, 2980, 3101, 3146, 3147, 3148, 3159, 3189, 3191, 3192, 3199, 3200, 3201, 3213, 3243, 3274, 3291, 3295, 3340, 3416, 3505, 3509, 3514
- in exclusion proceedings:
  - to specified criminals aliens; #3318
- nunc pro tunc; #2532, 2557, 2604, 3268
- retroactivity of restrictions on; #3289, 3320, 3413, 3505
- to alien not a lawful permanent resident; #3268
- burden of proof: *see* Burden of proof
- conditional grant of relief; #2789, 3109, 3168
- constitutionality of; #3318
- departure and return during deportation proceedings, effect on application; #2924
- discretion, factors considered; #2666, 2703, 2727, 2823, 2926, 3058, 3134, 3148, 3161, 3168, 3172, 3229, 3236, 3247, 3260, 3289, 3342
- effect of grant of waiver; #3109, 3159
- lawful permanent resident status, termination of: *see* Lawful permanent resident
- legislative history; #2733, 3146, 3147, 3318, 3320
- rehabilitation; #3168, 3172, 3229, 3247, 3289, 3342
- remand, motion to: *see* Motions
- reopening of proceedings to apply for: *see* Motions
- returning to lawful unrelinquished domicile of 7 years; #2579, 2604, 2631, 2703, 2718, 2733, 2735, 2751, 2779, 2878, 2926, 3058, 3069, 3092, 3134, 3148, 3161, 3172, 3214, 3261, 3262, 3268
- termination of eligibility for: *see also* Lawful permanent resident: termination of status as, question of requisite domicile of 7 years acquired prior to final deportation order; #3260
- sec. 212(d)(3):
  - availability nunc pro tunc in deportation proceedings; #3114
  - factors considered; #2644
- sec. 212(d)(3)(B)(i):
  - authority to adjudicate; #3605
  - material support, question of; #3581, 3605
- sec. 212(d)(4)(A):
  - authority to adjudicate; #2911, 2961
  - fine liability, effect of waiver on; #3452
  - nonimmigrant status required; #2885
- sec. 212(d)(11): *see* Smuggling aliens: waiver of
- sec. 212(e): *see also* Foreign residence requirement; Nonimmigrant: specific classification: exchange visitor adjustment of status rescinded due to improper approval of waiver; #2994
  - authority to review district director's decision; #2562, 2994, 3004
  - "no objection" letter does not constitute a waiver; #2814
  - recommendation of Secretary of State required; #2994
- sec. 212(h):
  - availability:
    - in deportation or removal proceedings nunc pro tunc or in conjunction with adjustment application; #2751, 2845, 3034, 3158, 3167, 3184, 3272, 3297, 3326, 3335
    - to aggravated felon; #3297, 3326, 3335, 3371, 3386, 3424, 3616
    - to alien admitted as lawful permanent resident; #3371, 3568, 3616
    - to alien not admitted as lawful permanent resident; #3335, 3371
    - to alien who "lawfully resided continuously" for 7 years; #3616
  - burden of proof: *see* Burden of proof
  - exclusion grounds waived; #3200, 3272, 3371, 3594, 3616
  - extreme hardship; #3272
  - factors considered; #2751, 2845, 2989, 3158, 3272
  - familial relationship requirement; #2595, 2751, 3184, 3272
  - requirements under 1990 Act and 1991 Amendments; #3184
  - restrictions under IIRIRA; #3326, 3371, 3616
- sec. 212(i):
  - availability in deportation proceedings; #3291

- eligibility requirements; #2767, 3380
- extreme hardship; #3380, 3446
- factors considered; #2767, 2770, 2771, 3380
- inapplicable to waive document fraud; #3264
- sec. 212(k):
  - authority to adjudicate; #3031, 3151
  - factors considered; #3031
- sec. 213:
  - public charge bond; #3393
- sec. 216(c)(4):
  - waiver of joint petition requirement; #3151, 3175, 3224, 3231, 3238, 3383, 3587
- sec. 217: *see* Visa Waiver Program
- sec. 237(a)(1)(H):
  - relationship to a living relative required; #3627
  - “willful or innocent”; #3539
- sec. 241(a)(1)(E)(iii): *see* Smuggling aliens: waiver of
- sec. 241(a)(1)(H):
  - discretion, factors considered: #3372
- sec. 241(f):
  - availability:
    - in rescission proceedings; #2978
  - to:
    - alien claiming eligibility based on sham marriage; #2960
    - alien deportable due to termination of conditional permanent residence; #3238
    - alien deportable for entry by fraudulent marriage; #2675
    - alien entering on false claim to citizenship; #2675
    - alien excludable at entry for invalid visa; #2675, 2714, 2874
    - alien excludable at entry on labor certification charge; #2662, 2675, 2960
    - waive fraud committed during adjustment of status process; #2976
    - waive innocent misrepresentation; #2713
  - discretion, factors considered; #2960
  - effect of grant of waiver; #3214
  - familial relationship requirement; #2662, 2675, 2960
  - legislative history; #2874, 2960
  - otherwise admissible requirement; #2662, 2714, 2874, 3095
  - permission to reapply, *nunc pro tunc*, filed in conjunction with; #3095
  - repealed; #3291
- sec. 241(f)(2):
  - requirements for eligibility; #3075

**WITHHOLDING OF REMOVAL:** *see* Persecution: persecution claim, specific countries, withholding of removal

**WITHHOLDING OF DEPORTATION:**  
*see* Persecution: persecution claim, specific countries, withholding of deportation

