

Siskind's Immigration Bulletin – December 23, 2009

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

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### 1. Openers

Dear Readers:

We hope that all of you have had a happy holiday season and 2010 gets off to a good start.

From an immigration standpoint, 2010 should be an eventful year. Some time in the next few weeks, we are expected Senator Chuck Schumer (D-NY), the Chair of the Senate Immigration Subcommittee, to introduce a major immigration reform bill. The White House has indicated a number of times recently that it is interested in moving forward with immigration reform right after the health care debate is finished and it is looking like that will happen soon.

Of course, the challenges for an immigration reform bill are significant. First and foremost, we are in the middle of a major recession and that always makes it harder to reform the immigration system. No doubt that many will suggest delaying consideration of the bill even though the provisions in the bill are designed to address problems that are decades in the making and the bill's provisions are designed to address long term needs in the US economy. The bill will also be handicapped by a deeply polarized Congress where every measure in the Senate is filibustered.

On the plus side, however, is the fact that there are several Republican Senators who are likely to vote for immigration reform (unlike health care) and the Hispanic vote is so important that politicians who decide to use immigration as a wedge issue better be extremely careful that they cannot be ousted by the growing number of ethnic voters likely to take offense. Democrats, who have traditionally taken a more favorable position on immigration reform, also have a number of extra seats in both Houses of Congress since immigration reform was debated two years ago and that will certainly help.

House Speaker Nancy Pelosi recently indicated that the Senate will go first with immigration reform. That's because the filibuster in the Senate makes it more likely that reform will face a tougher time in that chamber. She doesn't want vulnerable House members to have to cast a politically risky vote until it is clear it is necessary.

But some House Democrats don't want to wait. Nearly 90 members of the House introduced a bill last week that is the first immigration reform bill to be introduced. That bill, under the lead sponsorship of the Congressional Hispanic Caucus, is not likely to be the bill that emerges from the House Immigration Subcommittee, but it is an important indicator of where many members of Congress think we should be headed.

I've prepared a section by section summary of the CHC immigration bill which goes by the name CIR ASAP. You can find the detailed document at <http://www.docstoc.com/docs/20614541/Version-2-of-summary-of-Gutierrez-bill> .

I'll be preparing a similar summary of the Schumer bill when it is released.

Finally, we would invite readers interested in becoming Siskind Susser clients to contact us. My email is [gsiskind@visalaw.com](mailto:gsiskind@visalaw.com) and my phone number is 901-682-6455. Our firm assists clients locating anywhere in the US and we have attorneys with expertise in most areas of immigration law.

Regards,

Greg Siskind

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## 2. The ABC's of Immigration: NAFTA Non-Immigrant Categories for Canadians and Mexicans

### **What is the TN?**

The TN nonimmigrant classification was created after the passage of the North American Free Trade Agreement (NAFTA) in 1993. The agreement eased trade restrictions between Canada, the US and Mexico, and called for some new immigration rules. It eased restrictions on E and L visas, and created a new type of visa, the TN.

### **How did NAFTA affect business visitors?**

NAFTA also expanded the grounds upon which Canadians and Mexicans can enter the US as business visitors. The activities that can be engaged in on a business visitor visa under NAFTA are as follows:

- Research and design – covers technical, scientific, and statistical researchers conducting independent research for an enterprise located in Canada or Mexico
- Growth, manufacture and production –
  - Harvester owner supervising a harvesting crew admitted under applicable law (applies only to harvesting of agricultural crops: grain, fiber, fruit, and vegetables)
  - Purchasing and production management personnel conducting commercial transactions for an enterprise located in Canada or Mexico
- Marketing –

- Market researchers and analysts conducting independent research or analysis, or research or analysis for an enterprise located in Canada or Mexico
  - Trade fair and promotional personnel attending a trade convention
- Sales –
  - Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in Canada or Mexico, but not delivering goods or providing services
  - Buyers purchasing for an enterprise located in Canada or Mexico
- Distribution –
  - Transportation operators transporting goods or passengers to the United States from the territory of another Party or loading and transporting goods or passengers from the United States to the territory of another Party, with no unloading in the United States, to the territory of another Party. (These operators may make deliveries in the United States if all goods or passengers to be delivered were loaded in the territory of another Party. Furthermore, they may load from locations in the United States if all goods or passengers to be loaded will be delivered in the territory of another Party. Purely domestic service or solicitation, in competition with United States operators, is not permitted.)
  - Customs brokers performing brokerage duties associated with the export of goods from the United States to or through Canada
- After-sales service –
  - Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to the seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the United States, during the life of the warranty or service agreement. (For the purposes of this provision, the commercial or industrial equipment or machinery, including computer software, must have been manufactured outside the United States.)
- General service –
  - Professionals engaging in a business activity at a professional level in a profession set out in Appendix 1603.D.1 to Annex 1603 of the NAFTA, but receiving no salary or other remuneration from a United States source (other than an expense allowance or other reimbursement for expenses incidental to the temporary stay) and otherwise satisfying the requirements of Section A to Annex 1603 of the NAFTA
  - Management and supervisory personnel engaging in commercial transactions for an enterprise located in Canada or Mexico
  - Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in Canada or Mexico
  - Public relations and advertising personnel consulting with business associates, or attending or participating in conventions
  - Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in Canada or Mexico. (The tour may begin in the United States; but must terminate in foreign territory, and a significant portion of the tour must be conducted in foreign territory. In such a

case, an operator may enter the United States with an empty conveyance and a tour guide may enter on his or her own and join the conveyance.)

- Tour bus operators entering the United States:
  - With a group of passengers on a bus tour that has begun in, and will return to, Canada or Mexico
  - To meet a group of passengers on a bus tour that will end, and the predominant portion of which will take place, in Canada or Mexico
  - With a group of passengers on a bus tour to be unloaded in the United States and returning with no passengers or reloading with the group for transportation to Canada or Mexico
- Translators or interpreters performing services as employees of an enterprise located in Canada or Mexico

As with all business visitor visas, the visa holder must be compensated from a source outside the US, must be engaged in activities that are international in scope, and must not seek to enter the US labor market.

### **What are the advantages of the TN versus the H-1B?**

The TN visa is similar in requirements to the H-1B visas, although it has both substantial benefits and drawbacks to that visa category. The ways in which a TN visa is more advantageous than an H-1B are as follows:

- TN visas are not subject to an annual cap
- TN visas can be renewed indefinitely
- TN visas cover a broader range of job descriptions, which will be detailed later in this article
- There is no prevailing wage requirement for TN visas
- Canadian citizens can obtain a TN visa at the border, meaning there is no wait for the visa
- A TN visa can be obtained by a person who has held H-1B status for the full six years without fulfilling the requirement of spending one year outside the US, a requirement that must be complied with before obtaining other nonimmigrant work visas

### **What are the disadvantages of the TN versus the H-1B?**

While there are advantages that make the TN visa seem an ideal substitute for the H-1B for Canadian and Mexican citizens, there are some drawbacks that must be considered, such as:

- Unlike H-1B visas, the TN visa is not a "dual intent" visa. That is, where a person on an H-1B visa may pursue permanent residency without having their

visa revoked because they now have immigrant intent, a person on a TN visa cannot pursue permanent residency without risking their TN status.

- Experience cannot be used as a substitute for the degree requirement for most professional categories.
- A TN visa can be denied if the Department of Labor certifies that there is a strike or other work stoppage, the resolution of which would be adversely affected by the admission of the TN nonimmigrant

### **What types of activities and occupations are permitted on the TN?**

TN visas provide for the admission of those who will be engaged in “activities at a professional level” in the US. “Activities at a professional level” are defined as those that require at least a bachelor’s degree or credentials and experience demonstrating that the person is a professional. Self-employment is not permissible on a TN visa, but the TN visa holder can work for a company in which they have an ownership interest, even a controlling interest.

Both the NAFTA treaty itself and INS regulations specify which professions qualify for TN status. These are the professions and the degrees required:

- Accountant--Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A., or C.M.A
- Architect--Baccalaureate or Licenciatura Degree; or state/provincial license
- Computer Systems Analyst--Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post Secondary Certificate and three years' experience
- Disaster relief insurance claims adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)--Baccalaureate or Licenciatura Degree and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
- Economist--Baccalaureate or Licenciatura Degree
- Engineer--Baccalaureate or Licenciatura Degree; or state/provincial license
- Forester--Baccalaureate or Licenciatura Degree; or state/provincial license
- Graphic Designer--Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years experience
- Hotel Manager--Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management and three years experience in hotel/restaurant management
- Industrial Designer--Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
- Interior Designer--Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
- Land Surveyor--Baccalaureate or Licenciatura Degree or state/provincial/federal license
- Landscape Architect--Baccalaureate or Licenciatura Degree

- Lawyer (including Notary in the province of Quebec)--L.L.B., J.D., L.L.L., B.C.L., or Licenciatura degree (five years); or membership in a state/provincial bar
- Librarian--M.L.S., or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
- Management Consultant--Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement
- Mathematician (including Statistician)--Baccalaureate or Licenciatura Degree
- Range Manager/Range Conservationist--Baccalaureate or Licenciatura Degree
- Research Assistant (working in a post-secondary educational institution)--Baccalaureate or Licenciatura Degree
- Scientific Technician/Technologist--Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
- Social Worker--Baccalaureate or Licenciatura Degree
- Sylviculturist (including Forestry Specialist)--Baccalaureate or Licenciatura Degree
- Technical Publications Writer--Baccalaureate or Licenciatura Degree, or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
- Urban Planner (including Geographer)--Baccalaureate or Licenciatura Degree
- Vocational Counselor--Baccalaureate or Licenciatura Degree

#### MEDICAL/ALLIED PROFESSIONALS

- Dentist--D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental or state/provincial license
- Dietitian--Baccalaureate or Licenciatura Degree; or state/provincial license
- Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States) -- Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
- Nutritionist--Baccalaureate or Licenciatura Degree
- Occupational Therapist--Baccalaureate or Licenciatura Degree; or state/provincial license
- Pharmacist--Baccalaureate or Licenciatura Degree; or state/provincial license
- Physician (teaching or research only)--M.D. Doctor en Medicina; or state/provincial license
- Physiotherapist/Physical Therapist--Baccalaureate or Licenciatura Degree; or state/provincial license
- Psychologist--state/provincial license; or Licenciatura Degree
- Recreational Therapist--Baccalaureate or Licenciatura Degree
- Registered nurse--state/provincial license or Licenciatura Degree
- Veterinarian--D.V.M., D.M.V., or Doctor en Veterinaria; or state/provincial license

#### SCIENTISTS

- Agriculturist (including Agronomist)--Baccalaureate or Licenciatura Degree
- Animal Breeder--Baccalaureate or Licenciatura Degree

- Animal Scientist--Baccalaureate or Licenciatura Degree
- Apiculturist--Baccalaureate or Licenciatura Degree
- Astronomer--Baccalaureate or Licenciatura Degree
- Biochemist--Baccalaureate or Licenciatura Degree
- Biologist--Baccalaureate or Licenciatura Degree
- Chemist--Baccalaureate or Licenciatura Degree
- Dairy Scientist--Baccalaureate or Licenciatura Degree
- Entomologist--Baccalaureate or Licenciatura Degree
- Epidemiologist--Baccalaureate or Licenciatura Degree
- Geneticist--Baccalaureate or Licenciatura Degree
- Geochemist--Baccalaureate or Licenciatura Degree
- Geologist--Baccalaureate or Licenciatura Degree
- Geophysicist (including Oceanographer in Mexico and the United States)--  
Baccalaureate or Licenciatura Degree
- Horticulturist--Baccalaureate or Licenciatura Degree
- Meteorologist--Baccalaureate or Licenciatura Degree
- Pharmacologist--Baccalaureate or Licenciatura Degree
- Physicist (including Oceanographer in Canada)--Baccalaureate or Licenciatura  
Degree
- Plant Breeder--Baccalaureate or Licenciatura Degree
- Poultry Scientist--Baccalaureate or Licenciatura Degree
- Soil Scientist--Baccalaureate or Licenciatura Degree
- Zoologist--Baccalaureate or Licenciatura Degree

#### TEACHERS

- College--Baccalaureate or Licenciatura Degree
- Seminary--Baccalaureate or Licenciatura Degree
- University--Baccalaureate or Licenciatura Degree

#### **What documentation must be submitted to obtain TN status?**

To obtain a TN visa, the following documentation must be collected:

- A letter from the prospective employer
- Diplomas (if the degree is from Canada or Mexico, it must be evaluated)
- Licenses and professional memberships, if applicable

A letter should also be submitted that outlines the following:

- The nature of the professional activity in which the visa holder will be engaged
- The proposed length of stay
- The beneficiary's educational credentials
- That the beneficiary has the necessary state licenses, if applicable
- Arrangements for the beneficiary's salary

### **How are applications for TN status submitted?**

Canadian citizens (landed immigrants do not qualify for TN visas) can present this documentation at a port of entry or pre-clearance station at an airport. They do not need to present a petition approved by the INS, or a labor condition application. They will be given an I-94 valid for multiple entries over three years (the period of entry was extended from one to three years by a rule enacted in October 2008). Once in the US, the TN visa holder can apply for an extension at the Nebraska Service Center, which is also where application to change status to TN are filed. A new application is not required for a change in the place of employment, but is required for a change of employer.

Unlike Canadians, Mexicans must apply for TN visas directly at a US consulate in Mexico, though they no longer need approval from USCIS and need not file Labor Condition Applications. Prior limits on TN visas for Mexican have also been dropped.

Spouses and children of TN visa holders are given TD visas. Work is not authorized under a TD visa. TD visa holders are, however, allowed to attend school.

### **What special rules apply to E Visas for Canadians and Mexicans?**

NAFTA also reaffirmed treaty-trader and treaty-investor status for Canadian citizens, and extended it to Mexicans. The requirements for E-1 and E-2 visas under NAFTA are the same as they otherwise are, with the exception that entry may be denied when it would adversely affect the settlement of a labor dispute in the US. This provision is only triggered when the Department of Labor certifies the existence of a strike or work stoppage, and does not apply to E visa holders already in the US. Both Canadian and Mexicans require a visa for entry in E status, making this one of the few categories in which Canadians are required to have a visa for entry into the US.

### **What special rules apply to L Visas for Canadians and Mexicans?**

NAFTA also made slight changes in the requirements for L-1 intracompany transfers between the US and Canada and Mexico. As with all entries under NAFTA, entry in L-1 status can be barred if the Department of Labor certifies the existence of a strike or other work stoppage in the region of intended employment. The other change is that Canadians can apply for L-1 status at the border. Mexicans are required to have a pre-approved visa.

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### 3. Ask Visalaw.com

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

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

Q: My mother, who is a U.S. citizen, filed a petition for me in the F3 category, which was approved and now a visa is available for the petition. We have paid the visa application fees and are putting together the forms for the visa application. I am married and my husband was supposed to be applying for a visa with me. But now my husband and I are separating and most likely will divorce and he will not be applying with me. Can he be taken off the petition without endangering the case for me?

A: Since the petition was filed by your U.S. citizen mother, your separation from your husband should not have any negative affect on your application. There is no need or reason to amend the petition. All you need to do is send in your visa application papers without his. But if it makes you feel more comfortable, you can include a short letter explaining that you are separated and he will not be applying for a visa with you as your derivative beneficiary.

However you should make sure that you are not getting back together with him before you send the letter as it could make things more difficult if you do get back together and you want him to join you in the U.S. If there is a chance that you might reconcile then you should not include the letter, just send in your applications without his. Discussing this with your immigration lawyer would be wise.

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Q: My fiancé is a U.S. citizen and we are planning on getting married in two weeks. I came to the U.S. on a nonimmigrant visa which has expired. My fiancé has a child in another country and must go there to try and get custody of her child, which means that she will have to live there for at least six months. Since I have overstayed my visa I cannot leave the U.S. She will be coming back to the U.S. once a month to be with me but only for a few days each time. Can she still petition me for my green card?

A: It does complicate the application where the husband and wife are living in two different places. You will have to provide strong documentation of the fact that you share your lives together despite the separation. We have had success with cases where the couple were separated but had a good reason for it. However there are certainly no guarantees here. We have also seen a number of cases fail because the husband and wife did not seem to know enough about each other or could not provide enough documentation of sharing their lives together because they spent so much time apart.

If you go forward with this application you should be prepared to document your relationship. Alternatively you may want to consider waiting until she returns to the U.S. before filing the petition.

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Q: My U.S. permanent resident mother filed an I-130 immigrant petition for me when I was under 21 and unmarried. Now the I-130 is approved, but I have been married and divorced since the filing of the petition. Does this change my status?

A: The petition filed by your mother is no longer valid and she must file a new petition for you. Permanent Residents cannot petition for married children and we are assuming that your mother did not naturalize before you married. On the date that you married the petition became automatically revoked. Your divorce did not reinstate the petition.

However since the old petition was approved, you should be able to recapture the priority date from the old petition for the new petition. Make sure you include a copy of the approval notice for the old petition when you file the new petition.

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Q: I am a green card holder. My I-131 Reentry Permit is going to expire in February. Can I apply for a new Reentry Permit so that I can continue to stay abroad without returning to the U.S.?

A: No. Reentry Permits cannot be renewed abroad. You must be in the U.S. to file for a new Reentry Permit. So if you are not coming back to the U.S. between now and February then filing for a new Reentry Permit is not an option. You would have to come back to the U.S. and file for the new permit and stay here long enough to have your biometrics (fingerprints and photograph) taken by USCIS.

If you have been abroad for more than one year during this trip then you should return before your Reentry Permit expires. If you have not been abroad for more than 180 days during this trip, then you should be fine returning without a valid Reentry Permit. However you will find that some CBP officers prefer to see a valid Reentry Permit if you spend most of the year abroad. It is not required by the regulations where your trips are shorter than 180 days, but it makes getting through immigration easier.

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Q: I am a U.S. citizen. My husband came to the U.S. on a visa, but overstayed his I-94 card. I want to petition for him so he can get his green card, but he lost his passport and I-94 card, so I cannot prove that he entered the U.S. legally. What can I do?

A: You can file for a replacement I-94 card with immigration Form I-102. This takes several months. While you can file the green card application with the receipt notice from the Form I-102 there is some risk. Sometimes USCIS does not have a record of the entry in their system or is unable to find it because you cannot provide enough information to help them find it. Therefore you may want to consider waiting until you get the replacement I-94 card before filing the green card application.

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#### 4. Border and Enforcement News

##### - **Arizona Renews Push to Criminalize Immigrants**

- **Dallas police ticketed 39 drivers in 3 years for not speaking English**
- **U.S. readies plan to ID departing visitors**
- **Border Arrests Decline Again**
- **S.F. Sanctuary Policy: Feds Not Going to Look the Other Way**
- **Authorities arrest man as part of crackdown on passport application fraud**
- **Criminal deportations spike in Pacific Northwest**

*The Inter Press Service* in Phoenix reports that Arizona could become the first state in the U.S. to criminalize the very presence of undocumented immigrants. Local politicians renewed a push to pass legislation that would make it a misdemeanor to trespass on state lands, allowing local police to arrest anyone illegally in the country. The enforcement of immigration law is considered the purview of the federal government in the U.S., but Arizona has been at the forefront of efforts to grant local police the ability to detain and deport undocumented immigrants. [Editor's note – Mississippi already has a law criminalizing being out of status, but it is not structured as a trespassing law].

Sheriff Joe Arpaio believes local police have the inherent authority to enforce federal immigration laws. Arpaio had one of the largest forces in the nation deputized to enforce immigration laws on the streets and in the jails under an agreement with DHS known as 287(g).

However, the new legislation may not succeed in the State Legislature. During the last two years, similar bills were vetoed by then governor Janet Napolitano, currently the secretary of Homeland Security. This year also saw the failure of some 27 bills aimed at clamping down on immigrants.

<http://www.ipsnews.net/news.asp?idnews=49034>

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*The Dallas Morning News* reports that Dallas police wrongly ticketed at least 39 drivers for not speaking English over the last three years, Police Chief David Kunkle announced Friday, while promising to investigate all officers involved in the cases for dereliction of duty.

Pending cases will be dismissed, and those who paid the \$204 fine for the charge, which does not exist in the city, will be reimbursed. The citations were issued in several different patrol divisions by at least six different officers. One of those officers was responsible for five of the citations, Kunkle said.

The case that led to the discovery of all the others occurred Oct. 2, when Ernestina Mondragon was stopped for making an illegal U-turn in the White Rock area. Mondragon was cited for three violations: disregarding a traffic control device, failure to present a driver's license and 'non-English speaking driver.'

In that case and perhaps the others, officials said, the officer was confused by a pull-down menu on his in-car computer that listed the charge as an option. But the law the computer referred to is a federal statute regarding commercial drivers that Kunkle said his department does not enforce.

Mondragon, a native Spanish speaker, challenged the charge in court and it was dropped, her daughter said. Dallas police said they will drop all charges against Mondragon, who speaks limited English and does have a Texas driver's license. Kunkle said he expected the investigation to last at least a few weeks and could reach back several years.

[http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/DNcitationfo\\_24met.ART.State.Edition2.4bc27b3.html](http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/DNcitationfo_24met.ART.State.Edition2.4bc27b3.html)

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*The Washington Post* is reporting that The Department of Homeland Security is finalizing a proposal to collect fingerprints or eye scans from all foreign travelers at U.S. airports as they leave the country, officials said, a costly screening program that airlines have opposed. The plan, which would take effect within two years, would collect fingerprints at airport security checkpoints, departure gates or terminal kiosks, allowing the government to track when roughly 35 million foreign visitors a year leave the country and who might be overstaying their visas, DHS officials said.

In a concession to industry, DHS said it probably will drop plans to require airlines to pay for the bulk of the program and is looking to cut costs, which could reach \$1 billion to \$2 billion over a decade, largely to be paid by taxpayers or foreign travelers. In addition, the program would not operate for now at land borders, where 80 percent of noncitizens enter and leave the country, because fingerprinting travelers there could cost billions more and significantly delay commerce.

DHS officials said they are working to hold down costs. Collecting fingerprints at security checkpoints would be cheaper than doing so at the departure gates, but checkpoints could be more prone to fraud by people who leave the airport instead of boarding their flights. But fingerprinting at departure gates would require more workers, DHS officials said. Supporters of the program say that, by collecting fingerprints and other data, officials can instantly check the identity of a foreign visitor leaving the country against security watch lists. It could also help target foreigners who have violated immigration laws. But critics point out that potential terrorists entering the country present a greater concern than those leaving.

Of the 200,000 to 400,000 travelers each year who immigration officials estimate overstay their visas, US-VISIT identifies those deemed a higher priority for investigation based on their nationality, age, sex and other biographical factors. The current system of tracking incoming visitors gave immigration officials leads last year on more than 14,000 who potentially presented a high risk, leading to 750 arrests, at a cost of \$42 million.

<http://www.washingtonpost.com/wp-dyn/content/article/2009/11/07/AR2009110703115.html>

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*The Wall Street Journal* reports that according to newly released federal government data, the number of people caught illegally entering the U.S. dropped by more than 23% during the past year, continuing a longer trend. Some attribute the decline to the struggling U.S. economy and rising joblessness while others argue that increased enforcement has deterred illegal immigration.

Drug seizures along the border, meanwhile, rose over the same period, according to the government. Authorities say tougher enforcement has forced smugglers to try such methods as flying ultra-light aircraft over border fences.

U.S. border apprehensions dropped to 556,041 in fiscal year 2009 -- which ended Sept. 30 -- compared with 723,825 in the 2008 fiscal year. Border apprehensions have fallen nearly 67% decline since fiscal year 2000, when the border patrol made 1,675,438 arrests.

The Obama administration will use evidence of tougher border enforcement as part of its strategy to win support for a congressional overhaul of the U.S. immigration system next year. Homeland Security Secretary Janet Napolitano recently gave a speech about the administration's plans at the Center for American Progress, a Democrat-affiliated think tank in Washington, where she emphasized the successes in border enforcement over the last few years. DHS is emphasizing the following accomplishments:

- The U.S. has nearly doubled the number of border-patrol agents in the past five years and uses a combination of patrols, fences, electronic sensors and pilotless drone aircraft.
- There are now more than 20,000 border agents, compared with about 11,000 in 2004.
- The agency has built fences and vehicle barriers along large swaths of the nearly 2,000-mile border with Mexico.
- Funding for the border-patrol agency jumped to more than \$10.9 billion last year from about \$6 billion in fiscal-year 2004.

<http://online.wsj.com/article/SB125781594948540097.html>

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*The New York Times* reports that the U.S. Attorney for the northern district of California, Joseph P. Russoniello, warned in a letter to the San Francisco city attorney that the federal government, which constitutionally retains the exclusive power to set immigration policy, "cannot, as a general matter, promise not to prosecute for violations of federal law." This came in response to a plan by the city to establish a policy of sanctuary for illegal immigrants.

The ordinance changes city officials' obligations to report juveniles to immigration authorities if those juveniles get caught up in the criminal justice system. Previously, young people were reported when they were arrested for felony crimes. Under the new ordinance, city authorities are supposed to report the juveniles only in case of a conviction.

"I don't think it's enforceable," said Mr. Russoniello of the new bill. He added, "If there's any attempt by the city to prevent people to provide information to I.C.E."— the federal Immigration and Customs Enforcement agency —"those persons face the possibility of prosecution." In Mr. Russoniello's interpretation, a city worker abiding by the ordinance— or preventing another worker from turning in a juvenile offender—would effectively be "harboring" an illegal immigrant, a federal crime punishable by fines and up to five years in prison. Mr. Russoniello dashed the hopes of City

Attorney Dennis Herrera, who had sought assurance that city employees will not be prosecuted.

But Mr. Russoniello's office did not give that assurance. "That's a dangerous precedent and we don't ever make that kind of commitment," Mr. Russoniello said. This sets up a likely legal clash between local and federal governments, in addition to the clash between the board and the mayor, who said he will not abide by the new ordinance.

The strategy in this matter might have broader implications as well. A number of states have approved anti-immigrant legislation over the past few years that would seemingly be in jeopardy if the Administration asserts its exclusive governance of immigration matters.

<http://bayarea.blogs.nytimes.com/2009/11/13/sf-sanctuary-policy-no-federal-carve-out/>

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*Daily News* in Los Angeles, reports that a Mexican national living in Whittier was arrested at the U.S.-Mexico border in an ongoing federal crackdown on passport application fraud, which has netted 11 other arrests over the past three weeks.

Alma Huerta, 40, was indicted by a federal grand jury in Los Angeles on Oct. 21 on charges of using a false identity to obtain a passport in 2000 and using that document in an attempt to open a bank account, according to the U.S. Attorney's Office.

A total of 20 defendants have been charged with making false statements in relation to passport applications. Authorities are searching for eight fugitives, prosecutors said. The sweep stems from findings by the Diplomatic Security Service's Los Angeles office that saw a 30 percent increase from 2007 to 2008 in passport fraud cases, according to the U.S. Attorney's Office.

[http://www.dailynews.com/news/ci\\_13757322](http://www.dailynews.com/news/ci_13757322)

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*The Associated Press* is reporting that deportations of illegally present immigrants with criminal records from Alaska, Oregon, and Washington this past year spiked nearly 40 percent, while overall removals dropped for the first time in five years, according to new data released by U.S. Immigration and Customs Enforcement. The data, for a one year period, shows that 10,793 people were deported from the Pacific Northwest, a drop of 117 compared to the previous year. This marks the first time in the last five years that deportations from the Northwest have dropped.

Deportations had increased from more than 4,000 in 2005 to nearly 11,000 in 2008. But removals of illegally present immigrants with criminal records went from more than 3,100 to nearly 4,500 between 2008 and 2009 - a jump of 39.7 percent. Since 2005, criminal removals have more than doubled. The data 'illustrates pretty vividly the priority we're placing on the removal of criminal aliens,' ICE spokeswoman Lorie Dankers said. 'We believe it's the best way to enhance public safety.' Dankers said moving resources resulted in a slight decrease in deportations of immigrants with no criminal records, but she said that ICE cannot ignore that section of the illegal immigrant community.

ICE has moved its resources to focus on immigrants with criminal records. Crimes under which a person may be deported can range between a misdemeanor and a felony. ICE has various programs that feed its criminal removals, including the 'Criminal Alien Program,' in which agents comb jails for people who are not in the country legally. Another program - 'Secure Communities' - uses computerized analysis to help local law enforcement determine a person's background. ICE is also heavily involved in anti-gang initiatives around the region.

[http://seattletimes.nwsources.com/html/localnews/2010312382\\_apwadeportationsnw2ndldwritethru.html](http://seattletimes.nwsources.com/html/localnews/2010312382_apwadeportationsnw2ndldwritethru.html)

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## 5. News from the Courts

- **Fourth Circuit on motions to reopen: Nken**
- **Supreme Court query puts Janet Napolitano on the spot**

The 4th Circuit Court of Appeals reversed a Board of Immigration Appeals decision not to reopen removal proceedings because the BIA failed to explain why new evidence presented by the immigrant failed to demonstrate a change of country conditions. This is noteworthy because "courts review the BIA's denial of a motion to reopen for abuse of discretion, and grant a petition for review only if the BIA decision is arbitrary, capricious, or contrary to law." Nken v. Holder, (4th Cir. 2009).

The respondent, a citizen of Cameroon, filed a motion to reopen his removal proceedings based on changed conditions within his home country in May 2008. The BIA denied Nken's petition and he appealed.

In reversing the BIA, the 4th circuit noted that the BIA failed to explain why the respondent's new evidence did not show a change in country conditions. Specifically, the court stated "the BIA abuses its discretion when it fails to offer a reasoned explanation for its decision, distorts or disregards important aspects of the alien's claim."

[www.bibdaily.com](http://www.bibdaily.com)

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*Politico.com* reports that a query from the Supreme Court is forcing the Obama administration to wrestle with the limits of states' authority to enforce immigration laws — and also is putting Secretary of Homeland Security Janet Napolitano in an uncomfortable position. Justices asked the Justice Department to provide its views on Arizona's attempt to force employers to verify the immigration status of potential employees. The law being challenged in the cases was signed by Napolitano in 2007, when she was governor of Arizona.

Napolitano has stated that she believes the law is constitutional, but business groups and immigration reform advocates are asking the Supreme Court to strike down the statute. A federal appeals court rejected the legal challenges to the Arizona law. The Supreme Court has not said that it will take the case but wants the administration's view on whether further review is warranted.

A spokesman for Napolitano, Matt Chandler, declined to say whether the secretary, would recuse herself from the matter. Her department is in charge of enforcing federal immigration laws and thus could be expected to have a voice in the Administration's position. But Napolitano won't make the ultimate call, Chandler said, adding, 'This is a decision for the solicitor general.'

<http://www.politico.com/news/stories/1109/29222.html>

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## 6. New Bytes

- **Abused Wife Wins Political Asylum in US**
- **Federal complaint: Filipino teachers held in 'servitude'**
- **Asylum seeker realized her dream but now is missing**
- **Settlement opens door for hundreds of legal immigrants to become U.S. citizens**
- **Immigration officials target 14 US cities in campaign against human trafficking**
- **Balloon boy parents to plead guilty; Mother faced deportation to Japan**
- **U.S. Identifies 111,000 Immigrants with Criminal Records**
- **Immigrant girls and women seeking green cards will no longer be required to get HPV vaccine**
- **Record Foreign Student Attendance Highlights DHS "Open Doors" Policy**
- **Secretary Napolitano Announces Rule Proposing Permanent Global Entry Program**

*The Newser* is reporting that the Obama administration has recommended that a Guatemalan woman who came to America fleeing horrific domestic abuse be granted political asylum. Rody Alvarado Peña's case has been in the courts since 1995 and lawyers say the decision will finally clarify the rules on whether abused women in foreign countries can seek asylum in the US.

Alvarado suffered a decade of abuse from her husband, an ex-soldier, and came to the US out of fear for her life, court papers state. Experts testified that only 2% of the thousands of domestic murders in Guatemala over the last decade have been solved, adding weight to arguments that Alvarado, as a battered woman, could be considered part of a persecuted group. "I thank God it came out well," Alvarado, who works as a housekeeper for elderly nuns in California, tells the New York Times. "But it wasn't easy to wait this long for immigration to make a decision."

<http://www.newser.com/story/72909/abused-wife-wins-political-asylum-in-us.html>

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*USA Today* reports that many Filipino migrant teachers, in America on an H1-B Visa, have been abused and held in near 'servitude.' The teachers allegedly endured intimidation, humiliation, extortion and a long, painful separation from family members.

On Oct. 20, the American Federation of Teachers (AFT) filed a lengthy complaint with the U.S. Department of Labor. The unions allege the companies through which the

teachers received their visas kept the teachers in 'virtual servitude' by holding onto their U.S. work visas unless they kept paying inflated fees, commissions and rents.

Teachers were charged more than \$16,000 apiece — about four times what they would earn annually as teachers in the Philippines — to get and keep jobs with public schools here. Federal law prohibits charging most fees to H-1B workers — employers are supposed to pay them. If they charge any fees, employers aren't allowed to collect them until workers draw their first paycheck in the USA.

The situation underscores the vulnerabilities of a small but growing corner of teacher recruitment: the H-1B visa program, which last year brought an estimated 6,000 teachers to the USA to fill harder-to-staff jobs in subjects such as math, foreign languages and special education. An estimated 19,000 migrant teachers work in U.S. schools, according to AFT, which last month warned of 'widespread and egregious' abuses of imported teachers. 'I'm very concerned that there are more places like this,' says American Federation of Teachers President Randi Weingarten. 'Even if it was an isolated incident, it would be horrible, but my hunch right now is that it's not isolated.'

[http://www.usatoday.com/news/education/2009-10-27-filipino-teachers\\_N.htm](http://www.usatoday.com/news/education/2009-10-27-filipino-teachers_N.htm)

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*The Los Angeles Times* has issued a report about an Iranian immigrant named Gilda Ghanipou who has spent the last nine years on the run. Abandoned by her Muslim family for converting to Christianity, she has shuttled from one place to the next, terrified of being deported to Iran, where apostasy can be punished by death. Over a period of five years, she lived at over 25 different addresses. Last year, Ghanipour stumbled upon a retired immigration judge, Bruce Einhorn, and his Pepperdine University Law School students, who championed her quest for asylum. Ghanipour won the case, but she doesn't know it. The devoutly religious woman vanished shortly before the U.S. Citizenship and Immigration Services granted her request at the end of August. Police haven't been able to find her and the coroner has no record of her.

According to written statements, Ghanipour spent her childhood in the city of Arak and her adolescence in Tehran. She married in 1979 shortly after graduating from high school and moved with her husband to Germany to escape the fundamentalist rule of the Islamic regime. She periodically visited relatives in California and returned briefly to Iran to help her father sort out her mother's will. While on one of those trips, she was arrested by the Iranian secret service and interrogated about suspicions that she was a German spy.

After divorcing her husband, she came to live with relatives in California, on a six month visa. While in California, she was approached by Evangelical Christians. 'And on the 30th of November 2000, while on a legal visit in the U.S., she 'received Jesus Christ as my savior and became a Christian believer.' The decision alienated her family.

Ghanipour tried repeatedly to resolve her immigration problems. She filed for an extension of her visa, only to have it rejected because the wrong fee had been submitted. That happened because a Sherman Oaks notary who had posed as an

immigration attorney provided an outdated form, defrauding her of money in the process.

In May, she appeared with Einhorn and another clinic attorney before an asylum officer with the U.S. Citizenship and Immigration Services. Einhorn and Ghanipour returned two weeks later, hoping for a decision, but were told that it would be mailed. However, once they received positive notification, they were unable to locate Ghanipour.

<http://www.latimes.com/news/local/la-me-asylum24-2009oct24,0,6616785.story>

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*The Los Angeles Times* reports that hundreds of legal immigrants in Southern California who have been waiting years for citizenship will have their cases resolved as a result of a settlement with the federal government. The immigrants were stuck in lengthy delays as they waited for the FBI to complete their security name checks and for U.S. Citizenship and Immigration Services to approve their citizenship applications.

The settlement, approved in U.S. District Court in Santa Ana, sets a six-month deadline for the government to decide on hundreds of citizenship applications from Los Angeles, Santa Ana and San Bernardino. The settlement also ends indefinite delays in processing naturalization applications, according to the plaintiffs.

The plaintiffs, including the American Civil Liberties Union and the National Immigration Law Center, filed the suit in 2007 and argued that legal permanent residents lost jobs, were prevented from voting and missed out on in-state tuition breaks because of the delays.

<http://latimesblogs.latimes.com/lanow/2009/11/new-citizens.html>

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*The Associated Press* has announced that, according to federal immigration officials, fourteen cities are being targeted in a new campaign alerting people about human trafficking. The 'Hidden in Plain Sight' program, sponsored by U.S. Immigration and Customs Enforcement, features billboards highlighting 'the horrors and the prevalence of human trafficking,' which is equivalent to 'modern-day slavery.'

The words 'Hidden in Plain Sight' are displayed on the advertisements with a toll-free number people can call to report situations where they believe people are being sexually exploited or forced to work against their will. Cities in the new campaign are Atlanta; Boston; Dallas; Detroit; Los Angeles; Miami; Philadelphia; Newark, N.J.; New Orleans; New York; St. Paul, Minn.; San Antonio; San Francisco and Tampa, Fla.

Bruce Foucart, an ICE special agent in charge of New England, said officials hope the billboards persuade residents to report suspected cases to ICE or local law enforcement. About 800,000 men, women and children are trafficked each year around the world and about 17,500 of them end up in the United States, according to ICE. Immigration officials say the victims are lured from their homes with false promises of well-paying jobs but are trafficked into the commercial sex trade, domestic servitude or forced labor. Foucart said victims who cooperate with law

enforcement are offered temporary status and can later apply to stay in the U.S. permanently.

<http://www.latimes.com/news/nationworld/nation/wire/sns-ap-us-human-trafficking-signs,0,6289570.story>

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*The Coloradoan* in Fort Collins, reports that the parents of Fort Collins Balloon Boy Falcon Heene will enter guilty pleas as part of a deal to avoid deportation to Japan for the mother, Mayumi Heene.

In a statement, Heene attorney David Lane said Mayumi will plead guilty to false reporting to authorities, a misdemeanor, with a stipulated sentence to probation.

Father Richard Heene will plead guilty to attempting to influence a public servant, a felony, with a stipulated sentence to probation, according to the statement.

<http://www.coloradoan.com/article/20091112/NEWS01/91112005/Balloon-boy-parents-to-pleadguilty-Friday-mother-faced-deportation-to-Japan>

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*The New York Times* reports that Federal authorities have identified more than 111,000 immigrants with criminal records being held in local jails, during the first year of a program that seeks to deport immigrants who have committed serious crimes. Among the immigrants identified through the program, known as Secure Communities, more than 11,000 had been charged with or convicted of the most serious crimes, including murder and rape, domestic security officials said. About 1,900 of those have been deported.

John Morton, the top official at Immigration and Customs Enforcement, called the program "the future of immigration enforcement," because, he said, it "focuses our resources on identifying and removing the most serious criminal offenders first and foremost."

About 100,000 of the detained immigrants identified through the system had been convicted of less serious crimes, ranging from burglary to traffic offenses. Of those, more than 14,000 have been deported. Obama administration officials have worked to distinguish their immigration enforcement strategy from the Bush administration's, which centered on high-profile factory raids and searches in communities for immigration fugitives.

Obama administration officials said Secure Communities, started under President Bush but expanded under President Obama, is a relatively low-cost way for the authorities to concentrate resources on deporting the most dangerous immigrants. In the first year, 95 cities or counties in 11 states have joined the program. The police department of Washington, D.C., announced that it would also join. Homeland Security Secretary Janet Napolitano said at the news conference that she hoped the program would expand to the whole country by 2013.

<http://www.nytimes.com/2009/11/13/us/13ice.html>

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*The Associated Press* is reporting that immigrant girls and women will no longer have to be vaccinated against HPV, or human papillomavirus. The vaccine will no longer be on the list of immunizations female immigrants ages 11 to 26 must receive before becoming legal permanent residents.

The U.S. Centers for Disease Control and Prevention made the change. The CDC said it will require immunizations for which there is a public health need either at the time the person immigrates or changes their status to green card holder.

Girls and women seeking to become legal permanent U.S. residents were required to get at least the first dose of the HPV vaccine, which protects against some strains of the virus blamed for cervical cancer. It was added to the list of required vaccinations for immigrants in July 2008. Soon after, a coalition of more than 100 immigrant, health and women's advocacy groups challenged the requirement, saying it was unfair to require the HPV vaccine for immigrants but not for most U.S. citizens.

At \$400 to \$1,000 for the three-shot series, the vaccine was an added burden on applicants already paying more than a thousand dollars in application fees and hundreds of dollars for mandatory medical exams. 'It also put the financial burden on the individual woman and her family,' Gabriela Valle, senior director of community outreach and mobilization for California Latinas for Reproductive Justice, said.

<http://www.latimes.com/news/nationworld/nation/wire/sns-ap-us-immigration-hpv,0,4453564.story>

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The American Immigration Lawyers Association (AILA) announced that the publication of the 2009 Open Doors Report, a comprehensive account of international student enrollment in American institutions, shows that despite the global economic downturn, record numbers of international students are traveling to the United States to study at institutions of higher education.

Equally important, these numbers showcase the Department of Homeland Security's (DHS) Open Doors Policy of balancing efforts to secure the nation's student visa system while still recruiting the best minds from around the world.

"More secure borders and ongoing openness are not mutually exclusive, and I think the success the United States is experiencing in attracting students from around the world proves this point," said Lou Farrell, Director of the Student Exchange and Visitor Program (SEVP) within U.S. Immigration and Customs Enforcement (ICE). "The partnership ICE has developed with the academic community has been critical to our efforts, and we will need to maintain that partnership as our system continues to evolve."

At more than 670,000, the latest surge in foreign students choosing the United States marks a rate of growth not seen since 1980 and continues a pattern of continuous growth over the past three years.

<http://www.aila.org/content/default.aspx?docid=30589>

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AILA is reporting that Department of Homeland Security (DHS) Secretary Janet Napolitano has announced the publication of new proposed rule that would establish

Global Entry—a U.S. Customs and Border Protection (CBP) voluntary initiative that expedites the international arrivals and admission process for trusted travelers through biometric identification—as a permanent program.

Global Entry—currently a pilot program at 20 U.S. international airports—allows pre-approved members a streamlined, automated alternative to regular passport processing lines. The program currently reduces average wait times by more than 70 percent, with more than 75 percent of travelers using Global Entry processed in under five minutes.

The proposed rule would end the current pilot and make Global Entry permanent—allowing CBP to expand the program to additional U.S. international airports. Those members currently participating in the pilot will have their time credited to the five year membership as proposed in the rule, so there will be no break in membership or need to re-apply when the program becomes permanent.

<http://www.aila.org/content/default.aspx?docid=30606>

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## 7. Washington Watch

- **Durbin vows to pursue DREAM Act**
- **Citizenship question will not be added to 2010 census**
- **Vitter amendment on census falls in Senate vote**
- **White House to Begin Push on Immigration Overhaul in 2010**
- **U.S. Attorney Nominee Criticized Over Raids**

The Associated Press reports that U.S. Sen. Dick Durbin will push for legislation that allows high school graduates to continue their education or join the military as a way to become legal immigrants.

The Illinois Democrat has sponsored the DREAM Act, or Development Relief and Education for Alien Minors, since 2001. It applies to illegal immigrants who arrived in the U.S. before the age of 16, have a high school diploma, are shown to have high moral character and have lived in the U.S. for several consecutive years. 'As long as I'm drawing breath we're going to pass the DREAM Act and make it the law of the land,' he told students during a forum on immigration at DePaul University.

Durbin's comments come as Sen. Charles Schumer, D-N.Y., has said he is drafting comprehensive immigration reform, which the DREAM Act will be part of. But Durbin added immigration reform won't come until next year because legislators are now focused on health care. The DREAM Act would help illegal immigrants qualify for college financial aid, among other benefits.

Durbin said young should not be punished because of their parents' actions. 'Young people have really been victimized by this situation, they were brought to this country without their vote of approval as children,' he told The Associated Press. 'They've lived here all their lives and all they're asking for is a chance to give back to this country that they call home.'

<http://www.thehawkeye.com/story/IL-ImmigrationReform-102409>

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*The Arizona Republic* reports that the 2010 census will not include a controversial question about citizenship that critics said could have led to significant undercounts in Arizona and other states with large immigrant populations. Undercounting could result in the loss of federal money and diminished political clout for a state because congressional seats are apportioned based on population.

On Thursday, Democrats derailed a push by Republicans in the Senate to include a citizenship question on next year's census. The proposal had sparked a contentious debate over whether all people or only citizens should be used to determine how congressional representatives are allocated to states.

The proposal was co-sponsored by Republican Sens. David Vitter of Louisiana and Robert Bennett of Utah. They sought to have non-citizens excluded from the population numbers used to allocate congressional seats, saying states with large illegal immigrant populations have an unfair advantage. 'The system is broken, and areas of the country with high illegal populations should not be rewarded with greater representation in Congress,' said Bennett, a member of the Senate Homeland Security and Government Affairs Committee.

By Constitutional decree, the census is aimed at counting everyone, regardless of their citizenship or immigration status. Adding a citizenship question would have heightened concerns among illegal immigrants worried that filling out the forms could give the government information to deport them. Census officials don't share specific household information with other government agencies.

<http://www.azcentral.com/arizonarepublic/news/articles/2009/11/06/20091106census.html>

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*The Times Picayune* in New Orleans, reports that Sen. David Vitter's bid to require the 2010 Census to ask all respondents about their citizenship was killed when the Senate voted to invoke cloture and end debate on the Commerce spending bill without considering the amendment. The Democratic leadership, which had been trying to block the Vitter amendment since early October, eked out a victory with the bare number of votes needed to invoke cloture, prevailing 60 to 39.

Vitter wanted the citizenship count to serve as a predicate to a later proposal that House seats be apportioned strictly on the basis of the citizen population of the United States, and not, as has always been the practice, on the total population. Without the change, Vitter said that Louisiana will be one of nine states to lose a congressional seat that would not lose the seat if reapportionment were based strictly on a count of citizens, contrary to what is dictated in the Constitution. The vote was preceded by a limited debate, in which Vitter restated the case for his amendment and asked for an apology from Majority Leader Harry Reid, D-Nev., for suggesting that his amendment was anti-immigrant and akin to past efforts to intimidate African Americans from voting.

Responding to Vitter, Sen. Barbara Mikulski, D-Md., who was guiding the appropriations bill to passage, told Vitter that 'the time to stand up was in April 2007,' when she said questions for the 2010 census were being vetted by Congress. Mikulski echoed Census Bureau warnings that adding a question at this late date would wreck plans for a timely Census and be hugely expensive. Vitter said that he

agreed that the Homeland Security Committee should have paid more attention to the Census questions when they had the chance, but scoffed at the bureau's cost estimates.

[http://www.nola.com/politics/index.ssf/2009/11/senate\\_democrats\\_kill\\_vitter\\_a.htm](http://www.nola.com/politics/index.ssf/2009/11/senate_democrats_kill_vitter_a.htm)  
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*The New York Times* is reporting that the Obama administration will insist on measures to give legal status to an estimated 12 million illegal immigrants as it pushes early next year for legislation to overhaul the immigration system, Homeland Security Secretary Janet Napolitano said on Friday.

Ms. Napolitano sought to dispel any notion that the administration — with health care, energy and other major issues crowding its agenda — might postpone the most contentious piece of an immigration overhaul until after midterm elections next November.

Laying out the administration's bottom line, she said it will argue for a "three-legged stool" that includes enacting tougher enforcement laws against illegal immigrants and the people who hire them, and streamlining the system for legal immigration, but also what she called a "tough and fair pathway to earned legal status." Under the administration's plan, illegal immigrants would have to register, pay fines and all taxes they owe, pass a criminal background check and learn English. Ms. Napolitano has been leading the administration's efforts to gather support for the immigration overhaul, meeting in recent weeks with business leaders, faith groups, law-enforcement officials and other groups to gauge their support for the effort.

<http://www.nytimes.com/2009/11/14/us/politics/14immig.html>

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*The New York Times* reports that criticism is mounting over President Obama's nomination for United States attorney in northern Iowa of a prosecutor who had a leading role in the criminal cases against hundreds of illegal immigrants arrested in a May 2008 raid at a meatpacking plant in Postville, Iowa. Those cases were emblems of a crackdown on illegal immigration by the Bush administration.

In supporting the prosecutor, Stephanie Rose, Mr. Obama is following the recommendation of Senator Tom Harkin, a Democrat from Iowa who is an important ally — especially in the health care debate because he is chairman of the Health, Education, Labor and Pensions Committee. Ms. Rose, a senior assistant United States attorney in the office she has been chosen to run, garnered support from criminal defense lawyers in Iowa, including at least 11 lawyers who defended immigrants from Postville. In those proceedings, 'she exhibited a level of competence and ability that would be hard to overstate,' the lawyers wrote in a letter in April.

But some defense and immigration lawyers have said that felony identity-theft charges against the immigrants were excessively harsh, that immigration lawyers were not given adequate access to their clients, and that improper contact took place between prosecutors and one judge. They contend that possible civil rights and ethical violations by prosecutors should have been investigated. However, the immigration lawyers' association has not taken an official position on the nomination.

In May, the Supreme Court ruled unanimously that the identity-theft law could not be applied to prosecute immigrants only because they used false Social Security or visa numbers, as it was in many Postville cases.

<http://www.nytimes.com/2009/11/17/us/17attorney.html>

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## 8. Notes from Visalaw.com Blogs

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

- ANTIS TARGETING MODERATE REPUBLICANS
- DOBBS CONSIDERING RUN FOR SENATE
- IMMIGRANTS MORE LIKELY TO SUPPORT BANS ON SMOKING
- THE CALCULUS ON IMMIGRATION REFORM
- WHITE HOUSE EMPLOYER COMPLIANCE CAMPAIGN GOES INTO OVERDRIVE
- LEARNING FROM THE ANTIS
- H-1B NUMBERS DOWN TO FINAL 10,000
- WHITE HOUSE SIGNALS IMMIGRATION REFORM EFFORTS DEFINITELY A GO FOR 2010
- IMMIGRATION HUMOR: LOU DOBBS "QUITS" CNN, DEMANDS THAT PEOPLE STOP PUTTING QUOTES AROUND "QUIT"
- IPC RELEASES RECOMMENDATIONS ON FUTURE OF E-VERIFY
- IMMIGRATION HUMOR: THE REAL REASON DOBBS IS LEAVING CNN
- EFFECTIVELY IMMEDIATELY!
- FLORIDA SENATE CANDIDATE TRIES TO STRADDLE IMMIGRATION ISSUE
- SENATORS THINK WORKERS ARE WIDGETS
- IMMIGRANTS PLAYING CRITICAL ROLE IN MILITARY
- WOULD MASS DEPORTATION MEAN MORE JOBS FOR US WORKERS?
- NATURALIZATION PROCESS IMPROVING
- INCREASED H-1B NUMBERS MAY NOT REFLECT AN INCREASE IN FILINGS
- IRAQ VET STORY HAS A HAPPY ENDING
- ANTIS IN A TIZZY OVER NY CONGRESSIONAL RACE
- REMEMBERING MARCELO
- WISCONSIN DAIRY FARMERS COMPLETELY DEPENDENT ON IMMIGRANT LABOR
- H-1B USAGE ACCELERATING
- SUPREME COURT MAY CONSIDER CHALLENGE TO ARIZONA LAW
- CNN'S HOWARD KURTZ DISCUSSES DOBBS CONTROVERSIES
- MOST TENNESSEE VOTERS FAVOR LEGALIZATION OF ILLEGALLY PRESENT IMMIGRANTS
- GOOGLE FOUNDER GIVES BACK TO REFUGEE AGENCY
- BY THE NUMBERS
- SCAMWATCH: PHONY ICE AGENT PROMISED SPEEDY PROCESSING IN EXCHANGE FOR CASH

- CALIFORNIA REPUBLICAN GOVERNOR CANDIDATE SUPPORTS IMMIGRATION REFORM
- SLUMP IN H-1B NUMBERS BACK UP CALLS FOR TYING QUOTA TO MARKET DEMAND
- SCAMWATCH: ICE DEFENDS AGAINST CORRUPTION CHARGES IN EL PASO OFFICE
- MARY LANDRIEU TELLS VITTER HE'S A MORON
- DOBBS UNDER FIRE
- HIV ADMISSIBILITY BAN NOW OFFICIALLY ENDING
- HIV ADMISSIBILITY BAN NOW OFFICIALLY ENDING
- ANTIS PREPARING TO HOLD ANTI-IMMIGRATION REFORM TEA PARTIES

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- MORE LOCAL COVERAGE OF I-9 AUDITS
- NEW AUDIT STRATEGY LEADING TO WORKERS QUIETLY BEING FIRED
- MEDIA REPORTING ON TARGETED COMPANIES
- ARIZONA FILES FIRST EMPLOYER SANCTIONS COMPLAINT
- WHITE HOUSE EMPLOYER COMPLIANCE CAMPAIGN GOES INTO OVERDRIVE
- DHS PROMOTES COMPLIANCE PUSH WITH I E-VERIFY CAMPAIGN
- IPC RELEASES RECOMMENDATIONS ON FUTURE OF E-VERIFY
- 1200 JANITORS FIRED AS A RESULT ON TWIN CITIES COMPLIANCE INVESTIGATION
- SC REGULATORS CITE HIGH COMPLIANCE RATE
- SC FIRM FACES \$24K FINE UNDER STATE IMMIGRATION LAW
- E-VERIFY PHOTO TOOL GOES LIVE IN DECEMBER
- FINGERS POINT AT AGRIPROCESSORS TRIAL
- SC POULTRY PLANT REACHES AGREEMENT ON FINE

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- VERMONT GOVERNOR REPORTS SUCCESS IN EB-5 ASIA PROMOTION TRIP
- VERMONT REGIONAL CENTER ADDING MEDICAL PROJECT TO LIST
- WASHINGTON STATE RESORT PROJECT SEEKING EB-5 REGIONAL CENTER STATUS
- PRESIDENT SIGNS EB-5 REGIONAL CENTER EXTENSION LEGISLATION

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  - COOL GADGET WATCH - MOGO IPHONE BLUETOOTH
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