

Recent Immigration News

Recent changes which may affect you.

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U.S. Bound Travelers From 14 Countries Reportedly Subject to Enhanced Airport Screening Process

Report indicates that the Transportation Security Administration announced on January 3, 2010 that it will begin enhanced screening procedures from 01/04/2010 on any U.S. bound air passenger traveling through “state sponsors of terrorism or other countries of interest.” The four state sponsors of terrorism and ten countries of interest reportedly include the following:

- *List of State Sponsors of Terrorism Countries:* Cuba; Sudan; Syria; and Iran.
- *List of Countries of Interest:*
Afghanistan; Algeria; Iraq; Lebanon; Libya; Nigeria; Pakistan; Saudi Arabia; Somalia; Yemen.

No details have been released as to the nature and types of “enhanced” screening procedures. Additionally, the State Department has not released any special travel alert visa processing guidance since the Christmas incident. However, the travelers from the foregoing countries may go through certain special procedures, even though it remains a speculation at this point.

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The Attorney's Corner

Let us talk law today.

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The Special Immigrant (VAWA) Self-Petition: Who Is Eligible to File

Normally, a U.S. Citizen or permanent resident would file a relative petition for his alien wife, parent, or child, and if approved, the alien applies to adjust status. Sometimes, the petition ends up not being filed, or being withdrawn by the petitioner. At other times the petitioner may not show up for the adjustment interview. This pattern may indicate an abusive spouse, parent, or child.

The relationship between an alien and a US citizen or permanent resident has its tensions and the dynamics of power and control always show up. It is easy to victimize another who is dependent on one, to keep them subdued by refusing to assist them obtain legal status in the US and threaten to report them to the immigration authorities. To make matters worse, most individuals on the receiving end of abuse are embarrassed about it and would not let anyone know what they are going through. Also, they do not know that there may be a way out for them.

Where there has been serious abuse, the Violence Against Women Act (VAWA) affords a basis for filing a self-petition for parents and children of U.S. citizens, as well as spouses of U.S. citizens and permanent residents. By filing a self-petition, an alien can bypass the abusive U.S. citizen or permanent resident relationship.

Although the statute is named for women, both males and females may file a self-petition under it. It used to be that the VAWA self-petition was restrictive, but in 2000 it was liberalized, making the process easy for prospective self-petitioners. An abused spouse may now petition anytime within two years of divorce from the abusive spouse.

If divorced and filing a self-petition, remarriage before approval of the self-petition will invalidate the self-petition. A spouse who inadvertently entered into a bigamous marriage and encounters an abusive U.S. citizen or permanent resident spouse may also file a self-petition. An individual whose abusive U.S. citizen or permanent resident spouse died within two years may also self-petition.

The child of an abused spouse should be included in the self-petition. A child of a U.S. citizen or permanent resident who experiences abuse at the hand of his U.S. citizen parent or a member of the parent's household may file a self-petition. A step-child would come under the definition of a child in such cases.

For step-children though, the step-relationship must continue to exist for a step-child to be able to petition for himself. The step-child may still file, even where the abusive U.S. or permanent resident citizen parent has lost his status in the two years preceding the petition, so long as the loss of status was related to, or due to an incident of domestic violence. The self-petitioning child must not be married and must be under the age of twenty-one (21) at the time of filing of the petition. If however, the abused child is late in filing his self-petition, he may still file up until the time he turns 25 if he can show that abuse was at least one central reason for the delay in filing.

Parents of U.S. citizens are permitted to file VAWA self-petitions if they have experienced severe abuse at the hands of their U.S. citizen children. It may seem unimaginable that an individual could subject his parent to abuse, but that has been observed, hence, a law to provide assistance to enable parents in that situation to obtain permanent resident status.

In our next issue, we will discuss the process for filing a VAWA self-petition.^v

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Important Links and Resources for your Legal Research

Visa Bulletin for January 2010:

http://travel.state.gov/visa/frvi/bulletin/bulletin_4597.html

USCIS page for processing time reports and individual case status:

<https://egov.uscis.gov/cris/jsps/index.jsp>

USCIS - list of physicians for adjustment:

<http://www.uscis.gov/civilsurgeons>

Georgia Child Custody Laws:

<http://law.findlaw.com/state-laws/child-custody/georgia/>

Office of Child Support Services:

<https://services.georgia.gov/dhr/cspp/do/public/SupportCalc>

Georgia Child Custody and Visitation

The question of “Who gets custody of the kids?” is one of the most difficult and often the most emotionally draining both for parents and their children when spouses divorce. Custody and visitation are the legal terms in court ordered determinations of which parent the child lives with, and the conditions for the child to visit the other parent. Custody and visitation are never considered to be final. In Georgia, the law does not favor either the mother or father. Rather, they look to the relationship of each parent with the child. While grandparents and others may seek custody, there is a presumption in favor of the natural parents.

What if we agree about custody and visitation?

If you and the other parent have already come to a fair agreement on the custody and visitation issue, you may want to write your own stipulation and consent order. A stipulation is a statement of the settlement that you have reached. It is accompanied by a consent order for the judge to give the agreement the power of a court decision.

If you choose to go this route, you and the other parent should be as specific as you can to avoid future conflicts. Who has legal custody? Which holiday does the child spend with you? What time and where may the other parent pick the child up? What time should the child be returned home? What is the procedure to follow if either of you are running late and would not be there on time? How much notice should you be given if they are planning a vacation? How far away may the other spouse move? What you might think you can figure out as you go along could actually blow up into a full scale war later. The Stipulations should state everything that you have agreed upon. You should not rely on any oral promises. If you both agreed on it, write it down (no matter how trivial it may seem now).

What if we disagree about custody and visitation?

If you and your spouse are having trouble reaching an agreement, you should consider mediation. You may have heard the term mediator used in news reports about labor negotiations or the 1994 baseball strike. A mediator specializes in helping people reach an agreement that is fair and will last. The sessions are confidential and are not reported to the court. A mediator's role may be limited to custody or may also cover other issues such as marital property if you choose. Mediation is not an option that is appropriate in cases where there is a genuine issue of physical or sexual abuse of the child or one of the parties. It is also important to get a legal advisor for this process. The mediator's role is not to take sides, but to bring the two sides together. Additionally, if the mediator is not an attorney, he/she may be unaware of some specific legal issues. v

The Greaves Law Group is the Source for All Your Legal Needs

Contact us today for a free phone consultation

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