

# SUBJECT-MATTER INDEX

## A

**abuse**, *see* Battered spouses and children; Violence Against Women Act

**Adjudicator's Field Manual (AFM)**, 16

### adjustment of status

vs. consular processing, 27, 33  
employment authorization, 33, 43–45  
fiancé(e)s (K-1 and K-2 visas), 77–78  
procedure, 39–46  
requirements, 33–39  
VAWA petitioners, *see* Violence Against Women Act

**admission**, 27–28

*see also* Inadmissibility, grounds of

### adopted children

eligibility for immigration, 3–4

**affidavits of support**, 145–67

and attorney-client relationship, 193, 203–04, 212  
discretion of USCIS and DOS, 164  
enforceability, 152–57  
mandatory-filing requirement, 146–57  
minimum-income requirement, 157–64  
sponsors, 148–51  
termination of sponsor's liability, 165–66

**aging out**, 11–12

Child Status Protection Act (CSPA), 12–16  
effective date, 15–16  
VAWA self-petitioners, 173–74

**AIDS**, *see* HIV / AIDS

**alcoholism**, 88–89

### alien smuggling

as ground of inadmissibility, 111–12

**annulment**, *see* Divorce and annulment

### appeals

of denial of I-751, 71  
of reinstatement of removal, 123–24

**application process for permanent residence**, 17–31

### asylees and refugees

§209(c) waivers, 141–43  
affidavits of support, 147  
HIV-positive applicants, 130–32  
public-charge inadmissibility, 104  
unlawful presence, 117, 118, 119  
VAWA self-petitioners, 183

**attorney ethics**, 191–213

attorney-client relationship  
and affidavit of support, 193, 203–04, 212  
establishment of, 192–95  
nonclients, fiduciary duty toward, 193–95  
competence and diligence, 195–98  
confidentiality, 198–201  
duty toward former clients, 200–201  
conflicts of interest, 202–07  
duty to withdraw, 205–06  
former clients, duty toward, 206–07  
multiple representation, 203, 204  
EOIR rules on professional conduct, 209–10  
fraudulent documents, submission to EOIR or USCIS, 210–11  
frivolous claims, 208–09  
unrepresented third parties, dealing with, 207–08  
withdrawal from representation, 211–13

## B

### battered spouses and children

*see also* Violence Against Women Act  
removal of conditional-resident status, 62–64

**beneficiary**, 2

*see also* Derivative beneficiaries

**brothers and sisters**, *see* Siblings

## C

**child abductors, inadmissibility of**, 121–22

**Child Status Protection Act**, *see* Aging out

### children

*see also* Aging out; Legitimacy; Orphans  
adopted children, 3–4  
conditional residents, children of, 68–69  
definitions, 3–4  
of K fiancé(e)s and spouses, 76–79  
of LPRs and derivatives  
aging out, 13–15  
V visas, 79–82  
sons and daughters under the INA, 3  
*see also* Family preference system  
unmarried sons and daughters, 4  
stepchildren, 3  
of U.S. citizens  
aging out, 12–13

- VAWA self-petitioners
    - aging out, 173–74
    - derivative children, 173
    - HRIFA, NACARA, and Cuban Adjustment Act provisions for derivatives, 188–90
    - parent-child relationship, necessity of, 173
  - citizenship**
    - see also* Naturalization
    - ineligibility as basis for inadmissibility, 113–15
    - renouncement to avoid taxation, as ground for inadmissibility, 121–22
    - VAWA self-petitions, relevance of abuser's immigration status, 174
  - communicable diseases**
    - inadmissibility, 86
    - waivers, 89, 129–32
  - Communist or totalitarian party**
    - membership in as ground of inadmissibility, 98, 102–03
    - waivers, 104
  - conditional-resident status**, 56–73
    - children of conditional residents, 68–69
    - reapplication for visa after expiration of two-year period, 71–72
    - removing conditional status, 60–68
      - approval of I-751, 70–71
      - denial of I-751
        - appeal, 71
        - initiation of removal proceedings, 71
      - interview, *see* Interviews, *subhead*: marriage procedures, 65–68
      - waivers of joint-petition requirement, 61–65
    - termination of status by USCIS, 58–60
    - USCIS notice requirements, 72–73
  - confidentiality**
    - attorney duty toward clients, 198–201
  - conflicts of interest**
    - attorney's professional responsibility, 202–07
  - consular processing**, 47–54
    - vs. adjustment of status, 27, 33
  - controlled substance violations**
    - see also* Drug abusers or addicts
    - as ground of inadmissibility, 95–96
  - criminal-related grounds of inadmissibility**, 89–98
    - controlled substance violations, 95–96
    - foreign government officials who have engaged in severe violations of religious freedom, 97
    - moral turpitude, 93–95
    - multiple convictions, 95
    - prostitution, 96
    - resources, 97–98
    - trafficking in persons, 97
    - waivers, 90, 134–35
  - cross-chargeability**, 7
  - Cuban Adjustment Act**
    - inapplicability of affidavit-of-support requirement, 147
    - VAWA relief for derivative spouses, 188–90
- D**
- death**
    - of abuser, VAWA self-petitions, 174
    - of petitioner, effect on priority date, 10–11
    - of spouse
      - removal of conditional-resident status, 61
      - VAWA self-petitions, *see subhead*: Of abuser, *in this heading*
      - widow(er) petitions, 83–84
  - deferred action**
    - VAWA self-petitioners, 182
  - deportability grounds**
    - see also* Removal proceedings
    - domestic violence-based deportability, eased for abused persons, 185–86
    - vs. inadmissibility grounds, 85–86
  - derivative beneficiaries**, 7–8
    - children of LPRs and derivatives, *see* Children
    - VAWA relief for HRIFA, NACARA, and Cuban Adjustment Act derivatives, 188–90
  - divorce and annulment**
    - effect on priority date, 9
    - removal of conditional-resident status, 62
  - documents and documentation**
    - adjustment application packet, 43–45
    - admission documents, 113
    - good-faith marriage, evidence showing, 24, 65–66
    - I-130 documentation, 22–25, 26
    - K visa petitions, 77
    - National Visa Center packet, 50–51
      - sample, 235–36
    - sample Motion to Reinstate I-130 Petition, with List of Supporting Documents, 219–24
    - VAWA self-petition packet, 176–80
    - for waivers, 137–39
  - drug abusers or addicts**
    - inadmissibility, 87–89
- E**
- employment authorization**
    - adjustment applicants, 33, 43–45
    - fraudulent requests, 109–10
    - K-3 visa applicants, 79

V visa applicants, 79–82  
 VAWA self-petitioners, 180, 181, 182, 183

**espionage**  
 as ground of inadmissibility, 98, 99

**ethics**, *see* Attorney ethics

**evidence**, *see* Documents and documentation

**export control violations**  
 as ground of inadmissibility, 98, 99

**extreme hardship**, *see* Waivers

**F**

**false claim of U.S. citizenship**  
 as ground of inadmissibility, 111

**false documents, making or using**  
 as ground of inadmissibility, 112–13  
 waiver, 113

**family preference system**, 1, 5–12  
 second-preference petitions  
   sponsors whose LPR status was based on prior  
   marriage to LPR or U.S. citizen, 74–75

**family-sponsored immigration**, 1–16  
*see also specific headings*

**fiancé(e)s**, *see* K visas

**fiduciary duties**, *see* Attorney ethics

**Filipinos**  
 relief under Child Status Protection Act, 15

*Foreign Affairs Manual (FAM)*, 16

**foreign medical-school graduates**, 107

**foreign policy, adverse consequences upon**  
 as ground of inadmissibility, 98, 101

**forms**  
*see also specific substantive headings*  
 DS-3032, sample Choice of Agent and Address  
 form, 227–28  
 I-130  
   overview of application process, 17–31  
   revocation, 28–31  
   sample Approval Notice, 225  
   sample petition, 265–76  
 I-212 waivers, 139–41  
   sample, 297–312  
 I-485  
   *see also* Adjustment of status  
   completing form, 39–46  
 I-601  
   response to RFE, waiver under §212(h), 251–63  
   sample request for waiver of §212(a)(9)(B)(i),  
   277–96

I-751  
*see also* Conditional-resident status, *subhead*:  
   removing conditional status  
   filing procedures, 65–69  
   late petitions, 67  
 I-797 Notice of Action  
   sample NOA, I-130 Approval Notice, 225  
 I-864  
*see also* Affidavits of support  
   completing form, statutory requirements, 157–66  
   filing procedures, 146, 148, 166–67  
 National Visa Center (NVC)  
   medical-examination instructions, 241–43  
   sample fee notices, 229–33  
   sample instruction packet for immigrant visa,  
   235–36  
   sample interview appointment packet, 237–39  
 USCIS response to application for hardship  
   waiver, 249–50

**fraud or misrepresentation**  
 attorney submission of false documents to EOIR  
   or USCIS, 210–11  
 as ground of inadmissibility, 109–11  
 §212(i) waivers, 135–36

## G

**genocide**  
 participation in as ground of inadmissibility, 98,  
 103–04

**good-faith marriage**  
 evidence showing, 24, 65–66  
 VAWA self-petitioners, 172, 179

**grounds of inadmissibility**, *see* Inadmissibility,  
 grounds of

## H

**Haitian Refugee and Immigrant Fairness Act  
 (HRIFA)**  
 inapplicability of affidavit-of-support  
   requirement, 147  
 inapplicability of reinstatement of removal, 122–23  
 presence pursuant to period of authorized stay, 118  
 VAWA derivative spouses and children, 188–90

**hardship**, *see* Waivers, *subhead*: extreme hardship

**health-care workers**, 107

**health-related grounds of inadmissibility**, 86–89  
 §212(g) waivers, 89, 129–34

**HIV / AIDS**  
 inadmissibility, 86  
 waivers, 130–32

**I**

- immediate relatives**, 1, 4–5
- INA §209(c) waivers**, *see* Asylees and refugees
- INA §212(a)(9)(A)**, *see* Previously removed aliens
- INA §212(a)(9)(B)**, *see* Unlawful presence
- INA §212(g) waivers**, *see* Health-related grounds of inadmissibility
- INA §212(h) waivers**, *see* Criminal-related grounds of inadmissibility
- INA §212(i) waivers**, *see* Fraud or misrepresentation
- INA §245(i)**, 35–39
- inadmissibility, grounds of**, 85–125
  - criminal grounds, 89–98
  - vs. deportability grounds, 85–86
  - documents required for admission, 113
  - health-related grounds, 86–89
  - immigration-related misconduct, 107–13
  - ineligibility for citizenship as basis for inadmissibility, 113–15
  - labor protection grounds, 107
  - miscellaneous grounds, 121–22
  - national security grounds, 98–104
  - prior removal orders, 115–16
  - public charge, 104–07
  - unlawful presence, 115–21
  - VAWA, *see* Violence Against Women Act
  - waivers, *see* Waivers
- income requirements**
  - affidavits of support, 157–64
- inspection**, 27–28
- interviews**
  - adjustment of status, 46
  - consular, 53–54
  - marriage, 26–27, 69–70
    - failure to appear, consequences, 70
    - waiver of requirement, 70
  - National Visa Center
    - sample interview appointment packet, 237–39
  - VAWA self-petitions, 180–81

**J – K**

- joint-petition requirement**, *see* Conditional-resident status
- K visas**
  - fiancé(e)s (K-1 and K-2 visas), 76–78
  - spouses of U.S. citizens and their children (K-3 and K-4 visas), 78–79

**L**

- labor certification**, 107
- lawful permanent residents (LPRs)**
  - see also* Adjustment of status; Conditional-resident status; Consular processing
  - application process for permanent residence, 17–31
  - children of, *see* Children
- legal authority**, 16
- legitimacy**
  - requirements for “child” under INA, 3
- LIFE Act**, *see* K visas; V visas

**M**

- marriage and marriage-based immigration**
  - see also* Conditional-resident status
  - application after expiration of two-year period of conditional residence, 71–72
  - failing marriages
    - see also* Divorce and annulment
    - effect on I-751 joint petition, 68
  - good-faith marriage
    - evidence showing, 24, 65–66
    - VAWA self-petitioners required to show, 172, 179
  - immigrating through marriage, generally, 55–84
  - interview, *see* Interviews
  - priority date, effect of marriage on, 8–9
  - remarriages
    - availability of 2nd-preference petition for LPR who adjusted based on prior marriage to LPR or U.S. citizen, 74–75
    - by VAWA self-petitioners, 172
- medical examination**, 52–53
  - NVC instructions, 241–43
- mental disorders**
  - inadmissibility, 87
  - waivers, 89, 129–32
  - list of mental disorders
    - that may have associated harmful behavior, 245
    - that necessarily have associated harmful behavior, 247–48
- misrepresentation**
  - as ground of inadmissibility, 109–11
  - §212(i) waivers, 135–36
- moral turpitude, crimes of**
  - as inadmissibility ground, 93–95

## N

**national security grounds of inadmissibility**, 98–104

**National Visa Center (NVC)**, 48–54

sample notices and instructions, *see* Forms

**naturalization**

effect on priority date, 9–10

VAWA self-petitioners, 188

**Nazi persecution**

participation in as ground of inadmissibility, 98, 103–04

**Nicaraguan Adjustment and Central American Relief Act (NACARA)**

inapplicability of affidavit-of-support requirement, 147

inapplicability of reinstatement of removal, 122–23

presence pursuant to period of authorized stay, 118

VAWA derivative spouses and children, 188–90

## O

**orphans**, 4

**out-of-wedlock children**, *see* Legitimacy

## P

**parent**

definition and legal requirements, 3

**PATRIOT Act**, *see* USA PATRIOT Act

**penalty fee**

adjustment eligibility without fee, 34–35

**petitioner, defined**, 2

**petitions**, *see* Forms

**physical or mental disorders**

inadmissibility, 87

waivers, 89, 129–32

**physicians**, 107

**polygamists, inadmissibility of**, 121

**poverty income guidelines**

2008 Poverty Income Guidelines, 313

completing affidavit of support, 157

attorney obligation to explain, 204

determination of public charge, 104–05

**preferences**, *see* Family preference system

**presence without permission or parole**

as ground of inadmissibility, 108

**previously removed aliens**

*see also* Unlawful presence

inadmissibility, 115–16

I-212 waivers, 139–41

**priority dates**, 6–7

retention of, 8–12

**professional responsibility**, *see* Attorney ethics

**prostitution**

as ground of inadmissibility, 96

**public charge**

likelihood of becoming as ground of

inadmissibility, 104–07

posting bond, 107

## Q

**quota system**, 5–7

## R

**re-entering U.S. without authorization**

as ground of inadmissibility, 119–21

**refugees**, *see* Asylees and refugees

**reinstatement of removal**, 122–25

appeals, 123–24

retroactive application, 123

**religious freedom**

violations by foreign government officials, inadmissibility, 97

**removal proceedings**

*see also* Inadmissibility, grounds of

appeal of denial of I-751, 71

failure to attend as ground of inadmissibility, 108–09

two-year foreign residence requirement for aliens who marry while in deportation or exclusion proceedings, 73–74

VAWA self-petitioners in proceedings, 186–88

adjustment of status, 186–87

**removing conditional-resident status**, *see*

Conditional-resident status

**revocation of approved Form I-130**, 28–31

## S

**sabotage**

as ground of inadmissibility, 98, 99

**second-preference petitions**, *see* Family preference system

**siblings**, 3

*see also* Family preference system

**sons and daughters**, 3, 4

*see also* Children

**sponsors**, *see* Affidavits of support

**spouses**

*see also* Derivative beneficiaries; Divorce and annulment; Marriage  
 definition and legal requirements, 2–3  
 K-3 visas, 78–79  
 V visas, 79–82

**statutes, regulations, and agency guidance**, 16

**stepchildren**

eligibility for immigration, 3

**stowaways, inadmissibility of**, 111

**T**

**termination of conditional-resident status by USCIS**, 58–60

**termination of registration**, 54

**terrorist activity**

as ground of inadmissibility, 98, 99–101

**three- and ten-year bars**, *see* Unlawful presence

**totalitarian party**

membership in as ground of inadmissibility, 98, 102–03  
 waivers, 104

**trafficking in persons**

as ground of inadmissibility, 97

**travel abroad**

by conditional residents filing joint petition, 66–67

**two-year requirements**

conditional residents, *see* Conditional-resident status  
 foreign residence requirement for aliens who marry while in deportation or exclusion proceedings, 73–74  
 previous-meeting requirement for K visa applicants, 76–77

**U****unlawful presence**

bars to admission, 115–21  
 waiver, 119, 136

**unmarried sons or daughters**, 4

**USA PATRIOT Act**

expansion of terrorist-based grounds of inadmissibility, 99–101  
 widows and widowers of 9/11 victims, 84

**V**

**V visas**, 79–82

**vaccination requirements**, 86

waivers, 89, 132–34

**Violence Against Women Act (VAWA)****petitions**, 169–90

adjustment of status, 182–83  
 application while in removal proceedings, 186–87  
 aging out, 173–74  
 citizenship or immigration status of abuser, 174  
 death of abuser, 174  
 deferred action, 182  
 definition of abuse, 174  
 deportability for domestic violence, ground eased for abused persons, 185–86  
 deportability grounds, easement of, 185–86  
 derivative children, 173  
 employment authorization, 180, 181, 182, 183  
 good-faith marriage, 172, 179–80  
 good moral character, 174–76, 179  
 USCIS memo and chart, 315–23  
 HRIFA, NACARA, and Cuban Adjustment Act derivative spouses and children, 188–90  
 inadmissibility grounds, 182–85  
 criminal conduct, §212(h) waiver, 134  
 extreme-hardship waivers, 128–29  
 health-related grounds, waiver, 129  
 naturalization, 188  
 parent-child relationship, 173  
 permanent bar, waiver, 121  
 procedures, 176–82  
 contents of packet, 176–80  
 interview, 180–81  
 removal proceedings, petitioners in, 186–88  
*see also subheads: Deportability grounds and Inadmissibility grounds, in this heading*

**Visa Bulletin**, 6–7, 217

**voting unlawfully**

as ground of inadmissibility, 121

**W****waivers**, 127–43

for asylees and refugees, 141–43  
 for battered spouses, 62–64  
 extreme-hardship waivers, 128–29  
 permanent bar, waiver for VAWA self-petitioners, 121  
 Communist or totalitarian-party membership grounds of inadmissibility, 104  
 criminal grounds of inadmissibility, 90, 134–35  
 extreme hardship, 127–29  
 K visas, previous-meeting requirement, 77  
 removal of conditional-resident status, 64–65  
 response to RFE, I-601 waiver, §212(h), 251–63  
 USCIS response to application for waiver, 249–50

*Immigration Law & the Family, 2009–10 Ed.*

false documents, making or using, 113  
filing strategy and procedure, 137–39, 140–41,  
143  
fraud or misrepresentation grounds on  
inadmissibility, 135–36  
health-related grounds of inadmissibility, 89,  
129–34  
I-212 waivers, 139–41

removal of conditional status  
waiver of interview requirement, 70  
waiver of joint-petition requirement, 61–65  
children of conditional residents, 68–69  
three- and ten-year bars, 119, 136  
**widows and widowers**, *see* Death, *subhead*: of  
spouse