

P**P visas**, 719-24. *see also* P-1; P-2

admission, 723-24
 agents, 721
 athletes, 719-22, 723
 circus, 720, 722
 consular processing, 724
 consultation, 723
 culturally unique, 720, 723
 definition, 719-20
 denial, 724
 employees, multiple, 721
 employer, change in, 619
 employment, multiple, 721
 entertainers in group, not individually, 722
 exchange programs, 722-23
 extensions, 723-24
 foreign residence required, 721
 international recognition, 720
 labor certification approval, 724
 multiple employers/beneficiaries, 721
 one year prior relationship needed, 722
 petition process, 721-23
 revocation, 724
 self-employment, 721
 spouses/children, 721
 substitution of beneficiary, 721
 support staff, 721
 transportation costs, 724

P-1 visas

athletes, 719-20, 721-22, 723
 circus, 720, 722
 documentation, 721-22
 entertainers, 720, 722

P-2 visas

documentation, 722-23
 reciprocal exchange program, 722-23

P-3 visas

culturally unique program, 720, 723
 documentation, 723

Palau, *see* Freely Associated States

Palestinians

asylum issues, 435

pardons, 220**parents**

battered, 775-79
 LPR status, 780-86, 787, 805

parole

Generally, 135-48
 admission, different than, 51-52
 advanced, 54-56, 851-54
 aggravated felons, 303-05
 conditional parole of material witness, 300
 credible fear, 131-32, 136, 141
 criminal sentence, 224
 entry without inspection (EWI) basis for, 51
 expedited removal, 131-33, 140
 humanitarian, 146
 IIRIRA changes, 9, 10
 juveniles, 140, 147
 Mariel Cubans, 146

for refugees/asylees, 492-93, 520-21
 removal deferred, 140
 removal not deferred, 224
 revocation, 146

Parole Commission guidelines, 262**partner, non-spouse**

B-2 visa, 648

partnerships

E-1 partners, 735
 EB-5 investors, 893

party defendant

U.S., proper party defendant to represent all agencies, 1159

passports

cancellation, 1317
 falsely making/altering, 188
 obtaining one, 1316-17
 passport card, 1317
 proof of citizenship, 1316
 refusal to issue, 1317-18
 retention for exclusion/deportation hearing, 152-53
 travel with, 1317
 using false, 249
 validity, 619, 629

PATRIOT Act, 14-15, 819-21**penalties**. *See also* Criminal statutes; Fines

employer sanctions, 1261-64
 unfair immigration related employment practices, 1277-78

pendent review, 1083**performance testing**

labor certifications, 922

PERM, 907-09, 909-47, *see also* Labor certification

advertising requirements, 908-09, 911-14, 941
 alternative work experience, 919-20
 audit by DOL, 915-16
 30-day response to audit, 916
 BALCA appeal, 909, 920-21, 950-51, 1046
 remands ended, 951
 bargaining representative, notice to, 914-15
 business necessity, 930-33
 combination of job duties, 928-29
 decision by CO, 917-19
 duplicate LC, 919
 employer's ability to pay the wage, 938
 fees, 916-17
 invalidation of LC, 919
 investigation of LC application process, 917
 layoffs, 940
 notice to bargaining representative, 914-15
 O*NET, 882, 922, 923, 927-28
 on-the-job training, 923-24
 posting requirements, 914-15, 940-41
 prevailing wage, 933-36
 recruitment process, 911-14, 916, 941-46
 nonprofessionals, 913
 professionals, 911-13
 recruitment report, 915
 supervised recruitment, 916
 suspension of LC application process, 917
 withdrawal by employer, 921

permanent residents, *see* Lawful permanent residents

persecution

civil war, 441-42
 countrywide, 468-69
 cumulative effect of, 445-46
 defined, 435-46
 denaturalization as, 441
 discrimination distinguished, 439-40
 economic harm as basis, 440-41
 gender based, 580-82
 law of general application, 442
 mixed motive cases, 455-56
 past persecution
 as basis for asylum, 459-64
 as basis for withholding, 460, 478
 persecutor's views, 447-48
 prosecution distinguished, 442-44
 sexual orientation, 580-82
 social group claim, 451, 452

petition for review, *see* Chapter 10 (1071); Federal jurisdiction; Judicial review

petitions, *see* Employment-based immigration; Family-sponsored immigration; Immigrant visa; Lawful permanent residents; Nonimmigrants. *See also specific nonimmigrant visa category*

petty offense

aggravated felony sentencing, 199
 crime of moral turpitude exception, 70, 84
 general, 70

physical disorder

inadmissibility, 57-58

physical therapists

certification, healthcare worker, 67-68
 labor certification, Schedule A, 949

physician assistant

inadmissible without certificate, 67-68

physicians

adjustment, list of doctors for, 835
 B-1, 709
 Conrad 30 program, 665
 first preference, employment-based, 869-75
 H-1B cap, 677-79, 707-09
 H-1B category, 707-09
 H-2B category, 710-16
 H-3 externship, 675, 709
 inadmissible, 67
 investors, 709
 J visa requirements, 660-62, 665-67, 671, 707-08
 labor certification, 880-81
 medical students, 708-09
 clerkship on B-1, 646
 medically underserved areas, 626, 667, 708, 880
 national interest waiver, 875, 877-79, 879-80
 O visas, 708
 overstay (INA §222(g)), 626, 667, 708
 second preference, employment-based, 879-81
 special immigrants, 887
 state 30 program, 665-66
 TN, 708

picketing, 1269

plea bargain

agreement by U.S. attorney not to deport, 252
 conviction for immigration purposes, 213-15

1636

police

certificates, 832
 enforcement of INA, 291

Polish citizens

adjustment program, 814-15
 cancellation of removal, 995-96

political offense, 71

political opinion

defined, 448-50

political question, jurisdiction, 1158-59

parole matters, 146

polygamy, practice of

ground of inadmissibility, 87

polygraph evidence, 360

portability

adjustment, 899-900, 900-01
 employment-based petition, 900, 901
 180-day period, 902
 multinational executive covered, 902
 same or similar occupation defined, 901-902
 self-employment as basis for, 902
 H-1B, 680, 698
 priority date, 899

PORTPASS, 130-31

post hoc rationalization, 1165-66

post traumatic stress disorder, 360, 555

posting requirements

labor certifications, 911-13, 914-15, 941, 947, 949
 labor condition applications, 688, 689-90, 691

poverty guidelines, 59, 63-64

precedent decisions

General Counsel's decisions not binding, 1043
 unpublished BIA decisions, 1042

preclusion of review, 1070-74, 1108-33

preconceived intent, 630, 632

preemption

employer sanctions, 1265
 state regulation of immigration, 3, 32

preference categories

diversity immigrant, 812-14
 employment-based immigration (1st to 5th preference),
 804-05, 869-98

family preference (1st to 4th preference), 775-804, 804

preference petitions, 822-30, 847-906. *see also* Employment-based immigration; Family-sponsored immigration; Immigrant visas

accompanying, defined, 806
 adjustment, 155, 156, 314, 328, 791, 793-96, 834-56,
 902-03, 1005-08

adverse evidence, respond to, 826-27

approvals, 825-26, 899

consular processing, 830-34

conversion, 806-07

cross-chargeability, 806

denials, 128, 826-27, 833-34, 903

derivative status, 805, 808-12

employment upon filing, 679, 854, 907, 1267

following to join, defined, 806

foreign state chargeability, 805-06

judicial review, 827

oversubscription, 812
 priority dates, 806-12, 899
 procedures, 822-25
 revocation, 903, 950
 sexual abusers of minors denied right to petition in family preferences, 826
 stay of deportation, 825
 venue, 827, 898-99

prehearing procedures

removal (deportation), 314-15
 removal (inadmissibility), 152

premium processing, 634**pre-sentence report**

evidence of conviction, 369-70

presidential proclamation

finding persons inadmissible, 112-13
 territorial limits, 53

presumption

against admissibility (immigrants), 812
 against admissibility (NIV), 617
 aggravated felony, 377, 402, 404
 favoring admissibility (visa), 154, 624-25
 intending immigrant, 617
 marriage fraud, 799
 regularity, presumption of, 372
 removal, 375-376

prevailing wage

labor certification, 933-36
 labor condition application, 686-89

priority date

adopted child, 812
 aged out child, 808-12
 athletes, 902
 change of employment, as effecting, 899
 conversion, 806
 defined, 806-07
 derivatives, 808-12
 for employment related petitions, 806-08, 899
 loss of, 812
 for relative petitions, 806
 subsequent petitions, 807-08
 successors in interest, 900
 transfer, 807, 900-02

priority workers, 869-75

extraordinary ability, 869-71
 multinational executives and managers, 872-75
 outstanding professors and researchers, 871-72

Prison Litigation Reform Act of 1996, 1101-03**prisoners**

early removal prior to completion of sentence, 422-23
 transfer treaty, 262-63

Privacy Act, 337-38**private legislation**, 1015**private right of action**

Generally, 1228-29
 expedited deportation, 403-04

probable cause, *see* Search and seizure**probation**, 224

aggravated felony, 199-200
 not a sentence to confinement, 224

professional

H-1B purposes, 680-84
 members of professions holding advanced degrees (2nd preference), 875-81
 priority workers (1st preference), 869-75
 professionals (3rd preference), 881-84, Apx A

professors, 871-72, 881-83, 947-48**prosecutorial discretion**, 311-14**prostitution**

aggravated felony, 184
 deportation for, eliminated, 205
 inadmissible, 87

protective order

asylum denial for violation, 589
 attorney sanction for violation, 356
 deportation ground, 157
 discretionary relief denial for violation, 958
 evidentiary issues, 373

public benefits, 65, 864-65, Apx F**public charge**

affidavit of support, 60-66
 grounds for inadmissibility, 59-66
 grounds for removal, 160
 inspection, 130
 legalization, 1282
 waiver, 1284-85
 waiver, 127-28

Q**Q visas**, 743-44

admission, 743
 application process, 743
 condition of stay, 744
 definition, 743
 extension, 744
 judicial review, 744
 participant requirements, 744
 program requirements, 744
 revocation, 744

Q-2 visas, 744-745**qualified immunity**, 1229-30**questioning non-citizens**, 282**questions of law**, defined, 1077, 1078, 1083**quota system**, 4

Generally, 86, 804-12
 oversubscribed, 812

R**R visas**, 645-46

admission, 646
 definition, 645
 evidence, 646
 minister, 645
 not-for-profit, 645
 petition, 645-46
 professional capacity, 645
 membership only required for visa, 645
 religious occupation, 645
 religious organization, 645-46
 religious vocation, 645
 spouse/children, 645-46

race discrimination, 32, 34, 39, 1217-18

racetrack personnel, 647

RAPS computer database, 128

rap sheet

discretionary relief, use in, 371

evidence of conviction, 368

rational basis test, 30

REAL ID Act, 20–22

All Writs Act, 22, 142, 297, 485, 593, 606, 829-30, 1071–74, 1076-77, 1081, 1089, 1094, 1105, 1124, 1130, 1190

asylum, 20, 461, 470, 477, 505, 512, 516, 531–33, 545–46, 558, 561, 572, 587, 593-94, 601, 607, 958, 1038, 1074-76, 1077-78, 1128-29, 1179

credibility and corroboration issues in asylum claims, 531–33, 545-46, 558, 561, 572, 601, 958, 1037, 1131, 1179

Australian E-3 visa, 22, 710

burden of proof, 21–22, 277, 379, 958

CAT claim, 21, 485, 606-07, 1038-39, 1130-31

collateral attack on conviction, 232

corroboration, 20–22, 477-78, 531, 533, 545, 598, 601, 606, 958-59, 1079, 1130, 1179

credibility issues, 20, 545-46, 557, 561, 572, 601, 607, 959, 1133, 1179

detention, 142, 297, 419, 1074, 1075, 1091, 1112

driver's license, 21-22, 276, 865

employment-based visas, recapture of, 22, 949

habeas corpus, 21–22, 142, 297, 320, 406, 408, 419-20, 485, 593, 606, 829, 1072, 1077-78, 1081, 1089-92, 1094, 1105, 1109, 1112, 1124, 1131, 1133, 1189, 1217-18

judicial review, 21, 22, 142, 297, 332, 403, 406, 408, 593–94, 607, 792, 874, 906, 1000, 1071–76, 1089-90, 1093, 1104-05, 1109, 1112, 1116-18, 1121

mandamus, 21–22, 142, 297, 420, 485, 593, 830, 1076-77, 1081, 1089, 1094, 1106, 1131

nurses, 22

questions of law, defined, 1077, 1078, 1083

refugees, 531–32, 545-47, 587, 611

reinstatement of removal orders, 406, 1132

relief from removal, 477–78, 607, 958, 1179

standard of proof, 958

terrorism, 21, 22, 104, 107, 108–09, 160, 470

withholding of removal, 20, 477–78, 533, 607, 958, 1038, 1179

reason to believe standard, 157, 169, 212

drug trafficking, 84–86, 157, 212

money laundering, 14, 86

spouse and child covered, 86, 87, 103

terrorism, 102-03

trafficking in persons, 87

reasonable-fear determination, 510-11

recidivism

212(c) relief, 173

drug trafficking, 173

recommendation against deportation, *see* Judicial Recommendation Against Deportation

reconsideration

aged-out children, 808

asylum denial, 477, 516

federal review, 1118, 1174, 1189–91

motions, 1046-47, 1051-65

barred because relief unavailable, 1052-53

barred by citation to nonprecedent decisions, 1053 numerically barred, 1052

regional service center, 1065

time barred, 1051-52

nonimmigrant visas, 631-32, 633

record

appeal, 1166-68, 1198

of proceedings, 381-82

review limited to, 1166–68, 1198

submission of evidence after closure, 375, 382

transcript, 381-82, 791-92, 1022, 1029-30, 167, 1198

record of conviction

basis for deportability, not facts of crime, 71, 72, 192–193, 206, 212, 367-68, 371, 375, 376, 959–60

categorical and modified categorical approach, 72-73, 192–93

recusal of IJ, 398-99

reduction in recruitment for LCs, 907-08, 946

re-entry after deportation

criminal, 11-120

immigration procedure, 406–08

inadmissible, 88-89, 95

re-entry permit, 704–05

Refugee Act of 1980, 5

refugee travel document, 608

refugees

adjustment of status, 609-13

admittance, 432, 501

affidavit of support unnecessary, 60

application process, 499

priority, 501

spouse and children, 432, 501

Bring Them Home Alive Act, 434

congressional designation of, 433

defined, 432–34

emergency flow refugees, 433

employment, 499, 521–22, 1265

family members, 434, 501, 609

fear of persecution, defined, 432, 435-46, 466-69, 573–90

firm resettlement, 469–72, 500

history, 5, 10

inadmissibility, grounds for, 499–500, 501, 612

ineligibility, grounds for, 433, 499-500, 612

international law, 429-31

Iraqis, 433

Lautenberg amendment, 493

membership in a particular social group, defined, 451-54

normal flow refugees, 433

North Koreans, 334

numbers allocated, 499

overseas refugees, 432–34

parole, 492

past persecution as basis for, 460-64

persecution, defined, 432, 435–64, 573–90

political opinion, defined, 448–50

Refugee Act of 1980, 431

removal, 434

revocation, 432, 499-500, 609

safe haven, 468-69, 508

spouse and children, 434, 501

- stateless person, 435, 445
- termination of status, 496, 501, 509, 516, 590, 608-09, 612-13
- travel, 522, 608, 612
- U.N. Conventions
 - CAT, *see* Convention Against Torture
 - Relating to Status of Refugees, 429, 432, 508
- U.N. High Commissioner Handbook, 429-30, 438, 443-44, 451, 480
- vaccination exempt, 56-7
- waivers, 57, 120-21, 268, 499-500, 612-13
- well founded, defined, 466-69, 524-25
- regional commissioner**
 - decides deferred action cases, 1013
- regional service center**
 - motion to reopen or reconsider, 1046
- registration**
 - NSEERS, 148-49
- registry**, 774
 - judicial review, 1180
- regulations**
 - retroactive application, 1208-12
- Rehabilitation Act of 1973**
 - affecting criteria for naturalization, 1312
- reinstatement**
 - humanitarian, 803, 828
 - I-130, 828
 - reinstatement of BIA decision, 1029
- reinstatement of removal order**, 406-408
 - administrative review, 408
 - constitutional challenges, 407-08
 - INA §245(i), 849-50
 - judicial review, 408
 - jurisdiction, 408
 - procedures, 408
 - REAL ID Act, 408
 - reasonable fear determination, 505, 510-11, 525
- reissuance of visas**, 628
- relation-back doctrine**, 99, 402, 798
- relief**, 957-1015
 - abandonment of application, 360-361, 397-98, 506, 1030-31, 983-84
 - aggravated felony, 125, 220, 223, 224, 404, 476, 479-81, 959-60, 964, 965, 973
 - burden of proof, 277, 377-78, 958-59
 - constitutional claims, 37
 - constitutional protection, 960-61
 - criminal conduct affecting, 959-60
 - equitable tolling, 961-62
 - fundamentally fair hearing, 959
 - ineligible for, 95, 476, 957-58, 966-67
 - notice of, 333-34, 519-20
 - payment of fee for, 398
 - procedures for filing, 397-98
 - protective order violation as basis to deny relief, 958
 - REAL ID Act standard, 277, 958-59
 - from removal (deportation), 957, 964, 972, 1005, 1009-15
 - adjustment of status, 314, 328-31, 793-96, 841, 1005-08
 - asylum, chapter 4
 - cancellation of removal, 972-1005
 - collateral attack, 212-13, 216-23, 1013
 - deferred action, 314, 1013
 - due process, 37
 - estoppel, 316-18, 1011-13
 - IIRIRA changes, 9
 - marriage fraud, 800, 1009
 - nunc pro tunc, 1010-11
 - private legislation, 1015
 - suspension, 1000-04
 - voluntary departure, 964-71
 - waivers (§212(i), etc.), 113-28, 972-1000, 1009-10, 1013-15
 - from removal (inadmissible), 155
 - waivers, 57, 86, 88-89, 95, 97, 99, 113-28, 1013-15
 - right to request, 360-61
 - security check, 361-62, 858
 - standard of proof, 958-59
 - timing of request for, 360-61, 958
 - unavailable, 119-20, 404, 957-58, 982-85
 - unavailable for aggravated felons, 125-26, 217-18, 220, 223, 404, 469, 476, 479-81, 964, 966, 976-77
 - waivers, 113-28, 972-1000, 1009-10, 1013-15
- withdrawal of relief**, 404, 957-58
- Religious Freedom Act**, international, 11, 111
- religious marriage**, 797
- religious persecution**, 575-78
 - deportable for, 162
 - inadmissibility for, 111
- religious workers**
 - B-1, 645
 - history, 6
 - R visas, 745-46
 - special immigrants, 884-86
 - definitions, 885-86
 - evidentiary requirements, 886
 - two-year requirement, 884-85
- remand**
 - asylum cases (credibility), 1039
 - BIA, 1032-35
 - court of appeals, 1174, 1198-1201
 - decision by government counsel, 1201
 - final order, 1201
 - procedural issues in federal court, 1198-1201
 - reversal, distinguished, 1199
 - standard of review, 1198
- removal, expedited**, *see* Expedited removal
- removal, grounds for**, *see* Deportation, *subhead*: grounds; Inadmissibility, *subhead*: grounds
- removal hearing—deportation**, 311-408
 - abandonment or withdrawal, 397-398, 506, 1030-31
 - absence of respondent at hearing, 383-96
 - absentia hearing, 383-96
 - additional charges, 338
 - adjustment of status, 314, 328-31, 793-96, 856, 1005-08
 - new adjustment for LPR in removal proceedings, 115, 840, 979-80, 1007-08
 - administrative closure, 380-81
 - aggravated felonies, 166-201, 402-03
 - alienage, 376
 - amnesty application, 375
 - apparent eligibility, 333-34, 520
 - arrest reports, admission of, 370-71
 - attorney fees, 1237
 - attorney sanctions, 354-56

- authentication, 366-67
- battered spouse/child, 375, 822, 824, 991-92
- Brady* rule, 338
- burden of proof, 375-79, 402, 404
- cancellation of removal, 972-1000
- cancellation of visa, 408
- charges, 152, 290, 311-23, 323-24, 338
- citizenship claim, 318-20, 1327-28
- classified information, 373
- closed hearing, 339, 515, 792
- closing argument, 360
- collateral attack, 212-13, 1013
- collateral estoppel, 397
- commencement of proceedings, 314-15
- confidential hearing (battered spouse), 339, 792
- continuances, 326-32
- convictions, proof of, 367-69
- counsel, criminal charges against, 356
- counsel, role of government, 353-54
- counsel, right to, 325, 333, 339-51, 518-19
- counsel, withdrawal of, 353
- country of, 409-10
- court record, immigration court, 381-82
- criminal aliens, 402-05, 422-23
- criminal record, admission of, 203-04, 367-69
- cross-examination, 356-58
- deferred action, 314, 1013
- departure during appeal, 397, 1030-31, 1161-62, 1193-94
- departure prior to hearing, 52, 54-56, 383
- deportation hearing retained, 324-25
- depositions, 337
- detention, 291-310
- discovery, 334-38
 - right to records and documents, 338
- documents, timely filing, 397-98
- double jeopardy, 267-68, 275
- due process in, 37, 269-74
- effective date, 206, 324-25
- embassy notification, 401-02
- employment authorization, 421
- equal protection claim, 276-77
- estoppel, 316-18, 1011-13
- evidence, 278-80, 338, 356-60, 363-75
- ex post facto, 274-75
- expedited removal proceedings, 403-04
- expert testimony, 358-59
- failure to appear, 96, 324, 383-96, 397
- failure to depart
 - criminal penalty, 250
 - fine, 268
- failure to follow agency rules, 275-76
- fifth amendment, 269-74, 279, 332, 362-63, 376
- filing, untimely, 397-98
- final order of, 1076, 1189-91
- fine for failing to depart after final order, 268
- FOIA, 334-37
- foreign law, 372, 1208
- ground of deportation, *see* Deportation, *subhead*: grounds;
 - Inadmissibility, *subhead*: grounds
- harmless error, 272, 340-41, 381, 1181
- hearsay, 363-65
- IIRIRA changes, 8-10
- IJ roles as prosecutor and adjudicator are separate, 398-99
- incompetent, 373-74
- international law bars removal, 322-23
- interpretation, 379-80
- interrogatories, 337
- investors, 896
- Jencks Act, 337
- judicial deportation, 7, 10, 262, 404-05
- marriage in, 328-30, 793-96, 836-37, 1005-07
- minors, 373-74
- Miranda* rights, 275, 289, 363
- naturalization, relation to, 318-20, 1310, 1311, 1316
- notice of charge, 314-23
- notice of deportation, 411
- notice of proceedings, 314-25
- notice of rights, 323-25, 333-34, 511-12, 519-20
 - notice to appear
 - challenged, 315-23
 - initiation of proceedings, 311-15
 - notice of, 323-25
 - service of, 323-25
 - termination of, 334
- notice to embassy, 401-02
- offer of proof, 373
- opening statement, 360
- order to show cause
 - service of, 206, 325
 - transition rules, 206
- passport seizure, 289
- physical deportation, 409-22
 - time limits, 411-21
- police reports, 370-71
- polygraph evidence, 360
- prehearing conference, 338
- prehearing procedures, 311-34
- presence of respondent, 382-83
- prior order attacked, 1013
- prison as site of hearing, 403-04
- prisoners, early removal, 422-43
- procedural rights, 268-443
- prosecutorial discretion, 311-14
- record, 381-82, 1166-68
- recusal of IJ, 398-401
- reinstatement of LPR status, 1008
- reinstatement of removal order, 406-08
- relation back to cure defect, 402
- relief, 957-1015
 - adjustment of status, 314, 328-31, 793-96, 836-39, 842-44, 1005-08
 - apparent eligibility, 333-34, 520
 - asylum, *see* Chapter 4
 - cancellation of removal, 972-1000
 - citizenship, claim to, 318-20
 - collateral attack, 212-13, 221-22, 1013
 - deferred action, 314, 1013
 - due process issue, 37, 960-61
 - estoppel, 316-18, 1011-13
 - ineligibility for, 404, 957-58
 - marijuana conviction, 86, 155, 169, 202, 962
 - marriage fraud, 800, 801, 1009-10
 - notice of relief, 333-34, 519-20
 - nunc pro tunc permission, 1010-11
 - private legislation, 1015
 - protective order violation as basis to deny relief, 958