Preparing for Changes in U.S. Immigration Law & Policy

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NEW AMERICANS HOTLINE: 1-800-566-7636



Disclaimer

- ▶ This presentation is not legal advice.
- This presentation is for informational and educational purposes only.
- If you have a question, you should contact an attorney for advice.

Hiscock Legal Aid Society

- Non-profit legal service provider
- Free legal services:
 - Naturalization/citizenship
 - Adjustment of status
 - Special Immigrant Juvenile Status
 - VAWA, T, or U visa
 - Asylum
 - Deportation/removal defense
 - Work authorization
- Free interpreters
- Areas served:
 - Mohawk Valley
 - Central New York
 - North Country



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Preparing for Changes in U.S. Immigration Law & Policy

How to Prepare for Possible Changes to U.S. Immigration Law and Policy?

Know your rights
Create an emergency/safety plan
What to do in the event of an encounter with the Department of Homeland Security ("DHS")

Know Your Rights

EVERYONE in the United States has guaranteed rights under the Constitution, regardless of immigration status!

Know Your Rights

- Right to remain silent
- Right to an attorney
- Right against unreasonable searches and seizures
- Right to due process

Right to Remain Silent

Applies when questioned or arrested by immigration officers, police, or other officials

Anything you tell an officer can later be used against you in immigration court



<u>Right to an Attorney</u>

- If arrested by the police, you have the right to a governmentappointed lawyer.
- If arrested or detained by ICE, you have the right to a lawyer, but not at the government's expense.
- If put into removal proceedings, you have the right to a lawyer, but one will not be appointed to you.
- Ask ICE/EOIR for list of free or lowcost legal service providers.



<u>Right Against Unreasonable Search & Seizure</u>

- Do not have to let law enforcement into your home unless it is the police and they have a warrant signed by a judge.
- ICE warrants of removal (Form I-205) do NOT allow officers to enter a home without consent.
- Remember that you have the right to remain silent, even if the police have a warrant.

Right to Due Process

- Due process = fair procedures
- Everyone is immigration court is entitled to a full and fair hearing before removal from the U.S.
- > Rights include:
 - The right to be informed of the charges;
 - The right to an attorney (not appointed or free); and
 - The right to present evidence in one's defense.



Create an Emergency / Safety Plan

Things that everyone can do now to prepare for the worst case scenario.

Remember, we do not know what is going to happen under new administration.

Who is at risk?

Immigrants with criminal convictions and/or orders of removal

- No status
- > TPS and parole

How to Prepare Creating an Emergency/Safety Plan

Always carry evidence of status, if available
 Organize important documents
 Designate an emergency contact
 Prepare for immigration bond
 Choose caretaker for children

What documents to carry everyday?

- If over 18 and you have status in the U.S., carry with you at all times:
 - Passport
 - Green card
 - EAD
 - -94
 - Other evidence of status



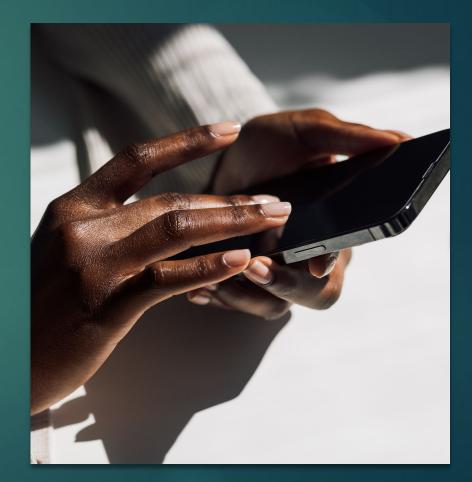
Documents to organize and keep in a safe place

- Passports for all family members
- Birth certificates
- Marriage certificate
- Medical records
- Proof of physical presence in the U.S.
- School records
- Emergency contact list
- Guardianship /designation of person in parental relationship



Designate an Emergency Contact

- If possible, someone with lawful status in the U.S.
- Memorize phone #
- Inform them where you keep important documents



Prepare for Immigration Bond

- Immigration bond: amount of money set by the government that if paid will allow a person to be released from detention while immigration court case is pending.
- May want to start saving ahead of time.
- Not everyone is eligible for bond.
- Ask ICE deportation officer and the Immigration Judge if you are eligible for a bond.
- Factors considered determining bond:
 - Criminal history
 - Length of time in the U.S.
 - ► Eligibility for immigration relief
 - Family and community ties
 - Good moral character



Choose Caretaker for Children

- In New York State, there are several options to legally designate who you want to care for your children if you are detained. The two (2) most common are:
 - Designation of Person in Parental Relationship
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 - Standby Guardianship



Designation of Person in Parental Relationship

- Form OCFS-4940, available online: <u>https://ocfs.ny.gov/forms/?find=4940</u>
- Benefits:
 - Simple process of signing in front of two (2) witnesses, no need to go to court
- Drawbacks:
 - Temporary (12mos); limited authority; no public assistance

Standby Guardianship

- <u>https://www.nycourts.gov/courthelp/guardianship/standbyguardian.shtml</u>
- <u>https://www.nycourts.gov/LegacyPDFS/FORMS/surrogates/pdfs/FillableSG-10.pdf</u>
- Benefits:
 - Can say it only goes into effect when a certain thing happens ("administrative separation"); guardian can make all major decisions, including medical and travel; public assistance possible
- Drawbacks:
 - More complicated for the guardian must go to court within 60 days and provide proof of the administrative separation; requires many court appearances, background check, home inspection

<u>What to do in the event of an encounter</u> with the Department of Homeland Security

- Stay calm. Don't run, argue, resist, or fight the officer, even if your rights are being violated.
- Do not lie about your status or provide false documents.

Traffic Stop

- Ask if the officer is from the police department or DHS (ICE, CBP, BP). If DHS, follow these guidelines:
 - If US citizen or have lawful immigration status: show your passport, green card, work permit, or other documentation of status.
 - If undocumented: you have the right to remain silent and do not have to discuss your immigration or citizenship status with the police, DHS, or other officials.
 - Request to speak with your attorney before you speak with the officer



What if an officer knocks on your door?

- Do NOT open the door
- Officers must have a warrant signed by a judge in order to enter your home
- Ask to see the warrant
- Form I-205, Warrant of Removal, is not signed by a judge! Does not allow DHS to enter your home!

QUESTIONS?

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