

2021 EDITION

Immigration Law Essentials for Virginia Practitioners

Lisa Shea



Continuing Legal Education
by the Virginia Law Foundation



Immigration Law Essentials for Virginia Practitioners

Copyright © 2000, 2005, 2008, 2016, 2021
Virginia Law Foundation. All rights reserved.

This electronic book is licensed for use on a single personal computer only. It must be treated in the same way as the print edition. It may not be copied, made accessible on a computer network, or otherwise shared by electronic or optical means. No derivative works may be made, but the purchaser may electronically copy short passages to include in memoranda, briefs, and similar documents.

This publication is presented with the understanding that the authors, the reviewers, and the publisher do not render any legal, accounting, or other professional service. It is intended for use by attorneys licensed to practice law in Virginia. Because of the rapidly changing nature of the law, information contained in this publication may become outdated. As a result, an attorney using this material must always research original sources of authority and update information to ensure accuracy when dealing with a specific client's legal matters. In no event will the authors, the reviewers, or the publisher be liable for any direct, indirect, or consequential damages resulting from the use of this material. The views expressed herein do not necessarily represent those of the Virginia Law Foundation.

Citations to statutes, rules, and regulations are to the versions in effect at the time the material was written, unless otherwise noted. An effort has been made to ensure the material is current as of December 2020.

Click the left mouse button twice on the link below to view tips on using Virginia CLE Electronic Books (requires Adobe® Reader version 6 or later).



VIRGINIA LAWYERS PRACTICE HANDBOOK

IMMIGRATION LAW ESSENTIALS
FOR
VIRGINIA PRACTITIONERS

Fifth Edition

Lisa Shea

Immigrants First, PLLC / *Manassas*

 VirginiaCLE®
Publications

TABLE OF CONTENTS

<i>About the Author</i>	iii
<i>Acknowledgments</i>	v
<i>Preface</i>	vii

CHAPTER 1: INTRODUCTION

1.1	THE NEED FOR COMPREHENSIVE IMMIGRATION PLANNING	1
1.2	LEGISLATIVE HISTORY AND SOURCES OF IMMIGRATION LAW	3
1.201	Legislative History.	3
1.202	Agencies Involved in the Immigration Process.....	5
1.3	SUMMARY OVERVIEW OF IMMIGRATION ISSUES	9
1.301	Presenting for Entry at the Border.	9
1.302	Nonimmigrant Visas.	10
1.303	Immigrant Visas.....	11
1.304	Work Authorization.....	12
1.305	Tax-Related Provisions.	12
1.306	Obtaining Citizenship.	12
1.307	Removal from the United States.	13

CHAPTER 2: NONIMMIGRANT VISAS AND OTHER TEMPORARY STATUSES

2.1	OVERVIEW	15
2.101	Introduction.	15
2.102	Initial Nonimmigrant Visa Petition Process.....	19
2.103	Extensions of Stay and Changes of Status.	20
2.2	VISITORS FOR BUSINESS (B-1 VISAS) AND VISITORS FOR PLEASURE (B-2 VISAS).....	23
2.201	Definition.	23
2.202	Eligibility.	23
2.203	Visitors for Business (B-1).	24
2.204	Visitors for Pleasure (B-2).....	26
2.205	Obtaining a B-1 or B-2 Visa.....	28

TABLE OF CONTENTS

2.206	Length of Stay and Extensions.	30
2.207	Change of Status.	31
2.208	Border Crossing Identification Cards.	31
2.3	TRANSIT ALIENS (C-1, C-2, AND C-3 VISAS)	32
2.301	Definition.	32
2.302	C Visa Subcategories.	32
2.4	CREW MEMBERS (D VISAS)	32
2.5	VISA WAIVER PROGRAM (VWP)	32
2.501	Overview.	32
2.502	Eligibility.	33
2.503	Length of Stay and Strategic Considerations.	34
2.6	TEMPORARY WORKERS AND TRAINEES (H VISAS)	35
2.601	“Specialty Occupations” (H-1B).	35
2.602	The American Competitiveness and Workforce Improvement Act of 1998 (ACWIA).	43
2.603	Other H-1B Visas.	45
2.604	Temporary Workers (H-2A and H-2B).	47
2.605	Trainees (H-3).	47
2.606	Spouse and Dependent Children (H-4).	48
2.607	Length of Stay, Extensions, and Change of Employers.	48
2.608	Strategic Considerations and Special Cases.	49
2.7	INTRACOMPANY TRANSFEREES (L VISAS)	51
2.701	Definition.	51
2.702	Requirements.	51
2.703	Obtaining an L-1 Visa.	54
2.704	New Offices.	54
2.705	Dual Intent.	55
2.706	Length of Stay and Extensions.	55
2.707	Spouses and Children.	55
2.708	Strategic Considerations.	56
2.8	CANADIAN AND MEXICAN PROFESSIONALS ENTERING UNDER NAFTA AND USMCA (TN VISAS)	57
2.801	Eligibility.	57
2.802	Filing Procedures.	58

TABLE OF CONTENTS

2.9	TREATY TRADERS (E-1 VISAS) AND TREATY INVESTORS (E-2 VISAS)	59
2.901	General Considerations.....	59
2.902	Treaty Traders.....	61
2.903	Treaty Investors.	64
2.10	REPRESENTATIVES OF FOREIGN MEDIA (I VISAS)	67
2.1001	Sources of Law and Regulation.	67
2.1002	Definition.	67
2.1003	Procedure for Filing.....	67
2.1004	Length of Stay.	68
2.1005	Spouses and Children.....	68
2.1006	Classification When Eligible for Both I and E Visas.....	68
2.11	INTERNATIONAL CULTURAL EXCHANGE PROGRAM PARTICIPANTS (Q VISAS)	68
2.1101	Eligibility.	68
2.1102	Required Documents.	69
2.1103	Length of Stay and Extensions.....	69
2.12	ENTERTAINERS, ARTISTS, AND ATHLETES: ALIENS OF “EXTRAORDINARY ABILITY” (O VISAS).....	69
2.1201	Eligibility.	69
2.1202	Definitions.	70
2.1203	O-2 and O-3 Visas.....	70
2.1204	Required Documents.	71
2.1205	Length of Stay, Extensions, and Change of Employer.	72
2.13	ENTERTAINERS, ARTISTS, AND ATHLETES: PERFORMING GROUPS AND ATHLETES (P VISAS)	73
2.1301	Eligibility.	73
2.1302	Required Documents.	75
2.1303	Length of Stay, Extensions, and Change of Employer.	76
2.14	STUDENTS: ACADEMIC STUDENTS (F VISAS).....	77
2.1401	Sources of Law and Regulation.	77
2.1402	General Requirements.	77
2.1403	F-1 Work Authorization.	78
2.1404	Spouse and Minor Children.	79
2.1405	Length of Stay and Extensions.....	80
2.1406	Transfers.....	80

TABLE OF CONTENTS

2.15	STUDENTS: VOCATIONAL STUDENTS (M VISAS)	80
2.1501	Eligibility.....	80
2.1502	General Requirements.....	81
2.1503	Length of Stay and Extensions.	81
2.1504	Change of Status.....	82
2.16	STUDENTS: CULTURAL EXCHANGE VISITORS (J VISAS).....	82
2.1601	Sources of Law and Regulation.....	82
2.1602	Requirements.....	83
2.1603	Filing Procedure.....	84
2.1604	Two-Year Residence Abroad and Waivers.....	84
2.1605	Length of Stay and Extensions.	85
2.17	RELIGIOUS WORKERS (R VISAS).....	85
2.1701	In General.....	85
2.1702	Required Documents.....	86
2.1703	Length of Stay and Extensions.	87
2.18	DIPLOMATIC AND INTERNATIONAL ORGANIZATION VISAS (A VISAS AND G VISAS).....	87
2.1801	In General.....	87
2.1802	Benefits.....	88
2.1803	Length of Stay and Extensions.	88
2.19	FIANCÉES AND FIANCÉS (K VISAS)	89
2.1901	Definition.....	89
2.1902	Procedure.....	89
2.1903	Special Considerations.....	90
2.20	VICTIMS OF TRAFFICKING (T VISAS).....	90
2.2001	In General.....	90
2.2002	Application Procedure.....	91
2.21	VICTIMS OF VIOLENCE (U VISAS)	91
2.2101	In General.....	91
2.2102	Application Procedure.....	92
2.22	BENEFICIARIES OF IMMIGRANT PETITIONERS (V VISAS).....	92
2.2201	Definition.....	92
2.2202	Procedure.....	92
2.23	WITNESSES AND INFORMANTS (S VISAS).....	93

TABLE OF CONTENTS

2.24 TEMPORARY PROTECTED STATUS (TPS) 93
2.2401 Definition. 93
2.2402 Eligibility for TPS..... 94
2.2403 Filing Procedure for Renewing. 94

2.25 DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) 94
2.2501 Definition and Background..... 94
2.2502 Filing Procedure for Renewal of DACA..... 97

CHAPTER 3: ASYLUM, WITHHOLDING OF REMOVAL, AND PROTECTION UNDER THE UNITED NATIONS CONVENTION AGAINST TORTURE

3.1 GENERAL CONSIDERATIONS..... 99
3.101 Introduction and Definitions. 99
3.102 Social Considerations Regarding Asylum and CAT Law..... 101
3.103 Historical Background on Conditions in Central America Causing the Current Refugee Crisis. 102

3.2 THE FEAR INTERVIEW AND ASYLUM PROCESSES 105
3.201 Fear Interview Process..... 105
3.202 Asylum Process..... 106

CHAPTER 4: OBTAINING PERMANENT RESIDENCE STATUS

4.1 GENERAL CONSIDERATIONS..... 109
4.101 Introduction. 109
4.102 Numerical Limits or Quotas. 109
4.103 Procedure: Consular Processing Abroad Versus Adjustment of Status in the United States..... 110
4.104 Rescission..... 114
4.105 Related Applications and Consequences..... 114

4.2 FAMILY-BASED IMMIGRATION..... 115
4.201 In General. 115
4.202 Family-Based Preference Categories. 115

4.3 ALIENS NOT SUBJECT TO PREFERENCE SYSTEM 117
4.301 Immediate Family. 117
4.302 Special Immigrants. 118

TABLE OF CONTENTS

4.4	MORE ABOUT CONDITIONAL PERMANENT RESIDENCE AND MARRIAGE FRAUD	119
4.401	Procedures.	119
4.402	Marriage During Removal Proceedings.	121
4.403	Removal for Termination of Conditional Permanent Residence.	121
4.404	Penalties for Marriage Fraud.	121
4.5	DIVERSITY-BASED IMMIGRATION	121
4.501	In General.	121
4.502	Procedures.	122
4.6	EMPLOYMENT-BASED IMMIGRATION.	123
4.601	The Labor Certification Process.	123
4.602	The Employment Preferences.	127
4.7	SPECIAL IMMIGRANT JUVENILE STATUS (SIJS)	140
4.701	Definition and Background.	140
4.702	Requirements.	141
4.703	Procedure for Filing.	142
4.8	VIOLENCE AGAINST WOMEN ACT (VAWA) SELF-PETITION ADJUSTMENT.	143
4.801	Definition and Background.	143
4.802	Filing Procedure.	143
4.803	Safety Planning.	144
4.9	LOSING PERMANENT RESIDENT STATUS.	144
 CHAPTER 5: CITIZENSHIP AND NATURALIZATION		
5.1	INTRODUCTION	147
5.101	In General.	147
5.102	Principles Governing Citizenship.	147
5.2	CITIZENSHIP BASED ON PLACE OF BIRTH	148
5.3	CITIZENSHIP ACQUIRED THROUGH PARENTS	149
5.4	DOCUMENTARY PROOF OF UNITED STATES CITIZENSHIP... ..	151

TABLE OF CONTENTS

5.5 CITIZENSHIP ACQUIRED THROUGH NATURALIZATION..... 151
5.501 Eligibility Requirements..... 151
5.502 The Application Process..... 153

**CHAPTER 6: GROUNDS OF INADMISSIBILITY
AND DEPORTATION**

6.1 INTRODUCTION..... 157
6.101 In General..... 157
6.102 Distinctions Between Deportation, Exclusion, and
Removal..... 157
6.2 INADMISSIBILITY..... 158
6.201 Inspection and Admission or Removal Procedures..... 158
6.202 Grounds for Inadmissibility..... 159
6.3 GROUNDS OF DEPORTATION..... 163
6.4 CRIMINAL GROUNDS OF INADMISSIBILITY AND
DEPORTABILITY..... 164
6.401 Immigration Consequences of Crimes..... 164
6.402 A Lawyer’s Duty to Determine Immigration Status..... 165
6.403 Addressing the Client’s Goals..... 166
6.404 Definition of a Criminal Conviction for Immigration
Purposes..... 168
6.405 Determining If a Crime Has an Immigration
Consequence: The Categorical Analysis..... 170
6.406 Grounds of Deportability..... 176
6.407 Crime Involving Moral Turpitude (CIMT)..... 181
6.408 Controlled Substance Violations..... 184
6.409 Miscellaneous Other Offenses..... 186
6.410 Common Criminal Charges and Strategies..... 187
6.411 Changes in Enforcement Priorities..... 189

**CHAPTER 7: DETENTION, REMOVAL PROCEEDINGS,
AND WAIVERS**

7.1 HOW ALIENS COME INTO CUSTODY OF IMMIGRATION
AND CUSTOMS ENFORCEMENT (ICE)..... 191
7.2 IMMIGRATION COURT REDETERMINATION OF BOND..... 197

TABLE OF CONTENTS

7.3	REMOVAL PROCEEDINGS	200
7.301	Burdens of Proof.....	201
7.302	Appeals and Motions to Reopen and Reconsider.....	202
7.303	Relief from Removal and Grounds of Inadmissibility.....	202
7.304	Asylum and Withholding of Removal.	210
7.305	Temporary Protected Status (TPS).....	211
7.306	Adjustment of Status and Other Miscellaneous Relief.....	212
7.4	PRACTICE TIPS.....	214

CHAPTER 8: EMPLOYER SANCTIONS

8.1	INTRODUCTION	217
8.2	SECTION 274A VIOLATIONS AND RESULTING PENALTIES.....	217
8.201	Definitions and Limitations on Applicability.	217
8.202	Paperwork Violations.....	218
8.203	Knowing Hire Violations.	218
8.204	Penalties.	219
8.3	FORM I-9 AND THE EMPLOYER'S OBLIGATIONS	221
8.301	In General.....	221
8.302	Authorized Documents.	222
8.4	SPECIAL CONSIDERATIONS	224
8.401	Questionable Documents: USCIS Notification of Possible Unauthorized Aliens.	224
8.402	Incorrect Social Security Numbers.	225
8.403	Pending Labor Certification.	225
8.5	REVERIFICATION	226
8.6	RETENTION OF FORM I-9 RECORDS	227
8.601	In General.....	227
8.602	Rehired Employees.	227
8.7	PROCEDURES: CHRONOLOGY OF AN INVESTIGATION AND HEARING	227
8.701	Investigation.....	227
8.702	Notice of Inspection.....	227
8.703	Search of Premises.....	228

TABLE OF CONTENTS

8.704	Hearing.	228	
8.705	Statute of Limitations.	229	
8.706	Review.	229	
8.8	DEFENSES AND MITIGATION	229	
8.801	Good Faith.	229	
8.802	Technical Violations.	229	
8.803	Mitigation of Fines.	230	
 CHAPTER 9: UNFAIR EMPLOYMENT PRACTICES			
9.1	INTRODUCTION.....	231	
9.2	PROHIBITED CONDUCT	231	
9.3	PERSONS PROTECTED.....	232	
9.4	EMPLOYERS WHO ARE LIABLE.....	233	
9.5	DISCRIMINATION BASED ON NATIONAL ORIGIN.....	233	
9.501	Discrimination Under Title VII and IRCA.	233	
9.502	Conflicts Between E-Visa Treaties and Anti- discrimination Laws.....	233	
9.503	Bona Fide Occupational Qualification Defenses.	234	
9.6	DISCRIMINATION BASED ON CITIZENSHIP STATUS	235	
9.601	In General.	235	
9.602	Exceptions for Equally Qualified Applicants.....	235	
9.603	Exceptions for Business Necessity.	235	
9.7	ELEMENTS OF A COMPLAINT AND CHRONOLOGY OF HEARING.....	236	
9.8	PENALTIES.....	237	
 APPENDIX A: BASIC IMMIGRATION DEFINITIONS			239
 APPENDIX B: AGENCY CONTACT INFORMATION			241
 TABLE OF AUTHORITIES			247
 INDEX			I-1

CHAPTER 5

CITIZENSHIP AND NATURALIZATION

5.1 INTRODUCTION

5.101 In General. The Fourteenth Amendment to the Constitution states, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.” For personal as well as corporate strategic reasons, foreign personnel immigrating to the United States are often concerned about obtaining United States citizenship. Many employment opportunities with the United States government are available only to citizens. There are also a wide variety of business opportunities that, under the umbrella of national security, are not available to permanent residents. Frequently these opportunities involve the defense industry and classified high-tech research. However, one of the most important reasons to be a citizen is protection against removal from the United States, especially since immigration laws change all the time and there is no prohibition on ex post facto laws. Now, more than ever, becoming a U.S. citizen is a very important consideration; United States Citizenship and Immigration Services (USCIS) has been so flooded with applications that at the end of 2019 there were 750,000 pending applications for naturalization.

5.102 Principles Governing Citizenship. The common law rule known as *jus soli* states that a person’s citizenship is determined by the country of birth. As discussed below, the United States generally adheres to this rule today. Most civil law countries base citizenship upon the theory of *jus sanguinis*, by which a person’s citizenship at birth is determined by the citizenship of the parents. In certain circumstances, the United States also adheres to this rule. In fact, the first step in analyzing any immigration case is to determine whether the client may already be a United States citizen as a result of the citizenship of his or her parents or grandparents. It is only after this determination that the need for nonimmigrant and immigrant visa planning becomes necessary.

There are other ways by which an individual can become a United States citizen. Those who were not deemed citizens at birth may petition for “naturalization” if they meet the residency, language, and good moral character requirements discussed below.

5.2 CITIZENSHIP BASED ON PLACE OF BIRTH

The following individuals are nationals and citizens of the United States at birth:¹

1. A person born in the United States and subject to its jurisdiction;²
2. A person born of an American aboriginal tribe;³
3. A person of unknown parentage found in the United States while under five years of age, unless it is shown before the person's 21st birthday that he or she was not born in the United States;⁴
4. A person born in Puerto Rico on or after April 11, 1899;⁵
5. A person born in the Canal Zone on or after February 26, 1904, whose father or mother was a United States citizen at the time of the person's birth;⁶
6. A person born in the Republic of Panama on or after February 26, 1904, whose father or mother was at the time of the person's birth a United States citizen who

¹ Some of these provisions, such as those pertaining to Puerto Rico, Alaska, Hawaii, the Virgin Islands, the Panama Canal, and Guam, have date restrictions dependent upon when the areas became subject to the jurisdiction of the United States. Refer to the relevant section of the Immigration and Nationality Act (INA) for further details.

² INA § 301. Because accredited diplomats and their families are not considered subject to the jurisdiction of the United States, children born in the United States to those diplomats do not acquire United States citizenship at birth. 8 C.F.R. § 101.3(a)(1). These children may, however, be considered lawful permanent residents. *Id.*

³ INA § 301(b).

⁴ INA § 301(f).

⁵ INA § 302.

⁶ INA § 303.

was employed by the United States government or the Panama Railroad Company, or its successor in title;⁷

7. A person living in and born in the Virgin Islands;⁸ and
8. A person living in and born in Guam.⁹

5.3 CITIZENSHIP ACQUIRED THROUGH PARENTS

Individuals who are not citizens based on their place of birth may still acquire citizenship through their parents. The following is a brief overview of possible methods of acquiring citizenship based on the citizenship of one's parents. Due to various changes in the law, extensive research often needs to be done to determine whether citizenship was in fact transmitted, depending on the status of the law at the time of the person's birth.

Individuals who were born outside of the United States and its outlying possessions are United States citizens at birth if they fall into any of the following categories:¹⁰

1. A person whose parents are both United States citizens, one of whom has had a residence in the United States or its outlying possessions before the person's birth;¹¹
2. A person who has one parent who is a national of the United States and one parent who is a United States citizen who has been physically present in the United States or its outlying possessions continuously for one year at any time before the person's birth;¹² and

⁷ *Id.*

⁸ INA § 306.

⁹ INA § 307.

¹⁰ These provisions regarding citizenship based on the citizenship or nationality of a person's parents also apply in certain circumstances to children born out of wedlock. *See* INA § 309.

¹¹ INA § 301(c).

¹² INA § 301(d).

3. A person born in a United States territory, not one of the fifty states, one of whose parents is a United States citizen who has been physically present in the United States or its territories for a continuous period of one year before the person's birth.¹³
4. A person with one alien parent and one United States citizen parent who, before the person's birth, was physically present in the United States or its outlying possessions for an aggregate of five years, at least two of which were after the United States citizen parent reached 14 years of age.¹⁴ Under the Child Citizenship Act of 2000, those children automatically acquire United States citizenship upon their entrance to the United States as permanent residents even if a parent did not meet the physical presence requirement or became a United States citizen after the child's birth.

The Child Citizenship Act of 2000 permits foreign-born children, including adopted children, to acquire citizenship automatically if they meet the following requirements:

1. At least one parent must be a United States citizen;
2. The child must be under 18 years of age;
3. The child must be residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence; and
4. An adopted child must meet all of the requirements to qualify as an "adopted" or "orphan" child.¹⁵

¹³ INA § 301(e).

¹⁴ INA § 301(g).

¹⁵ INA § 320.

Most foreign-born children adopted by United States citizens automatically acquire United States citizenship on the date they immigrate to the United States.¹⁶

5.4 DOCUMENTARY PROOF OF UNITED STATES CITIZENSHIP

For individuals who qualify under the above circumstances, official determinations of United States citizenship are made either through passport applications to the Department of State or applications for a certificate of citizenship to the USCIS on Form N-600. If the Department of State issues the passport, generally based on a United States birth certificate, the passport becomes conclusive evidence of United States citizenship and cannot be attacked collaterally in administrative proceedings.¹⁷ Adjudication of passport applications can take from a few days to several months, depending on the nature of the case. At some USCIS offices, N-600 applications can take years to be adjudicated. Passport applications do not always involve personal interviews, whereas N-600 applications do, thus affecting procedural decisions where witness credibility could be important in winning the case.

5.5 CITIZENSHIP ACQUIRED THROUGH NATURALIZATION

5.501 Eligibility Requirements. Individuals who do not qualify under any of the above provisions may still petition for judicial naturalization if they meet the following requirements:

1. An applicant for naturalization must be at least 18 years old at the time of filing the application;¹⁸
2. The applicant must demonstrate the ability to read, write, and speak words ordinarily used in English;¹⁹

¹⁶ Title I of the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631.

¹⁷ 22 U.S.C. § 2705; *Matter of Villanueva*, 19 I&N Dec. 101 (BIA 1984).

¹⁸ INA § 334(b).

¹⁹ INA § 312(a)(1). This requirement does not apply to a person unable to speak English because of a physical or developmental disability; a person who, as of the date of filing the petition, is over 50 years of age and has been living in the United States as a lawful permanent resident for at least 20 years; or one who, as of the date of filing the petition, is over 55 years of age and has been living in the United States as a lawful permanent resident for at least 15 years. INA § 312(b).

3. The applicant must demonstrate his or her knowledge and understanding of United States history and government;²⁰
4. The applicant must have resided continuously in the United States as a lawful permanent resident for at least five years immediately preceding the date of filing his or her application for naturalization and must have been physically present for at least half of that time.²¹ Applicants who are spouses of United States citizens must have resided within the United States for at least three years in lawful permanent resident status (during half of which time the applicant spouse was physically present in the United States) and during the three years immediately preceding the date of filing his or her application must have been living in marital union with the citizen spouse.²² The citizen spouse must have been a citizen during this entire three-year period;²³
5. The applicant must have resided for at least three months within the state or USCIS district where he or she filed the application;²⁴
6. The applicant must reside continuously within the United States from the date of filing the application until he or she is admitted as a citizen;²⁵

²⁰ INA § 312(a)(2). The government may, in its discretion, waive this requirement for persons who are over 65 years of age and have been living in the United States in lawful permanent resident status for at least 20 years. INA § 312(b)(3).

²¹ INA § 316(a). Absences of more than six months presumptively break continuity of residence for citizenship purposes, but this can be overcome by evidence of not having abandoned the person's United States residence. INA § 316(b). Absences of one year or more definitely break continuity of residence except in the case of certain employment abroad by United States government offices and United States corporations. *Id.*

²² INA § 319(a).

²³ *Id.*

²⁴ INA § 316(a)(1).

²⁵ *Id.*