



VisaPro Launches Visa Assessment
Find out in **3 simple steps** if you qualify for a US visa!
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FROM THE EDITOR'S DESK

We want to start this month's editorial page off with an emotional issue: immigration benefits for alien victims of crime. The U.S. Citizenship and Immigration Services (USCIS) announced that it has published an interim rule that grants temporary immigration benefits to certain victims of crimes who have or will assist government officials in investigating and/or prosecuting the criminal activity. USCIS is inviting public comments on the proposed rule published recently in the Federal Register. The USCIS has noted that it is determined to better meet the immigration needs of victims of crime whose lives have, as often as not, been torn apart and are riddled by fright, anger and despair.

The interim final rule establishes procedures for applicants seeking U nonimmigrant status and will take effect 30 days after publication in the Federal Register. The "U" classification was created by Congress in the Victims of Trafficking and Violence Protection Act and offers not only protection and temporary benefits to alien victims but also strengthens law enforcement capabilities to investigate and prosecute criminal activity. In sum, [U-visas](#) will provide temporary immigration benefits to victims who help law enforcement. Providing assistance to foreign nationals affected by crime to reconstruct their lives, by providing more effective support and acting strongly against the criminals is an immediate concern for all government agencies in the U.S. This step by the USCIS gives that intention a much needed boost forward.

On the Congressional front, Senators Orrin Hatch (R-UT) and Richard Durbin (D-IL) reintroduced the DREAM Act in the Senate earlier this month. The DREAM Act would provide certain foreign nationals (illegal immigrants under 30 who came to the United States before they were 16, have lived here for at

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YOUR OPINION

Will the members of the Congress agree with the views put forth by the Governors on increasing the availability of temporary H1-B visas and permanent resident visas?

- a. Yes

least five years, graduated from a U.S. high school and stayed out of trouble) to attend college and/or join the military as a route to permanent residence. We will provide more details as the bill makes its way through the Senate and we can see what the final form may be.

We would like you to have a look at our **Immigration Article** on the Nonimmigrant visa options for Professors and Researchers who would want to work in the U.S. In this first of a two-part series, we present the non-immigrant options, and will address the immigrant options next month. Don't miss out on the second part of the series on obtaining permanent residency with and without a U.S. employer.

Next, turning to the business front, it is 'Increase H-1B cap mania' all over again. We see this every year in an attempt to change the H-1B laws. Top technology executives and lobbyists will be more than happy with the amount of support they have been able to garner regarding an increase in the H-1B cap. California Governor Arnold Schwarzenegger joined Governors from 12 other states in sending a letter to the leaders of the U.S. Senate and House of Representatives urging Congressional action this year on immigration reform that recognizes states' needs to remain competitive in a global economy. It stresses the need for increased availability of temporary [H-1B](#) visas and permanent resident visas ([green cards](#)). The letter from the Governors comes in the wake of the nation facing a critical shortage of highly skilled professionals, and the paramount importance of protecting and preserving the safety and interests of the United States and its citizens while recognizing the states' and nation's economic needs.

Although the civil war in Liberia ended some time ago, and conditions have improved such that over two hundred thousand displaced people and refugees have returned to their homes, the political and economic situation continues to be fragile. President George W. Bush issued a Memorandum directing the Secretary of Homeland Security, Michael Chertoff, to defer the enforced departure for 18 months, until March 31, 2009, of any qualified Liberian national (or person without nationality who last habitually resided in Liberia) who is currently present in the United States. To qualify a Liberian national must be under a grant of [Temporary Protected Status](#) (TPS) as of September 30, 2007. The President also directed that the Department of Homeland Security (DHS) take steps to implement continued employment authorization for these individuals during the 18-month DED period.

Now for a bit of history. Today, every American contributes to the legacy of liberty, and all Americans are grateful for the bravery, passion, and sacrifice of all those who have helped preserve and uphold the principles of a free society. Citizenship Day is an opportunity for all Americans to reflect on the meaning and significance of their citizenship. Citizenship Day has been celebrated in some form since 1940, when Congress designated the third Sunday in May as "I Am

- b. No
- c. Can't say

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IMMIGRATION QUIZ

Win a FREE Online Consultation!

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of October 2007.

I am here in the US on [O-1](#) Status. I got a job offer from another employer; can I work for more than one employer on O-1 status? Can I invite my spouse to the US as my dependant? Are there any travel restrictions for an O-1 visa holder who wants to go to his home country?

[Submit Your Answer](#)

Immigration Issue?

Consult Our Experienced Attorneys

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Winner of the Immigration Quiz - August 2007:

Jennifer Smith

an American Day." The week of September 17 was selected as Constitution Week to commemorate the events of September 17, 1787 when the United States Constitution was signed by 39 delegates from 12 states at the Constitutional Convention in Philadelphia, Pennsylvania, thus setting in motion the birth of a new nation. Citizenship Day itself has its roots in President Woodrow Wilson's efforts in 1915, where as part of what he called National Americanization Day, the President himself, cabinet members, administration officials as well as prominent public figures such as Supreme Court Justice Louis Brandeis, gave speeches at naturalization ceremonies throughout the nation. Later in 1952, President Harry Truman signed a bill formalizing the celebration of Citizenship Day on September 17.

In keeping with tradition, in our **IN FOCUS** section this month we educate you about Adjustment of Status and Consular Processing options. The relative advantages and disadvantages discussed should help permanent residence applicants make an informed judgment regarding whether to go for Consular Processing or Adjustment of Status.

More than 23,000 men and women across the country will become United States citizens next week during naturalization ceremonies hosted by U.S. Citizenship and Immigration Services (USCIS) to commemorate Citizenship Day and Constitution Week. These are happy moments that will be cherished for the rest of their lives.

Adding further to our endeavors in bringing one-stop global immigration service to all our readers, VisaPro is launching its First South American Immigration Service. Groove on to the lively Samba beat in Brazil by taking the advantage of VisaPro's fast, easy, and convenient immigration services for Brazil.



Congratulations go to **Jennifer Smith** for winning last month's **Immigration Quiz**. Answers to the quiz indicated that many of our readers are confused by the complexity the immigration laws on whether or not a naturalized U.S. citizen

would be able to sponsor his step-brother for a green card. However, the winner gave the right answer and she won a free online consultation to discuss her Immigration issues. This month we have an interesting question for you to express Your Opinion. So don't miss casting your vote.

Don't forget to add our address Immigration-Monitor@VisaPro.com to the list of your contacts so that you see the Immigration Monitor in your email Inbox every month and you will not miss the latest immigration activity.

See you next month with a lot more noise from the Immigration World! Till then CIAO!!

Christine

The Question:

I am a naturalized U.S. citizen. Will I be able to sponsor my step-brother for a green card?

The Winning Response:

You cannot file the Green Card petition for your step brother as he is not your immediate relative. Your mother or father, whosoever is a US Citizen can file the petition for him. Another alternative for your brother is to come to the U.S. on a Non-Immigrant Visa.

Jennifer Smith receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of May 2007.

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RECENT IMMIGRATION EVENTS



VisaPro Attorney
Mr. Thomas Joy
with Delhi Attendees



Consular Interview
Mock Session



Seminar Attendees
at Bangalore

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LATEST NEWS

[23,000 New Citizens during Constitution Week](#)

More than 23,000 men and women across the country will become United States citizens next week during naturalization ceremonies hosted by U.S. Citizenship and Immigration Services (USCIS) to commemorate Citizenship Day and Constitution Week.

[Governors Push for Immigration Reform to Protect Skilled Workforce](#)

The debate on building a highly skilled and competitive workforce for increasing opportunities in high-tech jobs took a new turn when Governor Arnold Schwarzenegger, joined by Governors from 12 other states, today sent the following letter to the leaders of the U.S. Senate and House of Representatives urging Congressional action this year on immigration reform that recognizes states' needs to remain competitive in a global economy.

[H-2B Cap Reached for First Half of FY2008](#)

The U.S. Citizenship and Immigration Services (USCIS) announced today that it has received a sufficient number of petitions to reach the congressionally mandated H-2B cap for the first half of Fiscal Year 2008 (FY2008). USCIS has notified the public that September 27, 2007 is the "final receipt date" for new H-2B worker petitions requesting employment start dates prior to April 1, 2008.

[Read More News](#)

IN FOCUS



Adjustment of Status vs. Consular Processing

Permanent residence (Green Card) status is conferred either through issuance of an immigrant visa (IV) by an American consular post abroad or through approval of an 'adjustment of status' application (Form I-485) by the USCIS in the U.S. For those present in the U.S. both alternatives may be available. Foreign nationals going through the permanent residence process often find themselves trying to figure out which of the two alternatives is better for their case. This summary is for those applicants who have a choice.

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IMMIGRATION ARTICLE XML

Professors and Researchers: J-1, H-1B, O-1, TN Nonimmigrant Visa Options

It is well known that constant advances in a field of research depends on an incessant flow of well-trained, capable, and motivated people into the field. The influx of foreign professors and researchers into the U.S. has always assisted in furthering the cause of science and technology, with an added premium of universal welfare.

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PROCESSING TIMES XML

▶ [Visa Bulletin](#)

▶ [USCIS Processing Times](#)

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DISCUSSION CORNER

[Interview for O1 in 4 weeks](#)

By markh

[L1 to H1 transfer](#)

By Sam

[Green card is possible for my daughter?](#)

By Sola

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QUESTIONS AND ANSWERS

1. **I am a Permanent resident in US. My spouse is in her home country. I've been diagnosed with a medical problem that requires surgery and 2 weeks of rest after that. I would like my wife to come to US on a visitor visa to visit me. What are the options for her to come to meet me in the US?**

In order to obtain a [B-2](#) tourist visa, your wife will need to apply to the US consulate in her home country. She will need to prove to the consular officer that her purpose in coming to the US is to visit you for a short period of time. A letter from your doctor requesting her presence would be very helpful. She will also need to show that she has the financial ability to support herself while in the US, without working and without welfare. An affidavit of support from you showing your financial ability may be necessary. Finally, she will need to prove that she has a residence in her home country that she has no intention of abandoning. Usually, the most difficult issue is to show her nonimmigrant intent. This may be more difficult since you

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in every issue.

Note: Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

as a lawful permanent resident of the

[Ask Your Question](#)

US, especially if you have already filed an [I-130](#) immigrant visa petition on her behalf to start the green card process. Alternatively, if your wife is unable to get a visitor visa you may be able to file for humanitarian parole for her to come to the US to visit you. You should talk with a local immigration attorney or counselor to assist you with these options.

2. **I am a citizen of Canada and I have a job offer to work at an Elementary school in US. What are the options for me if I am looking for [TN Visa](#)?**

The TN visa is a nonimmigrant visa for professionals who are eligible under the North American Free Trade Agreement (NAFTA). In addition to being a citizen of Canada, you must be seeking employment in a professional occupation and, the occupation must be listed on the [NAFTA](#) list. You also must possess the specific criteria for that profession; the prospective position must require someone in that professional capacity and the company offering the position must be a US company.

Teaching in a primary or secondary school is not one of the professions listed on the NAFTA list (only college/university or seminary teachers) and thus a TN visa is not available to you. However, teaching is a 'specialty occupation' and you could apply for an [H-1B](#) visa. Before applying you would have to determine if the cap has been reached for this year. One final option might be to seek a teaching position in states through a [J-1](#) sponsor program.

[More Q&A](#)

SUCCESS STORIES

[E-2](#) to Permanent Residence – How to Get Your Green Card Through Investment

Let me set the stage.

We got a call for a consultation from Mr. Investor. He had a rather long and involved story to tell and needed some help to get his US immigration status straightened out. It seems that he had been investing in the US for over 10 years and owned several rental properties that made a good living for him and his family. He initially obtained an [E-2](#), nonimmigrant treaty investor visa, at the US Consulate in London and moved with his family to the US to manage his investments. He had come to the US about 3 years before he contacted us. When it came time to extend his visa he contacted who he thought, based on their advertising, were immigration specialists for assistance. He was quickly told that he did not qualify for an E-2 visa (even though he was in the US on an E-2 at the time) and that if he wanted to stay he would have to switch to another visa category. The "Immigration Advisors" (it turned out that they were not even attorneys) suggested that he either go to work for someone else and get an [H-1B](#), or purchase a business in the US that he could then use as a basis for an [L-1](#) visa as a multinational manager.

Mr. Investor told the Immigration Advisors that he had a friend who owned an oil change business that would be willing to hire him as a manager. The Advisors said this would be a great position and that they could get him an H-1B through it even though the position only required a high school diploma and some experience. After several months of trying to get things done with these Advisors Mr. Investor finally called us to get another opinion.

By the time he called us, Mr. Investor and his wife were out of status, and had been for several months. He was getting desperate and didn't know where to turn. We started with a review of his immigration history in the US, as well as looking at his

assets. After reviewing his situation with him, and looking at his investment in the US, we told him that the E-2 visa was the correct visa – he did not have to go through all kinds of gyrations just to be able to stay in the US.

What VisaPro did for Mr. Investor.

After our initial consultation Mr. Investor sent us what copies he had from his previous E visa filings, as well as balance sheets, copies of purchase documents and tax documents. We put together a complete E visa package showing that he had invested well over \$500,000 in the US by that time, and that he was actively involved in the management of his investment.

Now we had to deal with the fact that Mr. Investor and his wife were out of status. Thankfully, he had saved copies of all his emails and correspondence with the Immigration Advisors which he forwarded to us. We were able to show a pattern of deception by the Advisors and reliance by Mr. Investor that showed that Mr. Investor had been doing everything that the Advisors had asked of him. The documentation also showed that the Advisors clearly did not know what they were doing, either from an immigration standpoint or a business standpoint.

Because of the serious nature of what we needed – to get Mr. Investor and his wife back into status so they would not be subject to the 3 year bar – we spent as much time preparing this section of the submission as we did the actual application. **Using 8 C.F.R. § 248.1(b) we argued that but for Mr. Investor's reliance on the supposed Immigration Advisors he would have timely filed his request to extend his E status.** Pointing to several pieces of correspondence we were also able to show that Mr. Investor had begun to question the practices of the Advisors, asking whether what they wanted to do was even legal (if it wasn't outright fraudulent it bordered on fraud).

The outcome.

With the package complete we sent it off to the USCIS hoping for the best. After waiting for several weeks, and expecting the worst, we got a great surprise in the mail. The E visa status extension request was granted. The USCIS adjudicating officer had agreed with us that the Immigration Advisors had led Mr. Investor down a rosy path only to abandon him. As for the Immigration Advisors, they disappeared after we contacted them on Mr. Investor's behalf requesting a refund.

The next step – Permanent Residence.

While we were working on the E-2 extension Mr. Investor had been busy looking at additional investments in the US. Shortly after filing the extension request he bought a 450+ acre cattle ranch, and several months later another 210 acre farm just down the road from the ranch. About a year later he bought another piece of land not far from Branson, MO and started developing a restaurant and lounge with a stage that could be used for overflow acts from Branson and the Grand Ole' Opry. *With these new investments Mr. Investor's cumulative investment in the US was now about \$1.2 million, allowing him to meet the threshold to apply for permanent residence as an immigrant investor (EB-5): investment of \$1 million dollars (or \$500,000 in a rural area) and the creation of at least 10 new jobs for US workers).* We are hoping that he and his family will soon be getting the green card.

Conclusion

Through creative thinking we were able to assist Mr. Investor to get his E-2 status extended even though he was out of status when we started the process. We were also able to get one daughter into a valid status that allowed her to remain in the US, and gave his other daughter ideas on positions that will allow her to eventually rejoin the family here in the US.

While we were working with Mr. Investor we found out that his daughter who had come to the US with him as an E-2 dependant was now over 21 and married. Because she no longer qualified as an E-2 dependent we had to look for other options

for her to be able to stay in the US with her family. Unfortunately, she was involved in a bad marriage, and he had refused to file a relative petition for her. On top of that he had become abusive and through all the contacts with the police Mr. Investor's daughter had ended up being charged with abuse herself. Working with the daughter's criminal defense attorney we worked out a strategy that would not adversely affect her immigration status. We then programmed to file a petition for her under the Violence Against Women Act based on the abuse.

We also looked at options for Mr. Investor's oldest daughter to be able to join the family in the US. Based on her work experience in early childhood education and health care we determined that she would qualify for an H-1B gave her ideas of what types of jobs to pursue. Once she finds the right position we will be able to assist her to come join the rest of the family.

The outcome is clearly dependent on handling the facts of the case creatively, and as demonstrated here, can be successful even when the applicant has been out of status for a lengthy period of time.

Our lawyers have the experience to review and analyze difficult cases and formulate strategies for success. We would be happy to review your case and discuss your options.

We cover the latest happenings on work visas in **Immigration Monitor**, our monthly newsletter. [Click here](#) to subscribe to Immigration Monitor.

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