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Practices: 移民法

LAKEN RILEY ACT IS FIRST IMMIGRATION LAW ENACTED BY NEW ADMINISTRATION

The Laken Riley Act is the first immigration-related law which has been enacted since the inauguration of President Trump on January 20, 2025. The Act is named after Georgia resident Laken Riley who was murdered by an undocumented immigrant previously arrested for another offense but was released pending his court hearing.

Among other things, the law requires the Department of Homeland Security (DHS) to detain non-U.S. citizens who are charged with or convicted of theft-related crimes (including burglary, larceny and shoplifting), assaulting a police officer, or a crime that results in death or serious bodily injury (including but not limited to injuries occurring as part of a driving under the influence (DUI) offense). The law does not require a conviction for any of these offenses. The Act would also allow states to sue the DHS for alleged failures in immigration enforcement.

The law also prohibits the U.S. Secretary of State from granting visas to citizens of countries that refuse to accept the return of nationals deported from the United States. Currently, this may include nationals from Russia, India, Nicaragua, Honduras, Brazil, Iran, Iraq, Pakistan, Laos, Cambodia, DRC, Ethiopia, Yemen, Ukraine, and Eritrea. The law also grants standing in federal court to State Attorney Generals to sue the U.S. Department of State (DOS) for a violation of this requirement and to force the DOS to implement the requirement.

EXTENSION OF TEMPORARY PROTECTED STATUS FOR CERTAIN NATIONALITIES

During the last month of President Biden's term of office, one of the actions he took was to extend Temporary Protected Status (TPS) for a number of countries.

Under the Immigration and Nationality Act (INA), the Secretary of DHS has the power to designate countries whose nationals become eligible for TPS in the United States. Such designation may be considered due to an armed conflict in the country which would threaten the safety of its nationals; a national or environmental disaster or epidemic in the country and the country has requested the TPS designation for its nationals; or the DHS Secretary determines there are extraordinary and temporary conditions in the country preventing safe return by its nationals.

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Current countries designated for TPS include: Afghanistan; Burma (Myanmar); Cameroon; El Salvador; Ethiopia; Haiti; Honduras; Lebanon; Nepal; Nicaragua; Somalia; South Sudan; Sudan; Syria; Ukraine; Venezuela; and Yemen.

Once a country has been designated for this protection, during TPS period its nationals who are present in the United States may not be detained or deported for an immigration violation. Additionally, TPS designees are eligible to apply for employment authorization and permission to return to the United States from international travel, if not having a valid visa, with a valid TPS parole travel document.

TPS itself does not create a pathway to a Green Card or U.S. citizenship. Currently, under USCIS policy, an individual who has been granted permission to return to the United States using a TPS parole travel authorization document will be considered "inspected and admitted" making them eligible to complete the adjustment of status process in the United States if they have a legal basis, such as family or employer sponsorship, to apply for permanent residency.

Although President Biden extended TPS for certain countries, the new Trump administration may attempt to reverse the extensions. The new administration has already indicated that it will not be extending TPS for nationals from Venezuela, even though President Biden already extended their TPS status. If the Trump administration attempts to withdraw already designated countries, nationals of those countries may sue the administration to prevent the withdrawal.

Additional information about changes to the TPS program and the countries designated for TPS will be contained in future Masuda Funai Business Immigration Monthly newsletters when it becomes available.

COVID-19 VACCINATION NO LONGER REQUIRED FOR ADJUSTMENT OF STATUS TO PERMANENT RESIDENCE

On January 22nd, U.S. Citizenship and Immigration Services (USCIS) announced that it is waiving the requirement that applicants for adjustment of status to permanent residence provide evidence that they have received the vaccine against COVID-19.

As part of the process of applying for permanent residence through adjustment of status, applicants are required to submit a medical exam (Form I-693) completed by a Designated Civil Surgeon of USCIS. The medical exam must indicate whether the applicant has received all the required vaccinations as determined by the Department of Health and Human Services (HHS)/Centers for Disease Control and Prevention (CDC).

Previously, failure to comply with all the required vaccinations, which included the COVID-19 vaccine, would result in the applicant being found inadmissible to the United States and ineligible for an immigrant visa unless the applicant is eligible to apply for a waiver of the requirement. The waiver of the vaccination requirement was generally only available in limited circumstances.

The notice indicates that, as of January 22nd, USCIS will not deny any adjustment of status application based on the applicant's failure to present documentation that he/she received the COVID-19 vaccination.

FEBRUARY 2025 VISA BULLETIN UPDATE

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The DOS recently issued the February 2025 Visa Bulletin. During February 2025, the following foreign nationals approved in an *employment-based* immigrant classification become eligible to apply for permanent resident status through adjustment of status ("AOS"). USCIS advised that is using the "Final Action" date chart (instead of the Filing date chart) to determine eligibility for filing applications for adjustment of status in February.

Noncitizens eligible to concurrently file for an *employment-based* immigrant classification or who have been approved for an *employment-based* immigrant classification can apply for permanent resident status through adjustment of status ("AOS"), or who either have their AOS application pending or who will complete the Immigrant Visa processing at a U.S. Consular Post become eligible to have their AOS application approved or their interview scheduled in February 2025.

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **November 8, 2022**, no change since October 2024.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **February 1, 2022**, no change since October 2024.

Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **April 1, 2023**, no change since January 2025.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **April 22, 2020**, no change since January 2025.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **October 15, 2012**, an advancement of 15 days.

Third Preference

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- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **December 1, 2022**, no change since January 2025.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **July 1, 2020**, an advancement of 30 days.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **December 15, 2012**, an advancement of 14 days.

The DOS, which manages the Visa Bulletin, notes its intention to keep visa issuance within quarterly limits in accordance with the provisions of the INA.

MASUDA FUNAI NEWS

NUMEROUS ATTORNEYS IN MASUDA FUNAI'S IMMIGRATION GROUP RECOGNIZED NATIONALLY FOR THEIR EXCELLENCE IN THE FIELD OF BUSINESS IMMIGRATION LAW

Six attorneys in the Masuda Funai Immigration Group have been selected as *Leading Lawyers* by the Leading Lawyers Network. *Leading Lawyers* is a division of Law Bulletin Media. The *Leading Lawyers* designation is limited to less than 5% of lawyers licensed in each state, based on peer recommendations. The six attorneys include Bryan Funai, Kathleen Gaber, Eldon Kakuda, Derek Strain, Fazila Vaid and Bob White.

Three attorneys in the Masuda Funai Immigration Group were also selected as Super Lawyers by the *Super Lawyers* publication. *Super Lawyers*, a Thomson Reuters business, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high-degree of peer recognition and professional achievement. Similar to *Leading Lawyers*, *The Super Lawyers* selection is limited to only 5% of lawyers licensed in every state. The three attorneys include Bryan Funai, Fazila Vaid and Bob White.

Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.

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