



IMMIGRATION



No matter your immigration status, as a non-citizen, you could face various unique challenges due to your criminal record. In this chapter, you will learn more about preparing to navigate through the reentry process in a way that can help protect you and your family from deportation and other immigration consequences.

DISCLAIMER - YOUR RESPONSIBILITY WHEN USING THIS GUIDE: When putting together the *Roadmap to Reentry: A South Carolina Legal Guide*, we did our best to give you valuable and accurate information because we know that people who are currently or formerly incarcerated often have difficulty getting legal information, and we cannot provide specific advice to every person who requests it. The laws change frequently and are subject to differing interpretations. We do not always have the resources to update this material every time the law changes. If you use information from the *Roadmap to Reentry Legal Guide*, it is *your responsibility* to determine whether the law has changed and applies to your situation. If you are incarcerated, most of the materials you need should be available in your institution's law library. The *Roadmap to Reentry Guide* is not intended to give legal advice but rather legal information. No attorney-client relationship is created by using any information in this guide. You should always consult your own attorney for legal advice specific to your situation.



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WHAT WILL I LEARN IN THE IMMIGRATION CHAPTER?

- Important information about the relationship between having a criminal record and immigration concerns
- Know your rights information for non-citizens on parole or probation
- Information on accessing public benefits and education
- Options for obtaining identification
- How to create a family preparedness plan



I. INTRODUCTION

This chapter explains special issues affecting non-citizens, regardless of their immigration status. While Root & Rebound does not specialize in immigration, this Chapter is designed to ensure that you have a basic understanding of how contact with the criminal justice system could impact your immigration status. This Chapter does not contain information about your rights in deportation or other immigration proceedings. If you need assistance with such matters, speak to an immigration attorney. For a list of referrals, see Appendix A on [PG. 22](#).

KEY TERMS IN THE IMMIGRATION CHAPTER

Non-citizen—someone without United States citizenship. In this Chapter, we use “non-citizen” to cover a variety of immigration statuses, including Lawful Permanent Residents, visa holders, refugees, and undocumented persons. These terms, as well as other non-citizen statuses, are defined below.

Lawful Permanent Resident—also known as a “green card holder,” is a person who has permission from the federal government to live permanently in the United States.¹

Visa—a government-issued endorsement allows a citizen of a foreign country to enter, leave, or stay in the United States.² Visas are generally divided into two categories: immigrant and nonimmigrant. Immigrant visas are issued to people wishing to live permanently in the United States. In contrast, nonimmigrant visas are issued to people wanting to come to the United States temporarily for a particular purpose, such as tourism, business, or study.³

Refugee—is a person granted protected status in the United States due to their membership in a group that is the subject of persecution in their home country. Unlike a person seeking asylum (see below), a refugee must seek a referral for this status outside the United States.⁴

Undocumented person—sometimes called an “undocumented alien,” is someone who entered the United States without legal documents or who entered the United States legally but violated the terms of their visa.⁵

Deferred Action for Childhood Arrivals (DACA)—a program introduced in 2012 by President Barack Obama to prevent the deportation of people brought to the United States as children. DACA participants have permission to remain in the country and get work permits, despite not being citizens.⁶

Temporary Protected Status (TPS)—a form of temporary protection available to people from certain countries (or parts of countries) who are unable to return due to extreme temporary instability in their countries of origin, including war, natural disasters, and epidemics. TPS beneficiaries are not removable from the United States while their home country remains unstable.⁷

Naturalization—the process by which a person obtains United States citizenship.⁸

Immigration and Customs Enforcement (ICE)—the division of the United States Department of Homeland Security that has authority over criminal violations of U.S. laws related to travel and immigration.

Detainer—an order that a person in custody be held for a certain period of time after release so that another law enforcement agency can decide whether to pick them up to face pending charges.⁹

Removal Proceedings—the legal process for deciding whether the government can remove someone from the United States.¹⁰

¹ U.S. DEP’T OF HOMELAND SEC., *Lawful Permanent Residents* (Sept. 26, 2022), www.dhs.gov/immigration-statistics/lawful-permanent-residents.

² U.S. DEPT OF STATE, BUREAU OF CONSULAR AFFAIRS, *Glossary: Visa*, www.travel.state.gov/content/travel/en/us-visas/visa-information-resources/glossary.html#V.

³ U.S. CUSTOMS AND BORDER PROT., *What is the difference between an Immigrant Visa vs. Nonimmigrant Visa?* (Jan. 28, 2022, 11:34 am) help.cbp.gov/s/article/Article-72?language=en_US.

⁴ U.S. CITIZENSHIP AND IMMIGR. SERVS., *Refugees & Asylum* (Nov. 12, 2015), www.uscis.gov/humanitarian/refugees-asylum.

⁵ CORNELL L. SCH., LEGAL INFO. INST., *undocumented immigrant* (Apr. 2022), www.law.cornell.edu/wex/undocumented_immigrant.

⁶ U.S. CITIZENSHIP AND IMMIGR. SERVS., *Consideration of Deferred Action for Childhood Arrivals (DACA)* (Nov. 3, 2022), www.uscis.gov/DACA.

⁷ U.S. CITIZENSHIP AND IMMIGR. SERVS., *Temporary Protected Status* (Nov. 14, 2022), www.uscis.gov/humanitarian/temporary-protected-status.

⁸ U.S. CITIZENSHIP AND IMMIGR. SERVS., *Citizenship and Naturalization* (July 5, 2020), www.uscis.gov/citizenship/learn-about-citizenship/citizenship-and-naturalization.

⁹ U.S. IMMIGR. AND CUSTOMS ENF’T, *What is an immigration detainer?* (Jan. 26, 2021), www.ice.gov/identify-and-arrest/detainers/ice-detainers-frequently-asked-questions.

¹⁰ 8 U.S.C. § 1229a.



II. IDENTIFICATION & KEY DOCUMENTS FOR NON-CITIZENS & UNDOCUMENTED PEOPLE

WHAT WILL I LEARN?

- What forms of ID are and are not available for non-citizens with various immigration statuses
- Information about Social Security Numbers - who can get them and how
- Information about who can obtain a South Carolina state ID card
- Identification options for undocumented people in South Carolina

I AM A NON-CITIZEN. WHAT FORMS OF ID CAN I GET?

Your ability to get an ID will depend on your immigration status and the type of ID document you are seeking. While non-citizens cannot get items such as a U.S. Birth Certificate, Naturalization Certificate, or U.S. Passport, you may be able to get other key documents. You may be required to obtain some critical documents to work, drive, or travel legally in the U.S. The following key documents may be available to some non-citizens.

SOCIAL SECURITY NUMBERS & CARDS FOR NON-CITIZENS

WHAT TYPES OF NON-CITIZENS CAN GET A SOCIAL SECURITY NUMBER AND CARD?

In general, only non-citizens authorized by the federal government to work in the U.S. can obtain a Social Security Number.¹¹ **Lawful Permanent Residents (LPR), certain visa-holders, refugees/asylees, DACA recipients, and people with temporary protected status (TPS) are generally permitted to apply for and obtain a Social Security Number and card.**¹² The application for non-citizens to get a Social Security Number (SSN) and card requires different documentation depending on your specific immigration status.

If you are eligible, you can apply for an SSN at your local Social Security office. In most cases, you will be required to show proof of your ability to work in the U.S., as well as official documents from your country of origin that prove your identity and/or age (such as a Birth Certificate or Passport).

The document requirement is more relaxed for two classes of non-citizens:

- Refugees and asylees, many of whom may not have official documents from their country of origin. In this case, the Social Security Administration will accept evidence of refugee status instead.¹³
- DACA participants who don't have birth certificates from the country where they were born. In this case, the Social Security Administration may accept a state-issued ID or driver's license.¹⁴

HOW DO I OBTAIN A BIRTH CERTIFICATE FROM MY COUNTRY OF ORIGIN?

Most, but not all, foreign countries record births and will provide certifications of births occurring within their boundaries. You should contact your birth country's nearest Embassy or Consulate in the United States. Addresses and telephone numbers for these offices are listed in the U.S. Department of State Publication 7846, *Foreign Consular Offices in the United States*, available in many local libraries. You can also find this information at the following website: <https://www.state.gov/subjects/foreign-consular-offices-in-the-u-s/>. U.S. Citizens can get assistance by writing to the Bureau of Consular Affairs, U.S. Department of State, 600 19th Street, NW Washington, DC 20036.

I AM AN UNDOCUMENTED PERSON. CAN I GET A SOCIAL SECURITY NUMBER OR CARD?

If you are undocumented, you cannot get a Social Security Number (SSN) or card, which limits your ability to work legally in the U.S. and receive certain government benefits. However, it won't stop you from accessing many other services and benefits. For example, an SSN is NOT required to register for school or get private health insurance. Not all banks or credit card corporations require a social security number. If you are concerned about how your immigration status affects your ability to find work, speak to an immigration attorney. See Appendix A on [PG. 22](#) for a list of referrals.

¹¹ Soc. Sec. ADMIN., *Social Security Numbers for Non-citizens* (Aug. 2022), www.ssa.gov/pubs/EN-05-10096.pdf.

¹² *Id.*; *Social Security Number and Card - Deferred Action For Childhood Arrivals* (Sept. 2021), www.ssa.gov/pubs/EN-05-10009.pdf; *International Students and Social Security Numbers* (Aug. 2017), www.ssa.gov/pubs/EN-05-10181.pdf; see also Program Operations Manual System [hereinafter POMS], *RM 10211.185 Evidence of Refugee Status for an SSN Card* (July 26, 2017 - Present), secure.ssa.gov/poms.nsf/lnx/0110211185.

¹³ Soc. Sec. ADMIN., POMS, *RM 10211.185 Evidence of Refugee Status for an SSN Card* (July 26, 2017 - Present), secure.ssa.gov/poms.nsf/lnx/0110211185.

¹⁴ Soc. Sec. ADMIN., *Social Security Number and Card - DACA* (Sept. 2021), www.ssa.gov/pubs/EN-05-10009.pdf.



SOUTH CAROLINA DRIVER'S LICENSES AND ID CARDS FOR NON-CITIZENS

WHICH TYPES OF NON-CITIZENS CAN GET A SOUTH CAROLINA ID CARD?

Unfortunately, only South Carolina residents who are lawfully present in the U.S. can obtain an official state ID. This means you need federally issued documents proving your immigration status. The DMV will accept any of the following U.S. Citizenship and Immigration Services documents as proof:¹⁵

CITIZEN from a Freely Associated State (FAS): Micronesia, Marshall Island, or Palau

- a) Employment Authorization Document (EAD); or
- b) Unexpired FAS passport and an I-94 document. No visa is required.

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- **Permanent Resident Alien** (foreign national):
 - a) Unexpired Form I-551 or valid passport stamped "I-551 approved" or "processed for I-551".
 - b) You must also provide proof of place of birth if not displayed on the permanent resident card.
 - c) I-551 must display fingerprint for anyone 14 years of age or older.

NON-IMMIGRANT

- **Refugee**
 - a) I-94 stamped "refugee"; or
 - b) Unexpired Employment Authorization Card I-766.
- **Asylee:**
Must provide an unexpired Employment Authorization Card I-766 or both of these documents:
 - a) I-94 stamped "Asylee".
 - b) Unexpired passport.
 - c) If you do not have a social security number, a letter from the Social Security Administration stating you are not allowed to work in the US.
- **Other** non-immigrants granted temporary entry into the US must provide an unexpired Employment Authorization Card I-766 or both of these documents:
 - a) Passport with unexpired visa.
 - b) I-94.

AUTHORIZED LENGTH OF STAY - In addition to the above documents required of all immigrants, you must provide an additional document authorizing your current stay for the specific visa status granted. Listed below are the most common visa statuses. If your visa allows you to work or attend school in the U.S., you must provide written verification from your employer or school on company letterhead showing that you are currently employed or enrolled in good standing. The appropriate designated authority must sign the letter.

What is your visa status?	You must provide this document based on your visa status
B1 or B2	Valid and paid SC real estate (home only) property tax receipt
E1 or E2, H1 or H2, L1 or L2	Letter of employment
F1 or F2	Form I-20
J1 or J2	Form DS-2019 or IAP-66
K1 or K2	Marriage License/ Certificate and Form I-797-Notice of Action (must show that you applied for permanent status)
TN or TD	Letter of Employment

I AM AN UNDOCUMENTED PERSON. CAN I GET A SOUTH CAROLINA ID CARD?

No, you *cannot* get an official ID that works for all government purposes if you are an undocumented immigrant living in South Carolina.

¹⁵ S.C. DEP'T OF MOTOR VEHICLES, *International Customers' Checklist* (Aug. 2022), www.scdmsonline.com/-/media/Forms/MV-94.ashx.



I AM AN UNDOCUMENTED PERSON. CAN I GET A SOUTH CAROLINA DRIVER'S LICENSE?

No, the Department of Motor Vehicles cannot issue a motor vehicle driver's license to a person not a resident of South Carolina. For purposes of determining eligibility to obtain or renew a South Carolina driver's license, the term "resident of South Carolina" shall expressly include all persons authorized by the United States Department of Justice, the United States Citizenship and Immigration Services, or the United States Department of State to live, work, or study in the United States on a temporary or permanent basis who present documents indicating their intent to live, work, or study in South Carolina.¹⁶

WHAT ARE THE OTHER LIMITED FORMS OF ID FOR UNDOCUMENTED PEOPLE?

You may be able to get one of these limited forms of ID, which can be used for some but not all purposes:

Consular Identification Cards (CIDs): Some governments issue CID cards to identify their citizens living in foreign countries.¹⁷ CID cards can be issued to people who are undocumented or documented in a foreign country. If you are a citizen of these countries, visit the nearest consulate to obtain your CID card. In the United States, CID cards can be a helpful ID document as you try to open a bank account, show proof of identity to police, and access other services. However, CIDs do not grant you legal presence in the United States or other privileges.

TRAVELING AS A NON-CITIZEN

I AM A NON-CITIZEN. AM I ALLOWED TO TRAVEL OUTSIDE OF SOUTH CAROLINA?

It depends. If you are a Lawful Permanent Resident (LPR), you have many of the same rights as U.S. citizens, including the right to travel throughout the country and abroad. Bring your green card with you, if possible, and be wary of traveling outside of the U.S. for more than six months – this could be interpreted as moving to another country and could put your legal status in jeopardy.¹⁸

IMPORTANT: If you are a Lawful Permanent Resident with a criminal record, consult with an attorney before leaving the country – especially if your arrest or conviction occurred after you obtained LPR status. See Appendix A on [PG. 22](#) for a list of people and organizations you can contact.

¹⁶ S.C. Code Ann. § 56-1-40(7).

¹⁷ CONSUMER ACTION, *Consular ID Cards* (2007), www.consumer-action.org/downloads/english/ConsularIDCards.pdf.

¹⁸ U.S. CITIZENSHIP AND IMMIGR. SERVS., *Chapter 3 - Continuous Residence* (Oct. 19, 2022), www.uscis.gov/policy-manual/volume-12-part-d-chapter-3.



III. PAROLE & PROBATION ISSUES AFFECTING NON-CITIZENS

WHAT WILL I LEARN?

- The relationship between Immigration and Customs Enforcement (ICE) and the South Carolina Department of Corrections (SCDC)
- What happens when you are released from SCDC custody with an outstanding detainer
- Information about the immigration consequences of sex offenses
- The limitations on receiving parole services as an undocumented person

ICE DETAINERS

WHAT IS THE RELATIONSHIP BETWEEN SCDC AND ICE?

The South Carolina Department of Corrections (SCDC) works with the United States Immigration and Customs Enforcement (ICE) and the South Carolina Department of Probation, Parole, and Pardon Services (DPPPS) to identify incarcerated individuals who become subject to ICE immigration deportation proceedings as a result of their conviction. SCDC cooperates with ICE and DPPPS to ensure that these individuals are released to ICE custody at the time of their parole.¹⁹

ICE reviews the case to determine whether that person is removable from the country. If ICE officials determine that the person is removable, they will place the person on an immigration hold (also called a “detainer,” see below). Any authorized immigration officer may issue an *Immigration Detainer-Notice of Action* to any other Federal, State, or local law enforcement agency. A detainer lets another law enforcement agency know that the Department seeks custody of an individual, who is presently in the custody of that agency, to arrest and remove the individual from the United States.²⁰

I AM A NON-CITIZEN, AND I AM TOLD I HAVE AN OUTSTANDING DETAINER AGAINST ME. WHAT IS A DETAINER? WHAT COULD HAPPEN TO ME?

An ICE detainer is a written request by immigration officials to advise another law enforcement agency that the Department seeks custody of an individual, presently in the custody of that agency, to arrest and remove the individual from the United States. Once the Department has decided to issue a detainer for an individual **not otherwise detained by a criminal justice agency**, that agency cannot hold the individual in custody for longer than 48 hours (excluding Saturdays, Sundays, and holidays) before the Department is allowed to take custody of the individual.²¹ A “detainer”—or “immigration hold”—is one of the key tools ICE uses to take custody of individuals who come in contact with local and state law enforcement agencies and put them into the federal immigration system and, oftentimes, deportation system.

Even if you have a detainer against you, the U.S. Parole Commission (USPC) may still grant you release onto federal parole if you meet the other criteria in 28 C.F.R. § 2.18.²² The presence of a detainer is not in itself a valid reason for the denial of parole.

When a State or local detainer is outstanding against you when the USPC wishes to grant parole, the Commission may order either of the following:

- Your release to the agency that put the detainer on you. When this type of detainer is removed, you can’t be released unless the Commission makes a new order of parole²³; **OR**
- If you have an acceptable plan for community supervision, you may be released into the community if the detaining officials remove the detainer or don’t pick you up.²⁴

For more information on the immigration consequences of a criminal record and a discussion of record cleaning options, see [PG. 19](#) later in this chapter.

¹⁹ S.C. DEP’T OF CORR., *OP-21.02, Inmates Paroled to Immigration and Customs Enforcement Detainers* (July 1, 2004), www.doc.sc.gov/policy/OP-21-02.htm.pdf; see also S.C. DEP’T OF PROB., PAROLE, AND PARDON SERV., *Division of Paroles and Pardons and Release Service* (Nov. 2019) at 27.

²⁰ 8 C.F.R. § 287.7(a).

²¹ *Id.* At (d).

²² 8 C.F.R. § 2.18.

²³ 28 C.F.R. § 2.32(a)(1).

²⁴ *Id.* at (a)(2).



NON-CITIZENS ON STATE PAROLE

I AM A NON-CITIZEN CONVICTED OF A SEX OFFENSE THAT REQUIRES ME TO REGISTER. WILL I FACE IMMIGRATION CONSEQUENCES IN ADDITION TO MY TIME SENTENCED TO JAIL OR PRISON?

The interaction between criminal and immigration law is very complex, and the answer to this question depends on what your specific conviction is and what happened when you took a plea in your criminal case.

A conviction of an offense that involves sexual or lewd intent can have a range of immigration consequences. However, in some cases where the offense is less serious, careful pleading and finding a good attorney may help avoid negative immigration consequences (like deportation). If you are unsure if your conviction will trigger immigration consequences, it is recommended that you reach out to your defense attorney/public defender's office and an immigration attorney immediately about these concerns. See Appendix A on [PG. 22](#) for a list of referrals.

I AM UNDOCUMENTED AND WAS JUST RELEASED ON STATE PAROLE. WILL MY UNDOCUMENTED IMMIGRATION STATUS PREVENT ME FROM GETTING SERVICES?

Probably, yes. Federal law prohibits most undocumented people from receiving many state and local public benefits. Exceptions are assistance for health care items and services that are necessary for the treatment of an emergency medical condition, emergency disaster relief, public health assistance for immunizations and treatment of symptoms of infectious diseases, and programs (such as soup kitchens, crisis counseling, intervention, and short-term shelter) necessary for the protection of life and safety.²⁵

NON-CITIZENS ON FEDERAL PAROLE

I AM A NON-CITIZEN AND WILL BE RELEASED ON FEDERAL PAROLE. COULD I FACE SPECIAL CONDITIONS RELATED TO MY IMMIGRATION STATUS?

Possibly. Even if you are not currently subject to an ICE detainer, the court has the discretion to order you to be deported and remain outside of the United States as part of your conditions of supervised release.²⁶

I WAS RELEASED ON FEDERAL PAROLE AND SUBSEQUENTLY DEPORTED. DOES MY DEPORTATION CANCEL OR END MY PAROLE TERM?

No. Federal courts have determined that in most cases, a person's federal parole term continues even if they have been deported to another country.²⁷ While your term of supervision will continue to run while you're abroad, if you reenter the country illegally in that time period, you could face even more significant consequences.²⁸

²⁵ 8 U.S.C. § 1621.

²⁶ 18 U.S.C. § 3583(d); see also U.S. COURTS, *Ch. 3: Immigration-Related Requirements (Probation and Supervised Release Conditions)*, www.uscourts.gov/services-forms/immigration-related-requirements-probation-supervised-release-conditions.

²⁷ *U.S. v. Brown*, 54 F.3d 234, 237-38 (5th Cir. 1995); see also *U.S. v. Ramirez-Sanchez*, 388 F.3d 977 (9th Cir 2003).

²⁸ *Id.*



IV. HOUSING ISSUES AFFECTING NON-CITIZENS

WHAT WILL I LEARN?

- Information about Federal Fair Housing Act
- What to do if ICE comes to your house or neighborhood

I AM UNDOCUMENTED. CAN MY LANDLORD REPORT ME (OR THREATEN TO REPORT ME) TO IMMIGRATION AUTHORITIES?

In general, no. The Federal Fair Housing Act (FHA) requires landlords not to discriminate against undocumented renters. The Federal Fair Housing Act also prohibits coercing, intimidating, threatening, or interfering with a person's exercise or enjoyment of rights granted or protected by the Fair Housing Act. This includes threats to report a person to U.S. Immigration and Customs Enforcement (ICE) if that person reports housing discrimination to The Department of Housing and Urban Development (HUD). HUD does not inquire about immigration status when investigating claims of housing discrimination.²⁹

KNOW YOUR RIGHTS AS AN UNDOCUMENTED TENANT

- Fair housing is your right.
- Landlords are NOT permitted to ask about your immigration status on a rental application because of how you look, talk or dress.
- Landlords' questions about immigration status may violate the FHA.
- Landlords must apply the same policies and procedures consistently to all potential tenants.
- Your landlord CANNOT threaten to tell authorities about your immigration status to force you out of your house, retaliate against you, or harass you.
- If your right to housing is violated, you can file a complaint with the United States Department of Housing and Urban Development's (HUD) Office of Fair Housing and Equal Opportunity (FHEO).³⁰

IMPORTANT: If you feel your landlord has violated your rights under the Federal Fair Housing Act, contact a housing and/or immigration lawyer IMMEDIATELY. See Appendix A on PG. 22 for a list of referrals.

WHAT IS AN "ICE RAID?"

U.S. Immigration and Customs Enforcement (ICE) is a federal law enforcement agency that has the authority to arrest people suspected of violating federal immigration laws – particularly those with criminal records – without warning.³¹ During a raid, uniformed, armed ICE agents may surround a person's home and order occupants to "open up" or come outside for questioning. They can then arrest individuals with deportation orders and find other undocumented immigrants.

HOW CAN I PREPARE FOR AN ICE RAID?

ICE raids are very serious and require assistance from experienced immigration attorneys. While the attorneys at Root & Rebound do NOT have expertise in this area, we offer the following tips from immigration advocates as a starting point to help you become more prepared. If you are worried about being the target of an ICE raid, we recommend speaking to an experienced immigration practitioner. See Appendix A on PG. 22 for a list of referrals.

STEP 1: Talk to an immigration lawyer. An immigration lawyer with experience working with clients in reentry can help you prepare for a raid, figure out your family's options, and determine whether expungement remedies could help you. They may also have advice on which documents you should and should not have on your person at all times.

STEP 2: Develop a family preparedness plan. You and your loved ones need to be prepared for an unexpected ICE raid.

STEP 3: Know your rights! If ICE shows up at your house, make sure you, your loved ones, and your neighbors know what ICE agents can and cannot do. *No matter what your immigration status*, remember the following:

1. **Remain calm and do not run away.** ICE and/or the police may find a way to use your actions against you.
2. **You have the right to remain silent.** You are not required to speak to an ICE agent. Do not answer any questions, especially about your birthplace or immigration status. Tell them you will not answer their questions until you speak to a lawyer.

²⁹ FAIR HOUS. PROJECT, *National Origin*, www.fairhousingnc.org/know-your-rights/national-origin/.

³⁰ U.S. DEP'T OF HOUS. AND URB. DEV., *About FHEO File A Complaint*, www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint.

³¹ ABC NEWS, *An ICE Home Raid Explainer* (Apr. 10, 2013), www.abcnews.go.com/ABC_Univision/News/ice-home-raid/story?id=18896252.



3. **You have the right to demand a warrant.** You do NOT have to open your door or let ICE in unless the ICE agent shows you a warrant. The warrant must be signed by a judge with your correct name and address.
4. **You have the right to speak to a lawyer.** Make sure you are prepared with the name and number of an attorney you can contact in the event of an immigration emergency.
5. **You have the right to refuse to sign or show any documents before speaking to a lawyer.** Do NOT sign anything. ICE agents come to raids equipped with forms that can eliminate your right to speak to a lawyer or have a hearing in front of an immigration judge. Don't sign away your rights!³²

³² IMMIGRANT LEGAL RES. CTR., *Immigrant Rights*, www.ilrc.org/sites/default/files/resources/kyr_two_pager_v2.pdf.



V. PUBLIC BENEFITS FOR NON-CITIZENS

WHAT WILL I LEARN?

- Whether you are eligible for certain public benefits

I AM A NON-CITIZEN. WHAT TYPES OF PUBLIC BENEFITS CAN I GET?

Your ability to get various public benefits varies greatly depending on your immigration status and the type of benefit. While many federally funded public benefits, including social security income (SSI), are mostly limited to U.S. citizens, certain non-citizens known as “qualified” immigrants can sign up for state-sponsored government programs that offer similar benefits.

Qualified immigrants include:

- Lawful permanent residents, or LPRs (people with green cards)
- Refugees, people granted asylum or withholding of deportation/removal, and conditional entrants
- People granted parole by the U.S. Department of Homeland Security (DHS) for at least one year
- Cuban and Haitian entrants
- Certain abused immigrants, their children, and/or their parents
- Certain survivors of trafficking
- Individuals residing in the U.S. under a Compact of Free Association (COFA) (for Medicaid purposes only)³³

If you are not a “qualified” immigrant, your ability to get public benefits is much more limited. However, you may still have access to benefits such as emergency healthcare.

FOOD STAMPS

I AM A NON-CITIZEN. CAN I GET FOOD STAMPS?

It depends. There is a federal program called the Supplemental Nutrition Assistance Program (SNAP). “Qualified” immigrants may be able to get federally funded food stamps – some “qualified” immigrants are eligible only after they have lawfully lived in the U.S. for five years or have earned, or can be credited with, 40 quarters of work.³⁴ Undocumented people cannot get food stamps under the SNAP program.³⁵

I AM UNDOCUMENTED BUT MY CHILDREN ARE HERE LEGALLY. CAN I APPLY FOR FOOD STAMPS FOR THEM?

Yes. Even though your immigration status disqualifies you from federal and state food stamps, you can apply on behalf of your children if they are U.S. citizens or eligible non-citizens. If you are not seeking food stamps for yourself, you are NOT required to give information about your immigration status, and you are NOT required to provide a Social Security Number. Although the food stamps office is only required to report you to ICE if it has tangible proof you are in the country illegally (such as a final order of deportation), it is still a good idea not to tell anyone you are undocumented. Instead, explain that you are applying for your children but are not yourself a qualified immigrant.³⁶

I AM A NON-CITIZEN LIVING IN SOUTH CAROLINA. CAN I GET FOOD STAMPS?

Individuals who do not meet non-citizen requirements cannot receive SNAP benefits, formerly known as Food Stamp benefits. Undocumented individuals and unaccompanied minor children are not “qualified” non-citizens because they have not been issued the required USCIS documents.³⁷

³³ NAT'L IMMIGR. LAW CTR., *Overview of Immigrant Eligibility for Federal Programs*, (Oct. 2022), Tanya Broder, Gabrielle Lessard, and Avidah Moussavian, <https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/>.

³⁴ U.S.D.A. FOOD AND NUTRITION SERV., *SNAP Policy on Non-Citizen Eligibility* (Sep. 4, 2013), www.fns.usda.gov/snap/snap-policy-non-citizen-eligibility.

³⁵ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM, *Guidance on Non-Citizen Eligibility* (June 2011), www.nilc.org/wp-content/uploads/2019/05/Non-Citizen_Guidance_063011.pdf.

³⁶ S.C. APPLESEED LEGAL JUST. CTR., *Frequently Asked Questions about Immigrants and Government Benefits* (July 2012),

<https://scjustice.org/wp-content/uploads/2012/07/frequently-asked-questions-about-immigrants-and-government-benefits-2012.pdf>.

³⁷ S.C. DEP'T OF SOC. SERVS., *SNAP Frequently Asked Questions*, <https://dss.sc.gov/assistance-programs/snap/faq/>.



FINANCIAL ASSISTANCE/WELFARE

I AM A NON-CITIZEN LIVING IN SOUTH CAROLINA. CAN I GET FINANCIAL ASSISTANCE/WELFARE?

Temporary Assistance for Needy Families (TANF) benefits provides temporary financial assistance to needy families with dependent children. You must be a U.S. Citizen or a “qualified” immigrant to receive TANF benefits.³⁸

HEALTHCARE

I AM A NON-CITIZEN. CAN I GET HEALTHCARE IN SOUTH CAROLINA?

You must be a South Carolina resident and either a U.S. citizen or a legally residing non-citizen to qualify for full Medicaid benefits in South Carolina. Undocumented individuals may be eligible for coverage for emergencies and labor and delivery services if income requirements are met.³⁹ Use the chart to determine if you are a “qualified” immigrant.

If you came to the U.S. BEFORE August 22, 1996, you can get Medicaid if you are a:	If you came to the U.S. AFTER August 22, 1996, you can get Medicaid if you are a:
Green card holder	Green card holder with 40 quarters of work (about 10 years of working)
Abused immigrant, you children, and your parents	An immigrant who has lived in the U.S. for 5 years as a qualified immigrant. If you have had a green card for 5 years, you can get Medicaid
	Member of the military or a veteran
All refugees, asylees, Cuban/Haitians, and conditional entrants can get Medicaid for their first seven years in the U.S. They cannot get Medicaid after that.	

South Carolina Appleseed Legal Justice Center www.sjustice.org/brochure/emergency-medicaid-immigrants/.

I AM UNDOCUMENTED BUT MY CHILDREN ARE HERE LEGALLY. CAN I APPLY FOR HEALTHCARE ON THEIR BEHALF?

Yes. Even if your immigration status disqualifies you from healthcare coverage, you can apply on behalf of your children if they are U.S. citizens or eligible non-citizens. You do not have to disclose your immigration status when applying on behalf of another person. South Carolina Healthy Connections Medicaid does not report citizenship information to U.S. Citizenship and Immigration Services.⁴⁰

WILL APPLYING FOR OR GETTING GOVERNMENT HEALTHCARE COVERAGE OR OTHER GOVERNMENT BENEFITS AFFECT MY IMMIGRATION STATUS?

No. In general, taking advantage of government health care programs – whether at the federal, state, or county level – should not impact your immigration status or your ability to apply for a green card.⁴¹ In addition, if you are undocumented and disclose your immigration status while applying for South Carolina health insurance, ICE does not use that information against you or initiate deportation proceedings.⁴² Also, U.S. Citizenship and Immigration Services (USCIS) does not consider an applicant’s receipt of Medicaid (except for long-term institutionalization at the government’s expense), public housing, or SNAP benefits when evaluating immigration applications.⁴³

³⁸ S.C. DEP’T OF SOC. SERVS., *TANF Frequently Asked Questions*, <https://dss.sc.gov/assistance-programs/tanf/faq/>.

³⁹ S.C. HEALTHY CONNECTIONS, *Medicaid Frequently Asked Questions*, www.scdhhs.gov/FAQs#_Citizenship_and_Residency.

⁴⁰ *Id.*

⁴¹ HEALTHCARE.GOV, *Immigrants Health Coverage for Immigrants*, www.healthcare.gov/immigrants/coverage/.

⁴² *Id.*

⁴³ U.S. CITIZENSHIP AND IMMIGR. SERVS., *Public Charge* (Nov. 4, 2022), www.uscis.gov/public-charge.



VI. EMPLOYMENT & EDUCATION ISSUES AFFECTING NON-CITIZENS IN REENTRY

WHAT WILL I LEARN?

- What your employer can and cannot ask you about your immigration status
- Whether your employer can threaten to report you to ICE
- What to do if ICE comes to your workplace
- Information about attending college in South Carolina
- Information about eligibility for federal and state financial aid for college

EMPLOYMENT

I AM UNDOCUMENTED. CAN MY EMPLOYER ASK ABOUT MY IMMIGRATION STATUS?

It depends. Federal law requires employers to verify the work eligibility of their employees at the time they are hired. Once you have filled out the required form (called an I-9) and have presented supporting documentation, an employer should NOT inquire into or discuss your immigration status – except under specific circumstances mandated by federal law.⁴⁴

EDUCATION

I AM A NON-CITIZEN. CAN I ATTEND COLLEGE IN SOUTH CAROLINA?

Yes, but it can depend on the type of school you want to attend. Most non-citizens who are undocumented cannot attend state funded colleges, but you may be able to attend some private colleges.

I AM A NON-CITIZEN. CAN I APPLY FOR FEDERAL FINANCIAL AID?

It depends. Your ability to get financial aid depends on your immigration status and the type of government aid. Only “eligible non-citizens” can receive federal financial assistance – not undocumented individuals. If you fall into one of the categories below, you are considered an “eligible non-citizen.”

- You are a:
 - U.S. national (includes natives of American Samoa or Swains Island) or
 - U.S. permanent resident with a Form I-551, I-151, or I-551C (Permanent Resident Card, Resident Alien Card, or Alien Registration Receipt Card), also known as a “green card.”
- You have an Arrival-Departure Record (I-94) from U.S. Citizen and Immigration Services (USCIS) showing:
 - “Refugee,”
 - “Asylum Granted,”
 - “Cuban-Haitian Entrant,”
 - “Conditional Entrant” (valid only if issued before April 1, 1980), or
 - “Parolee” (you must be paroled for at least one year, and you must be able to provide evidence from the USCIS that you are not in the United States for other than a temporary purpose to become a U.S. citizen or permanent resident).
- You hold a T nonimmigrant visa (for victims of human trafficking), or your parent has a T-1 nonimmigrant visa. Your college or career school’s *financial aid office* will ask to see your visa and/or certification letter from the U.S. Department of Health and Human Services.
- You are a “battered immigrant-qualified alien” who is a victim of abuse by your citizen or permanent resident spouse, or you are the child of a person designated as such under the Violence Against Women Act (VAWA).
- You are a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau. If this is the case, you may be eligible for only certain types of federal aid.
 - Citizens of the Republic of Palau are eligible for Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, and Federal Work-Study.

⁴⁴ 8 U.S.C. § 1324(a).



- Citizens of the Federal States of Micronesia and the Republic of the Marshall Islands are eligible for Federal Pell Grants only.⁴⁵

I AM A DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) RECIPIENT. AM I ELIGIBLE FOR FEDERAL STUDENT AID?

Undocumented students, including DACA recipients, are not eligible for federal student aid. You may still qualify for state or college aid, in addition to private scholarships. Check with your college or career school's financial aid office for more information.⁴⁶

I AM A NON-CITIZEN. CAN I APPLY FOR STATE FINANCIAL AID?

It depends. Just as the Federal Government may allow tuition assistance to legalized non-citizens, South Carolina does too. However, The South Carolina Illegal Immigration Reform Act prohibits undocumented individuals from attending a public institution of higher education in South Carolina and from receiving public higher education benefits, including but not limited to scholarships, grants, financial aid, and resident tuition.⁴⁷

⁴⁵ FED. STUDENT AID, *Many non-U.S. citizens qualify for student aid*, <https://studentaid.gov/understand-aid/eligibility/requirements/non-us-citizens>.

⁴⁶ *Id.*

⁴⁷ S.C. Code Ann. § 59-101-430.



VII. PROTECTING YOUR FAMILY & CHILDREN FROM IMMIGRATION CONSEQUENCES

WHAT WILL I LEARN?

- What a family preparedness plan is and how to create one
- Various options for childcare arrangements in the event you are detained
- How to deal with family issues while in ICE detention

WHAT IS A FAMILY PREPAREDNESS PLAN?

A family preparedness plan ensures you and your loved ones are prepared if ICE detains you or your family member. It is a good idea to plan for this to ease the stress of ICE detention.

HOW DO I CREATE A FAMILY PREPAREDNESS PLAN?

The most important thing is to plan for childcare. Ensure that a responsible adult will be available to take care of your child or children if you are detained or deported. Write this plan down and make sure your family members are aware of it. This will ensure your children understand that they will be taken care of in case of an immigration emergency.

When making your plan, you will have to decide what kind of childcare agreement you want to make with the adult you have chosen. You have several options, some more formal than others. Discuss your options listed below with your family and an attorney to determine which family preparedness plan is the best fit for your situation.

- **INFORMAL AGREEMENT without LEGAL PAPERS or COURT** - Just as you can have your children stay with a babysitter without signing any papers, you can choose to have your children live with someone for a longer period of time without signing any papers. You simply need to talk to the person and get his or her verbal agreement that they will care for your children. This type of arrangement may work well for you if you expect to be detained for only a short time. Ensure that the caregiver you choose does not need public benefits to care for your children (like Medicaid or food stamps). Be sure to **choose someone whom you trust**, and make sure that there is no reason why anyone would object to this choice of caregiver.
- **INFORMAL AGREEMENT with LEGAL PAPERS without COURT** - A School Affidavit is a form completed by a non-parent to give to your child's school so that a non-parent can enroll your child in public school and make school-related decisions on your child's behalf if you are unable to.⁴⁸ **A School Affidavit does not affect your rights as your child's parent - you still have custody and control of your child.**
- **FORMAL AGREEMENT with LEGAL PAPERS without COURT** - A Power of Attorney for a Child also **does not affect the parent's rights** but can provide more decision making power to the caregiver or guardian without needing to involve a court. Also, it is easier to end a Power of Attorney, and a new ones can be signed if it expires.
- **FORMAL ARRANGEMENT – Family COURT-APPROVED custody** - When you make court-approved arrangements, you may have two or three different options: 1) temporary custody (time-limited); 2) permanent custody; or 3) guardianship. One option may provide greater parental rights than the other. These family court-approved custody arrangements give greater stability to your children. They will give the caregiver the right to make decisions for your children, but be aware that they are more challenging to end.

For more information on creating a family preparedness plan, including sample documents you and your loved ones can fill out, visit www.ilrc.org/family-preparedness-plan.

⁴⁸ See S.C. Code Ann. § 59-63-32; see also S.C. DEP'T OF EDU., *School Affidavit*, <https://ed.sc.gov/policy/federal-education-programs/essa-title-ix-part-a-mckinney-vento-homeless-assistance-act/state-of-south-carolina-school-affidavit/>.



STEPS TO TAKE TO CONNECT WITH YOUR CHILDREN IF YOU ARE PICKED UP BY ICE

FIRST STEPS: What to do as soon as possible after you are detained:

- **Get your “A Number” (USCIS # or File #).** “A numbers” consist of the letter “A” followed by eight or nine digits. This is the identification number for an individual’s immigration case and will follow the individual throughout the whole immigration process. It is very important to write down this number and provide it to your children’s designated caretaker, your relatives, and your close friends so they can stay updated about your case.
- **Try to get released.** Tell the processing staff (who put your information into the computer) at the detention center that you have children, especially if you are the only person who cares for them. Ask ICE if you can be released so you can care for them. It may be helpful to mention the ICE directive, “*Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities*,” when making this request.⁴⁹

Keep asking if you can be released to care for your children, even if ICE does not release you at first. If you ask to be released, but ICE will not release you, keep asking, especially if there are any changes to your children’s custody status or concerns about their safety.

- **Try to get a phone call.** ICE is not required to give you a phone call, but they may be willing to help if you explain that you have children and need to make sure they are okay and have someone to care for them.
- **Request a bond hearing.** You should ask your Deportation Officer about alternatives to detention, such as **Humanitarian Parole, Release on Recognizance, or Supervised Release**. You should also ask about how to request a bond hearing.

Make sure your Deportation Officer (sometimes called a Case Officer) knows you have children, especially if you are a single parent or the primary caregiver for your children. Ask them to exercise “discretion” in your case (“discretion” is a word that has a particular meaning for ICE, so use this word when asking).

ADDITIONAL STEPS: If ICE does not immediately release you, the following steps below may help:

- **If you do not know where your children are, try to find out where they are as soon as you can.** Once you find out where your children are, ask relatives or friends outside to put money into your detainee account so you can call and talk to your children and the person taking care of them. If this is not possible, tell ICE you need to “make arrangements” for your children. Ask if you can make free calls to deal with child custody issues.
- **If you think your children are not with a friend or family member and **might be in the custody of the South Carolina Department of Social Services (DSS)**,** you should talk to your Deportation Officer and ask to contact DSS right away. You can contact DSS directly or call the National Parent Helpline: 855-427-2736.
- **Request a Family Court Lawyer** to represent you if your child is in DSS custody or there is a Family Court case. Communicate with your child’s lawyer or the Guardian ad Litem appointed to the case.
- **Contact your country’s nearest consulate.** Register your children with the Consulate: Your U.S. citizen children will keep their U.S. citizenship even if you register them with the consulate of your home country. Apply for passports for your children - If you are deported and want to take your children with you, it will be much easier if they have passports.
- **Maintain contact with your children.** Stay as involved with your children as much as possible. It is a great idea to write letters to them. You are allowed to receive letters and pictures from them even in detention. Take notes on everything you send to your children and receive from them, and save everything you receive. **Maintaining contact and involvement in your child’s care will be an important factor in any DSS and/or Immigration case.**
- **Ask for visitation.** ICE will also facilitate parent-child visitation, to the extent practicable, when required by a family court or a child welfare authority, AND documentation is provided of this requirement. This includes but is not limited to: a reunification plan; a scheduling letter; or other documentation issued stating the visitation requirement. It may be helpful to mention the ICE directive on “Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities” when making this request.

⁴⁹ U.S. IMMIGR. AND CUSTOMS ENF’T, *Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities* (Aug. 23, 2013), https://immpolicytracking.org/media/documents/Parents_and_Children_Enforcement_and_Arrest_DHS.pdf.



- **Participate in all hearings related to the custody of your children either in person, by video (if available), or by telephone.** It is also good to have a relative or friend attend hearings, especially if you cannot be there. Alert Family Court or DSS that your **detention is CIVIL** and not a criminal matter. Provide your “A number” to DSS or Family Court.
- **You have the right to an interpreter in family court proceedings.** ICE can also provide access to interpretation if you need help communicating with people in the immigration detention system. If you do not speak English or if you cannot read or write, do not be afraid to ask the Family Court, the child welfare caseworker, your lawyer(s), or ICE and detention center staff to provide you with an interpreter and/or other assistance.
- **Do not sign any documents related to your immigration or child welfare case if you don’t understand what they say.**
- If your children are in DSS custody, you may be assigned a **case plan (also called a service plan or a reunification plan)**. Make sure you do what is asked of you in the case plan because this will impact the outcome of your case. If you cannot do certain things that the plan requires because you are detained or have been deported, make sure everyone involved in the child welfare case knows this. **Do your best to complete the services required by the case plan.**



VIII. UNDERSTANDING & REDUCING THE IMMIGRATION CONSEQUENCE OF CRIMINAL RECORDS

WHAT WILL I LEARN?

- How immigration policies have changed under President Biden
- Options if you pled guilty without knowing about the immigration consequences
- How some criminal arrests and convictions can be removed from your criminal record

HOW MUCH HAVE DEPORTATIONS DECREASED UNDER PRESIDENT BIDEN?

Under President Biden's policies, ICE removals have dramatically decreased. On Biden's first day in office, January 20, 2021, he issued a directive that halted all deportations virtually for 100 days and greatly restricted immigration enforcement activity. Although deportations have resumed, immigration enforcement restrictions have remained in place with some modifications.⁵⁰

HOW HAVE U.S. IMMIGRATION POLICIES CHANGED UNDER PRESIDENT BIDEN?

Immigration policies can change quickly under different presidential administrations. Since President Biden took office, his administration has acted in several ways to reverse previous restrictions on immigration to the United States. "The steps include plans to boost refugee admissions, preserving deportation relief for unauthorized immigrants who came to the U.S. as children and not enforcing the "public charge" rule that denies green cards to immigrants who might use public benefits like Medicaid."⁵¹

President Biden's administration will prioritize the apprehension and removal of non-citizens who are a threat to national security, public safety, and border security. This approach creates more discretion for an in-depth assessment of the individual and the totality of the facts and circumstances.

IMPORTANT NOTE: Many different kinds of criminal convictions and other law violations can make a non-citizen deportable or unable to change their immigration status. The important thing to know is that contact with the criminal justice system can have a significant impact on someone's ability to stay in the U.S., and it is very important to talk to a lawyer before applying for immigration status, traveling, or talking to law enforcement. Contact one of the organizations listed in Appendix A for legal support.

IMPORTANT WARNING: If you are contacted by ICE while detained/incarcerated, you have the right to call a lawyer, and you have the right to be visited by a lawyer. You have the right to have your attorney with you at a hearing before an immigration judge. You do not have a right to a government-appointed attorney, but it is suggested that you or your loved one/family member contact the organizations in Appendix A on PG. 22 if you are unable to hire one. You must insist on using your rights and should contact an attorney or have one contacted by a loved one before signing anything with ICE - so you do not give up your rights to fight against deportation.

DO I HAVE ANY OPTIONS IF I PLED "GUILTY" OR "NO CONTEST" IN A CRIMINAL CASE IF I DIDN'T KNOW THE IMMIGRATION CONSEQUENCES OF THAT DECISION?

Maybe. Both state and federal law require criminal defense lawyers to advise their clients and defend against the immigration consequences of a criminal conviction. This means you have *the right* to receive adequate advice from your criminal defense lawyer about the immigration consequences of your criminal case.⁵² The law requires defense lawyers (including public defenders) to ask about their clients' citizenship status, investigate potential immigration consequences, advise their clients about those immigration consequences, and plea-bargain with an eye toward avoiding such consequences.

⁵⁰ Jessica M. Vaughn, *Deportations Plummet Under Biden Enforcement Policies*, CTR. FOR IMMIGR. STUD. (Dec. 6, 2021), <https://cis.org/Report/Deportations-Plummet-Under-Biden-Enforcement-Policies>.

⁵¹ Jens Manuel Krogstad and Ana Gonzalez Barrera, *Key facts about U.S. immigration policies and Biden's proposed changes*, PEW RSCH. CTR. (Jan. 11, 2022), <https://www.pewresearch.org/fact-tank/2022/01/11/key-facts-about-u-s-immigration-policies-and-bidens-proposed-changes/>.

⁵² *Padilla v. Kentucky*, 559 U.S. 356 (2010) (held defense attorneys must inform non-citizen criminal defendants about the risk of deportation based on a conviction when they are deciding whether to plead guilty. Has also been interpreted to include that the courts and judges inform immigrants of possible consequences. Additionally, the Supreme Court has held that *Padilla* cannot be applied retroactively, so if a criminal conviction is older than the *Padilla* decision, there may be no relief available.)



“Vacated” - a legal term defined: “Vacate” means to erase, cancel, or void. We use it in the chart, so refer back to this definition if you are unclear. But note that if your conviction has been *vacated*, the Assistant Solicitor may be able to prosecute you on the original criminal charges. For all of these, ask your attorney for advice about the best path in your case!

Because President Biden is prioritizing the removal of people involved in the criminal justice system, any options for getting rid of convictions are especially critical at this point. **Consult with an attorney specializing in criminal and immigration law to find out what makes sense under your particular circumstances.** There are some remedies for people with criminal records. Refer to ***RELIEF CHART: Eligibility for Immigration Relief Despite Criminal Record Issues*** at: www.ilrc.org/sites/default/files/resources/relief_chart_nov_2021.pdf.⁵³

This chart summarizes different options for challenging your plea agreement if you did not know or understand the immigration consequences of your conviction. You can share this with your lawyer to help you decide which, if any, are the best options available to you.

METHOD for Challenging a Guilty or “No Contest” Plea	WHEN to Bring This Challenge	WHAT to Challenge in Your Criminal Case	TYPE OF RELIEF You Get if Challenge is Successful
Post-Trial Motion (South Carolina Rules of Criminal Procedure - Rule 29)	Post-trial motions shall be made within ten (10) days after the imposition of the sentence.	Ineffective assistance of counsel; you were not advised of your legal rights; or you were not advised of the immigration consequences; etc.	A judge could vacate the conviction or sentence. Note: You may open yourself up to re-prosecution on the original criminal charge(s).
Federal Habeas Corpus (The federal courts can hear habeas petitions from persons in state custody (28 USC § 2254).)	File after you have exhausted all remedies available in the state court. There is a one-year time limit to file a federal habeas corpus petition under 28 U.S.C. § 2254 (for state prisoners) or a motion under 28 U.S.C. § 2255 (for federal prisoners). (The time limit is not an absolute bar.)	Federal habeas review is limited to claims that a state court’s decision violated “clearly established federal law” or “was based on an unreasonable interpretation of the facts” presented in the lower court.	A judge could order the defendant to be released for further judicial review.
Appeal (South Carolina Appellate Court Rules Rule 203(b)); (Magistrates Rule 18)	You have ten days to appeal a conviction from General Sessions Court and 30 days to appeal a conviction from a Magistrate or Municipal Court.	An appeal alleges that the judge committed errors. The trial court judge did not advise you about immigration consequences, etc.	The judge could vacate the conviction. Note: You may open yourself up to re-prosecution on the original criminal charge(s).
Post-Conviction Relief (PCR) S.C. Code § 17-27-10.	An application for relief must be filed within one year after a conviction or within one year of the final decision upon an appeal.	Ineffective assistance of counsel; your attorney did not object to the testimony, the evidence, or the Prosecutor’s argument; your attorney	A judge could vacate the conviction or sentence. Note: You may open yourself up to re-prosecution on the original criminal

⁵³ Kathy Brady and Alison Kamhi, *RELIEF CHART Eligibility for Immigration Relief Despite Criminal Record Issues*, IMMIGR. LEGAL RES. CTR. (Nov. 2021), www.ilrc.org/sites/default/files/resources/relief_chart_nov_2021.pdf.



		did not advise you of immigration consequences; etc.	charge(s).
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ARE THERE ANY OTHER WAYS TO CLEAN UP MY RECORD THAT MIGHT HELP ME FOR IMMIGRATION PURPOSES?

To get help pursuing one of these “record-cleaning” options, contact your local Solicitor’s office or call Root & Rebound at (864) 546-5089.

WHAT IS AN EXPUNGEMENT?

An expungement is a court order signed by a judge which removes a charge, arrest, and/or conviction from a person’s government public records. An expungement is also called an “Order for Destruction of Arrest Records.” Keep in mind, a “conviction” for immigration purposes means a formal judgment of guilt entered by the court. If you are convicted of a crime, the conviction that has been expunged does not remove the conviction for immigration purposes.



APPENDIX A

<p>Lighthouse Immigration Legal Service 7089-A Rivers Ave., 2nd Floor North Charleston, SC 29405 (843) 641-0462 Fax: (843) 247-6330 www.sclils.org (U-Visa, Violence Against Women Act (VAWA), Asylum, Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA), Special Immigrant Juvenile (SIJ))</p>	<p>Immigrant Connection at El Camino 103 Crescent Ridge Dr. Greenville, SC 29615 (864) 397-9283 immigrantconnection@scwesleyan.com https://elcamin.webs.com/ (Naturalization, Family-Based Immigration, Adjustment of Status, and more)</p>
<p>Carolina Immigrant Alliance, Inc. (Oakland Baptist Church) 1067 Oakland Ave. Rock Hill, SC 29732 (803) 619-5012 https://carolinaimmigrantalliance.org/ (Naturalization, Family-Based Immigration, U-Visa, Violence Against Women Act (VAWA), Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA), and more)</p>	<p>South Carolina Victim Assistance Network PO Box 212863 Columbia, SC 29221 (803) 750-1200 Fax: (888) 965-5634 South Carolina Victim Assistance Network Legal Assistance for Victims Program PO Box 170364 Spartanburg, SC 29301 (803) 750-1200 ext. *6456 http://www.scvan.org/contact-us (U-Visa)</p>
<p>Catholic Charities of South Carolina Immigration Legal Services (Lawful Permanent Residency (LPR), Consular Process, Waivers, Naturalization, Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA), U-Visas, Violence Against Women Act (VAWA), and more) https://charitiessc.org/immigration-legal-services 590 Lone Tree Dr., Suite 102 Mt. Pleasant, SC 29464 (843) 388-0089 1000 Main St., Suite 200D Hilton Head, SC 29938 (843) 785-2200 2300 Old Buncombe Rd. Greenville, SC 29609 (864) 365-0047 (864) 365-0048 204 Douthit St., Suite A1 Greenville, SC 29601 (864) 517-1044 524 Charlotte Ave. Rock Hill, SC 29730 (803) 327-7144</p>	<p>South Carolina Legal Services (T-Visas, U-Visas, Violence Against Women Act (VAWA)) https://sclegal.org/ 2803 Carner Ave. North Charleston, SC 29405 (843) 720-7044 Toll-Free (888) 720-2320 2109 Bull St. Columbia, SC 29201 (803) 799-9668 Toll-Free (888) 799-9668 1201B Creel St., Wing A-1 Conway, SC 29527 (843) 381-8182 Toll-Free (866) 597-0100 320 South Coit St. Florence, SC 29501 (843) 413-9500 Toll-Free (877) 238-3418 701 South Main St. Greenville, SC 29601 (864) 679-3232 Toll-Free (800) 763-4825 316 West Cambridge Avenue Greenwood, SC 29646</p>



	<p>(864) 223-4879 Toll-Free (800) 922-3114</p> <p>126 Associate Parkway Orangeburg, SC 29118 (803) 533-0116 Toll-Free (800) 522-9354</p> <p>214 Johnston Street Rock Hill, SC 29730 (803) 327-9001 Toll-Free (800) 922-3853</p> <p>148 East Main Street Spartanburg, SC 29306 (864) 582-0369 Toll-Free (800) 922-8176</p>
<p>Greenville Multicultural Immigrant Connection (Greenville Multicultural Church) 103 S. Texas Ave., Greenville, SC 29611 (864) 295-0945 immigrantconnectiongm@gmail.com https://greenvillemulticultural.com/ic/ (Naturalization, Family-Based Immigration, Adjustment of Status, Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA), and more)</p>	<p>National Immigration Legal Services Directory www.immigrationadvocates.org/nonprofit/legaldirectory/</p>