

Justice For Our Neighbors: Representing immigrant families in Iowa

By Ann Naffier & Brynne Howard

A growing number of families in Iowa find themselves in need of immigration legal services in order to keep their families safe and together. In some cases, immigration law and family law become closely entwined while finding resolutions to families' legal issues.

Twenty years ago in Iowa, immigration practitioners were few and far between. Today, the legal landscape is catching up with the reality of families, and Iowa has many high-quality immigration attorneys throughout the state. However, money and geography are still barriers to access to legal immigration services. A typical immigration case (if there were such a thing as a "typical" case) is almost always very complicated, and can take anywhere from 10 to 100 attorney hours to complete. This makes the price of immigration representation often steep, even when an attorney's hourly rate is extremely reasonable. Most immigration attorneys are located in urban areas in Iowa, leaving many families with immigration issues who live in rural Iowa far from assistance.

Iowa Justice For Our Neighbors (JFON) is a small non-profit organization that is dedicated to providing immigration legal services to low-income Iowans throughout the state. All JFON legal services are free.

At JFON we encounter family-related legal issues in many ways, including the following:

Refugees

Iowa has a long history as a welcoming place for refugees from all corners of the world. Before refugees make it to Iowa, they

must demonstrate that they are unable to return to their country of origin due to past persecution or a reasonable fear of future persecution based on their race, religion, national origin, political opinion or membership in a particular social group.

Once demonstrating they meet the requirements to be granted refugee status and completing extensive processing abroad that includes background checks, interviews and medical examinations, a refugee can be resettled in a new home country.

Refugees in Iowa continue to have immigration legal needs even after they are resettled here. Often refugees have been forced to leave behind some or all members of their immediate family, sometimes including a spouse or children. The immigration laws provide for immediate family reunification if the refugee spouse in the U.S. files a petition for their spouse or minor children within two years of entering the United States. "Immediate reunification" under our current immigration system means something like one to two years' time.

Often refugees are unaware of the requirement to file within two years of entry and wait to file for family members until after they have obtained legal permanent resident (LPR) status and the two years have passed. At that time refugees can still file to bring their relatives but the process then can take as long as 2-5 years.

Family-based immigration

One of the few ways people other than refugees can immigrate to the United States is through their family members.



Iowa Justice For Our Neighbors Regional Attorneys Brynne Howard and Ann Naffier (far left and center) cover JFON regional intake clinics and supervise special projects, while attorney April Palma (right) specializes in the representation of unaccompanied minors.

Family members who are U.S. citizens, for example, can file immigration applications for their spouses, children, parents and siblings. A typical immigration scenario we encounter is when a U.S. citizen falls in love with and marries an undocumented immigrant. The citizen spouse must file an I-130 Petitioner for Alien Relative for the immigrant spouse which takes about six months to process. But this is just a first step. Often the couple will then need to file a waiver, which is another form with another fee, and packed with evidence, including long, detailed affidavits, to show how the citizen spouse will suffer extreme hardship if the immigrant spouse cannot obtain legal status in the U.S. Finally, if the couple's waiver is approved, the immigrant spouse will have to return to his or her home country for an interview at the American Consulate there. The whole process generally takes about two years, and is extremely stressful for all involved, including the attorney.

Domestic violence

Domestic violence is an area where immigration and family law often intersect. Perpetrators of domestic violence often use their spouse or partner's immigration status as a way to further the abuse and control of the victim. Under traditional family-based immigration, the U.S. citizen or LPR spouse files the initial petition for his or her immigrant spouse and must also complete paperwork demonstrating his or her financial support of the spouse.

An abusive U.S. citizen or LPR spouse may choose not to file the necessary paperwork or may withdraw filings. Failing to complete immigration paperwork can leave the immigrant spouse in a highly vulnerable position which can impact that person's willingness and ability to seek help and to flee from the abusive situation. Abusers

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commonly threaten to report their immigrant spouse to immigration authorities and often mislead the victim into believing that law enforcement will not protect them due to their immigration status.

Fortunately, under the Violence Against Women Act (VAWA), some immigrant victims of abuse can obtain legal permanent resident status without the assistance or knowledge of their abusers. In order to qualify, the immigrant victim must show that she married a U.S. citizen or legal permanent resident in good faith, that she resided with the spouse, that she has suffered battery or extreme cruelty by the U.S. citizen or LPR spouse and that she is a person of good moral character. In some circumstances, VAWA protections can also extend to immigrant parents who have been abused by a U.S. citizen or LPR son or daughter or to immigrant children who have been abused by a U.S. Citizen or LPR parent.

JFON commonly works with domestic violence agencies, community and church groups and civil legal service providers (like Iowa Legal Aid) to help victims of domestic violence qualify for legal immigration status under VAWA.

Immigration and family law intersection

Although immigration law is federal law, our clients' immigration cases are often profoundly affected by state-level family law and other legal processes. For instance, a woman who is eligible for immigration relief through VAWA must be careful about the timing of a divorce, if she has decided to end the marriage with her abuser. Divorcing too early could endanger her immigration status. The fact that Iowa is a common-law marriage state can have a huge impact (sometimes good, sometimes very bad) on an immigrant's potential legal status.

Other areas of state law can also have immigration consequences. Some unaccompanied minors have found hope and homes through Iowans who have become their legal guardians; however, if the wording of the guardianship orders is not very specific, those minor children could forfeit immigration remedies that would otherwise be available to them. State criminal convictions can have profound consequences for immigrants' legal status. JFON strongly encourages any attorneys who represent immigrant clients to ask them about their immigration status, and to consult with an attorney who specializes

in immigration law to be sure the result of representation will not adversely affect the client's immigration status.

You can do it

Although representing an immigrant in family law proceedings can be complicated, JFON encourages attorneys to not be afraid of taking on immigrant clients. Just like other Iowans, immigrants need divorces, custody orders, and other family law representation. Occasionally, we have been asked whether it is ethical to represent non-U.S. citizens, and particularly undocumented immigrants. In fact, all people living in the United States, even the undocumented, have the constitutional right to Due Pro-

cess, including legal representation.

JFON attorneys can attest to the fact that meeting, working with, and legally representing immigrant clients is interesting, eye-opening, and deeply rewarding.



Ann Naffier serves as ISBA Access to Justice Vice Chair. She is a graduate of Drake University Law School. Prior to law school, Naffier worked as an immigration legal services director for national nonprofit organization for more than a decade.



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