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August 1, 2003

Criminal Statutes Concerning Employment of Aliens

This memorandum summarizes the major U.S. criminal statutes that relate to the employment of aliens and thus are likely statutes for use by the prosecution in a serious criminal matter that involves immigration. I did not indicate when fines under title 18 of the U.S. Code can be imposed, because they almost always can when imprisonment is an option.

INA §274 (8 U.S.C. §1324) Bringing in or harboring

(a)(1): smuggle (knowing), move, conceal, or encourage or induce to come to, enter, or reside in U.S. knowing or in reckless disregard that person is unauthorized alien.

- 5 years without financial gain (except bringing in); 10 years with financial gain or bringing, 20 years if life is jeopardized; death or life sentence if results in death

(a)(2) reckless disregard bringing -> 1 year per alien; unless a known criminal alien or not presented for inspection, -> 10-15 years

INA §274A (8 U.S.C. §1324(a)) Unlawful employment of aliens

(f)(1) pattern or practice of knowingly hiring unauthorized alien, hiring without performing I-9 process, or continuing to employ knowing worker is unauthorized alien

- \$3,000 per alien and 6 months prison

INA §274C (8 U.S.C. 1324(c)) Document fraud

(a) - accept or provide any document lawfully issued to a person other than the possessor for I-9 purposes, or falsely make or use, possess or accept a falsely made document to satisfy an immigration requirement (i.e., I-9) or obtain immigration benefit.

- \$250 to \$2,000 per document on first order, then \$2,000 to \$5,000 per document

(e) - fail to disclose assistance in preparation of falsely made application for immigration benefits for a fee

- 5 years; subsequent conviction (whether or not for fee) 15 years

INA §275 (8 U.S.C. §1325) Improper entry, misrepresentation and concealment

(d) - establish a commercial enterprise for purposes of invading any provision of the immigration laws

- 5 years

INA §277 (8 U.S.C. 1327) Assisting aliens to enter

assist or conspire with person inadmissible as aggravated felon or subject to security grounds (sabotage espionage, terrorist, totalitarian) to enter U.S.

- 10 years

INA §278 (8 U.S.C. 1328) Importation of alien for immoral purposes

import alien for prostitution or other immoral purpose

- 10 years

18 U.S.C. §1001 False statements

falsify or conceal a material fact, make a false statement, or make or use any false document in a matter within jurisdiction of U.S. executive, legislative or judicial branch of government

- 5 years

18 U.S.C. §1028 Fraud in identity documents

Almost any activity relating to an identity document that is produced without lawful authority or is false:

(1) that is or appears to be issued by or under authority of the U.S.;

(2) with intent to defraud the U.S. concerning 5 or more documents; or

(3) affecting interstate commerce or when a document or implement to make it is transported in the mail.

18 U.S.C. §1546 Fraud and misuse of visas, permits, and other documents

(a) forge, counterfeit, alter or falsely make any document for entry as evidence of authorized stay or employment; or use, possess or receive any such document knowing it to be false

...knowingly make an oath under penalty of perjury, subscribe as true any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations, or knowingly present such document which contains a false statement or fails to contain any reasonable basis in law or fact

- 10 years (first or second offense) 15 years (third and up), 20 years (facilitating drug trafficking) or 20 years (facilitating terrorism)

(b) use an identification document, knowing (or having reason to know) that the document is false or was not issued lawfully for the use of the possessor, or use a false attestation, for I-9 employment verification purposes

- 5 years

18 U.S.C. §1621 Perjury

perjury (after oath, testify to what one does not believe to be true) for a person administering a law of the U.S. or in any declaration under 28 U.S.C. §1746

- 5 years

42 U.S.C. § 408(a) Social Security Number (SSN) Fraud

willfully, knowingly, and with intent to deceive, use a SSN on the basis of false information furnished to SSA; with intent to deceive, falsely represent a number to be the SSN to him or to another person; knowingly alter a SS card, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it; or discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States

- 5 years