



The Special Immigrant Non-Minister Religious Worker Visa Program

FEBRUARY 6, 2008

Background

The religious worker visa program allows U.S. religious denominations to fill critical religious worker positions for which there are no qualified candidates in the U.S. with qualified religious workers from abroad.

The program provides for two types of visas:

- the *Special Immigrant Visa*, which allows qualified religious workers to immigrate to the U.S. permanently and later become citizens if they so choose and meet the qualifications, and
- the *Nonimmigrant Visa*, which allows qualified religious workers to enter temporarily and perform services in the U.S. for a proscribed period.

Religious Worker Visas (both the Special Immigrant Visa and the Non-immigrant visa) may be granted to both ministers and non-minister religious workers.

- **Ministers.** Ministers covered by the program are those who are authorized by a recognized religious denomination to conduct religious worship and perform other duties usually performed by members of the clergy, such as administering the sacraments or their equivalent. The provision of the Immigration and Nationality Act that provides for the admission of ministers to the United States is a permanent part of U.S. immigration law.
- **Non-Ministers.** Non-Minister religious workers are those who are called to a vocation or who are in a traditional religious occupation with a bona fide nonprofit, religious organization in the United States. Examples of those who are called to a vocation include nuns, monks, and sisters. Examples of those in religious occupations include missionaries, counselors, translators, religious instructors, cantors, and other pastoral care providers. Some non-minister religious workers are pursuing studies in a seminary or are otherwise in formation. The provision of law that provides for the admission of non-minister special immigrant religious workers is not a permanent part of U.S. immigration law. Instead, it sunsets from time-to-time.

A Description of the Special Immigrant Non-Minister Religious Worker Visa Program

The Special Immigrant Non-Minister Religious Worker Visa Program is a subset of the larger religious worker visa program. It is found in section 101(a)(27)(C) of the Immigration and Nationality Act. It was first enacted as part of P.L. 101-649, the Immigration Act of 1990. Its chief sponsors in Congress at the time were Representative Lamar Smith (R-TX) and Senator Edward M. Kennedy (D-MA).

The purpose of the Non-Minister Religious Worker Visa Program is to allow religious denominations or organizations to sponsor non-minister religious workers from abroad to perform service here in the United States in a religious vocation or in a religious occupation.

The program provides for up to 5,000 Special Immigrant visas per year which religious denominations or organizations in the United States can use to sponsor foreign nationals to perform religious service in the United States. Once granted, this type of visa allows religious workers to immigrate permanently to the United States.

When first enacted, this program was set to expire in three years. It has been reauthorized four times since then. Under current law, unless Congress acts to prevent it, the Special Immigrant Non-Minister Religious Visa program will expire on September 30, 2008, leaving many religious denominations or congregations with no effective way of filling their needs for religious workers.



Backgrounder on Special Immigrant Non-Minister Religious Worker Program (continued) February 6, 2008

Examples of Work Performed by Non-Minister Religious Worker Visa Recipients

The denominations and the communities they serve will suffer if the provision is not extended. Among the important tasks non-minister religious workers perform are:

- providing human services to the most needy, including shelter and nutrition;
- caring for and ministering to the sick, aged, and dying in hospitals and special facilities;
- working with adolescents and young adults;
- assisting religious leaders as they lead their congregations and communities in worship;
- counseling those who have suffered severe trauma and/or hardship;
- supporting families, particularly when they are in crisis;
- offering religious instruction, especially to new members of the religious denomination; and
- helping refugees and immigrants in the United States adjust to a new way of life.

Burdens Faced By Religious Organizations Prior to Enactment of the Program

Prior to enactment of the Immigration Act of 1990, nonprofit United States based religious organizations that needed the services of foreign-born non-minister religious workers were forced to undergo a burdensome labor certification process and/or fit their needs into the business, student, and missionary visa categories. These visa categories were mainly designed for the needs of profit-making businesses and other employers and not the specific needs of religious organizations.

Religious organizations faced sometimes insurmountable obstacles in using traditional employment immigration categories, which did not fit their unique situations. The resulting consequences were that religious entities found that they could not sponsor workers at all or could not do so within a time frame that corresponded to the actual need for their much-needed services.

By enacting the Non-Minister Religious Worker Visa Program, Congress recognized both the problems with asking non-minister religious workers to fit the requirements of the employment based immigration categories *and* the genuine and critical need for foreign non-minister religious workers to perform pastoral and other services in the United States.

Permanent Extension of the Non-Minister Religious Worker Special Immigrant is Necessary

Since its initial enactment in 1990, the Special Immigrant Non-Minister Religious Worker Visa Program has been extended four times, first in 1994, again in 1997 and 2000, and most recently in 2003. While up to now, the program has been extended each time it has faced expiration, the uncertainty that has always abounded about whether it would continue has often created uncertainty within the Department of State and Department of Homeland Security, the agencies that administer the program, about whether the program would be extended. The year-to-year uncertainty also has wrought havoc in the religious community as religious organizations find themselves unsure about whether or not they will have the staff to carry out critical functions. And the uncertainty has caused local communities to worry about losing vital services that religious organizations provide.

A permanent legislative extension would allow religious organizations to rest easy about the continuation of this important program, and would provide a measure of stability that would allow religious organizations to plan ahead. With the rapid decrease in the number of Americans turning to religious vocations, religious organizations are experiencing an acute shortage of non-minister religious workers in the United States. In these times of uncertainty, it is more important than ever that faith-based organizations be able to serve the community through the essential services provided by religious workers. The 110th Congress can make this possible by permanently extending the Non-Minister Religious Worker Visa Program.