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NOW THAT IMMIGRATION REFORM WILL NOT PASS THIS YEAR, WHAT CAN WE DO TO GET OUR STATUS IN THE USA?

Now that the Republicans in the House of Representatives have announced they will not allow a vote on immigration reform legislation this year, it's clear that undocumented immigrants will have to wait beyond 2013 for amnesty. Since 2014 is an election year, it will be difficult to pass immigration reform next year as well.

What options are there for undocumented immigrants who do not wish to wait longer to obtain legal status here?

Deferred Action (DACA). First of all, for those who qualify, there really is no reason to wait any longer to apply for the Obama Administration's Deferred Action program (DACA), the executive version of the DREAM Act. To qualify, you need to be under 31 years of age as of June 15, 2012, and prove you came to the US before age 16. Even those without a high school degree can qualify if they enroll in a program now, including a GED program. Persons eligible obtain employment authorization, a drivers license and a temporary legal status.

U Visas for Victims of Domestic Violence and other crimes. The U visa is a legal status available to help many people who need status the most: victims of domestic violence, exploited workers, victims of sexual violence, street crimes or other criminal conduct. Persons approved for a U visa can obtain a work permit, a social security card and a drivers license. After three years, they are eligible for a green card. A victim of domestic violence or other crime can get status for themselves, their spouse, and all their children under 21.

Spouses and parents of US citizens can apply here in the US now. This year, the Obama Administration made it easier and safer for undocumented immigrant spouses and parents of US citizens to apply for permanent residence. These immigrants can now seek a "pardon" or waiver in the U.S., instead of returning to a US Consulate in Ciudad Juarez, or the country of their origin. This eliminates the risk of being apart from your family, and reduces the cost and difficulty of getting your green card.

Cancellation of Deportation. Our laws also allow undocumented immigrants to apply for something called "Cancellation of removal" based upon time in the U.S., good moral character and "exceptional and extremely unusual hardship" to a close relative. It is up to a judge hearing your case to decide if you obtain your status or not.

You need to prove that you have a parent, spouse or child who is a U.S. citizen or a permanent resident and that you being deported would cause your U.S. citizen or permanent resident relative “exceptional and extremely unusual hardship”. If you can show that your child, parent or spouse has special medical or psychological needs, that will greatly increase your chances of winning this status and staying in the U.S.

It is a tragedy that immigration reform has not passed; our community should continue to press for it in Congress. But, for those thinking of returning to their homeland rather than waiting any longer here, there are laws that may offer a path to a green card if they only seek professional advice. These should be discussed with an immigration lawyer before abandoning one's life in the United States. For almost all undocumented immigrants, leaving the U.S. will make it impossible to come back here for at least 10 years under our laws. For many of my clients, there are better options under our existing laws that allow them to keep their family and their life in the U.S.

CHRISTOPHER A. KEROSKY of the law firm of KEROSKY PURVES & BOGUE has practiced law since 1984 and has been recognized as one of the top immigration lawyers in Northern California for the last seven years by San Francisco Magazine “Super Lawyers” edition (2006-2012). He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C.

WARNING: The foregoing is an article discussing legal issues. It is not intended to be a substitute for legal advice. We recommend that you get competent legal advice specific to your case. If you would like such advice from our office, call (415) 777-4445 (San Francisco); (916) 349-2900 (Sacramento) or (707) 433-2060 (Santa Rosa), (707) 242-2722 (Napa,) or (707)244-2272 (Ukiah).