Protecting Assets & Child Custody in the Face of Deportation

A Guide for Practitioners Assisting Immigrant Families

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FOREWORD

Dear Friends,

Can you imagine being abruptly ejected from the United States — and leaving behind your home, your children, your job, your bank account, and everything else you’ve spent years to build? Can you imagine what your children would feel when they arrived home and you’re gone?

Deportation can be a cataclysm for families and communities, destroying decades of hard-earned assets and rupturing family development. But with advanced planning, immigrant families can prevent an enormous amount of this damage.

That’s why Appleseed is proud to present an updated version of its 2012 Manual, “Protecting Assets and Child Custody in the Face of Deportation.” This one-of-a-kind resource is designed for immigrants and those who work with them; the host of attorneys, nurses, social workers, religious workers who are stepping up in challenging times.

Appleseed’s Manual will help families develop plans in advance to deal with critical financial and family issues in the event of deportation, arrest, and other family emergencies. It will help immigrant families deal with child custody and related children’s issues, personal finances, assets and personal property, remittance payments, wages and benefits, business issues, and taxes. And it includes special guidance for family and children’s issues, including professional advice for parents to help their families deal with painful psychological issues, and for immigrant survivors of domestic violence and sexual assault.

Make no mistake: for vulnerable immigrant families, advance planning can make all the difference. Once an immigrant is detained or deported from the United States, navigating a legal proceeding or managing assets is much more difficult, or even impossible, especially since immigration laws bar immigrants from reentering the United States after deportation for several years.

We are grateful to our pro bono law firms, volunteer psychologists, translation companies, and more than 20 nonprofit partners across the country who wrote, researched, proofread, and translated this manual into Spanish. We could simply not have done it without you. Thank you so much to Adams and Reese LLP, the Asian Pacific Institute on Gender-based Violence, ASISTA, Ballard Spahr LLP, BGBG Abogados, Cooley LLP, Directum Translations, Hogan Lovells LLP, Mexico Appleseed, the Mexico
City Department of Labor, MomsRising/MamasConPoder, Norton Rose Fulbright, O’Melveny & Myers, The William Alanson White Institute Center for Public Mental Health, and White & Case for your commitment, careful drafting, and counsel during this process. We are also deeply grateful to the Annie E. Casey Foundation and the Ford Foundation for their support of these efforts.

Immigrants come to the United States to build a better future and to unite with family members. Most have lived in the United States for many years, paying taxes and joining the daily life of their communities. Over time, immigrants buy homes, start businesses and build personal assets. When they build better lives, they make our country stronger.

That’s why this Manual is a labor of love for all who worked on it. We are committed to fairness and compassion for the millions of immigrants living in our country. Our hope is that you can use this resource to help them build better lives.

Sincerely,

Annette LoVoi, Director, Financial Access and Asset Building, Appleseed
Disclaimers

Each Chapter is intended to provide generalized information on a particular topic. In many cases, laws may differ from state to state. Therefore, this information is not intended to replace state-specific legal assistance. Nothing in this manual is intended to create an attorney-client or fiduciary relationship.

Appleseed recognizes and understands the legal term “alien,” used to describe any person born in another country to parents who are not American and who has not become a naturalized citizen, but is living or staying in the United States. However, throughout this Manual, we will primarily use the term “immigrant” in place of the term “alien” based on AP Stylebook guidance and the recommendations of our partners. The exception will be when citing laws, codes, or regulations that specifically use the term “alien.”
7. Credit Cards, Prepaid and Debit Cards

In the face of deportation, an immigrant can take steps to manage credit cards, prepaid cards, and debit cards. This section addresses the following issues:

**First Steps: Gather Important Information**

Before you begin, take a few moments to gather key documents and record important information about your cards. Keep this on your person or retain it in secure electronic file. Write down:

- **Brand name on card;**
- **Name of bank that works with the card company;**
- **Account number;**
- **Security code;**
- **Date of expiration; and**
- **Contact information for both the bank and card companies**

**What is a Credit Card?**

A credit card gives the credit card holder access to a revolving line of credit. Buying something with a credit card or using a credit card to get cash is borrowing money against the line of credit. The credit card holder can borrow an amount up to the credit card limit. To keep the line of credit open, the credit card holder must make at least minimum monthly payments against any accrued debt. These payments typically include relatively large interest payments and possibly other service charges as well.

**What Will Happen to the Immigrant’s Credit Card After They Leave the Country?**

The immigrant should check with his or her credit card company.
What Will Happen if the Immigrant Tries to Use Their Credit Card Outside the U.S.?

The immigrant may be able to use his or her credit card outside the U.S. In some cases, the credit card company may charge a foreign transaction fee to use a credit card outside the U.S. These fees may mount up. The immigrant should also be aware of the exchange rate used by the credit card company in processing the transaction. The immigrant should check with his or her credit card company for details.

What is Credit Card Debt?

Credit card debt is the total amount borrowed against the line of credit plus any accrued interest and other fees. In some cases, the accrued interest and fees may exceed the line of credit.

What Happens to Credit Card Debt After the Immigrant Leaves the Country?

Credit card debt exists regardless of where the immigrant lives. The obligation to repay the debt does not disappear when a person leaves the country. If an immigrant misses a credit card payment, the immigrant will likely incur fees and penalties on his or her debt. Once the debt reaches a certain level, the credit card company may cancel the immigrant’s credit card and sell the debt to a debt collector. Debt collectors have a limited time during which they can sue debtors for nonpayment of credit card bills. Such time limits differ by state and are set by each state’s statute of limitations.

What Should the Immigrant Do to Pay Their Credit Card Debt?

For Supervised Immigrants

Immigrants who have some time before they must leave the United States should (1) contact each of their credit card companies, (2) tell each company about their situation, and (3) provide a forwarding address in their home country in a letter sent with a certified return receipt requested. This reduces the chance that the immigrant will miss a credit card payment.

For Detained Immigrants

Detained Immigrants may not have enough time during the transition from one location to another to inform their credit card companies that they are leaving. This increases the risk that the immigrant will miss payments which will likely result in fees and penalties on his or her debt. An immigrant who is subject to immediate removal from the United States may wish to keep a record of his or her credit card company’s contact numbers and addresses
on their person or in a readily accessible place (e.g., in a secure email account or with a close friend or relative). Upon arriving in his or her home country, the immigrant should contact the credit card company and, if necessary, send in any payments that are owed.

**What Happens if the Immigrant Doesn’t Pay Her or His Credit Card Debt?**

If the immigrant doesn’t pay his or her credit card debt, the credit card company may sell the debt to a debt collector for collection. Failure to pay credit card debt may also hurt the immigrant’s credit rating in the United States. The immigrant’s credit rating probably won’t affect the immigrant in his or her home country, but may complicate the immigrant’s finances if the immigrant ever returns to the United States.

**What Happens if the Immigrant’s Credit Card Debt is Sold to a Debt Collector?**

The debt collector may contact the immigrant to arrange payment of the debt. The immigrant should be aware of his or her rights and of acceptable debt collection practices. See, [https://www.consumer.ftc.gov/articles/0149-debt-collection](https://www.consumer.ftc.gov/articles/0149-debt-collection) for more information. International debt collection may be impractical for many debts.

**Prepaid Cards**

**What is a Prepaid Card?**

A prepaid card is like a credit card that the cardholder pays in advance. The cardholder loads money onto the prepaid card, then spends that money to buy things or withdraw cash. These cards usually require a PIN number. In some cases, money can be loaded onto prepaid cards directly from a paycheck or bank account. The money can be recovered if the prepaid card is lost or stolen. Unlike credit cards, there are no interest payments, but there may be hidden fees associated with setting up, loading, and using prepaid cards. These fees may mount up.

**Can an Immigrant Use His or Her Prepaid Card Outside the U.S.?**

Some prepaid cards can be used outside the U.S. Indeed, some prepaid cards are intended to be used outside the U.S. (e.g., by American tourists). The immigrant should check with his or her prepaid card company for information on whether or not his or her prepaid card can be used outside the U.S. and, if so, what fees and limitations apply.
What Should an Immigrant Do With His Or Her Prepaid Card Before Leaving The Country?

The immigrant should check to see whether or not his or her prepaid card can be used outside the U.S. and, if so, whether or not it can be brought into his or her destination country. If not, the immigrant should consider alternatives, including spending or withdrawing the money on the prepaid card. The immigrant may also want to stop any recurring transfers to or from the prepaid card.

What should an immigrant do if his or her prepaid card is stolen or confiscated?

If the prepaid card is stolen or confiscated, the immigrant should contact the prepaid card company to recover the funds on the prepaid cards.

Debit Cards

What is a Debit Card?

A debit card is like a credit card that is linked to a bank account. The cardholder puts money in the bank account, then spends that money to buy things or withdraw cash. In some cases, the cardholder can withdraw more than the amount in the bank account. These excess withdrawals may be subject to overdraft fees. These fees may mount up.

Can an Immigrant Use His or Her Debit Card Outside the U.S.?

Some debit cards can be used outside the U.S. The immigrant should check with his or her bank for information on whether or not his or her debit card can be used outside the U.S. and, if so, what fees and limitations apply.

What Should an Immigrant Do with His or Her Debit Card Before Leaving the Country?

The immigrant should decide whether or not to close the bank account linked to the debit card. If the immigrant closes the bank account, then the debit card will no longer work and should be discarded. If the immigrant keeps the bank account, then the immigrant should check with his or her bank for information on whether or not his or her debit card can be used outside the U.S. and, if so, what fees and limitations apply.

What Should an Immigrant Do if His or Her Debit Card is Stolen or Confiscated?

If the debit card is stolen or confiscated, the immigrant should report the theft or loss to his or her bank as soon as possible.
CHECKLIST: CREDIT CARDS, PREPAID AND DEBIT CARDS

☐ List of credit cards:
  - Credit card company phone numbers and addresses
  - Call credit card companies about departure

☐ List of prepaid cards:
  - Prepaid card company phone numbers and addresses
  - Call prepaid card companies about departure

☐ List of debit cards:
  - Bank phone numbers and addresses
  - Call bank(s) about departure

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<th>Card nickname (i.e., Visa, Mastercard, Bank card)</th>
<th>Last four digits on account</th>
<th>Type (credit, prepaid, debit)</th>
<th>Customer service phone number</th>
<th>Notes</th>
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