

# Suit Seeks to Bar INS Deporting of Aliens Eligible for Amnesty

By DAVID HOLLEY, *Times Staff Writer*

A coalition of immigrants' rights advocates filed a federal lawsuit in Sacramento on Wednesday seeking to block the U.S. Immigration and Naturalization Service from deporting any illegal aliens who appear to qualify for amnesty under new immigration reform legislation.

The national class-action lawsuit—one of the first skirmishes in an expected wave of legal battles as the complex immigration reform law is gradually implemented—seeks to ensure that illegal aliens apprehended by INS agents are informed of and granted all the rights they may have under the new law.

The bill signed last week by President Reagan provides that illegal aliens who can show continuous residence in this country since before the amnesty cut-off date of Jan. 1, 1982, "may not be deported" pending the opportunity to apply for legalization. That section of the law is in effect, although amnesty applications will not be accepted

until May, 1987.

Duke Austin, an INS spokesman in Washington, said Wednesday that the agency's policy is that illegal aliens apprehended by INS agents generally must take the initiative in pressing for rights they may have under the immigration reform bill.

The lawsuit seeks a court order requiring the agency to advise apprehended persons who appear to qualify for amnesty of their right to apply for legalization, according to the Los Angeles-based National Center for Immigrants' Rights Inc., a plaintiff in the case.

The suit asks that the INS be restrained from deporting or otherwise expelling from the United States anyone who appears to qualify for the amnesty program. It also seeks an order that people who have been improperly expelled since the Nov. 6 effective date of the law be allowed to return and apply for legalization.

A hearing on a temporary re-  
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straining order is set for Friday afternoon before U.S. District Judge Lawrence Karlton.

Austin said that although the agency will conduct a general educational program on legalization rights, "there is no requirement for the [immigration] service to conduct an individual educational program for every alien apprehended."

"When you arrest somebody under immigration law . . . you don't re-read the law to him," Austin said. "You don't have to state to him every equity available to him under immigration law before you go forward with deportation."

Illegal aliens who fight deportation by presenting evidence that they will qualify for amnesty "will be granted a stay of deportation until they have an opportunity to file an application [for legalization]," Austin said.

Austin, interviewed before the lawsuit was filed late Wednesday afternoon, said, "The mere filing of the suit will not change our position."

"Filing a lawsuit changes nothing," he said. "Getting a judgment on a lawsuit changes a lot of things."

The other plaintiffs in the suit are the Centro de Guadalupe Immigration Center, run by Catholic Social Services Inc. in Sacramento, the Sacramento-based California Coalition of Welfare Rights Organizations Inc. and three individuals: Sara Luz Orantes de Palacios, Mercedes Aguilar de Lopez and Maria Teresa Reyes. U.S. Atty. Gen. Edwin Meese III, head of the Justice Department, which includes the INS, is named as the defendant.

Peter Schey, executive director of the National Center for Immigrants' Rights, said plaintiffs in the lawsuit believe that the INS must actively ensure that undocumented aliens receive the rights they are entitled to if the new law is to work.

"Our primary concern is to ensure that the amnesty gets off on the right foot, because if it doesn't, the trust of the community will have been lost, and the likelihood of having a successful amnesty program . . . will have been decreased," Schey said. "We think it is incumbent upon the attorney general to immediately issue instructions to all INS and Border Patrol agents to ensure that all people who qualify for amnesty are given a stay of expulsion."

