



70/1-P

Interoffice Memorandum

To: REGIONAL DIRECTORS
DISTRICT DIRECTORS
DIRECTOR, NATIONAL BENEFITS CENTER
SERVICE CENTER DIRECTORS
CHIEF, SERVICE CENTER OPERATIONS
CHIEF, FIELD OPERATIONS

From: Michael Aytes/s/
Associate Director, Domestic Operations

Date: July 28, 2006

SUBJECT: Adam Walsh Child Protection and Safety Act of 2006

This memorandum provides guidance for the initial implementation of the recently enacted Immigration Law Reforms to Prevent Sex Offenders from Abusing Children (Title IV of the Adam Walsh Child Protection and Safety Act of 2006).

On July 27, 2006, President Bush signed into law H.R. 4772, the Adam Walsh Child Protection and Safety Act of 2006 ("Adam Walsh Act"), an Act to protect children from sexual exploitation and violent crime, to prevent child abuse and child pornography, to promote Internet safety, and to honor the memory of Adam Walsh and other child crime victims.

Section 402 of the Adam Walsh Act amends section 204 of the Immigration and Nationality Act (INA) to prohibit U.S. citizens and lawful permanent resident aliens who have been convicted of any "specified offense against a minor" from filing a family-based immigrant petition (including the Form I-130 and the Petition to Classify Orphan, Form I-600A or I-600) on behalf of any beneficiary, unless the Secretary of Homeland Security determines in his sole and unreviewable discretion that the petitioner poses no risk to the beneficiary. Section 402 of the Adam Walsh Act also amends section 101(a)(15) of the INA to remove spouses or fiancés of U.S. citizens convicted of these offenses from eligibility for "K" nonimmigrant status (Form I-129F). The operative definition of "specified offense against a minor" is contained in section 111(7) of the Adam Walsh Act:

"The term 'specified offense against a minor' means an offense against a minor that involves any of the following:

- (A) An offense (unless committed by a parent or guardian) involving kidnapping.
- (B) An offense (unless committed by a parent or guardian) involving false imprisonment.
- (C) Solicitation to engage in sexual conduct.

- (D) Use in a sexual performance.
- (E) Solicitation to practice prostitution.
- (F) Video voyeurism as described in section 1801 of title 18, United States Code.
- (G) Possession, production, or distribution of child pornography.
- (H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
- (I) Any conduct that by its nature is a sex offense against a minor.”

A minor is defined as an individual who has not attained the age of 18 years.

The Adam Walsh Act is effective on the date of enactment. It applies to all petitions pending on or after that date.

Headquarters is currently reviewing this recently enacted legislation and will provide detailed guidance for implementation.

In the interim, the following procedures are implemented effective this date:

If the petitioner’s IBIS check reveals a hit for any sexual or kidnapping offense that is, or potentially may be a “specified offense against a minor” as defined above, the following actions will be taken:

1. A Request for Evidence will be issued for all police arrest records and court disposition documents.
2. The petitioner will be scheduled for fingerprinting in accordance with Center or Field Office procedures. These fingerprints will be processed without fee.

Adjudication of these cases will be suspended pending further guidance, however these petitions may be denied on grounds not related to the above.