

State not yet participating in the National Sex Offender Public Registry in which the United States client has resided during the previous 20 years,” to reflect the probable intent of Congress.

Subsec. (d)(3)(A)(iii)(II). Pub. L. 113-4, §808(c)(3)(A)(ii), substituted “signed certification and accompanying documentation or attestation regarding the background information collected under paragraph (2)(B);” for “background information collected by the international marriage broker under paragraph (2)(B);”.

Subsec. (d)(3)(C). Pub. L. 113-4, §808(c)(3)(B), struck out subpar. (C). Text read as follows: “A person who knowingly discloses, uses, or causes to be used any information obtained by an international marriage broker as a result of the obligations imposed on it under paragraph (2) and this paragraph for any purpose other than the disclosures required under this paragraph shall be fined in accordance with title 18 or imprisoned not more than 1 year, or both. These penalties are in addition to any other civil or criminal liability under Federal or State law which a person may be subject to for the misuse of that information, including to threaten, intimidate, or harass any individual. Nothing in this section shall prevent the disclosure of such information to law enforcement or pursuant to a court order.”

Subsec. (d)(5)(A)(ii). Pub. L. 113-4, §808(c)(4)(A), substituted “At the discretion of the Attorney General, a penalty may be imposed under clause (i) either by a Federal judge, or by the Attorney General” for “A penalty may be imposed under clause (i) by the Attorney General only”.

Subsec. (d)(5)(B). Pub. L. 113-4, §808(c)(4)(B), amended subpar. (B) generally. Prior to amendment, text read as follows: “In circumstances in or affecting interstate or foreign commerce, an international marriage broker that, within the special maritime and territorial jurisdiction of the United States, violates (or attempts to violate) paragraph (1), (2), (3), or (4) shall be fined in accordance with title 18 or imprisoned for not more than 5 years, or both.”

Subsec. (d)(5)(C). Pub. L. 113-4, §808(c)(4)(C), substituted “including equitable remedies.” for period at end.

Subsec. (d)(6) to (8). Pub. L. 113-4, §808(c)(5), (6), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

Subsec. (f). Pub. L. 113-4, §808(d)(1), substituted “studies and reports” for “study and report” in heading.

Subsec. (f)(4). Pub. L. 113-4, §808(d)(2), added par. (4).

§ 1375b. Protections for domestic workers and other nonimmigrants

(a) Information pamphlet and video for consular waiting rooms

(1) Development and distribution

The Secretary of State, in consultation with the Secretary of Homeland Security, the Attorney General, and the Secretary of Labor, shall develop an information pamphlet and video on legal rights and resources for aliens applying for employment- or education-based nonimmigrant visas. The video shall be distributed and shown in consular waiting rooms in embassies and consulates appropriate to the circumstances that are determined to have the greatest concentration of employment or education-based non-immigrant visa applicants, and where sufficient video facilities exist in waiting or other rooms where applicants wait or convene. The Secretary of State is authorized to augment video facilities in such consulates or embassies in order to fulfill the purposes of this section.

(2) Consultation

In developing the information pamphlet under paragraph (1), the Secretary of State shall consult with nongovernmental organizations with expertise on the legal rights of workers and victims of severe forms of trafficking in persons.

(b) Contents

The information pamphlet and video developed under subsection (a) shall include information concerning items such as—

(1) the nonimmigrant visa application processes, including information about the portability of employment;

(2) the legal rights of employment or education-based nonimmigrant visa holders under Federal immigration, labor, and employment law;

(3) the illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail, and worker exploitation in the United States;

(4) the legal rights of immigrant victims of trafficking in persons and worker exploitation, including—

(A) the right of access to immigrant and labor rights groups;

(B) the right to seek redress in United States courts;

(C) the right to report abuse without retaliation;

(D) the right of the nonimmigrant to relinquish possession of his or her passport to his or her employer;

(E) the requirement of an employment contract between the employer and the nonimmigrant; and

(F) an explanation of the rights and protections included in the contract described in subparagraph (E); and

(5) information about nongovernmental organizations that provide services for victims of trafficking in persons and worker exploitation, including—

(A) anti-trafficking in persons telephone hotlines operated by the Federal Government;

(B) the Operation Rescue and Restore hotline; and

(C) a general description of the types of victims services available for individuals subject to trafficking in persons or worker exploitation.

(c) Translation

(1) In general

To best serve the language groups having the greatest concentration of employment-based nonimmigrant visas, the Secretary of State shall translate the information pamphlet and produce or dub the video developed under subsection (a) into all relevant foreign languages, to be determined by the Secretary based on the languages spoken by the greatest concentrations of employment- or education-based nonimmigrant visa applicants.

(2) Revision

Every 2 years, the Secretary of State, in consultation with the Attorney General and

the Secretary of Homeland Security, shall determine the specific languages into which the information pamphlet will be translated and the video produced or dubbed based on the languages spoken by the greatest concentrations of employment- or education-based non-immigrant visa applicants.

(d) Availability and distribution

(1) Posting on Federal websites

The information pamphlet and video developed under subsection (a) shall be posted on the websites of the Department of State, the Department of Homeland Security, the Department of Justice, the Department of Labor, and all United States consular posts processing applications for employment- or education-based nonimmigrant visas.

(2) Other distribution

The information pamphlet and video developed under subsection (a) shall be made available to any—

- (A) government agency;
- (B) nongovernmental advocacy organization; or
- (C) foreign labor broker doing business in the United States.

(3) Deadline for pamphlet development and distribution

Not later than 180 days after December 23, 2008, the Secretary of State shall distribute and make available the information pamphlet developed under subsection (a) in all the languages referred to in subsection (c).

(4) Deadline for video development and distribution

Not later than 1 year after March 7, 2013, the Secretary of State shall make available the video developed under subsection (a) produced or dubbed in all the languages referred to in subsection (c).

(e) Responsibilities of consular officers of the Department of State

(1) Interviews

A consular officer conducting an interview of an alien for an employment-based non-immigrant visa shall—

- (A)(i) confirm that the alien has received, read, and understood the contents of the pamphlet described in subsections (a) and (b); and
- (ii) if the alien has not received, read, or understood the contents of the pamphlet described in subsections (a) and (b), distribute and orally disclose to the alien the information described in paragraphs (2) and (3) in a language that the alien understands; and

(B) offer to answer any questions the alien may have regarding the contents of the pamphlet described in subsections (a) and (b).

(2) Legal rights

The consular officer shall disclose to the alien—

- (A) the legal rights of employment-based nonimmigrants under Federal immigration, labor, and employment laws;
- (B) the illegality of slavery, peonage, trafficking in persons, sexual assault, extortion,

blackmail, and worker exploitation in the United States; and

(C) the legal rights of immigrant victims of trafficking in persons, worker exploitation, and other related crimes, including—

- (i) the right of access to immigrant and labor rights groups;
- (ii) the right to seek redress in United States courts; and
- (iii) the right to report abuse without retaliation.

(3) Victim services

In carrying out the disclosure requirement under this subsection, the consular officer shall disclose to the alien the availability of services for victims of human trafficking and worker exploitation in the United States, including victim services complaint hotlines.

(f) Definitions

In this section:

(1) Employment- or education-based non-immigrant visa

The term “employment- or education-based nonimmigrant visa” means—

- (A) a nonimmigrant visa issued under subparagraph (A)(iii), (G)(v), (H), or (J) of section 1101(a)(15) of this title; and
- (B) any nonimmigrant visa issued to a personal or domestic servant who is accompanying or following to join an employer.

(2) Severe forms of trafficking in persons

The term “severe forms of trafficking in persons” has the meaning given the term in section 7102 of title 22.

(3) Secretary

The term “Secretary” means the Secretary of State.

(4) Abusing and exploiting

The term “abusing and exploiting” means any conduct which would constitute a violation of section 1466A, 1589, 1591, 1592, 2251, or 2251A of title 18.

(Pub. L. 110–457, title II, § 202, Dec. 23, 2008, 122 Stat. 5055; Pub. L. 113–4, title XII, § 1206, Mar. 7, 2013, 127 Stat. 140.)

CODIFICATION

Section was enacted as part of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, and not as part of the Immigration and Nationality Act which comprises this chapter.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–4, § 1206(1)(A), inserted “and video for consular waiting rooms” after “Information pamphlet” in heading.

Subsec. (a)(1). Pub. L. 113–4, § 1206(1)(B), inserted “and video” after “information pamphlet” and inserted at end “The video shall be distributed and shown in consular waiting rooms in embassies and consulates appropriate to the circumstances that are determined to have the greatest concentration of employment or education-based non-immigrant visa applicants, and where sufficient video facilities exist in waiting or other rooms where applicants wait or convene. The Secretary of State is authorized to augment video facilities in such consulates or embassies in order to fulfill the purposes of this section.”

Subsec. (b). Pub. L. 113–4, § 1206(2), inserted “and video” after “information pamphlet” in introductory provisions.

Subsec. (c)(1). Pub. L. 113–4, § 1206(3)(A), inserted “and produce or dub the video” after “information pamphlet”.

Subsec. (c)(2). Pub. L. 113–4, § 1206(3)(B), inserted “and the video produced or dubbed” after “translated”.

Subsec. (d)(1). Pub. L. 113–4, § 1206(4)(A), inserted “and video” after “information pamphlet”.

Subsec. (d)(2). Pub. L. 113–4, § 1206(4)(B), inserted “and video” after “information pamphlet” in introductory provisions.

Subsec. (d)(4). Pub. L. 113–4, § 1206(4)(C), added par. (4).

§ 1375c. Protections, remedies, and limitations on issuance for A–3 and G–5 visas

(a) Limitations on issuance of A–3 and G–5 visas

(1) Contract requirement

Notwithstanding any other provision of law, the Secretary of State may not issue—

(A) an A–3 visa unless the applicant is employed, or has signed a contract to be employed containing the requirements set forth in subsection (d)(2),¹ by an officer of a diplomatic mission or consular post; or

(B) a G–5 visa unless the applicant is employed, or has signed a contract to be employed by an employee in an international organization.

(2) Suspension requirement

Notwithstanding any other provision of law, the Secretary shall suspend, for such period as the Secretary determines necessary, the issuance of A–3 visas or G–5 visas to applicants seeking to work for officials of a diplomatic mission or an international organization, if the Secretary determines that there is credible evidence that 1 or more employees of such mission or international organization have abused or exploited 1 or more nonimmigrants holding an A–3 visa or a G–5 visa, and that the diplomatic mission or international organization tolerated such actions.

(3) Action by diplomatic missions or international organizations

The Secretary may suspend the application of the limitation under paragraph (2) if the Secretary determines and reports to the appropriate congressional committees that a mechanism is in place to ensure that such abuse or exploitation does not reoccur with respect to any alien employed by an employee of such mission or institution.

(b) Protections and remedies for A–3 and G–5 nonimmigrants employed by diplomats and staff of international organizations

(1) In general

The Secretary may not issue or renew an A–3 visa or a G–5 visa unless—

(A) the visa applicant has executed a contract with the employer or prospective employer containing provisions described in paragraph (2); and

(B) a consular officer has conducted a personal interview with the applicant outside the presence of the employer or any recruitment agent in which the officer reviewed the terms of the contract and the provisions of the pamphlet required under section 1375b of this title.

¹ So in original. Probably should be “(b)(2).”

(2) Mandatory contract

The contract between the employer and domestic worker required under paragraph (1) shall include—

(A) an agreement by the employer to abide by all Federal, State, and local laws in the United States;

(B) information on the frequency and form of payment, work duties, weekly work hours, holidays, sick days, and vacation days; and

(C) an agreement by the employer not to withhold the passport, employment contract, or other personal property of the employee.

(3) Training of consular officers

The Secretary shall provide appropriate training to consular officers on the fair labor standards described in the pamphlet required under section 1375b of this title, trafficking in persons, and the provisions of this section.

(4) Record keeping

(A) In general

The Secretary shall maintain records on the presence of nonimmigrants holding an A–3 visa or a G–5 visa in the United States, including—

(i) information about when the nonimmigrant entered and permanently exited the country of residence;

(ii) the official title, contact information, and immunity level of the employer; and

(iii) information regarding any allegations of employer abuse received by the Department of State.

(c) Protection from removal during legal actions against former employers

(1) Remaining in the United States to seek legal redress

(A) Effect of complaint filing

Except as provided in subparagraph (B), if a nonimmigrant holding an A–3 visa or a G–5 visa working in the United States files a civil action under section 1595 of title 18 or a civil action regarding a violation of any of the terms contained in the contract or violation of any other Federal, State, or local law in the United States governing the terms and conditions of employment of the nonimmigrant that are associated with acts covered by such section, the Attorney General and the Secretary of Homeland Security shall permit the nonimmigrant to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to such action.

(B) Exception

An alien described in subparagraph (A) may be deported before the conclusion of the legal proceedings related to a civil action described in such subparagraph if such alien is—

(i) inadmissible under paragraph (2)(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), (3)(C), or (3)(F) of section 1182(a) of this title; or