

9 FAM 42.67

EXECUTION OF APPLICATION, REGISTRATION, AND FINGERPRINTING

(CT:VISA-1673; 08-26-2011)
(Office of Origin: CA/VO/L/R)

9 FAM 42.67 RELATED STATUTORY PROVISION

(CT:VISA-986; 07-31-2008)

See INA 105(b) (8 U.S.C. 1105(b)), INA 221(b) (8 U.S.C. 1201(b)), INA 222(e) (8 U.S.C. 1202(e)), and Executive Order No. 10718 of June 27, 1957 (3 CFR 382), in part:

INA 105(b)

- b. (1) The Attorney General and the Director of the Federal Bureau of Investigation shall provide the Department of State and the Service access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index (NCIC-III), Wanted Persons File, and to any other files maintained by the National Crime Information Center that may be mutually agreed upon by the Attorney General and the agency receiving the access, for the purpose of determining whether or not a visa applicant or applicant for admission has a criminal history record indexed in any such file.
- (2) Such access shall be provided by means of extracts of the records for placement in the automated visa lookout or other appropriate database, and shall be provided without any fee or charge.
- (3) The Federal Bureau of Investigation shall provide periodic updates of the extracts at intervals mutually agreed upon with the agency receiving the access. Upon receipt of such updated extracts, the receiving agency shall make corresponding updates to its database and destroy previously provided extracts.
- (4) Access to an extract does not entitle the Department of State to obtain the full content of the corresponding automated criminal history record. To obtain the full content of a criminal history record, the Department of State shall submit the applicant's

fingerprints and any appropriate fingerprint processing fee authorized by law to the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

INA 221(b)

- b. Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A) and 101(a)(15)(G) or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

INA 222(e)

- e. Except as may be otherwise prescribed by regulations, each application for an immigrant visa shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. The application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa. The application for a nonimmigrant visa or other documentation as a nonimmigrant shall be disposed of as may be by regulations prescribed. The issuance of a nonimmigrant visa shall, except as may be otherwise by regulations prescribed, be evidenced by a stamp, or other placed in the alien's passport.

Executive Order No. 10718, in part

Section 1 There is hereby delegated to the Secretary of State the authority vested in the President by section 1745 of the Revised Statutes of the United States 22 U.S.C. 1201 to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several embassies, legations, and consulates, and to adapt the same, by such differences as may be necessary or proper, to each embassy, legation, or consulate.

9 FAM 42.67 RELATED REGULATORY PROVISION

(CT:VISA-1673; 08-26-2011)

See 22 CFR 42.67

Section 42.67 Execution of application, registration, and fingerprinting.

(a) Execution of visa application —(1) Application fee. A fee is prescribed for each application for an immigrant visa. It shall be collected prior to the execution of the application and a receipt shall be issued.

(2) Oath and signature on Form DS-230. The applicant shall be required to read the Form DS-230, Application for Immigrant Visa and Alien Registration, when it is completed, or it shall be read to the applicant in the applicant's language, or the applicant shall otherwise be informed of its full contents. Applicants shall be asked whether they are willing to subscribe thereto. If the applicant is not willing to subscribe to the application unless changes are made in the information stated therein, the required changes shall be made. The application shall then be sworn to or affirmed and signed by or on behalf of the applicant before a consular officer, or a designated officer of the American Institute of Taiwan, who shall then sign the application over the officer's title.

(3) Oath and signature on Form DS-260. The applicant shall be required to read the Form DS-260, Electronic Application for Immigrant Visa and Alien Registration, when it has been completed, or it shall be read to the applicant in the applicant's language, or the applicant shall otherwise be informed of its full contents, before the applicant electronically signs and submits the application to the Department. At the time of the applicant's interview the applicant shall be asked whether they are willing to subscribe thereto to the information provided on Form DS-260. If the alien is not willing to subscribe to the application unless changes are made in the information stated therein, the required changes shall be made. The application shall then be sworn to or affirmed and signed, biometrically, by or on behalf of the applicant before a consular officer, or a designated officer of the American Institute of Taiwan, who shall then electronically sign the application.

(b) Registration. The alien shall be considered to be registered for the purposes of INA 221(b) and 203(g) upon the filing of Form DS-230 or Form DS-260, when duly executed, or the transmission by the Department to the alien of a notification of the availability of an immigrant visa, whichever occurs first.

(c) Fingerprinting. Every applicant for an immigrant visa must furnish fingerprints prior to the execution of Form DS-230 or Form DS-260.

[75 FR 45476, Aug. 3, 2010]