

# 9 FAM 40.61 ALIENS PRESENT WITHOUT ADMISSION OR PAROLE

*(CT:VISA-1316; 09-23-2009)*  
*(Office of Origin: CA/VO/L/R)*

## 9 FAM 40.61 RELATED STATUTORY PROVISIONS

*(CT:VISA-1316; 09-23-2009)*

See INA 212(a)(6) (8 U.S.C. 1182(a)(6)) and Sec. 301(c)(2) of Pub. L. 104-208.

### **INA 212(a)(6)**

(6) *Illegal Entrants and Immigration Violators.-*

(A) *ALIENS Present Without Admission or Parole.-*

(i) In General

An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

(ii) Exception for certain battered women and children.-Clause

(i) shall not apply to an alien who demonstrates that-

(I) the alien is a VAWA self-petitioner;

(II) (a) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (b) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent

consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

- (III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

## **9 FAM 40.61 RELATED REGULATORY PROVISIONS**

*(CT:VISA-967; 06-11-2008)*

See 22 CFR 40.61

### **40.61 Aliens present without admission or parole.**

INA 212(a)(6)(A)(i) does not apply at the time of visa issuance.

[62 FR 67567, Dec. 29, 1997]