

## **9 FAM 41.105 SUPPORTING DOCUMENTS AND FINGERPRINTING**

*(CT:VISA-1285; 09-08-2009)  
(Office of Origin: CA/VO/L/R)*

### **9 FAM 41.105 RELATED STATUTORY PROVISIONS**

*(CT:VISA-1285; 09-08-2009)*

See INA 221(b) (8 U.S.C. 1202(b)) and INA 105(b) (8 U.S.C. 1105(b)).

#### **INA 221(b) *Registration; Photographs; Waiver of Requirement***

(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 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.

## 9 FAM 41.105 RELATED REGULATORY PROVISIONS

*(CT:VISA-1285; 09-08-2009)*

See 22 CFR 41.105

### 41.105 Supporting documents and fingerprinting.

(a) Supporting documents —

- (1) **Authority to require documents.** The consular officer is authorized to require documents considered necessary to establish the alien's eligibility to receive a nonimmigrant visa. All documents and other evidence presented by the alien, including briefs submitted by attorneys or other representatives, shall be considered by the consular officer.
- (2) **Unobtainable documents.** If the consular officer is satisfied that a document or record required under the authority of this section is unobtainable, the consular officer may accept satisfactory alternative pertinent evidence. A document or other record shall be considered unobtainable if it cannot be procured without causing the applicant or a member of the applicant's family actual hardship as distinct from normal delay and inconvenience.
- (3) **Photographs required.** Every applicant for a nonimmigrant visa must furnish a photograph in such numbers as the consular officer may require. Photographs must be a reasonable likeness, 1 1/2 by

1 1/2 inches in size, unmounted, and showing a full, front-face view of the applicant against a light background. At the discretion of the consular officer, head coverings may be permitted provided they do not interfere with the full, front-face view of the applicant. The applicant must sign (full name) on the reverse side of the photographs. The consular officer may use a previously submitted photograph, if he is satisfied that it bears a reasonable likeness to the applicant.

- (4) **Police certificates.** A police certificate is a certification by the police or other appropriate authorities stating what, if anything, their records show concerning the alien. An applicant for a nonimmigrant visa is required to present a police certificate if the consular officer has reason to believe that a police or criminal record exists, except that no police certificate is required in the case of an alien who is within a class of nonimmigrants classifiable under visa symbols A-1, A-2, C-3, G-1 through G-4, NATO-1 through NATO-4 or NATO-6.

*(b) Fingerprinting. Every applicant for a nonimmigrant visa must furnish fingerprints, as required by the consular officer.*

(52 FR 42597, Nov. 5, 1987; 53 FR 9112, 9172, Mar. 21, 1988, as amended at 61 FR 1522, Jan. 22, 1996; 61 FR 53058, Oct. 10, 1996; 64 FR 13510, Mar. 19, 1999; 67 FR 8478, Feb. 25, 2002; 72 FR 74175, Dec. 31, 2007; 73 FR 49092, Aug. 20, 2008)