

“(A) FINGERPRINTS.—An alien seeking a Z-A visa or a Z-A dependent visa shall submit fingerprints to the Secretary at such time and in manner as the Secretary may require.

“(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints provided under subparagraph (A) and other biometric data provided by an alien to conduct a background check of the alien, including searching the alien’s criminal history and any law enforcement actions taken with respect to the alien and ensuring that the alien is not a risk to national security.

“(4) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien’s eligibility for a Z-A visa or a Z-A dependent visa the following shall apply:

“(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) shall not apply.

“(B) WAIVER OF OTHER GROUNDS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any provision of such section 212(a), other than the paragraphs described in subparagraph (A), in the case of individual aliens for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest.

“(ii) GROUNDS THAT MAY NOT BE WAIVED.—Except as provided in subparagraph (C), subparagraphs (A), (B), and (C) of paragraph (2), and paragraphs (3) and (4) of section 212(a) may not be waived by the Secretary under clause (i).

“(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

“(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for a Z-A visa or a Z-A dependent visa by reason of a ground of inadmissibility under section 212(a)(4) if the alien demonstrates history of employment in the United States evidencing self-support without reliance on public cash assistance.

“(d) APPLICATION.—

“(1) IN GENERAL.—An alien seeking a Z-A visa shall submit an application to the Secretary for such a visa, including information regarding any Z-A dependent visa for the spouse of child of the alien.

“(2) SUBMISSION.—Applications for a Z-A visa under may be submitted—

“(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations (or similar successor regulations); or

“(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary.

“(3) PROOF OF ELIGIBILITY.—

“(A) IN GENERAL.—An alien may establish that the alien meets the requirement for a Z-A visa through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

“(B) DOCUMENTATION OF WORK HISTORY.—

“(i) BURDEN OF PROOF.—An alien applying for a Z-A visa or applying for adjustment of status described in subsection (j) has the burden of proving by a preponderance of the evidence that the alien has performed the requisite number of hours or days of agricultural employment required for such application or adjustment of status, as applicable.

“(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employ-

ing such an alien has kept proper and adequate records respecting such employment, the alien’s burden of proof under clause (i) may be met by securing timely production of such records under regulations to be promulgated by the Secretary.

“(iii) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under clause (i) to establish that the alien has performed the requisite number of hours or days of agricultural employment by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

“(4) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

“(A) REQUIREMENTS.—Each qualified designated entity shall agree—

“(i) to forward to the Secretary an application submitted to that entity pursuant to paragraph (2)(B) if the alien for whom the application is being submitted has consented to such forwarding;

“(ii) not to forward to the Secretary any such application if such an alien has not consented to such forwarding; and

“(iii) to assist an alien in obtaining documentation of the alien’s work history, if the alien requests such assistance.

“(B) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this section to be made by the Secretary.

“(5) APPLICATION FEES.—

“(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

“(i) shall be charged for applying for a Z-A visa under this section or for an adjustment of status described in subsection (j); and

“(ii) may be charged by qualified designated entities to help defray the costs of services provided to such aliens making such an application.

“(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

“(6) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to [\_\_\_\_].

“(7) TREATMENT OF APPLICANTS.—

“(A) IN GENERAL.—An alien who files an application under this section to receive a Z-A visa and any spouse or child of the alien seeking a Z-A dependent visa, on the date described in subparagraph (B)—

“(i) shall be granted probationary benefits in the form of employment authorization pending final adjudication of the alien’s application;

“(ii) may in the Secretary’s discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

“(iii) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien’s application, unless the alien is determined to be ineligible for Z-A visa; and

“(iv) may not be considered an unauthorized alien (as defined in section 274A) until the date on which [the alien’s application for a Z-A visa] is denied.

“(B) TIMING OF PROBATIONARY BENEFITS.—

“(i) IN GENERAL.—Subject to clause (ii), an alien who submits an application for a Z-A visa under subsection (d), including any evidence required under such subsection, and any spouse or child of the alien seeking a Z-A dependent visa shall receive the proba-

tionary benefits described in clauses (i) through (iv) of subparagraph (A) at the earlier of—

“(I) the date and time that the alien has passed all appropriate background checks, including name and fingerprint checks; or

“(II) the end of the next business day after the date that the Secretary receives the alien’s application for Z-A visa.

“(ii) EXCEPTION.—If the Secretary determines that the alien fails the background checks referred to in clause (i)(I), the alien may not be granted probationary benefits described in clauses (i) through (iv) of subparagraph (A).

“(C) PROBATIONARY AUTHORIZATION DOCUMENT.—The Secretary shall provide each alien granted probationary benefits described in clauses (i) through (iv) of subparagraph (A) with a counterfeit-resistant document that reflects the benefits and status set forth in subparagraph (A). The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary benefits and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed.

“(D) CONSTRUCTION.—Nothing in this section may be construed to limit the Secretary’s authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under this paragraph.

“(8) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

“(A) BEFORE APPLICATION PERIOD.—Beginning on the date of enactment of the AgJOBS Act of 2007, the Secretary shall provide that, in the case of an alien who is apprehended prior to the first date of the application period described in subsection (c)(1)(B) and who can establish a nonfrivolous case of eligibility for a Z-A visa (but for the fact that the alien may not apply for such status until the beginning of such period), the alien—

“(i) may not be removed; and

“(ii) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

“(B) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for a Z-A visa during the application period described in subsection (c)(1)(B), including an alien who files such an application within 30 days of the alien’s apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

“(i) may not be removed; and

“(ii) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

“(e) NUMERICAL LIMITATIONS.—

“(1) Z-A VISA.—The Secretary may not issue more than 1,500,000 Z-A visas.

“(2) Z-A DEPENDENT VISA.—The Secretary may not count any Z-A dependent visa issued against the numerical limitation described in paragraph (1).

“(f) EVIDENCE OF NONIMMIGRANT STATUS.—

“(1) IN GENERAL.—Documentary evidence of nonimmigrant status shall be issued to each alien granted a Z-A visa or a Z-A dependent visa.

“(2) FEATURES OF DOCUMENTATION.—Documentary evidence of a Z-A visa or a Z-A dependent visa—

“(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;