

9 FAM 40.27 NOTES

*(CT:VISA-1508; 09-09-2010)
(Office of Origin: CA/VO/L/R)*

9 FAM 40.27 N1 BACKGROUND

(CT:VISA-1508; 09-09-2010)

Public Law 110-457, known as the "William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (the 'Wilberforce Act')," has significantly changed the ground of inadmissibility in INA 212(a)(2)(H)(i) ([8 U.S.C. 1182\(a\)\(2\)\(H\)\(i\)](#)) for significant traffickers in persons. The Wilberforce Act expands and amends the Trafficking Victims Protection Act (TVPA) of 2000 and the Trafficking Victims Protection Reauthorization Act of 2005, a compilation of which can be found at 22 U.S.C. 7101 et seq.

9 FAM 40.27 N2 INADMISSIBILITY UNDER INA 212(A)(2)(H)

(CT:VISA-1304; 09-18-2009)

- a. An alien may be inadmissible under INA 212(a)(2)(H) on the basis of:
- (1) Committing or conspiring to commit human trafficking offenses, regardless of whether in or outside the United States; or
 - (2) Your knowledge or reason to believe that the alien is or has been a knowing aider, abettor, assister, conspirator, or colluder in severe forms of trafficking with an individual who has engaged in activity described in paragraph a (1).
- b. For purposes of a finding of ineligibility under INA 212(a)(2)(H), a human trafficking offense is defined as a "severe form of trafficking in persons," as described under 22 U.S.C. 7102(8):
- (1) Inducing another to engage in a commercial sex act through the use of force, fraud, or coercion, or inducing an individual under the age of 18 to engage in a commercial sex act;
 - (2) Recruiting, harboring, transporting, providing, or obtaining a person

for labor or services through the use of force, fraud, or coercion for the purposes of subjecting that person to involuntary servitude, peonage, debt bondage, or slavery.

- c. If you suspect that an alien is inadmissible under paragraph a (1) above, request an advisory opinion (AO) from CA/VO/L/A.

9 FAM 40.27 N3 SPOUSE, SON, OR DAUGHTER

(CT:VISA-1508; 09-09-2010)

- a. The spouse, son, or daughter of an alien inadmissible under INA 212(a)(2)(H) is also inadmissible if within the five years prior he or she:
 - (1) Has obtained financial or other benefit resulting from the principal alien's trafficking activities; or
 - (2) You have established that he or she knew, or reasonably should have known, that the source of the benefit was the principal alien's illicit activities.
- b. The inadmissibility does not apply to a son or daughter who was a *child* when the benefit was received.