§ 1367. Penalties for disclosure of information

(a) In general
Except as provided in subsection (b) of this section, in no case may the Attorney General, or any other official or employee of the Department of Justice, the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)—

1. make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] using information furnished solely by—
   (A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,
   (B) a member of the spouse’s or parent’s family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,
   (C) a spouse or parent who has battered the alien’s child or subjected the alien’s child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty),
   (D) a member of the spouse’s or parent’s family residing in the same household as the alien who has battered the alien’s child or subjected the alien’s child to extreme cruelty 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,
   (E) in the case of an alien applying for status under section 101(a)(15)(U) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)(U)], the perpetrator of the substantial physical or mental abuse and the criminal activity,\(^1\)
   (F) in the case of an alien applying for status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(15)(T)), under section 7105 (b)(1)(E)(I)(II)(bb) of title 22, under section 244(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a (a)(3)), as in effect prior to March 31, 1999, or as a VAWA self-petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(51)) \(^2\), the trafficker or perpetrator,

\(^1\) unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act [8 U.S.C. 1227 (a)(2)]; or

\(^2\) The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) Exceptions
1. The Attorney General may provide, in the Attorney General’s discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13.

2. The Attorney General may provide in the discretion of the Attorney General for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose.
(3) Subsection (a) of this section shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) of this section shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(5) The Attorney General is authorized to disclose information, to Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to section 1641 (c) of this title.

(6) Subsection (a) of this section may not be construed to prevent the Attorney General and the Secretary of Homeland Security from disclosing to the chairmen and ranking members of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives, for the exercise of congressional oversight authority, information on closed cases under this section in a manner that protects the confidentiality of such information and that omits personally identifying information (including locational information about individuals).

(7) Government entities adjudicating applications for relief under subsection (a)(2) of this section, and government personnel carrying out mandated duties under section 101(i)(1) of the Immigration and Nationality Act [8 U.S.C. 1101 (i)(1)], may, with the prior written consent of the alien involved, communicate with nonprofit, nongovernmental victims' service providers for the sole purpose of assisting victims in obtaining victim services from programs with expertise working with immigrant victims. Agencies receiving referrals are bound by the provisions of this section. Nothing in this paragraph shall be construed as affecting the ability of an applicant to designate a safe organization through whom governmental agencies may communicate with the applicant.

(c) Penalties for violations

Anyone who willfully uses, publishes, or permits information to be disclosed in violation of this section or who knowingly makes a false certification under section 239(e) of the Immigration and Nationality Act [8 U.S.C. 1229 (e)] shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each such violation.

(d) Guidance

The Attorney General and the Secretary of Homeland Security shall provide guidance to officers and employees of the Department of Justice or the Department of Homeland Security who have access to information covered by this section regarding the provisions of this section, including the provisions to protect victims of domestic violence from harm that could result from the inappropriate disclosure of covered information.

Footnotes

1 So in original. Probably should be followed by “or”.
2 So in original. Probably should be followed by a closing parenthesis.

References in Text

The Immigration and Nationality Act, referred to in subsec. (a)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.
Codification

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Immigration and Nationality Act which comprises this chapter.


Amendments

2006—Subsec. (a). Pub. L. 109–162, § 817(1)(A), substituted “the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)” for “(including any bureau or agency of such Department)” in introductory provisions.


Subsec. (a)(2). Pub. L. 109–271 substituted “paragraph (15)(T), (15)(U), or (51) of section 101(a) of the Immigration and Nationality Act or section 240A(b)(2) of such Act” for “clause (iii) or (iv) of section 204 (a)(1)(A), clause (ii) or (iii) of section 204 (a)(1)(B), section 216(c)(4)(C), section 101 (a)(15)(U), or section 240A(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty”.

Subsec. (b)(6), (7). Pub. L. 109–162, § 817(2), added pars. (6) and (7).

Subsec. (c). Pub. L. 109–162, § 817(3), inserted “or who knowingly makes a false certification under section 239(e) of the Immigration and Nationality Act” after “in violation of this section”.


Effective Date of 1997 Amendment

Section 5582 of title V of Pub. L. 105–33 provided that: “Except as otherwise provided, the amendments made by this chapter [chapter 4 (§§ 5561–5582) of subtitle F of title V of Pub. L. 105–33, amending this section, sections 1611 to 1613, 1621, 1622, 1631, 1632, 1641 to 1643, and 1645 of this title, and sections 608, 1383, and 1437y of Title 42, The Public Health and Welfare] shall be effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104–193].”

Effective Date of 1996 Amendment

Amendment by section 308(g)(8)(D) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.