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Immigration-Related Provisions of the "International Religious Freedom Act" (P.L. 105-292)

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Summary

On October 27, 1998, President Clinton signed the "International Religious Freedom Act" (P. L. 105-292). The refugee and asylum provisions of this Act focus on assuring informed and accurate determinations of individual requests for safe haven. More particularly, the Act incorporates the results of newly required studies on religious persecution into the training of officials who determine refugee and asylum claims. Separate provisions address eliminating other potential biases and inaccuracies in screening applicants for asylum and refugee status. Furthermore, certain aliens who participated in religious persecution abroad are now barred from admission into the United States. Also, new studies on the effect of expedited removal procedures on the asylum process are required. Not included in the Act are earlier, more sweeping proposals considered by the House to revise the expedited removal process and the statutory guidelines for refugee admission priorities.

Introduction. This report provides an overview of the immigration-related provisions of the "International Religious Freedom Act," which passed as H.R. 2431 and became law as Public Law 105-292. The Act's general purpose is to promote religious freedom worldwide. To this end, the Act requires new, ongoing studies of religious freedom abroad and calls for targeted responses to findings of religious persecution. At the same time, knowledge obtained about religious persecution abroad also is to be integrated into the asylum and refugee processes. In addition to providing more detailed information about religious persecution, the Act attempts to identify and overcome certain other potential obstacles to timely and accurate determinations on refugee and asylum applications. Separately, the Act bars certain participants in religious persecution from entry into the United States.

New training and guidelines. The Act establishes new administrative offices to review religious freedom abroad on an ongoing basis. The Secretary of State is to draw on this review and other sources to submit an Annual Report on International Religious Freedom. Among other information, the Annual Report is to describe and assess the state

of religious freedom in each foreign country. The Act expressly requires that the Annual Report, together with other relevant documentation, serve as a resource for officers who determine asylum and refugee claims based on religious persecution.

Aliens abroad potentially may be admitted into the U.S. as refugees if they face persecution in their homelands. The Act sets new training requirements for U.S. officers who screen aliens for potential admission as refugees, and includes training on religious persecution among these new requirements. Training in refugee law and religious persecution also is now required for new U.S. consular officers. More generally, the Act calls for new guidelines to address potential biases in foreign personnel who serve in positions that may affect the determination of refugee claims, and uniform procedures are to be established for government-designated refugee processing entities that assist in preparing refugee case files.

The Act further requires the Administration to incorporate certain information on religious persecution into the refugee consultation process, which addresses which groups of refugees are to be admitted. However, unlike earlier versions of religious persecution bills considered by the House, the Act does not give members of persecuted religious minorities refugee admission priority at least as high as that given to members of other persecuted groups. Aliens in the United States who face persecution abroad may apply for asylum with an asylum officer of the Immigration and Naturalization Service or, if they are in removal proceedings, with an immigration judge. The Act requires increased training on religious persecution for both asylum officers and immigration judges. It also requires new guidelines to assure that individuals with potential biases against asylum applicants are not used as interpreters during the asylum process.

Studies of expedited removal. Two laws enacted in 1996 required new procedures for quickly expelling aliens who arrive without proper documents, except for those aliens who can show on arrival that they have a “credible fear” of being persecuted abroad. Because this expedited removal process demands expeditious screening of new arrivals, there has been concern that some aliens may not have an adequate opportunity to show that they deserve a more thorough consideration of their persecution claims. The Act directs the Comptroller General to study the expedited removal process and its affects on potential asylum applicants. Additionally, the newly created Commission on International Religious Freedom is authorized to designate experts on refugee and asylum law and invite them to submit their own report on the expedited removal process, either together with the Comptroller General or separately.

Unlike some earlier religious persecution bills, the Act does not expressly call for the possible involvement of the U.N. High Commissioner on Refugees in expedited removal studies. Nor, like some earlier versions, does the Act set forth a separate standard for assessing “credible fear” claims based on religious grounds.

Exclusion of religious persecutors. The Act sets forth a new, separate ground for barring aliens from admission into the United States. Under this new ground, an alien is inadmissible if the alien, while serving as a foreign government official, carried out or was responsible for a particularly severe violation of religious freedom during the previous 24 months. Such an alien’s spouse and children are also inadmissible.

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