



June 12, 2024

PA-2024-15

## Policy Alert

SUBJECT: Customer Service and Interpretation of 8 U.S.C. 1367 Confidentiality Protections for U.S. Citizens

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing guidance in the [USCIS Policy Manual](#) that interprets the confidentiality protections under [8 U.S.C. 1367](#) as ending at naturalization. USCIS is making this change as the previous practice of maintaining 8 U.S.C. 1367 protections beyond naturalization created burdens for some naturalized U.S. citizens. This policy will result in naturalized citizens having full access to USCIS electronic benefit processing and critical customer service tools that are available to other U.S. citizens.

### Background

Requestors and recipients of survivor-based immigration relief (specifically relief under the Violence Against Women Act (VAWA),<sup>1</sup> and T and U nonimmigrant status)<sup>2</sup> are entitled to protections under [8 U.S.C. 1367](#). USCIS also extends the provisions of 8 U.S.C. 1367 to abused spouses of certain persons applying for employment authorization under [INA 106](#).<sup>3</sup>

8 U.S.C. 1367 was written with the intention to protect noncitizen victims from their abusers' use of the immigration system as a tool to harm and control them. Feedback from stakeholders who work with this population and are experts in confidentiality protections confirmed that after a noncitizen victim becomes a U.S. citizen, they are less vulnerable to the power and control dynamics they previously faced, and their abuser no longer has the same means of using the immigration system against them. A naturalized U.S. citizen cannot be deported and can work and travel freely without authorization from USCIS. As a noncitizen victim transitions to a naturalized U.S. citizen, with all the protections and benefits that citizenship affords, the 8 U.S.C. 1367 protections are less relevant and necessary.

Furthermore, after the victim has naturalized, continuing the safeguards can result in case processing delays and may present more of a hardship than serve as a protection mechanism, due to heightened

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<sup>1</sup> See Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), [Pub. L. 109-162](#) (January 5, 2006).

<sup>2</sup> See Victims of Trafficking and Violence Protection Act of 2000 (VAWA 2000), [Pub. L. 106-386](#) (October 28, 2000).

<sup>3</sup> See [Eligibility for Employment Authorization for Battered Spouses of Certain Nonimmigrants](#), PM-602-0130, issued March 8, 2016. Abused spouses of certain nonimmigrants may apply for employment authorization by filing an Application for Employment Authorization for Abused Nonimmigrant Spouse ([Form I-765V](#)).

identity verification requirements. As a result, USCIS has received many requests from naturalized citizens to remove the 8 U.S.C. 1367 protections so that they can access electronic benefit processing and customer service tools. USCIS also received recommendations by other stakeholders to address this barrier.

This policy update interprets 8 U.S.C. 1367 protections as ending at naturalization and recognizes that this changes our past practice.<sup>4</sup> By ending the protections at naturalization, this guidance reduces burdens and inefficiencies for naturalized citizens by providing increased access to customer service tools, helping eliminate obstacles to case processing for future benefits filed by these individuals, and improving USCIS response times for certain inquiries. It also expands customer service in a manner that facilitates family reunification and lawful immigration,<sup>5</sup> while continuing to safeguard confidentiality.

While USCIS has already issued policy updates to meaningfully expand customer service for 8 U.S.C. 1367 protected persons more broadly, clearly articulating the point at which these protections end will save both the agency and customers time by removing barriers to account access, benefit processing, and customer service.

USCIS remains committed to providing the statutory protections under 8 U.S.C. 1367 for victims from both harmful disclosure of confidential information and use of information from a prohibited source, such as a victim's abuser, when making adverse determinations on benefit requests. USCIS maintains the discretion to reapply 8 U.S.C. 1367 protections in certain circumstances to ensure protections are available, should the need arise.

This guidance, contained in Volume 1 of the Policy Manual, is effective July 12, 2024. On that date, USCIS will stop applying the 8 U.S.C. 1367 protections to naturalized citizens. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

### **Policy Highlights**

- Explains USCIS' interpretation that 8 U.S.C. 1367 protections terminate when a person becomes a U.S. citizen.
- Clarifies that USCIS maintains the ability to reapply 8 U.S.C. 1367 protections to naturalized citizens in certain circumstances, including if questions arise regarding citizenship eligibility.

### **Summary of Changes**

Affected Section: Volume 1 > Part A > Chapter 7 > Section E > Subsection 2, Scope of Confidentiality

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<sup>4</sup> For more information regarding this change in interpretation, including Administrative Procedure Act considerations, see Appendix: Update on Interpretation of 8 U.S.C. 1367 Duration of Confidentiality Protections [[1 USCIS-PM A.7](#)].

<sup>5</sup> Consistent with Executive Order 14012, Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans, [86 FR 8277](#) (Feb. 2, 2021).

- Revises content under italicized subheading “Duration of Confidentiality Requirement”.
- Adds Appendix: Update on Interpretation of 8 U.S.C. 1367 Duration of Confidentiality Protections.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

### **Citation**

Volume 1: General Policies and Procedures, Part A, Public Services, Chapter 7, Privacy and Confidentiality [[1 USCIS-PM A.7](#)].