



AMERICAN IMMIGRATION LAW FOUNDATION

UPDATED PRACTICE ADVISORY ON THE CHILD STATUS PROTECTION ACT

Practice Advisory¹

By Mary A. Kenney²
March 8, 2004

The Child Status Protection Act (CSPA), Pub. L. 107-208 (Aug. 6, 2002), was enacted to provide relief to children who “age-out” as a result of delays by the Citizenship and Immigration Services (CIS) in processing visa petitions and asylum and refugee applications. The Immigration and Nationality Act (INA) defines a “child” as an unmarried individual under 21 years of age. 8 U.S.C. § 1101(b)(1). The CSPA does not change this definition, but instead changes the point at which the child’s age is calculated.

Prior to the CSPA, an application for permanent residency as a direct or derivative beneficiary child would be approved only if adjudicated prior to the child turning 21.³ Upon turning 21, a child would “age out” and lose the preferential status of a child. As the result of agency backlogs and delays, many children aged out before their cases were complete. For cases to which it pertains, the CSPA now locks in the age of the child at an earlier date in the process, and in this way will preserve the status of “child” for many individuals who otherwise would age out.

¹ Copyright (c) 2004, 2008 American Immigration Law Foundation. See www.ailef.org/copyrights for information on reprinting this practice advisory. This Practice Advisory was originally published in December 2003. It has been updated to include recent developments in the law.

² AILF Legal Action Center would like to thank AILF Board of Trustee member Cyrus D. Mehta for his help with this practice advisory.

³ The individual also must be unmarried to be considered a “child.” 8 USC § 1101(b)(1). The CSPA did not change this requirement.

Sample Letter For Child Status Protection Act

Zhe Xu



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Table of Contents Sample Letter For Child Status Protection Act

1. Understanding the eBook Sample Letter For Child Status Protection Act
 - The Rise of Digital Reading Sample Letter For Child Status Protection Act
 - Advantages of eBooks Over Traditional Books
2. Identifying Sample Letter For Child Status Protection Act
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Sample Letter For Child Status Protection Act
 - User-Friendly Interface
4. Exploring eBook Recommendations from Sample Letter For Child Status Protection Act
 - Personalized Recommendations
 - Sample Letter For Child Status Protection Act User Reviews and Ratings
 - Sample Letter For Child Status Protection Act and Bestseller Lists
5. Accessing Sample Letter For Child Status Protection Act Free and Paid eBooks
 - Sample Letter For Child Status Protection Act Public Domain eBooks
 - Sample Letter For Child Status Protection Act eBook Subscription Services
 - Sample Letter For Child Status Protection Act Budget-Friendly Options
6. Navigating Sample Letter For Child Status Protection Act eBook Formats

- ePub, PDF, MOBI, and More
 - Sample Letter For Child Status Protection Act Compatibility with Devices
 - Sample Letter For Child Status Protection Act Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Sample Letter For Child Status Protection Act
 - Highlighting and Note-Taking Sample Letter For Child Status Protection Act
 - Interactive Elements Sample Letter For Child Status Protection Act
 8. Staying Engaged with Sample Letter For Child Status Protection Act
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Sample Letter For Child Status Protection Act
 9. Balancing eBooks and Physical Books Sample Letter For Child Status Protection Act
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Sample Letter For Child Status Protection Act
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Sample Letter For Child Status Protection Act
 - Setting Reading Goals Sample Letter For Child Status Protection Act
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Sample Letter For Child Status Protection Act
 - Fact-Checking eBook Content of Sample Letter For Child Status Protection Act
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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