Immigration Consequences of Offenses Against Minors
For both US Citizens and Noncitizens

Summary
As of July 27, 2006, US citizens and lawful permanent residents with convictions for certain offenses against children are barred from legally immigrating spouses or children. The Secretary of Homeland Security may waive the bar if he or she determines that the US citizen poses no risk to the intending immigrant.

Noncitizens with convictions for such offenses are barred from obtaining status as the spouse or child of US citizens.

The offenses include kidnapping, false imprisonment, and sex offenses against minors.

Excerpt from US Citizenship and Immigration Services Memorandum
Section 402 of the Adam Walsh Act amends section 204 of the Immigration and Nationality Act (INA) to prohibit U.S. citizens and lawful permanent resident aliens who have been convicted of any “specified offense against a minor” from filing a family-based immigrant petition (including the Form I-130 and the Petition to Classify Orphan, Form I-600A or I-600) on behalf of any beneficiary, unless the Secretary of Homeland Security determines in his sole and unreviewable discretion that the petitioner poses no risk to the beneficiary. Section 402 of the Adam Walsh Act also amends section 101(a)(15) of the INA to remove spouses or fiancés of U.S. citizens convicted of these offenses from eligibility for “K” nonimmigrant status (Form I-129F).

The operative definition of “specified offense against a minor” is contained in section 111(7) of the Adam Walsh Act:

“The term `specified offense against a minor' means an offense against a minor that involves any of the following:

(A) An offense (unless committed by a parent or guardian) involving kidnapping.
(B) An offense (unless committed by a parent or guardian) involving false imprisonment.
(C) Solicitation to engage in sexual conduct.
(D) Use in a sexual performance.
(E) Solicitation to practice prostitution.
(F) Video voyeurism as described in section 1801 of title 18, United States Code.
(G) Possession, production, or distribution of child pornography.
(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
(I) Any conduct that by its nature is a sex offense against a minor.”

A minor is defined as an individual who has not attained the age of 18 years.