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## Chapter Eight

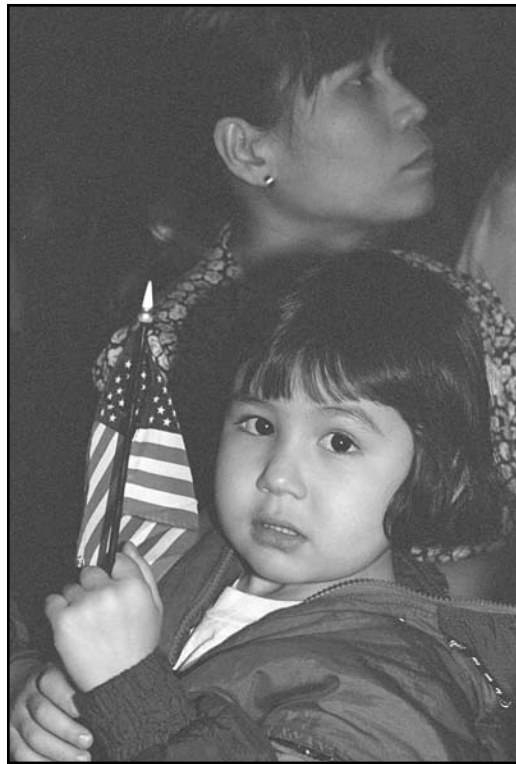
# Citizenship for Children

*And the loveliest thing there be  
comes simply, so it seems to me.*

*—Edna St. Vincent Millet*

### In this Chapter:

- Overview
- Acquisition of Citizenship
- Derivation of Citizenship
- Certificate of Citizenship
- Naturalization of Children



### ***Children can be or become citizens through their parents.***

Children can automatically become United States citizens, even if they were born outside of the United States. In addition, a United States citizen parent can apply for the naturalization of his or her children. This chapter outlines the different ways people can become United States citizens as children.

## OVERVIEW OF CITIZENSHIP FOR CHILDREN

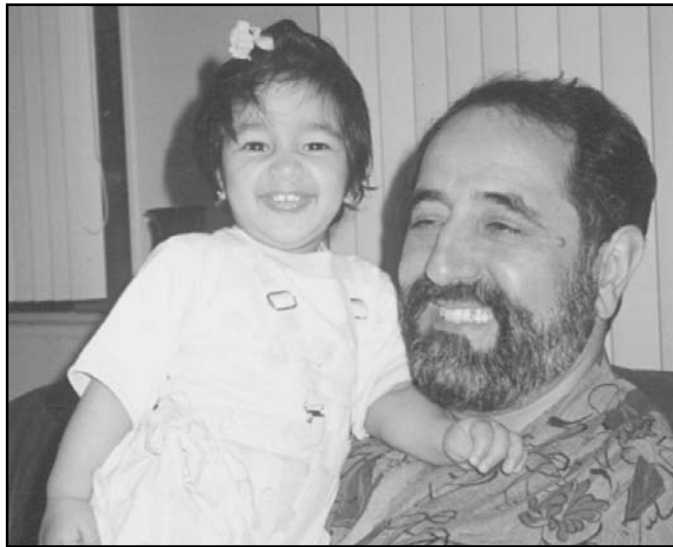
There are three ways a child *automatically* becomes a citizen.

- Birth: Child is born in the United States or its territories.
- Acquisition: Child is born outside of the United States or its territories, but acquires citizenship at birth through a United States citizen parent.
- Derivation: Child becomes a citizen before age 18 on the basis of one parent's citizenship. The parent may be a citizen by birth or by naturalization.

**Note:** Although citizenship is automatic in these cases, the child may not have proof of citizenship. This is why the child may apply for a United States passport or a Certificate of Citizenship. Both documents are proof of citizenship.

There is one way a child can *apply* to become a citizen.

- Naturalization: Citizen parent applies for a Certificate of Citizenship on child's behalf. Child must complete the naturalization process before age 18.



territories = The current territories of the United States are Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands. *"I am a citizen because I was born in a United States territory."*

## ACQUISITION OF CITIZENSHIP

Children can acquire citizenship at birth when they are born outside of the United States. You may have acquired citizenship at birth if you had at least one United States citizen parent. The laws for acquiring citizenship at birth have changed often over the years. Much depends on when you were born and what law for acquisition of citizenship was in effect at that time. Since this is a difficult area of the law, get help from an immigration lawyer or accredited representative.

### Current Requirements

(children born after November 14, 1986)

#### Child with Two Citizen Parents

One parent must have been physically present in the United States or its possessions at any time before the child's birth.

#### Child with One Citizen Parent and One National Parent

The citizen parent must have been physically present in the United States or its possessions for at least one continuous year before the child's birth.

#### Child with One Citizen Parent

The citizen parent must have been physically present in the United States for five years before the child's birth. At least two of the five years must be after the citizen parent was 14 years old. However, if the child was born in a possession, the citizen parent must have been physically present in the United States or its possessions for at least one continuous year before the child's birth.

#### Child Born Out of Wedlock to a United States Citizen Mother

The citizen mother must have been physically present in the United States or its possessions for one continuous year before the child's birth.

possessions = Currently the possessions of the United States include American Samoa, Swains Island and the United States territories of Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands. *"My mother lived in a U.S. possession before I was born."*

national = A non-citizen born in a United States possession. *"My father is a national because he was born in American Samoa."*

out of wedlock = Born of parents who are not married. *"He was born out of wedlock, but then his parents married when he was six months old."*

## **Child Born Out of Wedlock to a United States Citizen Father**

The child is a citizen if all of the following conditions are met.

- The father meets the United States residency requirements outlined on the previous page for the appropriate situation: Two citizen parents, one citizen parent and one national parent, or one citizen parent.
- There is clear and convincing evidence of a blood relationship between the child and the father.
- The father was a citizen at the time of the child's birth.
- The father has agreed in writing, under oath, to provide financial support for the child until age 18.
- Before the child is age 18, the child is legitimated; or the father states in writing that he is the father of the child under oath; or the paternity of the child is established by a competent court.

## **How to Know if You Have Acquired Citizenship**

To determine if you may have acquired citizenship, it is necessary to know:

- what date you were born;
- where you were born;
- if one or both parents were United States citizens when you were born;
- if your parents were married when you were born; and
- if your citizen parent meets the residency requirements noted on the previous page.

*See Attachment A for more information about acquisition.*



## Documenting Acquisition of Citizenship

If you automatically acquired citizenship through one or both citizen parents, you can prove this status using one of three documents:

- a United States passport
- a Certificate of Citizenship
- a Consular Report of Birth Abroad of a Citizen of the United States

*See Chapter 10, page 324 for information on how to apply for a passport.*

To get these documents, you will need to prove that you meet the legal requirements that were in effect the year you were born. You can do this by showing certain forms of evidence, some of which are listed below. A lawyer or accredited representative can help you identify the most appropriate evidence for your case and help you get it.

### Proving the Citizenship Status of Your Parents

Evidence: Birth certificate; naturalization certificate; certificate of citizenship; U.S. passport.

### Proving Age and Residency of Parents

Evidence: USCIS immigration records; employer records; military records; school records; Social Security earnings; court records; Census Bureau records; affidavits.

### Proving Your Birth and Relationship with Your Parents

Evidence: birth certificate; medical records; baptismal certificate; school records; blood tests; affidavits.



## Documenting Birth Abroad

A Consular Report of Birth Abroad of a Citizen of the United States (Form FS-240) is an official document certifying acquisition of citizenship for a child born outside of the United States. This document provides the same evidence of citizenship as a United States passport, a Certificate of Naturalization, or a Certificate of Citizenship. However, a United States passport is the most useful document to have. The application for a consular report must be submitted before the child's 18th birthday and the child must be living outside the United States.

### Procedures

1. The child's parent or legal guardian completes an *Application for Consular Report of Birth Abroad of a Citizen of the United States* (Form DS-2029). The application is normally made in the consulate of the country where the child was born. The application fee is \$65.
2. Evidence of the child's birth is needed, as well as evidence of the parent(s)' United States citizenship, marriage (if applicable), and previous physical presence in the United States. If the parents are unmarried and the father is a citizen and the mother a non-citizen, the consular officer usually requires that the father sign an affidavit saying that he is the child's biological father and that he will support the child financially. Additional evidence such as divorce decrees from previous marriages or blood tests may also be required.
3. The child is required to go to the consulate in person with the parent or guardian.
4. Once the consular officer approves the application, he or she signs and issues the consular report of birth (Form FS-240).

## DERIVATION OF CITIZENSHIP

*See Attachment B for more information about derivation.*

Derivation of citizenship is when a child automatically becomes a citizen on the basis of one parent's citizenship. The parent may be a citizen by birth or by naturalization. As with acquisition of citizenship, the laws have changed over time. Much depends on when you were born and what law was in effect during your childhood. Previous laws allowed derivation only through naturalization of both parents, or one parent with custody in cases of death or divorce. You should see an immigration lawyer or accredited representative if you want to check your eligibility.

### Current Requirements

(effective February 27, 2001)

*See Attachment C for more information about the Child Citizenship Act.*

Under the Child Citizenship Act of 2000, a child automatically becomes a citizen when all of the following conditions are met:

- at least one parent is a citizen, either by birth or by naturalization;
- the child is under age 18;
- the child is not married;
- the child is a lawful permanent resident; and
- the child is living in the United States in the legal and physical custody of the citizen parent.

**Note:** The law is not retroactive, so a person who was 18 or older on 2/27/01 would not be able to benefit from the Child Citizenship Act.

**Note:** An adopted child who meets the conditions listed above can derive citizenship under the Child Citizenship Act if there is a full, final, and complete adoption and the child meets certain additional requirements for adopted children under immigration law. Stepchildren can not derive citizenship.

**Example:** Ahmed, age 12, lives outside the United States with his mother. His parents are divorced and have joint legal custody of Ahmed. Ahmed's father lives in the United States and recently became a U.S. citizen. He filed an I-130 petition to bring Ahmed to the United States. When Ahmed enters the United States at the age of 13, joins his father, and receives lawful permanent resident status, he will become a U.S. citizen by derivation.

## **Documenting Derivation of Citizenship**

You can prove derivation of citizenship using one of two documents:

- a United States passport
- a Certificate of Citizenship

It is easier, faster, and cheaper to apply for a United States passport than a Certificate of Citizenship. To get these documents, you will need to prove that you meet the legal requirements that were in effect before you reached age 18. A lawyer or accredited representative can help you identify the most appropriate forms of evidence of derivation in your case from those listed below or others.

### **Proving the Citizenship Status of Your Parent**

Evidence: naturalization certificate; birth certificate; U.S. passport.

### **Proving Your Relationship With Your Parent**

Evidence: birth certificate; baptismal certificate; medical records; religious records; school records; blood tests.

### **Proving Your Parent Had Legal and Physical Custody of You**

Evidence: marriage certificate; divorce decree; death certificate; separation and custody documents.

### **Proving Your Lawful Permanent Resident Status**

Evidence: green card; entrant documents.

**Note:** There is no deadline when applying for documentation of derivative citizenship. Derivation happens automatically and requires only verification of the evidence.

**Example:** Maria is 30 years old, but she has lived in the United States as a lawful permanent resident since the age of 5. When Maria was 10, both of her parents became U.S. citizens, and she automatically derived citizenship from them. She has been a citizen since the age of 10, but she never applied for proof of her citizenship status until now.

**Example:** Igor, age 9, is a lawful permanent resident who lives with his parents in the United States. Igor's father recently became a U.S. citizen, but his mother is still a non-citizen. Igor derived citizenship from his father. Igor's father will apply for a passport or Certificate of Citizenship on Igor's behalf, as proof of citizenship.

## CERTIFICATE OF CITIZENSHIP

A Certificate of Citizenship is given to people who became citizens through acquisition or derivation. Also, it is given to children when they naturalize. You can get a Certificate of Citizenship by filing Form N-600 with the necessary evidence.

### Procedures

(only for those who acquired or derived citizenship)

*See Attachment D for a copy of Form N-600.*

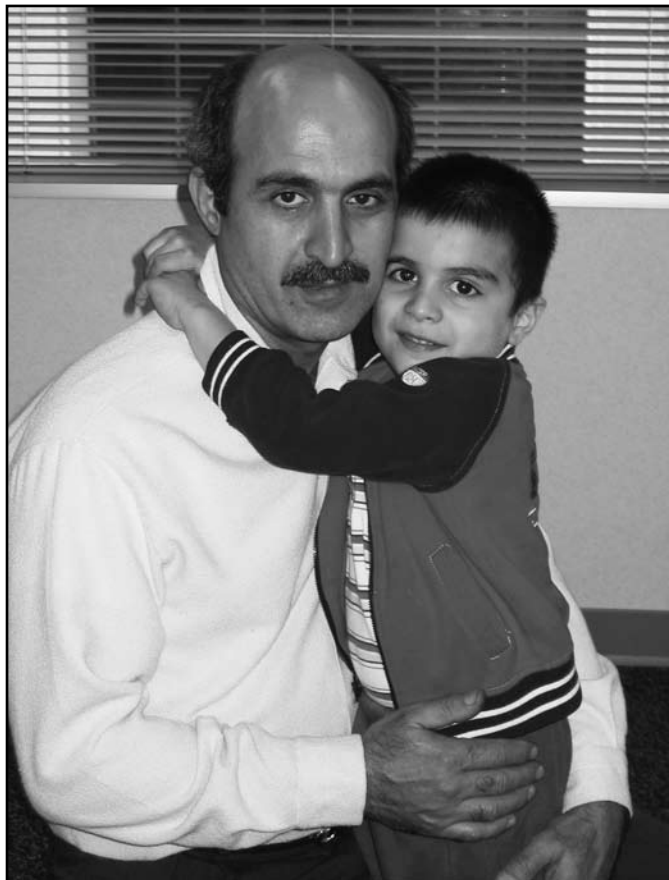
1. The applicant files Form N-600, *Application for Certificate of Citizenship* to the appropriate USCIS Field Office with the following: check or money order for \$460; three identical, passport-style photos (2x2 inches); evidence of meeting the legal requirements for acquisition or derivation (see page 271 for a list of documents showing evidence of acquisition and page 274 for a list of documents showing evidence of derivation); translations of any documents not in English.

**Exception:** For children who have immigrated to the United States, parents are not required to submit documents that are already in the USCIS file, including translations of documents. Applicants can state that they wish to rely on these previously submitted documents and give the name and A-number for the file containing the documents.

**Note:** Adopted children applying for evidence of derivative citizenship use the same form (N-600). However, the fee is \$420. The applicant must include a copy of the full, final adoption decree and, if the adoption took place outside the U.S., evidence that it is recognized by the state where the child resides.

**Note:** If the applicant is age 18 or older, he or she must sign the application. For younger applicants, the citizen parent or legal guardian must sign it.

2. An interview is usually not required, but may be required to verify the evidence. If the applicant is under age 18 the citizen parent must attend the interview to provide testimony on the applicant's behalf.
3. If USCIS denies the application, the applicant receives a written notice by mail of the reason for the denial. The decision may be appealed to the USCIS Field Office within 30 days using Form I-290B for a fee of \$585.
4. If approved, the applicant will take the oath of allegiance at the interview. The oath will be waived if applicant is too young or too disabled to understand it, or if no interview is required.
5. The applicant signs the Certificate of Citizenship, if he or she is able. If not, the parent signs it on the applicant's behalf. The Certificate of Citizenship is given at the interview or sent by certified mail within the United States only.



## NATURALIZATION OF CHILDREN

When a child does not qualify for automatic citizenship by acquisition or derivation, a citizen parent may apply to naturalize the child. The parent applies for naturalization on the child's behalf using Form N-600K. The child does not become a citizen until USCIS approves the application. This procedure is for children living outside the United States with their citizen parent(s). Because this is a complex area of the law, it is best to seek assistance from an immigration attorney or BIA accredited representative.

### Current Requirements

(effective February 27, 2001)

Under the Child Citizenship Act of 2000, a citizen parent may apply for naturalization on a child's behalf if the following requirements are met:

- at least one parent is a citizen, either by birth or by naturalization;
- the citizen parent must have lived in the United States for a total of five years, at least two of which were after age 14; OR the United States citizen parent of the citizen parent (child's grandparent) must have lived in the United States for a total of five years, two of which were after age 14;
- the child is under age 18, and remains under age 18 until the naturalization process is completed;
- the child is not married;
- the child is residing outside of the United States in the legal and physical custody of the citizen parent; and
- the child is temporarily present in the United States under a lawful admission, and remains in lawful status until the naturalization process is completed.

**Note:** Adopted children can be naturalized under the Child Citizenship Act. They use the same form (N-600K), but the fee is \$420. They need to submit evidence of a full and final adoption.

**Note:** If the U.S. citizen parent is deceased, the U.S. citizen grandparent or legal guardian can file this application within five years of the parent's death.

**Example:** Erika, age 5, is an orphan who lives overseas with two U.S. citizen adoptive parents. She has never lived in the United States and is not a lawful permanent resident. Therefore, she does not qualify for derivative citizenship. Erika's parents will apply to naturalize her using Form N-600K, then apply for Erika's lawful entry into the United States to attend the USCIS interview.

## Naturalization Procedures for Children

1. The United States citizen parent files the following with the preferred USCIS Field Office:

- Form N-600K, *Application for Citizenship and Issuance of Certificate Under Section 322*;
- Check or money order for \$460;
- Three identical passport-style photos (2x2); and
- Evidence of meeting the legal requirements for the child's naturalization (see N-600K instructions for a list of documents).

**Note:** The citizen parent must sign the application on the child's behalf.

2. Send a cover letter with the application giving the following information:

- Write the preferred interview dates when the child, who lives abroad, is available.
- If the child is almost 18 years old and close to "aging out," request expedited or quick processing in the cover letter so the child can take the oath before his or her 18th birthday. Use red ink or bold lettering so USCIS will see it. For example, "**AGE OUT - 03/15/09.**"

3. Mail the package.

4. USCIS reviews the application.

- If the child appears to be eligible, USCIS will issue a notice that the application has been preliminarily approved. The notice will give an interview appointment date. The parent can present the appointment letter at the United States embassy in the country of residence to request a nonimmigrant visa if required for entry into the United States.
- If anything is incomplete or missing from the application, USCIS will return the application with instructions on how to correct the problem.
- If it appears that the child is not eligible for the certificate, USCIS will issue a *Notice of Intent to Deny the Application*, giving a specific number of days for the applicant to reply and correct the problem. If an application is denied, the decision can be appealed within 30 days using Form I-290B for a fee of \$585.

5. An interview is required for the U.S. citizen parent and the child. At the interview the USCIS officer verifies the information on the N-600. Documentation of the child's lawful status in the United States must be provided at the interview. Once the information is verified, the USCIS officer will approve the application.
6. The child is required to take the oath of allegiance at the interview before receiving a Certificate of Citizenship. However, the oath may be waived if the child is unable to understand its meaning due to age or disability. The child becomes a citizen on the date of the oath. The child signs the certificate, if he or she is able. If not, the parent signs it on the child's behalf.



**Citizenship at Birth Abroad—Summary Chart**

Date of Birth	Both Parents U.S. Citizens	One Parent Citizen/ One National	One Parent Citizen/ One Noncitizen	Illegitimate Children of U.S. Citizen Women	Illegitimate Children of U.S. Citizen Men
Before 5/24/34	<p>Citizenship Transmitted by Either Parent:  <u>Prior Residence:</u> Must have been present in the U.S. at any time prior to the child's birth.  <u>Retention Requirements:</u> None</p>	<p>[Same as when both parents are U.S. citizens]</p>	<p>[Same as when both parents are U.S. citizens]</p>	<p>U.S. citizen mother must have been present in the U.S. at any time prior to child's birth.<sup>1</sup></p>	<p>● Must comply with all requirements for descent of citizenship through U.S. citizen father                  ● In addition, must be legitimated at any time according to the laws of father's domicile</p>
Between 5/24/34 and 1/13/41	<p><u>Prior Residence:</u> One of the parents must have been present in the U.S. at any time prior to the child's birth.  <u>Retention Requirements:</u> None</p>	<p><u>Prior Residence:</u> U.S. citizen parent must have been present in the U.S. at any time prior to the child's birth.  <u>Retention Requirements:</u> None</p>	<p><u>Prior Residence:</u> U.S. citizen parent must have been present in the U.S. at any time prior to the child's birth.  <u>Retention Requirements:</u> Either<sup>2</sup>: (1) 5 years continuous physical presence in the U.S. between ages of 14 and 28 or (2) 2 years continuous physical presence in the U.S. between ages 14 and 28.<sup>3</sup></p>	<p>U.S. citizen mother must have been present in the U.S. at any time prior to child's birth.</p>	<p>● Must comply with all requirements for descent of citizenship through U.S. citizen father                  ● In addition, must be legitimated at any time according to the laws of father's domicile</p>

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**Citizenship at Birth Abroad—Summary Chart**

Date of Birth	Between 1/13/41 and 12/24/52		Both Parents U.S. Citizens	<p><u>Prior Residence:</u> One of the parents must have resided in the U.S. or Possessions at any time prior to the child's birth.</p> <p><u>Retention Requirements:</u> None</p>		One Parent Citizen/ One National	<p><u>Prior Residence:</u> Citizen parent must have resided in the U.S. or Possessions at any time prior to the child's birth.</p> <p><u>Retention Requirements:</u> None</p>		One Parent Citizen/ One Noncitizen	<p><u>Birth Outside U.S. and Possessions:</u> <i>Prior Residence:</i> Citizen parent must have resided in the U.S. or possessions for 10 years prior to the child's birth, at least 5 of which must have been after the age of 16.<sup>4</sup></p> <p><i>Retention Requirements:</i> Either (1) 5 years continuous physical presence in the U.S. between ages of 14 and 28 or (2) 2 years continuous physical presence in the U.S. between ages 14 and 28.<sup>11</sup></p> <p><u>Birth in Possessions of the U.S.:</u> <i>Prior Residence:</i> Citizen parent must have resided in the U.S. or possessions at any time prior to the child's birth.</p> <p><i>Retention Requirements:</i> None</p>		Illegitimate Children of U.S. Citizen Women	U.S. citizen mother must have resided in the U.S. at any time prior to child's birth.		Illegitimate Children of U.S. Citizen Men	<p>● Must comply with all requirements for descent of citizenship through U.S. citizen father</p> <p>● In addition, before child reaches 21 years of age must have been legitimated<sup>6</sup> or paternity must have been established through court proceedings.</p> <p>● If legitimated before age 21, prior residence requirements of the INA will apply if US citizen father failed to comply with prior residence requirements of the Nationality Act of 1940.</p>
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Citizenship at Birth Abroad—Summary Chart

Date of Birth	Both Parents U.S. Citizens	One Parent Citizen/ One National	One Parent Citizen/ One Noncitizen	Illegitimate Children of U.S. Citizen Women	Illegitimate Children of U.S. Citizen Men
Between 12/24/52 and 11/13/86	<p><u>Prior Residence:</u> One of the parents must have resided in the U.S. or possessions at any time prior to the child's birth.</p> <p><u>Retention Requirements:</u> None</p>	<p><u>Prior Residence:</u> U.S. citizen parent must have been <i>physically present</i> in the U.S. or possessions for a continuous period of one year at any time prior to the child's birth.</p> <p><u>Retention Requirements:</u> None</p>	<p>A) <u>Child Born Abroad</u> — <u>Prior Residence:</u> U.S. citizen parent must have been <i>physically present</i> in the U.S. or possessions for 10 years prior to the child's birth, at least 5 of which after parent turned 14.<sup>5</sup></p> <p><u>Retention Requirements:</u> None</p> <p>B) <u>Child Born in Outlying U.S. Possession</u> — <u>Prior Residence:</u> U.S. citizen parent must have been <i>physically present</i> in the U.S. or possessions for a continuous period of one year at any time prior to the child's birth.</p> <p><u>Retention Requirement:</u> None</p>	<p>U.S. citizen mother must have been <i>physically present</i> in the U.S. or possessions for a continuous period of one year at any time prior to the child's birth.</p>	<p>● Must comply with all requirements for descent of citizenship through U.S. citizen father.</p> <p>● In addition, before child attains the age of 21, must be legitimated.<sup>7</sup> If child born after 11/14/68, same acknowledgment/legitimation requirements as children born after 11/14/86 may apply.<sup>8</sup></p>

<sup>1</sup> Before the passage of INTCA, if the illegitimate child of a U.S. citizen woman was legitimated by noncitizen parent prior to 1/13/41 and before child turned 21, child never acquired U.S. citizenship. As a consequence of INTCA, this requirement no longer exists.

<sup>2</sup> Children born before December 24, 1936 who entered the U.S. prior to December 24, 1952 could also satisfy this requirement by having a domicile of five years between the ages of 13 and 21.

<sup>3</sup> 5 years continuous physical presence allows for absences from the U.S. totaling 1 year for the entire period; 2 years continuous presence allows for absences aggregating to only 60 days. To be able to comply with the 5 year requirement rather than the 2 year one, the person must have arrived in the U.S., and have started complying with the requirement, prior to October 27, 1972. Persons born after October 10, 1952 are exempted from all retention requirements. Noncitizens who failed to comply with these retention requirements lost their citizenship, but may have it restored by taking an oath of allegiance.

<sup>4</sup> Because of the definition of residence periods of stay abroad are considered part of residence in the U.S., provided the person's general place of abode continued to be the United States. There are ameliorating provisions relating to service in the U.S. armed forces and to children born out of wedlock.

<sup>6</sup> The INS takes the position that legitimation must occur according to the laws of the father's domicile.

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## Citizenship at Birth Abroad—Summary Chart

Date of Birth	Both Parents U.S. Citizens	One Parent Citizen/ One National	One Parent Citizen/ One Noncitizen	Illegitimate Children of U.S. Citizen Women	Illegitimate Children of U.S. Citizen Men
After 11/14/86	<u>Prior Residence:</u> One of the parents must have resided in the U.S. or possessions at any time prior to the child's birth. <u>Retention Requirements:</u> None	<u>Prior Residence:</u> U.S. citizen parent must have been <i>physically present</i> in the U.S. or possessions for a continuous period of one year at any time prior to the child's birth. <u>Retention Requirements:</u> None	A) <u>Child Born Abroad — Prior Residence:</u> U.S. citizen parent must have been <i>physically present</i> in the U.S. or possessions for 5 years prior to the child's birth, at least 2 of which after the parent turned 14. <sup>12</sup> None B) <u>Child Born in Outlying U.S. Possession — Prior Residence:</u> U.S. citizen parent must have been <i>physically present</i> in the U.S. or possessions for a continuous period of one year at any time prior to the child's birth. <u>Retention Requirement:</u> None	U.S. citizen mother must have been <i>physically present</i> in the U.S. or possessions for a continuous period of one year at any time prior to the child's birth.	● Must comply with all requirements for descent of citizenship through father ● In addition: (A) before child attains 18, (i) child is legitimated, or (ii) father acknowledges paternity in writing under oath, or (iii) paternity is established by competent court; AND (B) father must have agreed in writing to support child financially until age 18. <sup>13</sup>

<sup>5</sup> There are ameliorating provisions relating to service in the U.S. armed forces.

<sup>7</sup> The INS adds two requirements: (1) child must have been legitimated according to the laws of the father's domicile, and (2) the child must be unmarried at the time of legitimation

<sup>8</sup> The new legitimation provisions only apply to persons who were under 18 as of November 14, 1986. Persons who were between 15 and 18 on November 14, 1986 could elect to have the legitimation rule in effect prior to the 1986 amendment apply to them. There is controversy whether the effective date of the 1986 amendment is November 14, 1986 or October 24, 1988.

**Derivative Citizenship Statutes and their Applicability**

Statute	Effective Date	Prerequisites		Additional Requirements for Special Situations				Special Provisions
		Naturalization of Both Parent	Naturalization of One Parent	Illegitimate Child	Legitimated Child	Adopted Child	Stepchild	
Act of 1802, as supplemented by Act of 1907	4/14/1802 to 5/24/1934	Not required	<ul style="list-style-type: none"> <li>Child under 21 at date of parent's naturalization</li> <li>Child could take up residence in the U.S. after parent's naturalization</li> <li>Child could take up residence in the U.S. after turning 21 years of age (only before 1907)</li> <li>Residence in the U.S. must be lawful</li> </ul>	Can only derive from mother	<ul style="list-style-type: none"> <li>Must be legitimated according to the laws of the father's domicile</li> <li>Legitimation could take place after child turns 21</li> <li>Vests upon naturalization of parent or child taking up residence in the U.S.</li> </ul>	Cannot derive citizenship (unless parent is biological parent and adoption works to legitimate child)	Cannot derive citizenship	<ul style="list-style-type: none"> <li>Before 1907, Mother could only transmit if divorced or widowed</li> <li>After 1907, child must take up residence before turning 21 to derive</li> </ul>
Act of 1934	5/24/34 - 1/13/41	Child must be under 21 when: (1) both parents naturalize, and (2) begins lawful permanent residence in the U.S.	<ul style="list-style-type: none"> <li>If other parent is dead, a U.S. citizen, or divorced and naturalizing parent has custody, same as if both parents naturalized</li> <li>Otherwise, child's U.S. citizenship commences 5 years after child became lawful permanent resident</li> </ul>	Can only derive from mother, in which case the child is treated as if both parents had naturalized	Same as under prior law	Same as under prior law	Same as under prior law	The 5-year period when only one parent naturalizes, can commence before or after the naturalization and can last until after child turns 21 and until after 1941.

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## Derivation Chart

Statute	Effective Date	Prerequisites		Additional Requirements for Special Situations				Special Provisions
		Naturalization of Both Parent	Naturalization of One Parent	Illegitimate Child	Legitimated Child	Adopted Child	Stepchild	
Nationality Act of 1940	1/13/41 – 12/23/52	Child must be under 18 when: (1) both parents naturalize, and (2) child begins lawful permanent residence in the U.S.	Child can only derive from one parent if the other one is dead, a U.S. citizen, or they are legally separated and naturalizing parent has custody	<ul style="list-style-type: none"> <li>Illegitimate children could not derive</li> <li>Remedial provision: See special provisions</li> </ul>	Must be legitimated under the law of the child's place of domicile before turning 16, and in the custody of legitimating adopting parent(s) requires naturalization of mother, unless dead, or U.S. citizen.	Arguably children who are adopted before turning 16 and are in the custody of the parent(s) may derive	Cannot derive citizenship	If on 12/24/52 illegitimate child was under 16, still a lawful permanent resident, and mother still a U.S. citizen, child derived on that date
INA <sup>1</sup>	12/23/52 – 10/5/78	Child must be under 18 when: (1) both parents naturalize, and (2) begins lawful permanent residence in the U.S. <sup>2</sup>	Child can only derive from one parent if the other one is dead, a U.S. citizen, or they are legally separated and naturalizing parent has custody	Can only derive from mother. [Father's nationality is irrelevant— but if father legitimated child before derivation, both parents must be naturalized.]	Must be legitimated under the law of the parent's or child's place of domicile before turning 16. May also require naturalization of mother, unless dead or U.S. citizen.	May not derive, unless adopted by biological parent and adopting effects legitimation	Cannot derive citizenship	Married children cannot derive citizenship

<sup>1</sup> If child does not qualify for derivation under this section, the U.S. citizen parent may be able to petition under section 322 of the INA. See Ch 11 §§ 11:17 to 11:25.

<sup>2</sup> The statute supports an argument that if the child started to reside in the United States after the parent's naturalization, such residence does not need to be pursuant to lawful admission to permanent residence.

Derivation Chart

Statute	Effective Date	Prerequisites		Additional Requirements for Special Situations				Special Provisions
		Naturalization of Both Parent	Naturalization of One Parent	Illegitimate Child	Legitimated Child	Adopted Child	Stepchild	
	10/5/78 – 2/26/01	Same as prior law	Same as prior law	Same as prior law	Same as prior law	May derive if adoption occurred before child turned 18	Cannot derive citizenship	<ul style="list-style-type: none"> <li>Married children cannot derive citizenship</li> <li>Between 10/5/78 and 12/29/81, citizenship vested on adopted children only if adoption occurred before child turned 16</li> </ul>
	2/27/01 - Present	Child under 18 (1) parent a citizen (2) child lawful permanent resident (3) child in physical and legal custody of USC parent (4) No naturalization of parent Required. Parent can be either native born or naturalized U.S. citizen	Same as if both parents citizens	Definition of child requires legitimation under the laws of either the father's or the child's residence or domicile. Legitimation must occur while child is under the age of 16 years.	Section only requires child to be in physical and legal custody of USC parent. Under definition of child, legitimation must occur while child is under the age of 16 years.	May derive if adoption occurred before child turned 16 (18 if immigrated as adopted sibling) and satisfies all other requirements of INA 101(b)(1)	Cannot derive citizenship	Married children cannot derive citizenship

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Press Office  
U.S. Department of Homeland Security



U.S. Citizenship  
and Immigration  
Services

# Fact Sheet

October 25, 2004

## **The Child Citizenship Act of 2000**

On October 30, 2000, the Child Citizenship Act of 2000 (CCA) was signed into law. The new law, Public Law 106-395, amended the Immigration and Nationality Act (INA) to permit foreign-born children — including adopted children — to acquire citizenship automatically if they meet certain requirements. It became effective on February 27, 2001.

### **Which Children Automatically Become Citizens Under the CCA?**

Since February 27, 2001, certain foreign-born children of U.S. citizens — including adopted children — residing permanently in the United States acquired citizenship automatically. The term “child” is defined differently under immigration law for purposes of naturalization than for other immigration purposes, including adoption.

To be eligible, a child must meet the definition of “child” for naturalization purposes under immigration law, and must also meet the following requirements:

- The child has at least one United States citizen parent (by birth or naturalization);
- The child is under 18 years of age;
- The child is currently residing permanently in the United States in the legal and physical custody of the United States citizen parent;
- The child has been admitted to the United States as a lawful permanent resident or has been adjusted to this status;
- An adopted child must also meet the requirements applicable to the particular provision under which they qualified for admission as an adopted child under immigration law.

Children of U.S. Armed Forces personnel or U.S. Government employees temporarily stationed abroad will be considered to be “residing in the United States” for purposes of acquisition of citizenship under section 320 of the INA.

Acquiring citizenship automatically means citizenship is acquired by operation of law, without the need to apply for citizenship.

(more)

**Which children qualify for automatic citizenship under the CCA?**

Under the CCA, a child will automatically acquire U.S. citizenship on the date that all of the following requirements are satisfied:

- At least one adoptive parent is a U.S. citizen,
- The child is under 18 years of age,
- An adopted child meets the requirements applicable to adopted children under immigration law,
- The child is admitted to the United States as a permanent resident, or acquires this status through adjustment of status
- The child is residing permanently in the United States with the child's citizen parent(s).

**Must an application be filed with USCIS to establish a child's citizenship?**

No. If a child qualifies for citizenship under the Child Citizenship Act, the child's citizenship status is no longer dependent on USCIS approving a naturalization application. The child's parents may, however, file an application for a certificate of citizenship (Form N-643K) on the child's behalf to obtain evidence of citizenship.

If a child satisfies the requirements listed above, he or she automatically acquires U.S. citizenship by operation of law either on the day of admission to the United States or on the day that the last condition for acquiring citizenship is satisfied. If a full and final adoption is completed abroad, and the child meets the requirements applicable to adopted children under the immigration law – for example, in an orphan case, both parents saw the child before or during the foreign adoption proceeding -- the child automatically becomes a citizen on the day he or she is admitted to the United States as an immigrant. If the orphan was adopted abroad, but at least one parent did not see the child before or during the foreign adoption proceeding, the child will become a citizen on the day the citizen parent(s) completes any procedure the State of residence may require to obtain recognition of the foreign adoption. If the orphan's adoption is completed in the U.S., the child becomes a citizen when the citizen parent(s) obtain(s) a final adoption decree from the proper State court.

**Will Eligible Children Automatically Receive Proof of Citizenship — Such As Citizenship Certificates and Passports?**

Adopted children admitted in the IR-3 category (alien orphan with a finalized adoption abroad), whom both parents saw before or during the foreign adoption proceeding) on or after January 1, 2004, will automatically receive a Certificate of Citizenship within 45 days of admission into the U.S. The IR-3 visa accounts for approximately seventy percent of children adopted by U.S. Citizens, and is for cases where adoptions are made final overseas.

This program eliminates the need for the issuance of a Permanent Resident Card for newly entering children, since these cards are not applicable to U.S. citizens. The program, announced in November 2003, is managed from the USCIS Buffalo, New York District Office.

(more)

This special program does not apply to alien child admitted as IR-2 (biological children or adopted children who immigrate under INA section 101(b)(1)(E) instead of (F) or IR-4 immigrants (orphans who will be adopted in the United States or who were adopted abroad, but without having been seen by both parents). The parents of these children may file a Form N-643K to obtain evidence of the child's citizenship. They would file the Form N-643K with the USCIS district in which they live, not with the Buffalo district.

If parents desire a passport for their child, they should apply for one with the Department of State.

**Will the certificate of citizenship reflect any change in an adopted child's name?**

If the adoption decree (whether acquired abroad or in the United States) legally changes an adopted child's name, the certificate of citizenship will show the child's new legal name. In some cases, the adoptive parents choose a new name for the adopted child, but are not able actually to change the child's legal name. If the immigrant visa, adjustment application, or Form I-600 shows the alternative name, USCIS will issue the certificate of citizenship to show both the legal name and the alternative name, such as "LEGAL NAME aka ALTERNATIVE NAME." Parents should understand that putting the alternative name on the certificate of citizenship DOES NOT legally change the child's name. If the parents want to change the child's name legally, they must comply with the relevant requirements of their own State's law.

**Is Automatic Citizenship Provided for Children (Including Adopted Children) Born and Residing Outside the United States?**

No. In order for a child born and residing outside the United States to acquire citizenship, the United States citizen parent must apply for naturalization on behalf of the child. This only applies to children who not acquire U.S. citizenship at birth. The naturalization process for such a child cannot take place overseas. The child will need to be in the United States temporarily to complete naturalization processing and take the oath of allegiance. The child does not have to be admitted as a permanent resident; a lawful nonimmigrant admission is enough.

To be eligible, a child must meet the definition of "child" for naturalization purposes under immigration law, and must also meet the following requirements:

- The child has at least one United States citizen parent (by birth or naturalization);
- The United States citizen parent has been physically present in the United States for at least five years, at least two of which were after the age of 14 — or the United States citizen parent has a citizen parent who has been physically present in the United States for at least five years, at least two of which were after the age of 14;
- The child is under 18 years of age;
- The child is residing outside the United States in the legal and physical custody of the United States citizen parent;
- The child is temporarily present in the United States — having entered the United States lawfully and maintaining lawful status in the United States;

(more)

- An adopted child must also meet the requirements applicable to adopted children under immigration law.

If the naturalization application is approved, the child must take the same oath of allegiance administered to adult naturalization applicants. If the child is too young to understand the oath, USCIS may waive the oath requirement.

– USCIS –

On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing our nation's security.

OMB No. 1615-0057; Expires 10/31/05  
 You may continue to use this form after expiration date.

Department of Homeland Security  
 U.S. Citizenship and Immigration Services

**N-600, Application for  
 Certificate of Citizenship**

Print clearly or type your answers, using CAPITAL letters in black ink. Failure to print clearly may delay processing of your application.

**Part I. Information About You.** (Provide information about yourself, if you are a person applying for the Certificate of Citizenship. If you are a U.S. citizen parent applying for a Certificate of Citizenship for your minor child, provide information about your child).

**A. Current legal name**

Family Name (Last Name)

Given Name (First Name)

Full Middle Name (If applicable)



**B. Name exactly as it appears on your Permanent Resident Card** (If applicable).

Family Name (Last Name)

Given Name (First Name)

Full Middle Name (If applicable)



**C. Other names used since birth**

Family Name (Last Name)

Given Name (First Name)

Middle Name (If applicable)


**D. U.S. Social Security #** (If applicable)

**E. Date of Birth** (mm/dd/yyyy)

**F. Country of Birth**

**G. Country of Prior Nationality**

**H. Gender**

Male  Female

**I. Height**

**Part 2. Information About Your Eligibility.** (Check only one).

**A. I am claiming U.S. citizenship through:**

- A U.S. citizen father or a U.S. citizen mother.
- Both U.S. citizen parents.
- A U.S. citizen adoptive parent(s).
- An alien parent(s) who naturalized.

**B.  I am a U.S. citizen parent applying for a certificate of citizenship on behalf of my minor (under 18 years) BIOLOGICAL child.**

**C.  I am a U.S. citizen parent applying for a certificate of citizenship on behalf of my minor (less than 18 years) ADOPTED child.**

**D.  Other** (Please explain fully) \_\_\_\_\_

If your child has an "A" Number, write it here:

A - -

**For USCIS Use Only**

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	
Date	

Remarks

Action Block

**To Be Completed by**

- Attorney or Representative, if any.
- Fill in box if G-28 is attached to represent the applicant.

ATTY State License #

**Part 3. Additional Information About You.** *(Provide additional information about yourself, if you are the person applying for the Certificate of Citizenship. If you are a U.S. citizen parent applying for a Certificate of Citizenship for your minor child, provide the additional information about your minor child).*

**A. Home Address - Street Number and Name** *(Do not write a P.O. Box in this space)* Apartment Number

City	County	State/Province	Country	Zip/Postal Code

**B. Mailing Address - Street Number and Name** *(If different from home address)* Apartment Number

City	County	State/Province	Country	Zip/Postal Code

**C. Daytime Phone Number** *(If any)*      **Evening Phone Number** *(If any)*      **E-Mail Address** *(If any)*

(    )	(    )	
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**D. Marital Status**

Single, Never Married     
  Married     
  Divorced     
  Widowed

Marriage Annulled or Other *(Explain)*

**E. Information about entry into the United States and current immigration status**

1. I arrived in the following manner:

Port of Entry <i>(City/State)</i>	Date of Entry <i>(mm/dd/yyyy)</i>	Exact Name Used at Time of Entry:

2. I used the following travel document to enter:

Passport

Passport Number      Country Issuing Passport      Date Passport Issued *(mm/dd/yyyy)*

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Other *(Please Specify Name of Document and Dates of Issuance)*

3. I entered as:

An immigrant (lawful permanent resident) using an immigrant visa  
 A nonimmigrant  
 A refugee  
 Other *(Explain)* \_\_\_\_\_

4. I obtained lawful permanent resident status through adjustment of status *(If applicable)*:

Date you became a Permanent Resident <i>(mm/dd/yyyy)</i>	USCIS (or former INS) Office where granted adjustment of status

**F. Have you previously applied for a certificate of citizenship or U.S.**       No       Yes *(Attach Explanation)*

**Part 3. Additional Information About You.** (Provide additional information about yourself, if you are the person applying for the Certificate of Citizenship. If you are a U.S. citizen parent applying for a Certificate of Citizenship for your minor child, provide the additional information about your minor child). *Continued.*

**G. Were you adopted?**  No  Yes (Please complete the following information):

Date of Adoption (mm/dd/yyyy)  Place of Final Adoption (City/State or Country)

Date Legal Custody Began (mm/dd/yyyy)  Date Physical Custody Began (mm/dd/yyyy)

**H. Did you have to be re-adopted in the United States?**  No  Yes (Please complete the following information):

Date of Final Adoption (mm/dd/yyyy)  Place of Final Adoption (City/State)

Date Legal Custody Began (mm/dd/yyyy)  Date Physical Custody Began (mm/dd/yyyy)

**I. Were your parents married to each other when you were born (or adopted)?**  No  Yes

**J. Have you been absent from the United States since you first arrived?** (Only for persons born before October 10, 1952, who are claiming U.S. citizenship at time of birth; otherwise, do not complete this section.)  No  Yes

If yes, complete the following information about all absences, beginning with your most recent trip. If you need more space, use a separate sheet of paper.

Date You Left the United States (mm/dd/yyyy)	Date You Returned to the United States (mm/dd/yyyy)	Place of Entry Upon Return to the United States

**Part 4. Information About U.S. Citizen Father (or Adoptive Father).** (Complete this section if you are claiming citizenship through a U.S. citizen father. If you are a U.S. citizen father applying for a Certificate of Citizenship on behalf of your minor biological or adopted child, provide information about yourself below.)

**A. Current legal name of U.S. citizen father.**

Family Name (Last Name)  Given Name (First Name)  Full Middle Name (If applicable)

**B. Date of Birth** (mm/dd/yyyy)

**C. Country of Birth**

**D. Country of Nationality**

**E. Home Address - Street Number and Name** (If deceased, so state and enter date of death)

Apartment Number

City  County  State/Province  Country  Zip/Postal Code

**Part 4. Information About U.S. Citizen Father (or Adoptive Father).** *(Complete this section if you are claiming citizenship through a U.S. citizen father. If you are a U.S. citizen father applying for a Certificate of Citizenship on behalf of your minor biological or adopted child, provide information about yourself below.) Continued.*

**F. U.S. citizen by:**

- Birth in the United States
- Birth abroad to U.S. citizen parent(s)
- Acquisition after birth through naturalization of alien parent(s)
- Naturalization

Date of Naturalization (mm/dd/yyyy)  Place of Naturalization (Name of Court and City/State or USCIS or Former INS Office Location)

Certificate of Naturalization Number  Former "A" Number (If known)

**G. Has your father ever lost U.S. citizenship or taken any action that would cause loss of U.S. citizenship?**

- No
- Yes *(Provide full explanation on a separate sheet(s) of paper.)*

**H. Dates of Residence and/or Physical Presence in the United States** *(Complete this only if you are an applicant claiming U.S. citizenship at time of birth abroad)*

Provide the dates your U.S. citizen father resided in or was physically present in the United States. If you need more space, use a separate sheet(s) of paper.

From (mm/dd/yyyy)	To (mm/dd/yyyy)

**I. Marital History**

1. How many times has your U.S. citizen father been married (including annulled marriages)?

2. Information about U.S. citizen father's **current spouse:**

Family Name (Last Name)  Given Name (First Name)  Full Middle Name (If applicable)

Date of Birth (mm/dd/yyyy)  Country of Birth  Country of Nationality

Home Address - Street Number and Name  Apartment Number

City  County  State or Province  Country  Zip/Postal Code

Date of Marriage (mm/dd/yyyy)  Place of Marriage (City/State or Country)

Spouse's Immigration Status:  
 U.S. Citizen     Lawful Permanent Resident     Other (Explain)

3. Is your U.S. citizen father's current spouse also your mother?  No  Yes

**Part 5. Information About Your U.S. Citizen Mother (or Adoptive Mother).** *(Complete this section if you are claiming citizenship through a U.S. citizen mother (or adoptive mother). If you are a U.S. citizen mother applying for a Certificate of Citizenship on behalf of your minor biological or adopted child, provide information about yourself below).*

**A. Current legal name of U.S. citizen mother.**

Family Name (*Last Name*)

Given Name (*First Name*)

Full Middle Name (*If applicable*)




**B. Date of Birth** (*mm/dd/yyyy*)

**C. Country of Birth**

**D. Country of Nationality**

**E. Home Address - Street Number and Name** (*If deceased, so state and enter date of death*)

Apartment Number

City

County

State/Province

Country

Zip/Postal Code

**F. U.S. citizen by:**

- Birth in the United States  
 Birth abroad to U.S. citizen parent(s)  
 Acquisition after birth through naturalization of alien parent(s)  
 Naturalization

Date of Naturalization (*mm/dd/yyyy*)

Place of Naturalization (*Name of Court and City/State or USCIS or Former INS Office Location*)

Certificate of Naturalization Number

Former "A" Number (*If known*)

**G. Has your mother ever lost U.S. citizenship or taken any action that would cause loss of U.S. citizenship?**

- No  Yes (*Provide full explanation on a separate sheet(s) of paper.*)

**H. Dates of Residence and/or Physical Presence in the United States** (*Complete this only if you are an applicant claiming U.S. citizenship at time of birth abroad*)

Provide the dates your U.S. citizen father resided in or was physically present in the United States. If you need more space, use a separate sheet(s) of paper.

From ( <i>mm/dd/yyyy</i> )	To ( <i>mm/dd/yyyy</i> )

**I. Marital History**

1. How many times has your U.S. citizen mother been married (including annulled marriages)?

2. Information about U.S. citizen mother's **current spouse**:

Family Name (*Last Name*)

Given Name (*First Name*)

Full Middle Name (*If applicable*)

Date of Birth (*mm/dd/yyyy*)

Country of Birth

Country of Nationality



**NOTE: Do not complete the following parts unless a USCIS officer instructs you to do so at the interview.**

**Part 9. Affidavit.**

I, the (applicant, parent or legal guardian) \_\_\_\_\_ do swear or affirm, under penalty of perjury laws of the United States, that I know and understand the contents of this application signed by me, and the attached supplementary pages number ( \_\_\_ ) to ( \_\_\_ ) inclusive, that the same are true and correct to the best of my knowledge, and that corrections number ( \_\_\_ ) to ( \_\_\_ ) were made by me or at my request.

Signature of parent, guardian or applicant

Date (mm/dd/yyyy)

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Subscribed and sworn or affirmed before me upon examination of the applicant (parent, guardian) on \_\_\_\_\_ at \_\_\_\_\_

Signature of Interviewing Officer

Title

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**Part 10. Officer Report and Recommendation on Application for Certificate of Citizenship.**

On the basis of the documents, records and the testimony of persons examined, and the identification upon personal appearance of the underage beneficiary, I find that all the facts and conclusions set forth under oath in this application are  true and correct; that the applicant did  derive or acquire U.S. citizenship on \_\_\_\_\_ (mm/dd/yyyy), through (mark "X" in appropriate section of law or, if section of law not reflected, insert applicable section of law in "Other" block):  section 301 of the INA  section 309 of the INA  section 320 of the INA  section 321 of the INA  Other \_\_\_\_\_ and that (s)he  has  has not been expatriated since that time. I recommend that this application be  granted  denied and that  A or  AA Certificate of Citizenship be issued in the name of \_\_\_\_\_

District Adjudication Officer's Name and Title

District Adjudication Officer's Signature

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I do  do not  concur in recommendation of the application.

District Director or Officer-in-Charge Signature

Date (mm/dd/yyyy)

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