



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

CITIZENSHIP FOR CHILDREN
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PRESENTERS

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CITIZENSHIP FOR CHILDREN


Agenda

- Overview of Citizenship for Children
- Acquisition of Citizenship
- Derivation of Citizenship
- Evidence of Citizenship
- Naturalization of Children




OVERVIEW OF CITIZENSHIP FOR CHILDREN

- **Automatically a citizen:**
 - Birth – Child is born in U.S. or territories
INA § 301(a) & (b) & 14th Amendment
 - Acquisition – Child born outside the U.S. or territories but acquires at birth through U.S. citizen parent INA §§301 & 309
 - Derivation – Child becomes a citizen before age 18 based on parent’s citizenship INA §320
- **Apply to become a citizen:**
 - Naturalization – Citizen parent applies for naturalization of child INA §322




Citizenship by Birth in U.S.

- Birth in one of 50 states (not to a diplomat)
- Birth in a territory (Puerto Rico, Guam, Virgin Islands)
- For some, birth in Panama, Canal Zone, Northern Mariana Islands




“National”

- Birth in American Samoa, Swains Island



INA § 101(a)(22), §101(a)(29), §308



Acquisition and Derivation


- Acquisition = at birth outside U.S.
- Derivation = event after birth confers citizenship



7

FACTORS IN ACQUISITION


- Was one or both parents a USC?
- Was either parent a U.S. national?
- Was child born in wedlock?
- If not, was child legitimated?
- Did USC parent ever reside in the U.S.?
- If so, for how long and at what ages?



8

Acquisition if Born in Wedlock on/after 11/14/86


- **Two USC Parents:**
 - One parent must have resided in U.S. or possessions at any time before child's birth
- **One USC Parent and One National:**
 - USC parent must have been physically present in U.S. for one continuous year before child born
- **One USC Parent and one Alien:**
 - Citizen parent must have been physically present in U.S. for five years before child's birth. At least two of five years must be after age 14.



9

Is Claire a U.S. Citizen?



Margie was born in Philadelphia on July 4, 1976. She lived in the U.S. until she was 18, and then moved to Ireland with her parents. In 2003 she married Sean, an Irish citizen, and they had a child, Claire, who was born on June 1, 2006 in Dublin. Is Claire a U.S. citizen?



10

Born Out of Wedlock: USC Mother


- USC mother must be physically present in U.S. or its possessions for one continuous year before child's birth. INA § 309(c).

11

Is Carlos a USC?


Maria was born in the U.S. in 1972. Her parents were citizens of Mexico. She lived in the U.S. until she was 18 when she decided to move to Mexico City. After living in Mexico for two years she met Jose, a Mexican citizen. Maria and Jose had a son, Carlos, on June 17, 1994. Maria and Jose never married. Is Carlos a citizen?




12

Out-of-Wedlock: USC Father Requirements on/after Nov. 15, 1971:


- Citizen father must meet U.S. residency requirements for appropriate situation:
 - two citizen parents,
 - one citizen parent and one national parent, or
 - one citizen parent and one alien parent
- Clear evidence of blood relationship w/ father; AND
- Father is USC at time of child's birth; AND
- Father has agreed in writing to provide financial support to child up to 18 years of age; AND
- While child is under age 18:
 - Child is legitimated; OR
 - Father acknowledges paternity in writing under oath, OR
 - Competent court determines paternity of child
- INA § 309(a)




13

Is Hank a USC?

James was born in England but moved to the U.S. at a young age. He became a naturalized U.S. citizen in 1980. In 1995 his company transferred him to work in London. In 2002 James fathered a child, Hank, with Sarah, a British citizen. In 2004 Sarah and James married. Can Hank claim U.S. citizenship?


14

PROOF OF ACQUISITION

- **Consular Report of Birth Abroad of U.S. Citizen (FS-240)**
 - For child living outside U.S.
 - Must be submitted before child's 18th birthday
- **U.S. Passport**
 - Issued by Department of State
- **Certificate of Citizenship**
 - Issued by Department of Homeland Security




15


Certificate of Citizenship

- N-600 Form, Application for Certificate of Citizenship
- Fee
- Two photos of applicant
- Copy of applicant's birth certificate
- Copy of parents' marriage certificate (if applicable)
- Proof of termination of prior marriages
- Proof of Citizenship Status of Parents: Copy of birth certificate(s), Certificate of Citizenship, or Certificate of Naturalization for parent(s)
- Proof of Parent's residence/presence in U.S.: (school records, bank statements, employment records, DHS records, rent receipts, census records)


16

DERIVATION OF CITIZENSHIP


- Automatic citizenship conferred on **Lawful Permanent Resident** child by virtue of USC status of parent or parents.
- Different from Acquisition : Doesn't happen at birth
- Order in which qualifying events take place irrelevant, as long as they occur **before child turns 18**
- Laws governing derivation have changed several times – may need to refer to old law


17

Derivation of Citizenship


Current Requirements
(on or after 2/27/01)

- Child automatically USC when **all** of following occur:
 - At least one parent USC by birth or naturalization
 - Child under age 18
 - Child not married
 - Child is Lawful Permanent Resident
 - Child residing in U.S. in legal and physical custody of U.S. citizen parent


18

Is Eva a U.S. Citizen ?


Eva was born in Argentina on September 3, 1996. In 2002, when Eva was 6 years old, she immigrated to the U.S. with her parents. On October 27, 2010, Eva's mother naturalized. Her father is still a Lawful Permanent Resident. Eva's parents are married and Eva has always lived with them in the U.S. Is Eva a U.S. citizen?



19

Who Else is Considered a "Child" for Derivation of Citizenship ?

- Includes:
- Out of Wedlock Child
 - Child legitimated under law of child's or father's residence or domicile before child reaches 16 years old, and child is in legal custody of legitimating parent
- Adopted Child
 - Child adopted under age of 16 (or sibling under 18), and in legal custody of adopting parent (s) and other requirements for adoption must be met
- Step-Child
 - Does not include stepchildren




20

Is Gabriella a USC?

Gabriella was born in Dominican Republic on August 11, 1995. Her mother and father were not married. In 2005, Gabriella's mother Louisa married USC Joe. Joe filed relative petitions for Luisa and Gabriella and they were admitted to the U.S. as Lawful Permanent Residence on October 1, 2008.

Did Gabriella derive US citizenship through Joe?


On August 10, 2013, Luisa became a naturalized U.S. citizen. Can Gabriella claim U.S. citizenship through Louisa?



21

PROOF OF DERIVATION

- U.S. passport
- Certificate of Citizenship



22

Certificate of Citizenship

- N-600 Form, Application for Certificate of Citizenship
- Fee
- Two photos of applicant
- Copy of applicant's birth certificate
- Copy of parents' marriage certificate (if applicable)
- Proof of termination of prior marriages (if applicable)
- Proof of Citizenship of Parent(s): Copy of birth certificate(s), Certificate of Citizenship, or Certificate of Naturalization for parent(s)



23

Certificate of Citizenship

- If child born out of wedlock, documents verifying legitimation according to laws of child's residence or domicile or father's residence or domicile
- In case of divorce, legal separation, or adoption, documentation of legal custody
- Proof child in the physical custody of parent
- Copy of lawful permanent resident card or other evidence of LPR status
- Additional evidence for adopted child: copy of full and final adoption decree



24

NATURALIZATION OF CHILDREN §322

- At least one parent is or a USC by birth or naturalization
- If citizen parent has died, was a USC by birth or naturalization, at time of death
- Citizen parent lived in the U.S. for a total of five years, at least two of which were after age 14 or the U.S. citizen parent of the citizen parent (child's grandparent) lived in the U.S. for a total of five years, at least two of which were after age 14

NATURALIZATION OF CHILDREN

- Child is under age 18, and remains under 18 until the naturalization process is completed
- Child is not married
- Child is residing outside the U.S. in the legal and physical custody of the citizen parent
- Child is temporarily present in the U.S. under a lawful admission, and remains in lawful status until the naturalization process is completed.

Can Michael Naturalize ?

Ingrid was born in Switzerland in 1966 and acquired U.S. citizenship through her parents. Both of Ingrid's parents are U.S. citizens and grew up in New York. They both left New York in 1964 at the age of 20 and moved to Switzerland, where they have lived ever since. Ingrid has always lived in Switzerland. She has a 15 year old son, Michael that lives with her in Switzerland. Can Michael naturalize ?

NATURALIZATION OF CHILDREN APPLICATION PROCESS

- Form N-600K, Application for Citizenship and Issuance of Certificate under section 322
- Filed by USC parent; or
- If USC parent deceased, filed by USC grandparent or USC legal guardian within 5 years of death of parent
- Filing Fee
- Two photographs

DOCUMENTATION NEEDED FOR N-600K

- Child's birth certificate or record
- Parents' marriage certificate
- Proof of termination of any previous marriage (death certificate or divorce decree)
- Evidence of U.S. citizenship of parent or grandparent: Copy of birth certificate(s), Certificate of Citizenship, or Certificate of Naturalization
- If child born out of wedlock, documents verifying legitimation according to laws of child's residence or domicile or father's residence or domicile

DOCUMENTATION NEEDED FOR N-600K

- In case of divorce, legal separation, or adoption, documentation of legal custody
- Proof that child is in the physical custody of the parent
- Proof of legal guardianship, if applicable
- Proof of lawful admission and maintenance of status

DOCUMENTATION NEEDED FOR N-600K

- Proof of USC parent's or grandparent's physical presence in the United States.
- Additional evidence for adopted child: copy of full and final adoption decree and evidence that meet other requirements
- If orphan, copy of I-600 approval or I-800 approval



31



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