

## **2. Child Must Be Emigrating from a Non-Convention Nation**

Historically and even as recently as 2014, the orphan visa remained the most frequently used route to immediate relative status. From April 1, 2008 forward, however, orphan visas may be used only for children adopted from non-Convention nations. 8 C.F.R. §204.3.<sup>12</sup> While the Convention visa is now used by the majority of immigrating adoptees, 34% of the children immigrating to the United States through adoption in FY 2018 were still emigrating from non-Convention nations.<sup>13</sup>

## **3. Prospective Adopter's Eligibility**

The process for obtaining an orphan visa normally occurs in two stages, each of which can present significant hurdles for prospective adopters. The first stage focuses on obtaining a determination by the USCIS that petitioners will be suitable adoptive parents.

### **a. Citizenship, Marital Status, Age, and Meeting with Child**

If the adopters are a married couple, at least one spouse must be a U.S. citizen in order for the child to be eligible for immediate relative status. If the other spouse is an alien residing in the United States, he or she must be in lawful immigration status. There is no age requirement for married adopters. 8 U.S.C. § 1101(b)(1)(F); 8 C.F.R. § 204.3(b).

If the adopter is single, he or she must be a U.S. citizen at least 24 years of age on the date that the I-600 A form [the Application for Advanced Processing of an Orphan Petition] is filed and 25 years of age when the I-600 form [Petition to Classify Orphan as an Immediate Relative] is filed. 8 U.S.C. § 1101(b)(1)(F); 8 C.F.R. § 204.3(b).

If the child is to be adopted abroad, which occurred in over 90% of the intercountry adoptions reported by the U.S. Department of State for Fiscal Year 2018,<sup>14</sup> at least one of the adoptive parents must have personally seen and observed the child before or during the adoption proceedings. 8 U.S.C. § 1101(b)(1)(F).

---

Nightlight Christian Adoption, a California-based accredited ASP, also advertises an office in Tulsa.

<sup>12</sup> See also Hollinger, *supra* note 10 at §11.07[6]. .

<sup>13</sup> U.S. Department of State *Annual Report on Intercountry Adoptions*, at <https://travel.state.gov/content/dam/NEWadoptionassets/pdfs/Tab%201%20Annual%20Report%20on%20Intercountry%20Adoptions.pdf>.

<sup>14</sup> *Id.*