

IV. Obtaining U.S. Citizenship for Adopted Children

After February 27, 2001, the effective date of the Child Citizenship Act of 2000, adopted children born abroad become U.S. citizens automatically as of the date that the Act's four requirements are satisfied, i.e.:

- (1) at least one parent of the child is a U.S. citizen;
- (2) the child is under 18 years of age;
- (3) the child is residing in the United States in the legal and physical custody of the citizen parent, pursuant to a lawful admission for permanent residence, and
- (4) the child is adopted by a U.S. citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1). 8 U.S.C. § 1431.

Under the Act, it does not matter in which order the requirements are met. Thus, children adopted abroad will become citizens as soon as they are residing with their U.S. citizen parent in the United States, and children who are entering the United States from abroad for adoption in U.S. courts will become citizens when their adoption is final. All of the requirements must be satisfied before the child's eighteenth birthday, however, in order for automatic citizenship to come into effect.

A U.S. Certificate of Citizenship issued by USCIS or a U.S. passport issued by the Department of State are the documents generally used as evidence of U.S. citizenship for a foreign-born adopted child. The process for obtaining a U.S. Certificate of Citizenship varies depending upon the type of immigrant visa the child received after the child's approval for immediate relative status.¹¹⁵

An IR-3 visa will typically be issued to a child who immigrates after approval for an orphan visa if (1) at least one of the parents saw and observed the child before or during the adoption proceedings and (2) the petitioner (and spouse, if any) adopted the child abroad in a proceeding recognized as a final adoption in both the country of origin and the United States. Similarly, an IH-3 visa will typically be issued after final approval of Form I-800 in a Convention adoption if the petitioner (and spouse, if married) complete the final adoption abroad before the child enters the United States.¹¹⁶ If the child was admitted to reside permanently in the United States on an IR-3 or IH-3 visa after January 1, 2004, USCIS will send the Certificate of

¹¹⁵ USCIS, *U.S. Citizenship for an Adopted Child*, at <https://www.uscis.gov/adoption/bringing-your-internationally-adopted-child-united-states/us-citizenship-adopted-child>.

¹¹⁶ USCIS, *Your New Child's Immigrant Visa*, at <https://www.uscis.gov/adoption/bringing-your-internationally-adopted-child-united-states/your-new-childs-immigrant-visa>.