



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.

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## **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.

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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;

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- 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.