

## Qualification of Adopted Child under U.S. Immigration Law

In order to qualify as an adopted child under U.S. immigration law, a child must have been:

- (1) Legally adopted while under the age of 16 years (or under the age of 18, if this is the sibling of a child adopted under 16 who meets the requirements of an adopted child; and
- (2) In the legal custody of, and resided with, the adoptive parents for at least two years: **provided**, that no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status.

The **legal custody requirement** may be fulfilled either prior to or after the child's adoption. Legal custody is deemed official at the time the adopting parents are awarded custody of the child rather than on the date the adoption becomes final. If custody did not exist prior to adoption, a certified copy of the adoption decree constitutes proof of the custody requirement at least from the date on which it was issued.

### **The period of residence for which the adoptive parents and child have lived together must be:**

- (1) At least two years, prior to or after the adoption; the time frame in which the two years are accrued need not be continuous;
- (2) The adoptive parents must have exercised primary parental control during the period in which they seek to establish compliance with the statutory two-year residence requirement:
  - (a) The adoptive parents must have evidence of control, especially in cases where the adopted child resided or continues to reside in the same household with the natural parents; and
  - (b) The evidence may include competent, objective evidence that the adoptive parents have provided or are providing financial support and day-to-day care, and have assumed the responsibility for important decisions in the child's life.