

Child Citizenship Act

This new law, signed by former President Clinton on October 30, 2000, amends the Immigration and Nationality Act (INA) to provide for the automatic acquisition of U.S. citizenship for thousands of foreign-born children (both biological and adopted) of American citizen parents when those children did not acquire U.S. citizenship at birth. The Child Citizenship Act greatly simplifies and shortens the immigration and naturalization process for children who qualify, thus saving parents the months or even years it used to take for their children to complete the process.

Children who have legal permanent resident status in the United States (i.e., green card holders) automatically become citizens of the United States under Section 320 of the INA once the following conditions are fulfilled (the order does not matter):

1. One parent is an American citizen, whether by birth or naturalization;
2. The child is under the age of 18;
3. The child is residing in the United States in the legal and physical custody of the citizen parent as a lawful permanent resident alien (i.e., the child entered the United States on an immigrant visa); and
4. If the child is adopted, the adoption must be final and must meet the requirements of INA Section 101(b)(1)(E) or 101(b)(1)(F).

American citizen parents of children who hold green cards may apply for U.S. passports for their children who meet the law's conditions without first filing an Application for Naturalization with the US Citizenship and Immigration Services (USCIS). Parents may also wish to apply for a Certificate of Citizenship for their children, but this is not a prerequisite for citizenship or for obtaining a passport. Children who receive U.S. citizenship under the new law will receive citizenship as of the date they have fulfilled all of the above requirements (i.e., citizenship will not date back to the child's date of birth).

The following documents are required to apply for a child's passport under the new law:

- Evidence of the child's relationship to the U.S. citizen parent (a certified copy and translation of the foreign birth certificate for children born to an American or, if adopted, a certified copy of the final adoption decree);
- The child's foreign passport with USCIS's I-551 stamp, OR the child's green card; and
- The parent's valid identification

If a child is a legal permanent resident (green card holder) living overseas and is **still in status** (i.e., has been outside the United States for less than one year), the child and parent can travel to the United States to fulfill the third condition and apply for a passport. Parents can complete the passport

application at any passport agency or any clerk of court or post office that is authorized to accept passport applications. Alternatively, the American Citizen Services unit can process the passport application once the family returns to Egypt.

If the child is **out of status** (has been outside the United States for more than one year), the INS considers the child's permanent residence in the United States to have been abandoned. In this case the parent may go to the Immigrant Visa Unit at the Embassy to file an Application to Determine Returning Resident Status for the child. If the application is approved, the child will be allowed to return to the United States after completing additional paperwork. If the application is not approved, the parent should see if he/she meets the requirements of Section 322 below.

Section 322 of the INA provides for automatic acquisition of U.S. citizenship for children who reside abroad and are not legal permanent residents of the United States (green card holders) and who have fulfilled all of the following conditions:

1. At least one parent is an American citizen, whether by birth or naturalization;
2. The American citizen parent has been physically present in the United States for a total of five years, at least two of which were after age 14. If the citizen parent does not meet this requirement, it is enough if the child has an American citizen grandparent who meets the requirement.
3. The child is under the age of 18; and
4. The child is residing outside of the United States in the legal and physical custody of the citizen parent, has been lawfully admitted into the United States as a non-immigrant, and is maintaining lawful status (i.e., has not overstayed the visa).

Children who meet the conditions of Section 322 should travel to the United States with the American citizen parent in order to apply for naturalization (please note that this cannot be done at the Embassy). Once a Certificate of Citizenship has been awarded, parents can apply for a U.S. passport for their children either while still in the United States or at the American Citizen Services unit after returning to Egypt.

Proving the required years of physical presence in the United States is the responsibility of the child's American citizen parent. The best documents for proving physical presence are old American or Egyptian passports. School or university transcripts or employment records may be acceptable. Income taxes may be helpful in the determination but do not constitute proof of presence.

To meet the final requirement of Section 322 above, the child must travel to the United States on a non-immigrant visa. Please see our website for information about the non-immigrant visa process. Parents may apply for the visa on behalf of children under 16. Children age 16 or over should appear in person and parents are welcome to accompany them to the visa interview. Please note that in order to be issued a visa, applicants need to prove that they meet the conditions listed above and are thus eligible

to apply for U.S. citizenship. The burden of proof is on the applicant, not the visa section - and the American Citizen Services unit cannot assist with the visa process.

The following are examples of children who would be eligible for citizenship under the new law:

1. The child of a green card holder who later becomes an American citizen. With the new law, the child no longer has to wait until after his non-citizen parent naturalizes. As soon as all conditions are met the child will receive citizenship automatically.
2. A child whose American citizen parent was not able to transmit citizenship at the child's birth due to lack of physical presence in the United States.

Here are examples of children who would not qualify for citizenship under the new law:

1. A child who otherwise meets the conditions for citizenship under the new law but turns 18 before being admitted to the United States.
2. A child who is in the United States on a non-immigrant visa but overstayed the visa.
3. A child whose parent (or grandparent) is unable to prove 5 years of physical presence in the United States.

If you have questions about the new law and how it might apply to you, please see the USCIS press release at http://www.uscis.gov/files/pressrelease/CCA_102504.pdf.