

## INTERNATIONAL ADOPTION

### HOW CAN ADOPTED CHILDREN COME TO THE UNITED STATES?

Prospective adopting parents are strongly encouraged to consult the Department of Homeland Security's Citizenship and Immigration Services (DHS/CIS) publication [M-249, The Immigration of Adopted and Prospective Adopting Children](#), as well as the Department of State publication, International Adoptions. The CIS publication is available at the [USCIS Web site](#) at <http://uscis.gov>. The Department of State publication [International Adoptions](#) can be found on the Bureau of Consular Affairs Web site, <http://travel.state.gov>, under "International Adoptions."

A child adopted by a U.S. citizen and who will reside in the US must obtain an immigrant visa before he or she can enter the U.S. Issuance of visas is governed by the Immigration and Nationality Act (INA), which currently provides for two categories of adopted children to immigrate to the United States. The first category, as provided in INA 101(b)(1)(E), allows a child adopted by an American citizen before they reached the age of 16 who has already resided with the adoptive parent in their legal custody for two years, to immigrate to the United States. The second category, as provided in INA 101(b)(1)(F), allows an "orphan," as defined by U.S. law and regulations, to immigrate. Since most parents adopting overseas do not meet the custody and residence requirements of 101(b)(1)(E), the focus of this information sheet is on 101(b)(1)(F) orphans. Parents who believe that their situation may fall into the first category should contact their nearest USCIS office or Embassy or Consulate for additional information. **The Department of State strongly advises U.S. citizens to verify that a particular child will fit into one of these two categories per U.S. immigration law and regulations before proceeding with an adoption. A consular officer cannot issue a visa to an adopted child if he or she does not meet the legal definitions of 101(b)(1)(E) or 101(b)(1)(F).**

### WHAT IS AN ORPHAN?

If an adopted child has not resided with and been in the legal custody of the adopting parent for at least two years (or if the child has not yet even been adopted) the child must qualify as an orphan under section 101(b)(1)(F) of the U.S. Immigration and Nationality Act in order to apply for an immigrant visa. The main requirements of this section are as follows:

**The child must be under the age of 16\* at the time an I-600 Petition is filed with the USCIS or a consular officer on his or her behalf;**

1. The child meets the U.S. immigration law definition of "orphan" because:
  1. The child has no parents due to the death or disappearance of, abandonment or desertion by, or separation from or loss of both parents; or
  2. The sole or surviving parent is incapable of providing proper care and has, in writing, irrevocably released the child for emigration and adoption\*\*;
2. The adopting parents must have completed a full and final adoption of the child or must have legal custody of the child for purposes of emigration and adoption in the U.S.; and
3. The child has been or will be adopted by a married U.S. citizen and spouse jointly, or by an unmarried U.S. citizen at least 25 years of age, with the intent of forming a bona fide parent/child relationship.

\*A child adopted at age 16 or 17 will also qualify, provided he or she is a natural sibling of a child adopted, or who will be adopted, under the age of 16 by the same adopting parents.

\*\*Prospective adopting parents should note that the terms "disappearance," "abandonment," "desertion," "separation," "loss," and "sole" and "surviving" parent all have specific legal meanings, as defined in section 204.3(b) of Title 8 of the U.S. Code of Federal Regulations. Whether a child qualifies as an orphan is determined by reference to the U.S. regulatory definitions and not by any local (foreign) law designations that may be used to identify a child as orphaned. In some countries it is possible to adopt a child who is not an "orphan" as defined by U.S. immigration law. Parents are urged to seek advice about the possibility that an adopted child would not be considered an orphan and therefore would not be able to accompany his or her adopting parents to the United States. Immigration attorneys, reputable adoption agencies involved in international adoption, DHS/CIS and the Department of State officials all have information that will assist you in addressing this serious concern.

### U.S. IMMIGRATION PROCEDURES FOR ORPHANS

Adjudicating an orphan case requires the following steps:

1. Adopting parents establish their suitability for an international adoption, usually through an approved I-600A filed with USCIS;
2. Adopting parents establish that a particular child may be classified as an orphan, as demonstrated by an approved I-600 petition and confirmed through a review of the orphan determination (I-604) – paperwork may be completed by a USCIS or consular officer at a U.S. Embassy or Consulate overseas;
3. A visa application is filed on behalf of the child, providing all necessary documentation for production of the visa and demonstrating that no legal impediments to visa issuance apply – a consular officer will review the application at a U.S. Embassy or

Consulate overseas;

4. If approvable, the visa is issued, and the child travels to the U.S. and obtains citizenship, either upon entry or upon completion of a full and final adoption in the U.S.

Additional details on this process are provided below.

**Step 1 - Demonstrating eligibility/suitability for an international adoption (I-600A)**

In order to bring an orphan to the U.S. with an immigrant visa, adopting parents must demonstrate to USCIS that they can and will provide proper care to the child if admitted to the United States. The I-600A application allows adopting parents to demonstrate that they are financially, logistically and otherwise prepared to adopt a child internationally. The I-600A also identifies any U.S. state requirements that must be met prior to or after the adoption.

Adopting parents are often encouraged to begin the overseas adoption process early by filing the I-600A before identifying a particular child to adopt. Parents who already have identified or even adopted a child may demonstrate their suitability to adopt by filing the same documentation with the I-600 petition (described below), but parents choosing this route should be aware that it may take longer and that they must file such I-600 petitions with a USCIS office (not the consular officer at a U.S. Embassy or Consulate.)

**If used, the I-600A Application for Advance Processing of Orphan Petition should be filed with the U.S. Citizenship and Immigration Services (USCIS) office having jurisdiction over the adopting parents' place of residence. The following documents must be submitted with the I-600A:**

1. Completed and signed I-600A (Application for Advance Processing of Orphan Petition);
2. Proof of the prospective petitioner's United States citizenship;
3. Proof of the marriage of the prospective petitioner and spouse, if applicable;
4. Proof of termination of any prior marriages of the prospective petitioner and spouse or unmarried prospective petitioner, if applicable;
5. A "home study" completed by the appropriate State organization with a favorable recommendation (USCIS regulations include very specific instructions on the issues to be addressed in the home study, authorized providers of home studies, and the recommendations regarding suitability - for additional information see the [USCIS website](#) , or 8 CFR 204.3(e).);
6. Filing fee of \$525.00

In addition, the petitioner, spouse (if married) and each additional adult member of the adopting parent(s)' household must also be fingerprinted as part of the I-600A application. For adopting parents in the United States, USCIS will provide information once the I-600A is filed on being fingerprinted at local USCIS offices. For adopting parents residing overseas, adopting parents should contact the U.S. Embassy or Consulate with jurisdiction over their place of residence to schedule fingerprinting prior to submitting the I-600A.

At the time they file the I-600A, the petitioner should request that USCIS notify the U.S. Embassy in the country where they plan to process the case as soon as the I-600A is approved.

USCIS approval notices of the I-600A often identify the type of child the prospective parents are authorized to adopt overseas. Approved I-600As are valid for 18 months. Adopting parents must file an I-600 petition for a child fitting the I-600A criteria (if any) during this validity period; if the I-600A approval has expired, parents will need to re-file the I-600A and obtain approval prior to filing the I-600. Adopting parents should also note that fingerprint clearances obtained during the I-600A process are only valid for 15 months. If the I-600 is not filed and approved during this fingerprint validity period, adopting parents should consult with the office where their fingerprints were originally taken for instructions on obtaining updated fingerprint clearances, prior to any planned travel overseas. If parents arrive overseas intending to file the I-600 petition and their fingerprint clearances are not valid, parents will be charged an additional fee for re-fingerprinting and will be required to wait several days for fingerprint clearances before their I-600 can be approved.

**Step 2 –Demonstrating that a child is an orphan (I-600)**

Adopting parents file the I-600 petition to document a specific child's ability to match the "orphan" classification in INA 101(b)(1)(F). Depending on the circumstances of the case, the I-600 may be filed with the USCIS office having jurisdiction over the parents' place of residence, or with a DHS or consular officer overseas:

Adopting parents currently residing overseas should file the I-600 with the overseas DHS or consular officer at the Embassy or Consulate with jurisdiction over their residence (see notes in next point on conditions for filing with a consular officer).

Adopting parents residing in the U.S. may file the I-600 with the USCIS office with jurisdiction over their place of residence, or may contact the Embassy or Consulate in the country in question for information on filing the I-600 overseas. Parents will be permitted to file the I-600s with DHS officers at U.S. Embassies or Consulates where Department of Homeland Security immigration officials are assigned. At Embassies and Consulates without DHS immigration

officials, parents may generally file the I-600 only if notice of I-600A has previously been sent to the Embassy or Consulate, if the U.S. citizen petitioner is physically present before the consular officer, and if the petitioner does not already have an I-600 petition pending somewhere else for the same child. Parents are strongly encouraged to verify I-600 filing procedures at the U.S. Embassy or Consulate overseas prior to travel to the country in question.

Parents may wish to consult with adoption agencies, Embassies or Consulates overseas, and/or other adopting parents to determine whether they wish to file the I-600 overseas or in the United States. Processing times for I-600 petitions vary depending on where they are filed. Intent to travel to the child's country may also affect U.S. resident parents' decision on where to file the I-600.

Note that parents who have adopted abroad without first demonstrating suitability to adopt by filing an I-600A must file the I-600 petition (and accompanying suitability documents identified in Step 1) with the appropriate DHS/CIS office, not with a consular officer. Consular officers can only accept I-600 petitions at a U.S. Embassy or Consulate abroad when they have been notified that an I-600A for a family has already been approved.

I-600 petitions should only be filed for children who fit the criteria, if any, identified in the parents' I-600A approval (e.g., if adoptive parents have been approved to adopt one child, they should not file I-600s for two children).

The following documentation must be presented in order for an I-600 petition to be approved:

1. Form I-600, Petition to Classify Orphan as an Immediate Relative;
2. Child's birth certificate;
3. A final decree of adoption, if the orphan has been adopted abroad, or proof of legal custody for purposes of emigration and adoption;
4. Proof of "orphan" status per definition above (ex. evidence of abandonment, written relinquishment, death certificates, etc. depending on the circumstances);
5. Proof that the pre-adoption requirements, if any, of the state of the orphan's proposed residence have been met, if the orphan is to be adopted in the United States;
6. Proof that adopting parents have seen the child prior to or during adoption proceedings.

If an I-600A has already been approved, the adopting parent may file an I-600 for one child without any additional fee. However, if parents are adopting two or more biologically unrelated children, there will be a \$525.00 fee for the second child (this fee is waived for siblings).

Parents should note that documentary requirements for filing the I-600 petition are somewhat different, depending on whether the petition is filed with DHS/CIS or the consular officer. DHS/CIS officers may generally initially accept an I-600 with only the child's birth certificate, and, if not previously provided with the I-600A, proof of marriage of the petitioner (if applicable). DHS/CIS also permits a petitioner to submit copies of some documents in lieu of originals. I-600 petitions filed with consular officers, however, must have all required documentation at the time of filing, and such documentation must be submitted as originals.

As part of the DHS/CIS or consular officer's decision to approve an I-600 and immigrant visa, they will carefully review information about the orphan and his or her personal situation. This review is documented by the DHS/CIS or consular officer on an I-604 Orphan Investigation form. To protect adopting parents, the child, and biological parents, any indication or allegation of fraud, child buying or other inappropriate practices will be investigated as part of the I-604 review (or at any time that such concerns arise prior to visa issuance). While the I-604 review for most cases will consist of an analysis of available documents, some cases will require additional interviews, documentation or a field investigation, all of which may result in delayed processing on the case.

### Step 3 – Visa application

Once the I-600 petition for a particular orphan has been approved, the U.S. Embassy or Consulate's consular section will review the child's application for a visa. The purpose of this review is to ensure that all documentation required to produce the visa and demonstrate orphan status is present, and to ensure that there are no legal impediments to visa issuance. The U.S. Embassy or Consulate can provide specific information on specific application procedures, but the visa application generally includes:

1. Proof of an approved I-600 petition and evidence of orphan status;
2. Completed Immigrant Visa application, form [DS-230, Parts I and II](#), signed by the parent or guardian on behalf of the child in the presence of a consular officer. Information on the form should pertain to the child, not the adopting parents. These forms can be downloaded from our web site at <http://www.travel.state.gov>;
3. Child's birth certificate and passport (or other valid travel document);
4. Evidence of adoption or legal custody for purposes of emigration and adoption, as well as evidence of whether the adopting parents saw the child prior to or during adoption proceedings (if applicable);

5. Three (3) frontal photographs of the child;

6. Medical exams from the Embassy's panel physician (please note that this exam is largely to ensure that children with communicable diseases do not enter the U.S.; parents should consult with other professionals for complete physical or mental evaluations of the orphan's health). If significant health problems are uncovered, parents may be asked to sign an [affidavit](#) acknowledging their desire to continue with the case given the medical condition of the child. In addition, in some cases parents may be requested to sign an affidavit regarding their intent to obtain necessary vaccinations for the child upon entry to the United States;

7. For children not yet adopted, not seen by both adopting parents, or who will reside in states requiring re-adoption, the [I-864 Affidavit of Support](#) with accompanying documentation (job letter, tax returns, etc.); for children with a full and final adoption overseas where both adopting parents see the child prior to or during the adoption and where no state re-adoption requirements must be met, the I-864 is not required. Parents may wish to submit additional financial information on their ability to support the child, but will generally not be required to do so;

8. (Rare) For children over the age of 16 at the time the visa application (not the I-600A or I-600) is submitted, police, military or prison records may be required – consult with the Embassy or Consulate regarding such children.

If not previously paid, an immigrant visa processing fee of \$335.00 (separate from I-600A or I-600 fees) must be paid at the time of visa application.

Parents should consult with the Embassy or Consulate regarding requirements that the child be present at the time of visa application – in many cases, the consular officer will need to see the child prior to approval of the visa. Consular officers do not generally require that adopting parents be present at the time of visa application, but parents may be required by local government authorities to be present for the adoption, to escort the child out of the country, or to provide documentation to escorts that will bring the child to the United States.

Please note that some documents submitted to the Embassy must be included in the immigrant visa packet and will not be returned. Therefore, adopting parents should obtain extra originals or certified copies of the adoption decree and the child's new birth certificate for their personal use in the future, including for application for a U.S. passport and Social Security number.

#### **Step 4 – Visa issued, orphan admitted to the United States**

If all the documentation for the orphan is in order and there are no legal bars to visa issuance, the orphan will be provided with an immigrant visa consisting of a packet of supporting documentation and either a cover sheet or visa placed in the child's passport. Both should be hand-carried with the child (not packed in luggage) when they travel to the U.S. and should be presented to the immigration inspectors at the port of entry. Do not open the envelope of supporting documents.

The immigrant visa is valid for 180 days from the date of issuance, which means that adopting children have 180 days to use the immigrant visa to travel to the United States.

Orphans are issued IR-3 or IR-4 visas:

**IR-3 visas are for orphans who had a full and final adoption overseas by both adopting parents, when both parents physically saw the child prior to or during local adoption proceedings and where the state where they reside does not require re-adoption in the U.S.**

**IR-4 visas are for orphans whose prospective adopting parents' have legal custody for purposes of emigration and adoption and who have satisfied any applicable state pre-adoption requirements.**

**Naturalization:** Orphans under the age of 18 and admitted to the U.S. based on a properly issued IR-3 visa automatically acquire U.S. citizenship as of the date of admission to the United States. The USCIS Buffalo office reviews IR-3 packets and automatically sends Certificates of Citizenship to eligible children without requiring any additional forms or fees. See our flyer on the [Child Citizenship Act of 2000](#) for further details.

Orphans admitted to the U.S. based on a properly issued IR-4 visa become legal permanent residents and will automatically be processed to receive an Alien Registration Card ("green card"). They will automatically acquire U.S. citizenship (assuming they're under age 18) as of the date of their full and final adoption in the United States. To obtain proof of their citizenship once the adoption is complete, beneficiaries must file the N-600 form and any necessary fees with a USCIS office.

**ADDITIONAL INFORMATION:** Specific questions about adoption in a particular country may be addressed to the U.S. Embassy in that country. General questions regarding international adoption may be addressed to the Office of Children's Issues, U.S. Department of State, CA/OCS/CI, SA-29, 4th Floor, 2201 C Street, NW, Washington, D.C. 20520-2818, toll-free Tel: **1-888-407-4747**.

Useful information is also available from several other sources:

#### **Telephone:**

For information on international adoption of children and international parental child abduction, call Overseas Citizens Services at 1-888-407-4747. This number is available from 8:00 a.m. to 8:00 p.m. Eastern Standard Time, Monday through Friday (except U.S. federal holidays). Callers who are unable to use toll-free numbers, such as those calling from overseas, may obtain information and assistance during these hours by calling 1-202-501-4444.

#### **Internet:**