

INTERNATIONAL ADOPTION

International adoption is a type of adoption in which an individual or couple becomes the legal and permanent parents of a child that is a national of a different country. In general, prospective adoptive parents must meet the legal adoption requirements of their country of residence and those of the country whose nationality the child holds. Adoption is also a judicial or administrative act that establishes a permanent legal parent-child relationship between a minor and an adult who is not already the minor's legal parent and terminates the legal parent-child relationship between the adoptive child and any former parent(s). Generally speaking, to qualify as an adoption for immigration purposes, the adopted child has the same rights and privileges as a child born in the United States.

International Adoption is just one of several ways to build your family. In most cases, international adoptions are finalized in the country of origin, so once you come home with your child, he or she is already legally yours. If you are considering adoption from a foreign country the legal status of your adopted child might be finalized in the United States or determined abroad.

In addition, it is the U.S. Citizenship and Immigration Services ("USCIS") who is responsible in determining the eligibility and suitability of the Prospective Adoptive Parents who are looking to adopt and in determining the eligibility of the child to immigrate to the United States.

The requirements necessary to begin the process of international adoption can vary depending on the country of the adoptive parent(s) and the country of the adopted child. There are usually several requirements after the parents have already taken the child in their home as well, such as paperwork to make the child a legal citizen of the adopting parents' country.

Remember the two basic requirements of handling adoptions: fulfilling the requirements of the United States Citizenship and Immigration Services in the Department of Homeland Security; and satisfying the foreign country's requirements in which the child resides and the requirements of the state where the adoptive parent/s live.

THERE ARE THREE AVENUES FOR ADOPTING A CHILD INTERNATIONALLY.

The first avenue is the Hague Adoption. The Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (Hague Adoption Convention) is an international treaty that provides important safeguards to protect the best interests of children, birth parents, and adoptive parents who are involved in inter-country adoptions.

The procedural steps involving a Hague adoption include:

- (a) Choose a Hague Accredited ASP (and perhaps also an immigration attorney);
- (b) Obtain a home study from someone authorized to complete a Hague adoption home study. Once you have obtained a favorable home study, file Form I-800A (Application for Determination of Suitability to Adopt a Child from a Convention Country) with USCIS. To be eligible to file Form I-800A, you must be a U.S. citizen, habitually reside in the United States, if you are married, your spouse must also sign your Form I-800A

- and must also intend to adopt any child whom you adopt, If you are not married, you must be at least 24 years of age when you file your Form I-800A, and you must be 25 years of age when you file your Form I-800;
- (c) Once USCIS approves the application, work with the adoption service provider to obtain a proposed adoption placement;
 - (d) File a “petition” (Form I-800, Petition to Classify Convention Adoptee as an Immediate Relative) with USCIS, before adopting the child, to have the child to be found eligible to immigrate to the United States based on the proposed adoption;
 - (e) Adopt the child, or obtain custody of the child in order to adopt the child in the United States;
 - (f) Obtain an immigrant visa for the child; and
 - (g) Bring the child to the United States for admission with the visa.

Note: The adoption must not take place prior to filing Form I-800A/I-800, doing so contradicts the Hague Convention agreement.

The second process of adopting a child from another country is to treat the adoption as a non-Hague Convention. This can only apply if the country where the child is from is not a party to the Hague Convention.

The third process of “adopting” a child from another country is to go through the orphan route. This route applies to children adopted by U.S. Citizens. Depending on what country you choose to adopt from will determine which process you will adopt by.

Let us begin with the basics. An orphan is child who does not have parents because of death or disappearance or abandonment or desertion or by separation or loss from both parents, or has a sole surviving parent who is unable to care for the child, consistent with the local standards of the foreign sending country, and who has, in writing, irrevocably released the child for emigration and adoption.

You must file an orphan petition before the child’s 16th birthday, or before the child’s 18th birthday if the child is a birth sibling of another child whom you have also adopted and who immigrated (or will immigrate) as an orphan based on a Form I-600 petition filed before the sibling’s 16th birthday, or an “adopted child” as defined in Section 101(b)(1)(F) of the Immigration and Nationality Act (INA) provided the actual adoption took place before that sibling’s 16th birthday.

You can have USCIS review both your suitability as an adoptive parent and the child’s status as an orphan at the same time. If you have already identified a child you want to adopt (or you have already adopted the child), you may file Form I-600, Petition to Classify an Orphan as an Immediate Relative.

Submit your home study with your Form I-600 and any other relevant evidence that you are suitable as an adoptive parent. Submit evidence that the child is an orphan and that you have adopted or intend to adopt the child.

If the Petition is approved, apply to a U.S. embassy or consulate for a visa for your child. The Department of State officer who decides the visa application must determine whether your child is “inadmissible” under any provision in section 212(a) of the Immigration and Nationality Act. For children, the most common ground of inadmissibility is medical inadmissibility due to certain diseases, lack of required vaccinations, or other medical issues. If your child is inadmissible, you may be able to obtain a waiver of inadmissibility by filing Form I-601, Application for Waiver of Ground of Inadmissibility.

International Adoption is a complex issue. It is expensive, as well, as you have to spend money for fees and other services, not to mention the different countries having their own rules and regulations. This can be very stressful when done alone or on your own given the amount at stake. One little mistake can sabotage the entire process.

To find out more about the procedural steps involved and an estimate of fees, call or email us today for your free in-depth consultation!