



Child Welfare Information Gateway

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STATE
STATUTES

Current Through
August 2008

State Recognition of Intercountry Adoptions Finalized Abroad

Intercountry adoption refers to the adoption of children who are citizens of one country by parents who are citizens of a different country. Intercountry adoptions may be finalized abroad or domestically. An intercountry adoption completed abroad is essentially a private matter between the adopting individual (or couple) and a foreign court operating under that country's laws and regulations.

For adoptive parents who are U.S. citizens, completing an adoption abroad does not entitle the adopted child to enter the United States. In order for a child who has been adopted abroad to enter the United States, the adoptive parents must fulfill the requirements set by the U.S. Citizenship and Immigration Services (USCIS) of the U.S.

Electronic copies of this publication may be downloaded at

www.childwelfare.gov/systemwide/laws_policies/statutes/intercountry.cfm

To find statute information for a particular State, go to

www.childwelfare.gov/systemwide/laws_policies/state/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at www.childwelfare.gov/systemwide/laws_policies/statutes/intercountryall.pdf

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Full Effect and Recognition of Intercountry Adoption Decrees

Department of Homeland Security, the foreign country in which the child resides, and sometimes the adoptive parents' State of residence.¹ Effective April 2008, rules of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption apply when an adoption is completed in a country that has ratified the Convention.²

When U.S. citizens finalize the adoption of a foreign-born child abroad, they must apply to the USCIS to obtain an IR-3 visa for the child, which classifies the child as an immigrant and provides the child with U.S. citizenship upon arrival into the U.S. The immigration procedure is different for intercountry adoptions that are finalized after the child arrives in the United States.³

Once the child is in the United States, recognition and validation of the adoption is subject to the laws of the parents' State of residence.⁴ Approximately 24 States give full effect and recognition to an adoption decree that has been issued in full compliance with the laws of the United States and the country that granted the adoption.⁵ Recognition of a foreign adoption decree means that the decree is considered by the State to be as valid and binding as a decree issued by a State court.

¹ For additional information on these requirements, see International Adoption, U.S. Department of State, at www.travel.state.gov/family/adoption/intercountry/intercountry_473.html

² The Hague Convention was ratified by the United States by the Intercountry Adoption Act of 2000 (P.L. 106-279) on October 6, 2000 and went into force in the United States on April 1, 2008. For an overview of this process, see Information Gateway's *Intercountry Adoption From Hague Convention and Non-Hague Convention Countries* [in draft].

³ The Joint Council on International Children's Services provides a factsheet explaining how to get a passport for children who have been adopted internationally: www.jcics.org/Passport.htm. The information provided includes procedures for children adopted abroad and for children adopted after they have entered the United States.

⁴ The State of residence is the State that the adoptive parents live in and call home. Determining a military family's State of residence may be complex because the family may frequently move around the country or around the world. For additional information about military families seeking to adopt and needing to determine their State of residence, see the Information Gateway factsheet *Military Families and Adoption: A Factsheet for Families* at www.childwelfare.gov/pubs/f_milita.cfm

⁵ The word approximately is used to stress the fact that States frequently amend their laws. This information is current through August 2008. The States that currently provide full recognition to foreign adoption decrees include Alaska, Arkansas, California, Delaware, Florida, Georgia, Idaho, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Vermont, and West Virginia.

Readoption After an Intercountry Adoption

Many States provide for validation of the foreign adoption or readoption of the child under State law. Validation is the process of submitting an adopted child's foreign adoption decree for State court approval.⁶ Readoption is the process of adopting a child who was previously adopted in another jurisdiction. These processes are similar; both involve State court review and legitimization of the foreign adoption. These processes typically require adoptive parents to provide the court with certain documents, including a certified translated copy of the foreign adoption decree, proof of the date and place of the adopted child's birth, and proof that the child has an IR-3 visa.

Approximately six States require adoptive parents to petition the court to validate or register the foreign adoption or foreign adoption decree.⁷ Approximately four States require adoptive parents to readopt the child under certain circumstances.⁸

Approximately 24 States offer readoption or validation as an option, not a requirement.⁹ Readoption or validation protects the intercountry adoption finalized abroad from a legal challenge in State court and ensures the adopted child's ability to inherit from an adoptive parent. Also, readoption or validation provides the adopted child with an opportunity to obtain a U.S. birth certificate from the parent's State of residence.

Application for a U.S. Birth Certificate

Approximately 35 States, Guam, and Puerto Rico require adoptive parents to submit documentation from readoption or validation of a foreign adoption in a State court when they wish to request that the State Registrar of Vital Statistics issue a State

⁶ The State court must be a court that has jurisdiction over adoption cases. For more information, see Information Gateway's *Court Jurisdiction and Venue for Adoption Petitions* at www.childwelfare.gov/systemwide/laws_policies/statutes/jurisdiction.cfm

⁷ Delaware, Kansas, Louisiana, Pennsylvania, South Carolina, and Tennessee.

⁸ California requires readoption if it is required by the U.S. Department of Homeland Security. Connecticut requires readoption if the U.S. Immigration and Naturalization Service has denied the child citizenship because the adoptive parent did not see the child prior to the adoption. [Note: The statute in Connecticut does not yet reflect the change to U.S. Citizenship and Immigration Services.] Kentucky and Pennsylvania require readoption if the adoption was not properly finalized abroad.

⁹ Arizona, California, Colorado, Connecticut, Georgia, Idaho, Maine, Maryland, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Oklahoma, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

birth certificate for the adoptee.¹⁰ Approximately 11 States and the District of Columbia will accept the foreign adoption decree when adoptive parents want to request a U.S. birth certificate for their adopted child.¹¹ Usually, the request for a birth certificate is accompanied by a certified copy of the final adoption decree, the State court's findings of fact as to date and place of birth, and a written request for a new birth certificate for the adopted person.¹²

The State Registrar issues the birth certificate in the new name of the adoptee if requested by the adoptive parents, and the certificate shows the actual date and place of birth. In approximately 22 States and Guam, a notation is made on the certificate that it is not evidence of U.S. citizenship for the child.¹³ Afterwards, the Registrar seals the original birth certificate, order or decree of adoption, and the court findings, which are not unsealed except by court order or as provided by law.¹⁴

For more information about the intercountry adoption process, please see the Information Gateway factsheet, *Intercountry Adoption: Where Do I Start?* at: www.childwelfare.gov/pubs/f_inter/index.cfm

¹⁰ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

¹¹ Illinois, Maryland, Michigan, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, and Wisconsin.

¹² Findings of fact are court determinations about factual questions vital to a legal proceeding, such as facts about an adopted child that are necessary for a readoption in State court. Adoptive parents may adopt a foreign-born child whose date and place of birth are unknown or seem incorrect. A State court must determine the true date and place of birth, because this information is necessary in order to conduct the adoption proceedings, to issue a U.S. birth certificate, and to fill out all future health-, education- and work-related forms for the adopted child.

¹³ Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Idaho, Kentucky, Louisiana, Maine, Maryland, Minnesota, Montana, North Dakota, Oregon, Pennsylvania, South Carolina, Vermont, Virginia, and West Virginia.

¹⁴ For additional information about an adopted child's access to his or her sealed adoption records, see the Information Gateway State Statutes publication *Access to Adoption Records* at www.childwelfare.gov/systemwide/laws_policies/statutes/infoaccessap.cfm

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.