

Common Questions about Naturalization and Children

Q: *I'm a lawful permanent resident in the process of becoming a U.S. citizen through naturalization. Will my child also become a U.S. citizen when I naturalize?*

A: Your child will automatically become a U.S. citizen (i.e. will “derive” citizenship from you) when you naturalize if the following conditions are met:

1. the child is under the age of 18, and
2. he/she is residing in your legal and physical custody in the U.S., and
3. he/she is a lawful permanent resident (or begins to reside in the U.S. as a lawful permanent resident before reaching the age of 18.)

The law regarding when children automatically naturalize through a parent changed on February 27, 2001. If your child was over the age of 18 on February 27, 2001, it is still possible he or she derived U.S. citizenship from you under laws that were in effect at that time. In order to find out whether your child derived citizenship from you, speak with an immigration attorney. If your child did not derive citizenship from you, he or she may be able to apply for naturalization on his or her own.

It is very important that you list all your children on your application for naturalization (form N-400) in order to enable them to derive citizenship from you, or in case you decide to petition for them to immigrate to the U.S. if they are not already here.

Q: *If my child does not automatically derive citizenship when I naturalize, do I have to file any special papers with U.S. Citizenship and Immigration Services (USCIS)?*

A: Since the child automatically derives citizenship it is not ***necessary*** to submit any special paperwork or for the child to be examined or sworn in. However, it is a ***good idea*** to obtain some proof of the child’s citizenship. If you wait it may be harder to collect all the evidence you need to show the child is a citizen. You can obtain proof of your child’s citizenship by applying for a certificate of citizenship from USCIS on form N-600 or, in some cases, by applying for a U.S. passport.

Q: *Does my child have to be legally present in the U.S. in order to automatically derive citizenship when I naturalize?*

A: Your child must either be residing in the U.S. pursuant to a lawful admission for permanent residence at the time of your naturalization or must begin thereafter to reside in the U.S. as a lawful permanent resident while still under the age of 18. If your child does not have legal immigration status you should speak to an immigration attorney about filing a family visa petition.

Q: *I'm applying for naturalization and one of my children is going to turn 18 soon. Is there any way to have my application expedited?*

A: If your child will soon be turning 18, it’s a good idea to send a cover letter

with your naturalization application explaining the situation and requesting expedited processing. *However, there is no guarantee that USCIS will be able to process the case quickly.* **Whenever possible, you should submit your naturalization application well in advance of your child's eighteenth birthday.**

Q: *I'm a U.S. citizen and I have a child who was born in another country. Is he or she a citizen?*

A: It's possible that your child acquired citizenship from you, even if he or she was born in another country. The answer will depend on several factors, including the child's date of birth, whether you or the child's other parent were a citizen at the time of the child's birth, whether you and the child's other parent were married at the time of the child's birth, and the periods of time that you or the child's other parent resided in the U.S. prior to the child's birth. In order to find out if your child acquired citizenship from you, speak with an immigration attorney.

Q: *Neither my spouse nor I have legal immigration status in the United States, but our children were born here. Are they citizens?*

A: Under the U.S. constitution, all persons born in the U.S. and subject to its jurisdiction are citizens at birth (with the exception of children of certain diplomats). Your U.S. citizen children may be able to help you obtain legal immigration status, but you may have to wait. Only U.S. citizens who are **21 years of age or older** may petition for their parents to obtain lawful permanent residence.

The foregoing is intended to provide general information only. It is current only as of the date it is written. To receive information on how this material may apply to a specific situation, you should consult with an immigration attorney. Prepared by Northwest Immigrant Rights Project, updated June 1, 2005.

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