

International Adoption – Overview

The process of adopting a child from a foreign country is far more complicated than adopting a child who is a United States citizen. Prospective parents who wish to adopt a foreign child must comply with the laws of the child's home country, the laws of the United States, and the laws of the prospective parents' state of residence. Due to the legal complications inherent in international adoptions, persons who wish to adopt a foreign child should consult an experienced attorney or an adoption agency that specializes in international adoptions.

The procedure for adopting a child from a foreign country may be summarized as follows:

1. Find an attorney or adoption agency. Persons who plan to conduct an international adoption should retain an attorney or adoption agency before they begin the process.
2. File for Advance Processing with the USCIS. The United States Bureau of Citizenship and Immigration Services (USCIS) recommends that all persons file for "Advance Processing" before they identify a foreign child to adopt. Advance Processing is a procedure whereby the USCIS pre-approves the prospective parents' application to adopt a foreign child. The USCIS must review documentation provided by the prospective parents and conduct a home study to determine whether they will be suitable parents. If the USCIS determines that the prospective parents will not be suitable parents and denies their application, then the prospective parents cannot bring a foreign child into the U.S., even if they have legally adopted the child in the child's home country. Advance Processing is not required. It is simply the safest and fastest way to conduct an international adoption.
3. Locate the child. After the prospective parents' application has been approved by the USCIS, they can locate a child for adoption. There are numerous adoption agencies and domestic and foreign government agencies that help prospective parents find a child.
4. File an Orphan Petition with the USCIS. The USCIS must determine that the child is an "orphan" within the meaning of U.S. immigration laws before it will permit the prospective parents to bring the child into the U.S. Therefore, the prospective parents must file an "Orphan Petition" with the USCIS. If the USCIS determines that the child is an "orphan," it will grant the petition.
5. Adopt the child in the child's home country. The prospective parents must legally adopt the child in the child's home country. The adoption must comply with the laws of the child's home country and U.S. law. Prospective parents may file the Orphan Petition before or after the child is adopted in the child's home country. However, the safest course of action is to wait until the USCIS grants the petition before adopting the child.
6. Obtain a visa for the child. The adoptive parents must obtain an Immigrant Visa before they can bring the child into the U.S. An application for a visa is filed with the American Embassy in the child's home state.
7. Obtain U.S. citizenship for the child. The Child Citizenship Act of 2000 grants automatic U.S. citizenship to certain adopted children. In cases in which the Act does not apply, the adoptive parents must complete the naturalization process for the child.
8. Re-adopt the child in the U.S. In some cases, the adoptive parents must re-adopt the child in the U.S. after the child is adopted in the child's home country and brought into the U.S.