



Transmitting Citizenship to Children Born Abroad

Due to restrictive provisions of U.S. law, not all Americans residing abroad can transmit citizenship to their children, and since some countries do not grant citizenship to the children of U.S. citizens who are born there, it is even possible for such children to be born “stateless” and not be eligible for a passport.

Children born to American citizens abroad can inherit U.S. citizenship only as specified in Sections 301 and 309 of the Immigration and Nationality Act as follows:

1. **IF BOTH PARENTS ARE U.S. CITIZENS AND ARE MARRIED:** a child born abroad is a U.S. citizen at birth if either of the parents has ever resided in the United States (no amount of time specified).
2. **IF ONLY ONE OF THE PARENTS IS A CITIZEN OF THE UNITED STATES:** the U.S. citizen parent must have resided in the United States for a period totaling not less than *five years*, at least two of which were after the age of fourteen. (“Residence” in this case includes time spent abroad on U.S. military duty or employed by the U.S. government or by certain international organizations.)
3. **IF A U.S. CITIZEN MOTHER GIVES BIRTH TO A CHILD OUT OF WEDLOCK:** she must have resided in the United States for one uninterrupted year at any age prior to the child’s birth.
4. **IF U.S. CITIZEN IS THE FATHER OF A CHILD BORN OUT OF WEDLOCK:** he must satisfy the residency requirements of Point 2, and he must also establish the blood relation, agree to support the child up to age 18 and assume legal paternity of the child before he/she reaches 18.

TO FACILITATE TRANSMISSION OF CITIZENSHIP AND TO AVOID THE HARDSHIPS OF STATELESSNESS, AN AMERICAN CITIZEN SHOULD NOT HAVE ANY RESIDENCY REQUIREMENT TO BE ABLE TO TRANSMIT NATIONALITY TO HIS/HER CHILDREN.

Here is our proposed revision of Section 301 of the Immigration and Nationality Act with the modified text in bold italics:

INA: ACT 301 NATIONALS AND CITIZENS OF THE UNITED STATES AT BIRTH

Sec. 301. [8 U.S.C. 1401] The following shall be nationals and natural born citizens of the United States at birth:

- (a) a person born in the United States, *or in an outlying possession thereof*, and subject to the jurisdiction thereof;
- (b) a person born in the United States, *or in an outlying possession thereof*, to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: Provided, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

- (c) a person of unknown parentage found in the United States", *or in an outlying possession thereof*", while under the age of five years, until shown, prior to his attaining the age of *six* years, not to have been born in the United States;
- (d) a person born outside the geographical limits of the United States and its outlying possessions of parents (*whether married or unmarried*) *at least one of whom is* a citizen of the United States;
- (e) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States;
- (f) *This section shall apply to persons born on or after May 24, 1934, to the same extent as if it had become effective in its present form on that date.*



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