

## Reference Citations

### 8 CFR 204.4(f)(1)(ii)(A)

(ii) Final processing.

(A) If the director notifies the petitioner that all preliminary processing has been completed in a satisfactory manner, the petitioner must then submit Form I-361, Affidavit of Financial Support and Intent to Petition for Legal Custody for Pub. L. 97-359 Amerasian, executed by the beneficiary's sponsor, along with the documentary evidence of the sponsor's financial ability required by that form. If the beneficiary is under eighteen years of age, the sponsor must agree to petition the court having jurisdiction, within thirty days of the beneficiary's arrival in the United States, for legal custody under the laws of the state where the beneficiary will reside until the beneficiary is eighteen years of age. The term "legal custody" as used in this section means the assumption of responsibility for a minor by an adult under the laws of the state in a court of law. The sponsor must be a United States citizen or lawful permanent resident who is twenty-one years of age or older and who is of good moral character.

### Public Law 97-359

#### An Act

To amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States citizens.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by inserting at the end thereof the following new subsection:

"(g)(1) Any alien claiming to be an alien described in paragraph (2)(A) of this subsection (or any person on behalf of such an alien) may file a petition with the Attorney General for classification under section 201(a), 203(a)(1), or 203(a)(4), as appropriate. After an investigation of the facts of each case the Attorney General shall, if the conditions described in paragraph (2) are met, approve the petition and forward one copy to the Secretary of State.

"(2) The Attorney General may approve a petition for an alien under paragraph (1) if-

"(A) he has reason to believe that the alien (i) was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950 and before the date of the enactment of this subsection, and (ii) was fathered by a United States citizen;

"(B) he has received an acceptable guarantee of legal custody and financial responsibility described in paragraph (4); and

"(C) in the case of an alien under eighteen years of age, (i) the alien's placement with a sponsor in the United States has been arranged by an appropriate public, private, or State child welfare agency licensed in the United States and actively involved in the intercountry placement of children and (ii) the alien's mother or guardian has in writing irrevocably released the alien for emigration.

"(3) In considering petitions filed under paragraph (1), the Attorney General shall-

"(A) consult with appropriate governmental officials and officials of private voluntary organizations in the country of the alien's birth in order to make the determinations described in subparagraphs (A) and (C)(i) of paragraph 2; and

"(B) consider the physical appearance of the alien and any evidence provided by the petitioner, including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a citizen of the United States, and the testimony of witnesses, to the extent it is relevant or probative.

"(4)(A) A guarantee of legal custody and financial responsibility for an alien described in paragraph (2) must-

(i) be signed in the presence of an immigration officer or consular officer by an individual (hereinafter in this paragraph referred to as the 'sponsor') who is twenty-one years of age or older, is of good moral character, and is a citizen of the United States or alien lawfully admitted for permanent residence, and  
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'(i) provide that the sponsor agrees **O** in the case of an alien under eighteen years of age, to assume legal custody for the alien after the alien's departure to the United States and until the alien becomes eighteen years of age, in accordance with the laws of the State where the alien and the sponsor will reside, and UI) to furnish, during the five-year period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence, or during the period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to maintain the family in the United States of which the alien is a member at a level equal to at least 125 per centum of the current official poverty line (**as** established by the Director of the of Management and Budget, under section **673(2)** of the Omnibus Budget Reconciliation **Act** of 1981 and as revised 95 Stat. 511.

b the Secretary of Health and Human Services under section 42 USC 9902. **65;** of such Act) for a family of the same size as the size of the 95 stat. 506 alien's family. 42 USC 9847.

"**(B) A** guarantee of legal custody and financial responsibility described in subparagraph **(A)** may be enforced with respect to an alien against his sponsor in a civil suit brought by the Attorney General in the United States district court for the district in which the sponsor resides, except that a sponsor or his estate shall not be liable under such a guarantee if the sponsor dies or is adjudicated a bankrupt under title 11, United States Code."

Approved October 22, 1982.