

INA: ACT 322 - Children born and residing outside the United States; conditions for acquiring certificate of citizenship 1

Sec. 322. [8 U.S.C. 1433] (a) A parent who is a citizen of the United States 2 (or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General shall issue a certificate of citizenship to such applicant 2 upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

(1) At least one parent 3 (or, at the time of his or her death, was) is a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent--

(A) has 4 (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

(B) has 4 (or, at the time of his or her death, had) a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

(3) The child is under the age of eighteen years.

(4) 5 The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).

(5) 6 The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Upon approval of the application (which may be filed from abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

(c) Subsections (a) and (b) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).

(d) 7I In the case of a child of a member of the Armed Forces of the United States who is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member--

(1) any period of time during which the member of the Armed Forces is residing abroad pursuant to official orders shall be treated, for purposes of subsection (a)(2)(A), as physical presence in the United States;

(2) subsection (a)(5) shall not apply; and

(3) the oath of allegiance described in subsection (b) may be subscribed to abroad pursuant to section 1701(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 8 U.S.C. 1443a).

FOOTNOTES FOR SECTION 322

INA: ACT 322 FN 1

FN 1 Section 102(a) of Public Law 106-395, dated October 30, 2000, revised section 322 in its entirety.

INA: ACT 322 FN 2

FN 2 Section 322(a) is amended by section 11030B(1)(A) and (B) of the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273, dated November 2, 2002.

INA: ACT 322 FN 3

FN 3 Section 322(a)(1) is amended by section 11030B(2) of the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273, dated November 2, 2002.

INA: ACT 322 FN 4

FN 4 Section 322(a)(2)(A) and (B) is amended by section 11030B(3)(A) and (B) of the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273, dated November 2, 2002.

INA: ACT 322 FN 5

FN 5 Section [322\(a\)\(4\)](#) revised by section [11030B\(4\)](#) of the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273, dated November 2, 2002.

INA: ACT 322 FN 6

FN 6 Section [322\(a\)\(5\)](#) added by section [11030B\(5\)](#) of the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273, dated November 2, 2002.

INA: ACT 322 FN 7

FN 7 [Section 674\(b\) of Public Law 110-181](#), dated January 28, 2008, amended section 322 by adding a new subsection (d).

EFFECTIVE DATE: The amendments made by this section shall take effect on the date of enactment of this Act (January 28, 2007) and apply to any application for naturalization or issuance of a certificate of citizenship pending on or after such date.

Sec. 323. Repealed by Sec. 7 of Pub. L. 95-417 (Oct. 5, 1978, 92 Stat. 918).