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CHEATSHEET FOR U.S. CITIZENSHIP FOR CHILDREN

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The **FIRST STEP** in any child immigration matter is to determine whether the child is unknowingly a U.S. citizen, which is possible.

A child may be a U.S. citizen in any one of the following ways:

- By being born in the United States or one of its possessions or territories.
- By being born outside the United States to at least one U.S. citizen-parent (genetic parent, for now), if certain other requirements are met.
 - This is called “acquisition at birth” of citizenship.
 - *See* INA §§ 301 and 309
 - Depends on physical presence of U.S. citizen-parent prior to child’s birth
 - Non-marital children
 - Different rules, very complicated, recent SCOTUS decision creates further complexity
- By their parent naturalizing. This is called “derivation” of citizenship. The child derives their U.S. citizenship through his or her parent.
 - **WARNING** – beware of TPRs of birth parents if they have immigration or naturalization petitions pending which could benefit the child.
- By being adopted by a U.S. citizen, if certain other requirements are met.
 - **WARNING** – adoption alone will not make a child a U.S. citizen. In fact, in some cases, adoption can actually harm a child’s potential for immigration relief.
 - *See* INA § 320, the Child Citizenship Act, found at 8 U.S.C. § 1431
 - Took effect February 27, 2001 and can have retroactive effect in some cases

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- 6 requirements
 - At least one AP is a U.S. citizen by birth or naturalization
 - The child is under 18 (at the time all other elements are satisfied, not necessarily at the time the N-600 is filed)
 - The child lives in the legal and physical custody of U.S. citizen-AP
 - The child is residing in the United States pursuant to a lawful admission for permanent residence
 - The child was adopted under the age of 16
 - If adopted, the child's adoption satisfied INA § 101(b)(1)

If the child does not satisfy any of the above, he or she may “naturalize” after they turn 18, in some cases. To “naturalize” means to become a U.S. citizen by filing an application with USCIS, showing you satisfy the following 9 requirements:

- 18 years old
- Legal Permanent Resident for 5 years
- Continuous residence for 5 years (no trips of 6 months or longer outside the United States, 5 years may accrue while child is under 18)
- Physical presence for at least half of the 5 years (30 months)
- Resident of USCIS district for 3 months
- Good moral character
- English test
- Civics test
- Attachment to the United States, its principles, and the Constitution (willing to take Oath of Allegiance)