



Child Welfare Information Gateway

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STATE
STATUTES
SERIES

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Intercountry Adoptions Finalized Abroad

Intercountry adoptions may be finalized abroad or domestically. Most State statutes give full effect and recognition to intercountry adoptions finalized abroad. Full effect of a foreign adoption decree means that adoptive parents and adopted children have the same rights and obligations as they would have if a State court had issued the adoption decree. Recognition of a foreign adoption decree means that the decree is just as valid and binding as a decree issued by a State court. Additionally, most State statutes provide for validation of the foreign adoption or readoption of the child under State law and establish application procedures for adopted children to obtain a U.S. birth certificate.

Electronic copies of this publication may be downloaded at www.childwelfare.gov/systemwide/laws_policies/statutes/intercountry.cfm

To find statute information for a particular State, go to www.childwelfare.gov/systemwide/laws_policies/search/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at www.childwelfare.gov/systemwide/laws_policies/statutes/intercountryall.pdf

U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



Child Welfare Information Gateway
Children's Bureau/ACYF
1250 Maryland Avenue, SW
Eighth Floor
Washington, DC 20024
703.385.7565 or 800.394.3366
Email: info@childwelfare.gov
www.childwelfare.gov

Full Effect and Recognition of Intercountry Adoption Decrees

When U.S. citizens finalize the adoption of a foreign-born child abroad, they must apply to the U.S. Citizenship and Immigration Services (USCIS) to obtain an IR-3 visa for the child, which classifies the child as an immigrant and provides the child with U.S. citizenship upon arrival into the U.S. The immigration procedure is different for intercountry adoptions that are finalized after the child arrives in the United States.

Intercountry adoptions are governed primarily by State law, once an adopted child arrives into the State of residence of the adoptive parent(s).¹ States regulate intercountry adoptions finalized abroad differently than they regulate intercountry adoptions finalized domestically, typically in one of three ways:

- Approximately 30 States and one territory grant full effect and recognition to foreign adoption decrees issued abroad.²
- Approximately five States grant full effect and recognition to the foreign adoption decree only after validation of the foreign adoption decree by a State court or readoption of the adopted child in a State court.³
- Approximately two States do not grant any effect or recognition to the foreign adoption decree and require validation or readoption under State law.⁴

Approximately five States may not grant full effect and recognition to foreign adoption decrees under certain circumstances.

¹ The State of residence is the State that the adoptive parents live in and call home. Determining a military family's State of residence may be complex because the family may frequently move around the country or around the world. For additional information about military families seeking to adopt and needing to determine their State of residence, see the Information Gateway factsheet *Military Families and Adoption: A Factsheet for Families* at www.childwelfare.gov/pubs/f_milita.cfm.

² The word *approximately* is used to stress the fact that the States frequently amend their laws. The States that currently (as of July 2005) provide for full faith and credit for foreign adoption decrees include Alaska, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Texas, Utah, Vermont, West Virginia, and Wisconsin, as well as the Northern Mariana Islands.

³ These States are Connecticut, Kansas, Louisiana, Maine, and South Carolina. For additional information about State court jurisdiction and venue, see the Information Gateway State Statutes publication *Court Jurisdiction and Venue for Adoption Petitions* at www.childwelfare.gov/systemwide/laws_policies/statutes/jurisdictionall.pdf.

⁴ Colorado and Pennsylvania.

Readoption After an Intercountry Adoption

For instance, California and Connecticut may refuse to grant full effect and recognition if the adoptive parents did not see the child prior to or during the finalization of the adoption abroad; Ohio and Texas may refuse to grant full effect and recognition if any aspect of the adoption law or procedure of the country that finalized the adoption violates State law and public policy; and Oklahoma may refuse to grant full effect and recognition if the adoptive parents are members of the same sex. When a State refuses to grant full effect and recognition to a foreign adoption, the adoptive parents may have to validate the foreign adoption or readopt the child under State law.

Usually, if a State automatically grants full effect and recognition to a foreign adoption decree, it will not require validation or readoption. Validation is the process of submitting an adopted child's foreign adoption decree for State court approval. Readoption is the process of adopting a child who was previously adopted in another jurisdiction. Both processes are similar because they involve State court review and legitimization of the foreign adoption and typically require the adoptive parents to provide the court with certain documents, including a certified translated copy of the foreign adoption decree, proof of the date and place of the adopted child's birth, and proof that the child has an IR-3 visa.

Approximately five States require the adoptive parents to petition the court to validate or register the foreign adoption or foreign adoption decree.⁵ Approximately three States require the adoptive parents to readopt the child, instead of requiring validation.⁶

Approximately 16 States offer readoption as an option, not a requirement.⁷ When readoption is optional, adoption professionals recommend that adoptive parents consider it as a precautionary measure because it protects the intercountry adoption finalized abroad from a legal challenge in State court and ensures the adopted child's ability to inherit from the adoptive parents. Also, readoption provides the adopted child with an opportunity to obtain a U.S. birth certificate.

⁵ Colorado, Kansas, Louisiana, Pennsylvania, and South Carolina.

⁶ Connecticut, Maine, and New York.

⁷ California, Georgia, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Tennessee, Texas, Utah, West Virginia, and Wisconsin.

Application for a U.S. Birth Certificate

After readoption or validation of a foreign adoption in a State court, adoptive parents can request that the State Registrar of Vital Statistics issue a State birth certificate for the adoptee. Approximately 14 States allow adoptive parents to request a U.S. birth certificate for their adopted child even if the parents do not readopt or seek validation under State law.⁸ Only four States, the District of Columbia, Puerto Rico, and the territories currently do not provide in statute for issuing a U.S. birth certificate for an intercountry adoptee.⁹ Usually, the request for a birth certificate will be accompanied by a certified copy of the final adoption decree, the State court's findings of fact as to date and place of birth, and a written request for a new birth certificate for the adopted person.¹⁰

The State Registrar will issue the birth certificate in the new name of the adoptee if requested by the adoptive parents, and the certificate will show the actual date and place of birth. Afterwards, the Registrar will seal the original birth certificate, order or decree of adoption, and the court findings, which will not be unsealed except by court order or as provided by law.¹¹ The birth certificate will be valid in all 50 States, Puerto Rico, and the territories but will not be accepted as evidence of U.S. citizenship for the child in approximately 22 States.¹²

For more information about the intercountry adoption process, please see the Information Gateway factsheet on intercountry adoption at www.childwelfare.gov/pubs/f_inter/index.cfm.

⁸ California, Illinois, Kansas, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, West Virginia, and Wisconsin.

⁹ Indiana, Iowa, Massachusetts, Wyoming, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

¹⁰ Findings of fact are court determinations about factual questions vital to a legal proceeding, such as facts about an adopted child that are necessary for a readoption in State court. Adoptive parents may adopt a foreign-born child whose date and place of birth are unknown or seem incorrect. A State court must determine the true date and place of birth, because this information is necessary in order to conduct the adoption proceedings, to issue a U.S. birth certificate, and to fill out all future health-, education- and work-related forms for the adopted child.

¹¹ For additional information about an adopted child's access to his or her sealed adoption records, see the Information Gateway State Statutes publication *Access to Family Information by Adopted Persons* at www.childwelfare.gov/systemwide/laws_policies/statutes/infoaccessapall.pdf.

¹² Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Montana, New Hampshire, North Dakota, Oregon, Pennsylvania, South Carolina, Vermont, and Virginia.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code, as well as agency regulations, case law, and informal practices and procedures.