

Public Law 99-653
99th Congress

An Act

To amend the Immigration and Nationality Act, and for other purposes.

Nov. 14, 1986

[H.R. 4444]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Immigration and Nationality Act Amendments of 1986".

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Nationality Act
Amendments of
1986.
8 USC 1101 note.

SEC. 2. Section 101(b)(1)(E) (8 U.S.C. 1101(b)(1)(E)) is amended to read:

"(E) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: *Provided*, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or".

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SEC. 3. Section 101 (8 U.S.C. 1101) is amended by striking out paragraph (1) of subsection (c).

SEC. 4. Section 202(b) (8 U.S.C. 1152(b)) is amended to read:

"(b) Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of the numerical limitation set forth in the proviso to subsection (a) of this section when approved by the Secretary of State. All other inhabited lands shall be attributed to a foreign state specified by the Secretary of State. For the purposes of this Act the foreign state to which an immigrant is chargeable shall be determined by birth within such foreign state except that (1) an alien child, when accompanied by or following to join his alien parent or parents, may be charged to the foreign state of either parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the parent or parents, and if immigration charged to the foreign state to which such parent has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (2) if an alien is chargeable to a different foreign state from that of his spouse, the foreign state to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the foreign state of the spouse he is accompanying or following to join, if such spouse has received or would be qualified for an immigrant visa and if immigration charged to the foreign state to which such spouse has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen or subject, or, if he is not a citizen or subject of any country, in the last foreign country in which he had his residence as determined by the consular officer; (4) an alien born within any foreign state in which neither of his

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parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the foreign state of either parent."

SEC. 5. (a) Section 221 (8 U.S.C. 1201) is amended in the following respects:

(a) Subsection (a) is amended by substituting the words "foreign state" for the word "quota" wherever the latter appears; by changing the word "immigration" to read "immigrant"; and by deleting the words "one copy of".

(b) Subsection (b) is amended to read:

"(b) Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A), and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof."

(c) Subsection (c) is amended to read:

"(c) An immigrant visa shall be valid for such period, not exceeding four months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class. An immigrant visa may be replaced under the original number during the fiscal year in which the original visa was issued for an immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond his control and for which he was not responsible: *Provided*, That the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fees for an application and an immigrant visa."

(d) Section 8 of the Act of September 11, 1957 (71 Stat. 641; 8 U.S.C. 1201a) is repealed.

SEC. 6. Section 222 (8 U.S.C. 1202) is amended by—

(a) amending the second and third sentences of subsection (b) thereof to read:

"The immigrant shall furnish to the consular officer with his application a copy of a certification by the appropriate police authorities stating what their records show concerning the immigrant; a certified copy of any existing prison record, military record, and record of his birth; and a certified copy of all other records or documents concerning him or his case which may be required by the consular officer. The copy of each document so furnished shall be

8 USC 1101.

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permanently attached to the application and become a part thereof.”

(b) amending the first two sentences of subsection (e) thereof to read:

“(e) Except as may be otherwise prescribed by regulations, each application required by this section shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. The application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa.”

SEC. 7. (a) Section 212(a) (8 U.S.C. 1182(a)) is amended by: repealing paragraph (24) thereof: *Provided*, That no paragraph following paragraph (24) shall be redesignated as a result of this amendment.

(b) Section 238 (8 U.S.C. 1228) is amended by repealing subsection (a) thereof and by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d) respectively.

(c) Section 241(a) (8 U.S.C. 1251(a)) is amended by repealing paragraph (10) thereof: *Provided*, That no paragraph following paragraph (10) shall be redesignated as a result of this amendment.

SEC. 8. Section 261 (8 U.S.C. 1301) is amended to read: “No visa shall be issued to any alien seeking to enter the United States until such alien has been registered in accordance with section 221(b).”

SEC. 9. Subsection (a) of section 262 (8 U.S.C. 1302) is amended by deleting the words “section 221(b) of this Act or”.

SEC. 10. The first sentence of section 264(a) (8 U.S.C. 1304) is amended to read:

“(a) The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration of aliens under section 261 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 262 of this title.”

SEC. 11. Sections (1) and (2) of the Act of October 24, 1962 (76 Stat. 1247, Public Law 87-885) and section 25(a) of the Act of September 26, 1961 (75 Stat. 650, Public Law 87-301) are repealed.

8 USC 1153
notes.

SEC. 12. Section 301(g) (8 U.S.C. 1401(g)) is amended by striking out “ten years, at least five” and inserting in lieu thereof “five years, at least two”.

SEC. 13. Subsection (a) of section 309 (8 U.S.C. 1409) is amended—

(a) by striking out “paragraphs (3), (4), (5), and (7) of section 301(a)” and inserting in lieu thereof “paragraphs (c), (d), (e), and (g) of section 301”; and

(b) by striking out all after “wedlock”, and inserting in lieu thereof “if a blood relationship between the child and the father is established by clear and convincing evidence, provided the father had the nationality of the United States at the time of the child’s birth, the father unless deceased has agreed in writing to provide financial support for the child until such child reaches the age of eighteen years and if, while such child is under the age of eighteen years, (1) such child is legitimated under the law of the child’s residence or domicile, or (2) the father acknowledges paternity of the child in writing under oath, or (3) paternity of the child is established by adjudication of a competent court.”

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SEC. 14. Section 320(a) (8 U.S.C. 1431(a)) is amended by inserting “unmarried and” after “(1) such naturalization takes place while such child is”.

SEC. 15. Section 321(a) (8 U.S.C. 1432(a)) is amended by inserting "unmarried and" after "(4) Such naturalization takes place while such child is".

SEC. 16. Section 322(a) (8 U.S.C. 1433(a)) is amended by inserting "unmarried and" after "may be naturalized if".

SEC. 17. Subsection (d) of section 340 (8 U.S.C. 1451) is amended by striking out "within five years after such naturalization" and inserting in lieu thereof "within one year after such naturalization".

SEC. 18. Subsection (a) of section 349 (8 U.S.C. 1481) is amended—

(a) by inserting "voluntarily performing any of the following acts with the intention of relinquishing United States nationality:" after "shall lose his nationality by";

(b) by striking out "upon an application filed in his behalf by a parent, guardian or duly authorized agent, or through the naturalization of a parent having legal custody of such person" and all that follows through "section 101(a)(27)(E)" in paragraph (1) and inserting in lieu thereof "or upon an application filed by a duly authorized agent, after having attained the age of eighteen years";

(c) by inserting "after having attained the age of eighteen years" in paragraph (2) after "thereof";

(d) by striking out "unless, prior to such entry" and all that follows in paragraph (3) and inserting in lieu thereof "if (a) such armed forces are engaged in hostilities against the United States, or (b) such persons serve as a commissioned or non-commissioned officer; or"; and

(e) by inserting "after attaining the age of eighteen years" after "foreign state or political subdivision thereof," in subparagraph (4)(A);

(f) by inserting "after attaining the age of eighteen years" after "foreign state or political subdivision thereof," in subparagraph (4)(B).

SEC. 19. Section 349 (8 U.S.C. 1481) is further amended by striking subsection (b).

SEC. 20. Subsection (b) of section 351 (8 U.S.C. 1483) is amended by striking "paragraphs (2), (4)," and inserting in lieu thereof "paragraph (3)".

SEC. 21. Section 2 of chapter 24 of the Act of April 14, 1792, amended by the Act of July 12, 1940 (22 U.S.C. 4195), is amended by striking "article by article,".

ISSUANCE OF CERTIFICATES OF CITIZENSHIP FOR CHILDREN ADOPTED BY UNITED STATES CITIZENS

SEC. 22. Section 341 of the Immigration and Nationality Act (8 U.S.C. 1452) is amended—

(1) by inserting "(a)" after "341.", and

(2) by adding at the end the following new subsection:

"(b)(1) The adoptive citizen parent or parents of a child described in paragraph (2) may apply to the Attorney General for a certificate of citizenship for the child. Upon proof to the satisfaction of the Attorney General that the applicant and spouse, if married, are citizens of the United States, whether by birth or by naturalization, and that the child is described in paragraph (2), the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship, but only if the child is at the time within the United States.

"(2) A child described in this paragraph is a child born outside of the United States who—

"(A) is under the age of 18 years,

"(B) is adopted before the child reached the age of 16 years by a parent who is a citizen of the United States, either by birth or naturalization, and

"(C) is residing in the United States in the custody of the adopting citizen parent, pursuant to a lawful admission for permanent residence."

Approved November 14, 1986.

CHAPTER 108A—SEXUAL ABUSE

LEGISLATIVE HISTORY—H.R. 4444:

HOUSE REPORTS: No. 99-916 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Sept. 29, considered and passed House.

Oct. 18, considered and passed Senate, amended; House concurred in Senate amendment.