

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, see note under section 1401 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-525, §8(k), amended Pub. L. 99-653. See 1986 Amendment note below.

Subsec. (b). Pub. L. 100-525, §9(r)(1), substituted “before December 24, 1952” for “prior to the effective date of this chapter” and “at any time” for “before or after the effective date of this chapter and”.

Subsec. (c). Pub. L. 100-525, §9(r)(2), substituted “after December 23, 1952” for “on or after the effective date of this chapter”.

1986—Subsec. (a). Pub. L. 99-653, as amended by Pub. L. 100-525, §8(k), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The provisions of paragraphs (c), (d), (e), and (g) of section 1401 of this title, and of paragraph (2) of section 1408, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this chapter, if the paternity of such child is established while such child is under the age of twenty-one years by legitimation.”

1981—Subsec. (a). Pub. L. 97-116, §18(l)(1), substituted “(c), (d), (e), and (g) of section 1401” for “(3) to (5) and (7) of section 1401(a)”.

Subsec. (b). Pub. L. 97-116, §18(l)(2), substituted “section 1401(g)” for “section 1401(a)(7)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 8(k) of Pub. L. 100-525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99-653, see section 309(b)(15) of Pub. L. 102-232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-653, §23(e), as added by Pub. L. 100-525, §8(r), Oct. 24, 1988, 102 Stat. 2619, provided that:

“(1) Except as provided in paragraph (2)(B), the new section 309(a) [8 U.S.C. 1409(a)] (as defined in paragraph (4)(A)) shall apply to persons who have not attained 18 years of age as of the date of the enactment of this Act [Nov. 14, 1986].

“(2) The old section 309(a) shall apply—

“(A) to any individual who has attained 18 years of age as of the date of the enactment of this Act, and

“(B) any individual with respect to whom paternity was established by legitimation before such date.

“(3) An individual who is at least 15 years of age, but under 18 years of age, as of the date of the enactment of this Act, may elect to have the old section 309(a) apply to the individual instead of the new section 309(a).

“(4) In this subsection:

“(A) The term ‘new section 309(a)’ means section 309(a) of the Immigration and Nationality Act [8 U.S.C. 1409(a)], as amended by section 13 of this Act [section 13 of Pub. L. 99-653] and as in effect after the date of the enactment of this Act.

“(B) The term ‘old section 309(a)’ means section 309(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

PART II—NATIONALITY THROUGH NATURALIZATION

§ 1421. Naturalization authority

(a) Authority in Attorney General

The sole authority to naturalize persons as citizens of the United States is conferred upon the Attorney General.

(b) Court authority to administer oaths

(1) Jurisdiction

Subject to section 1448(c) of this title—

(A) General jurisdiction

Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

(B) Exclusive authority

An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 1448(a) of this title to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

(2) Information

(A) General information

In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

(ii) the Attorney General—

(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 1448(a) of this title, and

(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

(B) Assignment of individuals in the case of exclusive authority

If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person’s application for naturalization, of—

(i) the court’s exclusive authority to administer the oath of allegiance under section 1448(a) of this title to such a person during the period specified in paragraph (3)(A)(i), and

(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

(3) Scope of exclusive authority

(A) Limited period and advance notice required

The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

(B) Authority of Attorney General

Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) Waiver of exclusive authority

Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 1448(a) of this title to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

(4) Issuance of certificates

The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

(5) Eligible courts

For purposes of this section, the term “eligible court” means—

(A) a district court of the United States in any State, or

(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.

(c) Judicial review

A person whose application for naturalization under this subchapter is denied, after a hearing before an immigration officer under section

1447(a) of this title, may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5. Such review shall be *de novo*, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing *de novo* on the application.

(d) Sole procedure

A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this subchapter and not otherwise.

(June 27, 1952, ch. 477, title III, ch. 2, §310, 66 Stat. 239; Pub. L. 85-508, §25, July 7, 1958, 72 Stat. 351; Pub. L. 86-3, §20(c), Mar. 18, 1959, 73 Stat. 13; Pub. L. 87-301, §17, Sept. 26, 1961, 75 Stat. 656; Pub. L. 100-525, §9(s), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, §401(a), Nov. 29, 1990, 104 Stat. 5038; Pub. L. 102-232, title I, §102(a), title III, §305(a), Dec. 12, 1991, 105 Stat. 1734, 1749; Pub. L. 103-416, title II, §219(u), Oct. 25, 1994, 108 Stat. 4318.)

Editorial Notes

AMENDMENTS

1994—Subsec. (b)(5)(A). Pub. L. 103-416 substituted “district court” for “District Court”.

1991—Subsec. (b). Pub. L. 102-232, §102(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “An applicant for naturalization may choose to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by any district court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts in this subsection specified to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.”

Pub. L. 102-232, §305(a), substituted “district court” for “District Court”.

1990—Pub. L. 101-649 amended section generally, substituting provisions authorizing Attorney General to naturalize persons as citizens, for provisions granting certain courts exclusive jurisdiction to naturalize.

1988—Subsec. (e). Pub. L. 100-525 struck out subsec. (e) which read as follows: “Notwithstanding the provisions of section 405(a), any petition for naturalization filed on or after September 26, 1961, shall be heard and determined in accordance with the requirements of this subchapter.”

1961—Subsec. (e). Pub. L. 87-301 added subsec. (e).

1959—Subsec. (a). Pub. L. 86-3 struck out provisions which conferred jurisdiction on District Court for Territory of Hawaii. See section 91 of Title 28, Judiciary and Judicial Procedure, and notes thereunder.

1958—Subsec. (a). Pub. L. 85-508 struck out provisions which conferred jurisdiction on District Court for Territory of Alaska. See section 81A of Title 28, which established a United States District Court for the State of Alaska.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-232, title I, §102(c), Dec. 12, 1991, 105 Stat. 1736, provided that: “The amendments made by this

title [amending this section and sections 1448, 1450, and 1455 of this title] shall take effect 30 days after the date of the enactment of this Act [Dec. 12, 1991]."

Amendment by section 305(a) of Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT; SAVINGS PROVISION

Pub. L. 101-649, title IV, § 408, Nov. 29, 1990, 104 Stat. 5047, as amended by Pub. L. 102-232, title III, § 305(n), Dec. 12, 1991, 105 Stat. 1750, provided that:

“(a) EFFECTIVE DATE.—

“(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act [8 U.S.C. 1421(a)], to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before October 1, 1991.

“(2) TREATMENT OF CURRENT COURT PETITIONS.—

“(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on October 1, 1991, shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

“(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on January 1, 1992, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title [amending this section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, and repealing section 1459 of this title], but only if the petition is withdrawn not later than 3 months after the effective date.

“(3) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act [Nov. 29, 1990].

“(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this title on a timely basis.

“(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act [8 U.S.C. 1450] (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before October 1, 1991.

“(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title [amending this section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, repealing section 1459 of this title, and enacting provisions set out as a note under section 1440 of this title], unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

“(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

“(e) TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNTRY.—The amendments made by section 404 [amending section 1426 of this title] (relating to treatment of service in armed forces of a foreign country) shall take effect on the date of the enactment of this

Act [Nov. 29, 1990] and shall apply to exemptions from training or service obtained before, on, or after such date.

“(f) FILIPINO WAR VETERANS.—Section 405 [enacting provisions formerly set out as a note under section 1440 of this title] (relating to naturalization of natives of the Philippines through active-duty service under United States command during World War II) shall become effective on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.”

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

Executive Documents

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48.

§ 1422. Eligibility for naturalization

The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married.

(June 27, 1952, ch. 477, title III, ch. 2, § 311, 66 Stat. 239; Pub. L. 100-525, § 9(t), Oct. 24, 1988, 102 Stat. 2621.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-525 struck out at end “Notwithstanding section 405(b) of this Act, this section shall apply to any person whose petition for naturalization shall hereafter be filed, or shall have been pending on the effective date of this chapter.”

§ 1423. Requirements as to understanding the English language, history, principles and form of government of the United States

(a) No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: *Provided*. That the requirements of this paragraph relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable condition shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.