

VIA EMAIL

STATEMENT ON IMMIGRANTS AS ESSENTIAL WORKERS DURING COVID-19 AND THE ADOPTEE CITIZENSHIP ACT OF 2019

SUBMITTED TO THE HOUSE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON
IMMIGRATION AND CITIZENSHIP

September 22, 2020

Dear Honorable Members of House Committee on the Judiciary, Subcommittee on Immigration and Citizenship:

As your committee considers the role of immigrants as essential workers during COVID-19, we call to your attention that some immigrants who are essential workers during COVID-19 lack citizenship despite coming to the United States legally through the intercountry adoption process. To that end, we are writing to you regarding bi-partisan legislation before this committee that provides a technical correction to previous legislation regarding adoptee citizenship.

The Adoptee Citizenship Act of 2019 (“ACA of 2019”), provides a much needed technical correction of the Child Citizenship Act of 2000 (“CCA”). Representative Lamar Smith (with 41 bi-partisan co-sponsors) and Senator Don Nickels (with 24 bi-partisan co-sponsors) proposed the original CCA for two main reasons:

1. Application for citizenship was an extra burden on adoptive families after a long and expensive process
2. Some adoptive parents did not follow through with the citizenship process for their adopted children.

The House Judiciary Committee report for the CCA explained:¹

Current law can beneficially be streamlined in a way that will benefit families with foreign-born children while “untangl[ing] the complex and duplicative provisions of the Immigration and Nationality Act relating to citizenship of children.” Automatic citizenship for the foreign-born children will spare parents the delays and expense of the process they must currently follow to procure citizenship for their children. This is a particular hardship for parents of adopted children, who have already gone through the costly and cumbersome adoption process with the INS and the State Department. Automatic citizenship would also ensure that children are not deprived of U.S. citizenship because their parents did not realize they had to go through the certificate of citizenship process after bringing the children to the United States.

The Department of Justice Backgrounder on the CCA (February 27, 2001) also noted that:

In the past, adoptive parents had to apply for naturalization for their foreign-born children, who did not acquire citizenship until the INS approved the application. On occasion, delays in the old application process left adopted children subject to deportation.²

¹ <https://www.congress.gov/congressional-report/106th-congress/house-report/852/1>.

² Berger & Steffas eds, International Adoption Sourcebook (American Immigration Lawyers Association 2009) Appendix A37, p. 371,

Since 2001, children adopted from other countries have had a streamlined path to citizenship. Each year, however, we come across some adult adoptees who are still not citizens after decades in the United States because their parents never finalized the adoption or applied for U.S. citizenship for their children. The ACA of 2019 corrects this.

We have reviewed the legislative record and believe it was an oversight that the CCA was not retroactive. The examples of adopted children used to support the CCA in 2000 were mostly under 18. We have become more aware of adult adoptees since then, as post 9/11 document requirements are forcing those in their 40s and above to show identification crossing the border, renewing a security clearance, applying for Social Security, renewing a driver's license, etc. At this time, we estimate that there are 15,000 – 18,000 adult adoptees in the United States living without U.S. citizenship due to their parents failing to establish citizenship when these individuals were children. This estimate is based on information taken from reviews of records from the U.S. adoption agencies that were placing for adoption a child who was born before February 27, 1983 (those not eligible for automatic citizenship through provisions in the Child Citizenship Act of 2000). Our estimate is also based on data provided by statistic from the government of Korea, child welfare scholars, and adoption advocacy organizations. This estimate is in line with recent estimates, such as the Washington Post's article *They grew up as American citizens, then learned that they weren't* (September 2, 2016).

Finally, we note that:

Some adult adoptees did not know their status, especially if they never left the US or applied for a passport. If they voted or claimed to be a U.S. citizen, they may not be eligible for naturalization, and may, in fact, be subject to felony charges and deportation.³ There are exemptions in the CCA, but they only cover children where both adoptive parents were U.S. citizens.

All of the adopted children who receive permanent residence under INA 101(b)(1) have gone through significant screenings to be sure the adoption is valid (including the I-604 investigation - <https://www.uscis.gov/sites/default/files/USCIS/Outreach/Feedback%20Opportunities/Interim%20Guidance%20for%20Comment/PED-604-Orphan-Determinations-PM-602-0016.pdf>), and to check their criminal background and national security background (<https://www.uscis.gov/policy-manual/volume-12-part-b-chapter-2>).

Unlike the CCA, the ACA of 2019 imposes a background check on adoptees now living abroad, and a requirement that they are held accountable for any crimes committed before acquiring U.S. citizenship.

Please let us know if you have any questions or comments.

³ See “good moral character” requirement for citizenship under 8 U.S.C. 1101(f) and ground of deportability for unlawful voting under 8 U.S.C. 1227(a)(6). See also <https://www.nbcwashington.com/investigations/Tens-of-Thousands-of-Adoptees-Learn-They-Arent-US-Citizens-Even-After-Decades-Living-Here-505213201.html>.

Sincerely,

Charles "Chuck" Johnson
President/CEO
National Council For Adoption

Russell Moore
President
Southern Baptist Ethics &
Religious Liberty Commission

Nancy Kay Blackwell
Executive Director
Congressional Coalition on Adoption Institute (CCAI)

Holt International