

States when all of the following conditions have been fulfilled:

(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.

(2) The child is under the age of eighteen years.

(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(b) Subsection (a) of this section shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(June 27, 1952, ch. 477, title III, ch. 2, § 320, 66 Stat. 245; Pub. L. 95-417, § 4, Oct. 5, 1978, 92 Stat. 917; Pub. L. 97-116, § 18(m), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99-653, § 14, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 100-525, §§ 8(l), 9(w), Oct. 24, 1988, 102 Stat. 2618, 2621; Pub. L. 106-395, title I, § 101(a), Oct. 30, 2000, 114 Stat. 1631.)

AMENDMENTS

2000—Pub. L. 106-395 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) A child born outside of the United States, one of whose parents at the time of the child’s birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

“(1) such naturalization takes place while such child is unmarried and under the age of eighteen years; and

“(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

“(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.”

1988—Subsec. (a)(1). Pub. L. 100-525, § 8(l), repealed Pub. L. 99-653, § 14. See 1986 Amendment note below.

Subsec. (b). Pub. L. 100-525, § 9(w), substituted “Subsection (a)” for “Subsection (a)(1)”.

1986—Subsec. (a)(1). Pub. L. 99-653, § 14, which inserted “unmarried and” after “such child is”, was repealed by Pub. L. 100-525, § 8(l).

1981—Subsec. (b). Pub. L. 97-116 substituted “an adopted child only if the child” for “a child adopted while under the age of sixteen years who”.

1978—Subsec. (a). Pub. L. 95-417 substituted in pars. (1) and (2) “eighteen years” for “sixteen years”.

Subsec. (b). Pub. L. 95-417 substituted provisions making subsec. (a)(1) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-395, title I, § 104, Oct. 30, 2000, 114 Stat. 1633, provided that: “The amendments made by this title [amending this section and section 1433 of this title and repealing section 1432 of this title] shall take effect 120 days after the date of the enactment of this Act [Oct. 30, 2000] and shall apply to individuals who satisfy the requirements of section 320 or 322 of the Immigration and Nationality Act [8 U.S.C. 1431, 1433], as in effect on such effective date.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 8(l) 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 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.

§ 1432. Repealed. Pub. L. 106-395, title I, § 103(a), Oct. 30, 2000, 114 Stat. 1632

Section, acts June 27, 1952, ch. 477, title III, ch. 2, § 321, 66 Stat. 245; Pub. L. 95-417, § 5, Oct. 5, 1978, 92 Stat. 918; Pub. L. 97-116, § 18(m), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99-653, § 15, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100-525, § 8(l), Oct. 24, 1988, 102 Stat. 2618, related to conditions for automatic citizenship of children born outside the United States of alien parents.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Oct. 30, 2000, see section 104 of Pub. L. 106-395, set out as an Effective Date of 2000 Amendment note under section 1431 of this title.

§ 1433. Children born and residing outside the United States; conditions for acquiring certificate of citizenship

(a) Application by citizen parents; requirements

A parent who is a citizen of the United States (or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 1431 of this title. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

(1) At least one parent (or, at the time of his or her death, was) is a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent—

(A) has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

(B) has (or, at the time of his or her death, had) a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

(3) The child is under the age of eighteen years.

(4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).

(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Attainment of citizenship status; receipt of certificate

Upon approval of the application (which may be filed from abroad) and, except as provided in

the last sentence of section 1448(a) of this title, upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

(c) Adopted children

Subsections (a) and (b) of this section shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(d) Children of Armed Forces members

In the case of a child of a member of the Armed Forces of the United States who is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member—

(1) any period of time during which the member of the Armed Forces is residing abroad pursuant to official orders shall be treated, for purposes of subsection (a)(2)(A), as physical presence in the United States;

(2) subsection (a)(5) shall not apply; and

(3) the oath of allegiance described in subsection (b) may be subscribed to abroad pursuant to section 1443a of this title.

(June 27, 1952, ch. 477, title III, ch. 2, §322, 66 Stat. 246; Pub. L. 95-417, §6, Oct. 5, 1978, 92 Stat. 918; Pub. L. 97-116, §18(m), (n), Dec. 29, 1981, 95 Stat. 1620, 1621; Pub. L. 99-653, §16, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100-525, §8(l), Oct. 24, 1988, 102 Stat. 2618; Pub. L. 101-649, title IV, §407(b)(2), (c)(6), (d)(5), Nov. 29, 1990, 104 Stat. 5040-5042; Pub. L. 102-232, title III, §305(m)(3), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103-416, title I, §102(a), Oct. 25, 1994, 108 Stat. 4306; Pub. L. 106-139, §1(b)(2), Dec. 7, 1999, 113 Stat. 1697; Pub. L. 106-395, title I, §102(a), Oct. 30, 2000, 114 Stat. 1632; Pub. L. 107-273, div. C, title I, §11030B, Nov. 2, 2002, 116 Stat. 1837; Pub. L. 110-181, div. A, title VI, §674(b), Jan. 28, 2008, 122 Stat. 186.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-181 added subsec. (d).

2002—Subsec. (a). Pub. L. 107-273, §11030B(1), in introductory provisions, inserted "(or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian)" after "citizen of the United States" and substituted "such applicant" for "such parent".

Subsec. (a)(1). Pub. L. 107-273, §11030B(2), inserted "(or, at the time of his or her death, was)" after "parent".

Subsec. (a)(2)(A). Pub. L. 107-273, §11030B(3)(A), inserted "(or, at the time of his or her death, had)" after "(A) has".

Subsec. (a)(2)(B). Pub. L. 107-273, §11030B(3)(B), inserted "(or, at the time of his or her death, had)" after "(B) has".

Subsec. (a)(4). Pub. L. 107-273, §11030B(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The child is residing outside of the United States in the legal and physical custody of the citizen parent, is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status."

Subsec. (a)(5). Pub. L. 107-273, §11030B(5), added par. (5).

2000—Pub. L. 106-395 amended section catchline and text generally, revising and restating provisions relating to acquisition of certificate of citizenship for certain children born outside the United States.

1999—Subsec. (a)(4). Pub. L. 106-139 substituted "16 years (except to the extent that the child is described in clause (ii) of subparagraph (E) or (F) of section 1101(b)(1) of this title)" for "16 years" and "either of such subparagraphs" for "subparagraph (E) or (F) of section 1101(b)(1) of this title".

1994—Pub. L. 103-416 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a) naturalization on application of citizen parents; in subsec. (b) adopted children; and subsec. (c) specified period of residence for adopted children.

1991—Pub. L. 102-232 amended section catchline.

1990—Subsec. (a). Pub. L. 101-649, §407(c)(6), substituted "applying" for "petitioning" and "application" for "petition".

Subsec. (c). Pub. L. 101-649, §407(d)(5), substituted "Attorney General" for first reference to "naturalization court" in cl. (2)(C).

Pub. L. 101-649, §407(c)(6), substituted "applies" for "petitions".

Pub. L. 101-649, §407(b)(2), substituted "within a State or a district of the Service in the United States" for "within the jurisdiction of the naturalization court".

1988—Subsec. (a). Pub. L. 100-525 repealed Pub. L. 99-653, §16. See 1986 Amendment note below.

1986—Subsec. (a). Pub. L. 99-653, §16, which inserted "unmarried and" after "be naturalized if", was repealed by Pub. L. 100-525.

1981—Subsec. (b). Pub. L. 97-116, §18(m), substituted "an adopted child only if the child" for "a child adopted while under the age of sixteen years who".

Subsec. (c). Pub. L. 97-116, §18(n), added subsec. (c).

1978—Subsec. (b). Pub. L. 95-417 substituted provisions making subsec. (a) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-181 effective Jan. 28, 2008, and applicable to any application for naturalization or issuance of a certificate of citizenship pending on or after such date, see section 674(d) of Pub. L. 110-181, set out as a note under section 1430 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-395 effective 120 days after Oct. 30, 2000, and applicable to individuals who satisfy the requirements of this section or section 1431 of this title as in effect on such effective date, see section 104 of Pub. L. 106-395, set out as a note under section 1431 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 102(d) of Pub. L. 103-416 provided that: "The amendments made by this section [amending this section and section 1452 of this title] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Oct. 25, 1994]."

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(m) of Pub. L. 102-232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101-649.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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 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.

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.

APPLICATION OF 1994 AMENDMENT

Section 102(e) of Pub. L. 103-416, as added by Pub. L. 104-208, div. C, title VI, §671(b)(2), Sept. 30, 1996, 110 Stat. 3009-721, which provided that in applying amendment made by subsection (a), amending this section, to children born before Nov. 14, 1986, any reference in matter inserted by such amendment to "five years, at least two of which" was deemed a reference to "10 years, at least 5 of which", was repealed by Pub. L. 105-38, §1, Aug. 8, 1997, 111 Stat. 1115, effective as if included in the enactment of Pub. L. 103-416.

§ 1434. Repealed. Pub. L. 95-417, § 7, Oct. 5, 1978, 92 Stat. 918

Section, acts June 27, 1952, ch. 477, title III, ch. 2, §323, 66 Stat. 246; Sept. 11, 1957, Pub. L. 85-316, §11, 71 Stat. 642; Aug. 20, 1958, Pub. L. 85-697, §1, 72 Stat. 687, related to citizenship of children adopted by citizens.

§ 1435. Former citizens regaining citizenship

(a) Requirements

Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this subchapter, except—

(1) no period of residence or specified period of physical presence within the United States or within the State or district of the Service in the United States where the application is filed shall be required; and

(2) the application need not set forth that it is the intention of the applicant to reside permanently within the United States.

Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the pro-

visions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) Additional requirements

No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the Attorney General that she has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States for a period of not less than five years immediately preceding the date of filing an application for naturalization and up to the time of admission to citizenship, and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her application for naturalization.

(c) Oath of allegiance

(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 1448 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the Attorney General or the judge or clerk of a court described in section 1421(b) of this title.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, court, or the Attorney General, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, court, or the Attorney General, shall be delivered to such woman at a cost not exceeding \$5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States.

(d) Persons losing citizenship for failure to meet physical presence retention requirement

(1) A person who was a citizen of the United States at birth and lost such citizenship for fail-