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Acquisition of U.S. Citizenship by Birth Abroad to U.S. Parent(s)

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Even if a child is born outside the United States, it is still possible in certain cases for his or her parent(s) that have U.S. nationality to transmit their U.S. nationality to their child. This more commonly internationally accepted principle is known as *jus sanguinis* or “right of blood.” As this principle implies, it refers to blood relationships. As a result, a U.S. parent cannot transfer his or her U.S. nationality to a person who is an adopted child or stepchild.

Unlike being born in the United States, affirmative steps need to be taken by the U.S. parent(s) of the child to prove that his or her U.S. nationality has been transmitted to their child. This affirmative step includes submitting an application to a U.S. Embassy or U.S. Consulate for the U.S. government to acknowledge the transmission of U.S. citizenship. This application is known as a “Consular Report of Birth Abroad.” One of the main requirements to this application is that the U.S. parent or parent(s) show that they themselves have been physically present in the United States for a certain amount of time. This part of U.S. Immigration law becomes much more complicated. The reason is due to the fact that U.S. nationality laws have changed over the past century in regards to physical presence requirements. At the same time, these laws do not have retroactive effect. Therefore, when analyzing whether a person has a legitimate claim to U.S. nationality, careful attention needs to be paid about what is the actual law that applies to this person. Another common issue in adjudicating these cases includes, for example, the standards of and kinds of proof needed to prove a person is the biological parent in cases where the parents are not married.

Finally, it should be noted, a Consular Report of Birth Application should be made relatively shortly after the child is born. This is one of the best times for the parents to gather the necessary documents. However, the parents of the child can make this application at any time until the child reaches 18 years of age. After the child turns 18 years of age, it may still be possible to make the application him or herself if all of the requirements for transmitting U.S. nationality have been met.

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For more information concerning the U.S. citizenship for children of a U.S. parent, please do not hesitate to contact the Law Firm of Shawn Quinn – Attorney at Law.

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