

POST-ADOPT LEGALITIES _ ARE YOU SURE YOU'VE FINISHED ALL THE THAI and AMERICAN STEPS?

Compiled by Julie Higginbotham, August 2004

A Thai adoption is nothing if not complicated from a paperwork standpoint. Please skim this ENTIRE article to make sure your precious children have the best possible protection under the laws of the U.S. and Thailand. You may be operating under some incorrect assumptions, due to various changes in immigration law.

Finalization. Unlike adoptions from some other countries, a Thai adoption gives the adoptive family only provisional custody. Final custody/legalization is not granted until the family has filed postplacement reports (three reports over a six-month period). The Thai government then notifies the family that finalization (and usually a legal name change) can proceed in a state court.

Registration. Though most families realize they need to do a stateside finalization after completing their post-placement reports, to make the adoption legal in the U.S., some fail to finish the registration paperwork making the adoption completely legal with the Thai government. (Thai officials' delay and/or failure to send the family the proper notification for doing this is often part of the problem.)

Nevertheless, to complete your child's adoption file with Thai authorities, the registration step is a must, and can be done at Thai embassies/consulates in New York, Chicago, Los Angeles, or Washington, DC. (As an alternative, it is sometimes possible to petition a Thai official to come to YOUR location, as long as you pay his/her travel expenses.) You will not be allowed to adopt further Thai children until any Thai adoptees already in your care have had their adoptions registered with the Thai government.

If you have not completed registering your child's adoption with the Thai government, and it has been more than, say, six months since you submitted your last post-placement report, contact your agency about getting the registration paperwork moving. Expect to have to keep nagging them about it, and ask that they, in turn, nag the DSDW and/or the NGO in question (whoever referred the child to you). You may also have to contact the appropriate embassy/consulate for your region and nag THEM about it. Persistence should pay off eventually.

As a last resort, it may be possible to register your child's adoption when you return to Thailand for a homeland visit or vacation. If returning to adopt another child, expect to be required to complete any outstanding registrations of previous adoptions (again, this can be done during the trip).

Federal legalities. Equally tricky are all the paperwork steps required to make sure the U.S. government knows who your child is and what his/her citizenship status is. Typically the U.S. paperwork includes not only the finalization proceeding in a court in your state, but also:

- * Obtaining a Social Security number for your child.
- * Obtaining proof of citizenship (passport and/or citizenship certificate).
- * Returning to the Social Security office with citizenship proof to alter the child's status in the S.S. Administration's database.

Omitting any of these steps can set your child up for hassles later. This article will concentrate on the Social Security/State Dept./BCIS (Citizenship & Immigration Services) steps that you should take to protect your child and your family.

Social Security number. American families need a Social Security number for each child to make it easier to file taxes. Getting into the Social Security system also is required so the child can eventually get a job, and also is needed so the child can benefit from any Social Security benefits that may become available in the future while the child is still a minor (for instance, receiving survivor benefits if a parent dies). At such a time, you don't need any extra paperwork hassles. You can get a Social Security number virtually immediately after you come home with your child, even before the adoption is finalized in a U.S. court.

To get a Social Security number and card for your child, you must visit a Social Security office. (Only one parent need attend. The child need not attend.) Acceptable documents to prove the child's eligibility for a number are typically a Thai passport with the BCIS stamp in the back; "green" (permanent resident) card (if received); birth registry document (most offices will want a certified English translation of the Thai birth certificate, if you don't already have a "foreign birth" document issued by your state), and copy of your adoption placement agreement (not necessarily a finalization/registration document, just the DSDW memo giving you custody). If a clerk tells you a Social Security number cannot be issued even if you present the "acceptable documents" listed above, ask to see a supervisor, or visit another Social Security branch.

Take the original documents (not copies). You will not need to leave these documents with the Social Security office; you will only need to show them. (Some offices will also ask you for proof of residence -- so make sure to take not only your driver's license/state ID but also a utility bill or something that shows your family lives where you say you do.)

Some offices may be willing to issue a card in the child's current family name (rather than Thai name) if parents present documentation with the current name (such as a health

insurance card or baptism certificate). Some will not do this without seeing legal proof of a name change. (Don't wait -- get a Social Security card with the Thai name and change it later after finalizing in a U.S. court.)

For more, see: <http://www.ssa.gov/immigration/children.htm>

To save time, you can download the Social Security number application form from:

<http://www.ssa.gov/online/ss-5.html>

Citizenship documentation: Certificate. Legislation passed by Congress in late 2000 made citizenship automatic for international adoptees whose parents are U.S. citizens living in the United States (not expatriates). As of Feb. 27, 2001, all Thai adoptees (under age 18) living in the U.S., whose adoption had been finalized in a U.S. court but who had not yet become citizens, automatically became citizens. Thai adoptees now entering the U.S. become citizens at the moment their adoptions are finalized in a U.S. court. No naturalization paperwork is required.

Unfortunately, no naturalization paperwork is automatically generated, either. Due to a 2003 federal law change, adoptive families whose kids enter on IR-3 visas (meaning their adoptions have been finalized in the sending country) are now supposed to automatically get a Certificate of Citizenship. But since Thai adoption only involves provisional custody initially, Thai adoptees enter on IR-4 visas, designating that their adoptions have not been finalized. Thus they are not eligible for the automatic certificate.

You have two options for proving your child's citizenship: a U.S. passport (issued by the State Dept.) and a Certificate of Citizenship, generated by the BCIS (Bureau of Citizenship & Immigration Services, formerly the INS). Passports are fairly easy to get (I'll talk about that in a minute). But first, please review these four persuasive reasons why you should spend the money, take the time, and endure the aggravation (in some regions) of getting the Certificate of Citizenship:

1. If you do not file for the certificate, the BCIS has no way of knowing that your child's adoption has been finalized (and thus that your child is a citizen). As far as they're concerned, your child will forever be a noncitizen "permanent resident" -- the status conferred by the BCIS stamp in the back of your child's Thai passport, and by a green card. Your state court will NOT communicate your child's adoption finalization to the BCIS. Neither will the Thai government notify them of the adoption registration. Obtaining the citizenship certificate guarantees that the BCIS has officially confirmed that all requirements of citizenship have been completed, and noted your child's status as a citizen in their records.

2. Adult adoptees and other naturalized citizens have reported numerous hassles involved with trying to definitively prove their U.S. citizenship with a only passport. Passports expire; the certificate never does. (Like your state, the U.S. State Dept. will NOT tell the BCIS you have finalized your adoption, even if you obtain a passport for the child.) In addition, some families mistakenly believe that a Certificate of Foreign Birth issued by a state authority constitutes proof of citizenship. As far as the BCIS and State Dept. are concerned, this is not the case.

3. Adoptees of color are likely to be quizzed more closely than white people regarding their citizenship status, and may be pressed to present additional documentation at various points in their lives. This is discriminatory -- but anecdotal evidence confirms that it's quite possible, especially if your child wants to travel, work, or live overseas. Don't you want your child to be able to produce the "gold standard" in paperwork -- the Certificate of Citizenship?

4. Finally, it's easier for YOU to file this paperwork now on your child's behalf, while all the supporting documents are relatively easy to find. It's going to be a lot more difficult for your child to do it later, should he/she decide as an adult they need the certificate.

For all these reasons, I strongly recommend filing for the certificate to give your child the ultimate in proof of citizenship. The BCIS recently changed its procedures for filing for this certificate, and has replaced the former form N-643 with the N-600. The application fee for adoptive families requesting the certificate is stated in the instructions as \$200, and the form and instructions (including instructions for the required photos) can be downloaded from the BCIS website at: <http://www.bcis.gov/graphics/formsfee/forms/n-600.htm>.

To avoid delays, use a money order to submit the fee. Some BCIS offices don't like personal checks, regardless of what the main BCIS website says.

It's OK to submit copies of the supporting documents listed in the instructions, not originals. Despite the fact that the BCIS website says it's only necessary to submit photos and the fee along with the form (since you already submitted a lot of documentation when you brought your child to the U.S.), some families have reported later requests for further documentation. For safety's sake, and for speed, it's best to send the whole shebang with the initial application: child's Thai birth certificate (in Thai and translated); parent's marriage certificate; parents' proof of citizenship (birth certificates and/or copies of photo page in passports); proof that your child's adoption has been finalized in a U.S. court; evidence of any legal name change(s); proof that your family resides in the U.S. (see the form for suggestions); photos (as noted in BCIS instructions); and fee.

Finally, be prepared to wait a while. In some regions the BCIS will provide a quick turnaround of only a few weeks or months. Here in Chicago it took well over a year between our application for the certificate (Sept. 2001) and our actual certificate appointment (Jan. 2003). Some regional offices will actually send you the certificate in the mail.

Citizenship documentation: Passport. If you're traveling out of the country with your child, and/or if you want a quick citizenship document while you're waiting on the BCIS to issue a certificate, waste no time in applying for a U.S. passport. Be aware that many families have experienced hassles entering countries that normally require only a birth certificate for entry (notably Canada and Mexico) with a different-race adopted child. Be safe, save yourself a lot of trouble, and get a passport if you're going to travel. (Yes, your kid may be able to travel on a Thai passport. Yes, you may then be asked to present tons of evidence that you are not kidnapping the child.)

Once you've finalized your adoption in a U.S. court (the Thai registration step does not have to be complete), you'll have everything you need to get this precious document. The general FAQ for getting a passport for a child under the age of 14 can be found at: http://travel.state.gov/passport/forms_ds3053_redirect.html.

Make sure you also read (and perhaps photocopy, and take with you to the passport agency) the State Dept.'s FAQ applying specifically to international adoptees, at: <http://travel.state.gov/family/childcitfaq.html>

The adoptee FAQ provides valuable information on how to interpret the instructions given in the general guidelines for obtaining a child's passport, in light of the fact that the child is an international adoptee.

When you go to your passport agency (many U.S. post offices are passport agencies, but not all), be sure to take with you:

- a) Certified copy of your final adoption decree. For an adoptee, this decree is both proof of citizenship (via the automatic law) and proof of parental custody.
- b) Child's Thai passport with DHS/INS stamp in the back and/or child's resident alien (green) card. (Only required for your first-time application, not for renewal of a child's expired U.S. Passport. If renewing an adoptee's expired U.S. Passport, you'll need the child's old U.S. Passport.)
- c) Valid ID for the parents (your U.S. passports are best).

d) Application form DS-11 (download here; DO NOT SIGN THE FORM before visiting the office)

http://travel.state.gov/passport/forms_DS11.html

e) Two photos of the child (see form DS-11 and the web link above for requirements; they are different from the citizenship certificate photos).

f) Fee (as noted on form DS-11).

g) If yours is a two-parent family, and both parents are not appearing to apply for the passport, you must ALSO take this completed consent form. The non-appearing parent's signature on the form must be notarized:

http://travel.state.gov/passport/forms_DS3053.html

h) Birth certificate: preferably a certificate of a foreign birth from your state, but if not, the Thai document and a certified English translation. The birth certificate technically is NOT required since it proves nothing about your child's citizenship eligibility, but some passport office employees will stubbornly ask for it anyway. Save yourself a hassle and take it along.

i) Children under the age of 14 are required to appear with their parent(s) to apply, but will not have to sign the application. Minor children between 14 and 17 also have to appear, and must sign the application form (in the presence of a passport official). If the child does not have a legal form of identification, the parent(s) must accompany the child and present their own identification.

The passport office will take your original documentation but will mail it all back to you along with the child's new passport. (Try not to fret; the State Dept. seems much better organized and speedier than the BCIS!)

Typical turnaround for a non-expedited application is three to six weeks. Children's passports expire every five years and are not renewable; a new passport must be obtained every time.

Final step at Social Security Once you have obtained the passport and/or citizenship certificate, take it back to a Social Security office and let them know that you need to have the child's status changed to "citizen" in their system. Many families neglect this key step, but (once again) it's crucial to safeguarding your child's future access to all benefits due to him/her.

For safety's sake (you most probably won't need to show them), take all the supporting documents referred to in the previous section on obtaining a Social Security card. You definitely **MUST** take the passport or citizenship certificate. You will not have to leave these documents at the Social Security office. If the original Social Security card was issued in the child's Thai name, now is the time to also have that altered in their records, by taking a copy of a legal name change document (often done simultaneously with finalization) from a U.S. court. If you're doing a name change, you'll get a new card in the mail; otherwise you may or may not get a new card.

Take a deep breath. If you have obtained your adoption finalization, Thai registration, Social Security card, Certificate of Citizenship, and passport (if desired), and gone back to Social Security to confirm your child's citizenship status, you are now **FINISHED** with the adoption paperwork!

What do to next? Well, you should also make sure your will and life insurance reflect your current family situation. And there's always work to be done on those lifebooks...