

I-130 PETITION

The I-130 process is different from other immigration processes because it requires adoptive parents to have legal custody of the child for two years, as well as having a two-year joint residency with the intended adoptee. It also applies to Legal Permanent Residents (LPRs) wishing to adopt. I-130 petitions:

- are applicable for children who were adopted before April 1, 2008, when they are seeking immigration benefits after the adoption.
- are applicable for children from a Hague convention country with a written statement indicating that the Central Authority is 1) aware of the child's presence in the United States, and of 2) the proposed adoption, and that 3) the Central Authority has determined that the child is not habitually resident in that country as mentioned in part I.



MORE INFORMATION

A US Citizen or a lawful permanent resident may be able to bring an adopted foreign-born child to the U.S. on the basis of an approved I-130 immigrant visa petition in the immigrant category "F2A" if the adopted child meets the definition of "child" in the Immigration and Nationality Act (INA) Section 101(b)(1)(E). That section of law requires:

- the child is adopted while under the age of 16;
- evidence of a full and final adoption; and
- the child has been in the legal and physical custody of the adoptive parent(s) for at least two years before the lawful permanent resident adoptive parent(s) file an immigrant visa petition for the child in a family preference category. The two years of physical and legal custody may be fulfilled inside or outside the United States, depending on the circumstances. Family preference immigrant visas are subject to numerical limitations, so even after fulfilling the two-year physical and legal custody requirements of the law, there is likely to be an additional waiting period for a visa number to become available.

Therefore, if the adopted children is neither from a Hague Convention Country nor qualifies as an orphan as defined by the INA § 101(b)(1)(E) they may follow the regular I-130 procedure to immigrate the child to the United States.

If you cannot find what you are looking for, please contact us at (949) 232-0355 or by email info@boutalebaw.com