

International Adoption – An Introduction

By Erin Brown

Each year, thousands of families in the United States pursue international adoptions. The process highlights the best values of America's immigration system, by creating families and uniting parents with children in need. International adoption may be preferred to domestic adoption for personal reasons, for reasons ranging from a preference to closed adoption (with no contact with birth parents) to the peace of mind that the birth mother will not change her mind or show up later in life.

International adoptions are arguably one of the most complex areas of immigration laws, requiring the juggling of international law with U.S. law (federal, state and local), as well as the laws of the foreign country. The process for securing the child a visa through adoption is country specific, however, for all adoptions the laws and regulations of require compliance with U.S. federal law, local state law and the law of the child's country.

In 1994, the United States signed The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. Concluded May 29, 1993, at The Hague in the Netherlands, the convention established international standards of practices for intercountry adoptions. The purpose of the convention is to protect the best interest of the child with respect to his/her fundamental rights, as well as, prevent abduction, sale and trafficking of children. The convention entered into effect for the United States April 1, 2008.

The Hague Convention applies to all adoptions by U.S. citizen parents in the United States seeking to adopt a child that is a resident of a Hague Convention country. Hague adoptions are similar to non-Hague adoptions, with some key differences. In particular, Hague adoptions require the adoption service provider to be accredited or approved by one of

the Department of State's designated accrediting entities, where as a non-Hague adoption requires the adoption service provider only to be licensed in the U.S. state of residence. In general, those seeking to adopt may receive greater protections if they adopt from a convention country.

The first step in the international adoption process is to select an adoption service provider (ASP). If the country from which the child is being adopted is a party to The Hague Convention, the ASP must be Hague accredited. A knowledgeable attorney can facilitate the application process with U.S. Citizenship & Immigration Services (USCIS) and consular processing through the United States Department of State.

After the ASP has been selected, the adopting parent(s) will need to complete a home study, which is an exhaustive and rigorous examination of the residence in which the child will eventually reside. A home study often consists of a background check of the adopting parents; an examination of the household finances; an analysis of the adopting parents' family backgrounds; as well as any other inquiries that could legitimately contribute to determining the safety of the household for a child. Once completed, the home study is submitted to USCIS for determination if the home is suitable for intercountry adoption. After the home has been determined suitable a second petition is filed with USCIS to have the child found eligible to immigrate to the United States based on the proposed adoption. Once the child is found eligible to be adopted, the adopting parent(s) will proceed with the adoption or obtain custody of the child in the child's home country in order to bring the child to the United States. Prior to the child coming to the United States they will need to obtain an immigrant visa at a U.S.

Consulate or embassy for admission to the United States.

Some adoptions are finalized in the country abroad. In this scenario the adopted child will be a U.S. citizen upon arrival in the United States. Most international adoptions are finalized after the child enters the United States. In this situation the child will enter the United States as a permanent resident and will become a U.S. citizen after the adoption is finalized.

The process is a veritable minefield of administrative processing and bureaucracy; even the slightest miscues often cause delays of weeks and sometimes months. Such delays, particularly when seeking to join anxious parents with their children, can cause unnecessary and avoidable heartache and worry, which is hardly ideal when considering this process will kick off the remainder of a family's life together. To ensure these delays are avoided, refer your client to an experienced immigration attorney, particularly one that is familiar with the adoption process.

Attorney Erin P. Brown received her Juris Doctorate, magna cum laude, from Cleveland Marshall School of Law and is admitted to practice law in the states of Florida and Ohio. Erin has been with Robert Brown LLC since 2002 and provides legal assistance for immigration matters such as adoption, employment, family, removal and citizenship. For more information, visit www.brown-immigration.com.

