



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 380
[2015 Assembly Bill 41]

International Adoption

2015 Wisconsin Act 380 relates to the effect and recognition of foreign adoption and guardianship decrees.

BACKGROUND

In general terms, in an international adoption, a final adoption order will either be granted by a court in the child's country of origin or by a court in this state. An adoption is subject to state law, the laws of the country from which the child is adopted, federal immigration laws, and, when adopting from a signatory country, the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

Under prior state law, if a child was adopted in the child's country of origin, the adoption was legally recognized by the state only if the Department of Children and Families had given prior approval of the placement, based on receipt of a home study report. In order to confirm and recognize the child's legal status, the adoptive parents could, but were not required to, then adopt the child under a Wisconsin court order, sometimes referred to as a "readoption."

Largely unaffected by the Act, if a child is brought into Wisconsin under a guardianship order issued by a foreign court, the adoptive parents must first comply with certain procedural requirements, such as posting a bond, completing preadoptive training, and obtaining a home study. The parents are then required to petition to adopt the child under state law procedures within 60 days of bringing the child into Wisconsin.

Under the federal Child Citizenship Act of 2000, when a foreign court grants an adoption, the child automatically acquires citizenship upon admission to the United States (with an IR-3 or IH-3 visa). When a Wisconsin court grants an adoption, after the child is brought into the United States under a foreign guardianship order (with an IR-4 or IH-4 visa), the child automatically acquires citizenship on the date of adoption in Wisconsin.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

ADOPTION GRANTED BY A FOREIGN COURT (IR-3 OR IH-3 VISA)

The Act requires adoptive parents to register a foreign adoption order with a Wisconsin court within 365 days of bringing a child into the United States, and specifies that the foreign adoption order is recognized by this state with all the same rights and obligations as an adoption granted in Wisconsin. The Act specifies that a “readoption” is not required.

Under this procedure, adoptive parents must submit a letter to the court requesting registration of the foreign adoption order. The letter must include a certified copy of the foreign adoption order. The letter must also include a sworn statement by the parents that preadoptive training and a home study were completed and that the parents are working with a licensed adoption agency.

Upon receipt of the letter, a court must enter an order registering the foreign adoption order and then must transmit the order to the state Registrar of Vital Statistics, for preparation of a certification of birth data. In the order, the court may also change the child’s name if requested by the adoptive parents.

The Act provides that when a court registers a foreign adoption order, the subsequent certification of birth data must indicate that the certification has the full force and effect as a state-issued birth certificate, including recognition of the child’s U.S. citizenship that is automatically acquired upon the child’s admission to the United States under the federal Child Citizenship Act of 2000.

ADOPTION GRANTED BY A WISCONSIN COURT AFTER A FOREIGN GUARDIANSHIP ORDER (IR-4 OR IH-4 VISA)

The Act does not revise the adoption procedure for a child brought into Wisconsin under a foreign guardianship order, but provides that when a Wisconsin court grants an adoption in that circumstance, the subsequent certification of birth data must indicate that the certification has the full force and effect as a state-issued birth certificate, including recognition of the child’s U.S. citizenship that is automatically acquired upon the court’s issuance of the adoption order under the federal Child Citizenship Act of 2000.

Effective date: June 1, 2016. Registration of a foreign adoption order is required for a child admitted into the United States with an IR-3 or IH-3 visa on or after that date. The required statement of recognition of a child’s legal status in certifications of birth data is required when a court grants or registers an intercountry adoption on or after that date.

Prepared by: Margit S. Kelley, Senior Staff Attorney

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