

# Special Report:

## The Removal Process



Photograph from U.S. Immigration and Customs Enforcement

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The process of removal can be a complicated and frightening experience for anyone. Through the removal process, the U.S. Government is saying that it wants to force an alien to leave the country. Moreover, for an alien whose primary language is not English, the legal terms used during the removal process can create confusion.

Yet, the removal process is meant to protect of rights of aliens present in the United States. Generally speaking, the U.S. Government cannot simply pick up a person and force that person to leave without giving the person a hearing. There are, of course, exceptions to this general rule, such as when an alien arrives at the border or at a port of entry (such as an airport), or when an alien has entered the country illegally and is caught near the border.

The removal process can be an opportunity for an alien to apply for permission to stay in the United States for a longer period of time. However, in order to be able to apply for this permission, the alien must know that it is available.

This report discusses the removal process. It first talks about the legal reasons that allow the U.S. Government to try to force an alien to leave. It then discusses when the U.S. Government can detain an alien, and how that alien can try to be released by posting a bond. This report then goes through the legal steps that the Government must take before an alien is ordered removed. Finally, this report goes over a number provisions of U.S. law that may allow an alien to stay in the United States, even when the law gives the Government a reason to try to remove him or her.

This report is meant to teach the general public about the removal process. It discusses legal terms, and legal options that may be available to a person in removal proceedings. However, this report is not meant to be legal advice. Each case is different. Proper legal advice can only be given by considering the specific facts of each individual case. Anyone reading this report and who is in removal proceedings or knows a person in legal proceedings should talk to an attorney or an accredited representative for proper legal advice.

## **The Language of Immigration Law**

U.S. immigration law involves a number of words or terms that may seem foreign to most people. These are words and concepts that are difficult for native-born English speakers to understand, let alone a person whose primary language is not English. Still, these are the words that we must use to explain how U.S. immigration law operates.

This report will try to make understanding U.S. immigration law a little easier by defining some of these specialized words.

“Alien” – The use of the word “alien” is not meant to be insulting. It is a legal term found in the law. An alien is a person who is not a U.S. citizen.

“Removal” – This is the process of forcing an alien to leave the United States. Removal involves two related terms, “inadmissible” and “deportable.” A person who has not yet entered the United States legally can be found to be “inadmissible.” That is, legal reasons may exist to prevent

that person from entering the United States. If a person is present in the United States, but has not entered legally, that person is also inadmissible. By contrast, an alien who has entered the United States legally may be found to be “deportable.” That is, the alien may have violated U.S. immigration law, permitting the U.S. Government to try to force him or her to leave.

“Relief from Removal” – This term means that there is some provision of the law that allows a person to stay in the United States, even though the person is inadmissible or deportable. During a removal proceeding, an alien may be able to apply for relief from removal.

“Port of entry” – This is a place where a person can ask to be admitted to the United States. A port of entry can be on the border. It can also be at an airport when an alien arrives in the United States by plane.

“U.S. Customs and Border Protection” or “CBP” – This is the agency of the U.S. Government that has the duty of patrolling the border, and controlling who can be admitted either at the border or at a port of entry.

“U.S. Citizenship and Immigration Services” or “USCIS” – This is the agency of the U.S. Government that processes visa applications, and determines if a person can become a U.S. citizen.

“Immigration and Customs Enforcement” or “ICE” – This is the agency of the U.S. Government that enforces the immigration and customs law. This agency investigates whether there has been a violation of immigration or customs law, and can refer a case for removal.

“Consulate” – The U.S. Department of State has offices located in foreign countries that assists in processing visas. An alien located overseas who applies for a visa will be required to submit some forms to the U.S. Consulate and attend an interview there. Many times, the U.S. Consulate is located at a U.S. Embassy. However, Consulates can exist in cities where the United States does not have an embassy.

## **Inadmissibility and Deportability**

Under the law, there are certain reasons that allow the Government to try to force an alien to leave the United States. These reasons fall into two categories: inadmissibility and deportability. The first category (inadmissibility) applies to aliens seeking to be admitted at the border, aliens who are present in the United States illegally, or aliens who have been allowed to enter the United States based on a lie. The second category (deportability) applies to aliens who have already entered the United States legally.

## Grounds of Inadmissibility

When an alien comes to the border of the United States, or a port of entry (such as an airport), the alien is seeking admission to the United States. That is, the alien asks an official from U.S. Customs and Border Protection (“CBP”) to let him or her come into the country.

The law creates certain reasons why an alien may not be admitted to the United States. These are called the grounds of inadmissibility. The grounds of inadmissibility apply not only to aliens who arrive at the border to ask for permission to enter, but also to aliens who have snuck across the border to enter the United States illegally, and to aliens who have stayed past the time permitted to be in the United States.

### Health Issues

The first set of reasons why an alien may not be admissible to the United States concerns health issues. For example, the Government may not admit a person to the United States who has a communicable (or contagious) disease. Communicable diseases include:

- certain sexually transmitted diseases such as chancroid, gonorrhea and syphilis
- leprosy
- tuberculosis
- HIV/AIDS

The Government may also not admit a person who cannot show that he or she has been vaccinated against mumps, measles, rubella, polio, tetanus and diphtheria. However, the requirement to show proof of vaccination may be waived if the vaccinations would not be appropriate for the person medically, or if getting the vaccinations would go against the person’s religious or moral beliefs.

Physical and mental disorders may make a person inadmissible if the disorder causes the person to behave in a way that creates a threat of danger to himself or to others. In fact, even if the disorder is in the past, the person may still be inadmissible if it is likely that the dangerous behavior will happen again. Alcoholism is an example of such a disorder. A person with many drunk driving convictions can be found to be an alcoholic, and thus inadmissible to the United States.

There is a difference between the time that a visa is valid, and the amount of time that an alien with a visa is permitted to stay in the United States. The time that a person is permitted to stay in the United States is written on a card given to the alien when he or she is admitted to the country. This is called the I-94 card. The date on the I-94 may not be the same as the date of expiration of the visa. For example, visitor’s visas usually last for 10 years. However, even with a visitor’s visa good for 10 years, CBP usually gives the alien permission to stay in the United States for 6 months. Staying beyond the date written on the I-94 will trigger illegal presence in the United States.

Finally, a person can be inadmissible for being a drug addict or abuser. Drug use in the last three years can indicate drug abuse.

### **Criminal Issues**

There are many criminal acts that can make a person inadmissible. When the issue is admissibility (as opposed to deportability), the Government does not need to have an actual conviction to keep the alien from coming into the United States. An alien is inadmissible if he or she admits to committing the acts that are considered crimes.

The first set of crimes that can make a person inadmissible are called “crimes involving moral turpitude.” The concept of “crimes involving moral turpitude” is difficult to define. Courts have said that these are crimes that “shock the public conscience,” or are “inherently base, vile, or depraved.” Some examples of crimes involving moral turpitude include:

- crimes involving stealing
- crimes involving fraud
- crimes where the perpetrator intends to do great bodily harm
- some sexual offenses

Committing one crime involving moral turpitude may not make a person inadmissible if the person committed the crime before the age of 18, and the crime occurred 5 years before applying for a visa.

One conviction of certain crimes involving moral turpitude may not make a person inadmissible. This is known as the petty offense exception. A crime qualifies for the petty offense exception if:

- the maximum punishment for the crime was no more than 1 year, and
- the actual sentence was for 6 months or less.

While a crime involving moral turpitude that meets these qualification will not render a person inadmissible, it still must be disclosed when applying for a visa. It may interfere in proving “good moral character,” which is a requirement for some immigration benefits such as naturalization.

One example of a crime involving moral turpitude that would fall into the petty offense exception could be turnstile jumping in the New York subway. The official title of the violation is called “fare evasion.” It involves the theft of services, which is why it is a crime involving moral turpitude. However, the maximum sentence for a conviction is less than one year imprisonment. In fact, if the violation is processed by the New York Transit Adjudication Bureau instead of the New York City criminal courts, the sentence is a fine of \$100.

The second set of crimes that make a person inadmissible are crimes that involve “controlled

substances.” Controlled substances are, of course, illegal drugs. Any person who “traffics” in illegal drugs, or helps a person traffic in illegal drugs is inadmissible. More than that, if the spouse and children of a person who has trafficked in illegal drugs have been given money by the drug trafficker within the last 5 years, then the spouse and children are inadmissible as well.

Next, a person can be found inadmissible if that person is coming to the United States to engage in prostitution, or that person has engaged in prostitution in the last 10 years. A person who has engaged in the trafficking of persons, or has helped another in trafficking persons, is also inadmissible. This applies to the spouse and children who have benefitted financially from the trafficking activity within the past 5 years.

Other crimes that can make a person inadmissible include:

- a former foreign government official who violated a person’s religious freedoms
- people who engage in money laundering.

### **National Security Issues**

The U.S. Government, of course, has the duty of providing for the security and protection of the United States. To help reach this goal, the law tries to keep people out of the United States who could be a danger to the national security. People whom the Government believes are a threat to the national security, therefore, are inadmissible.

The first and most obvious category of people who are inadmissible for national security reasons are terrorists. A terrorist is not only a person who has engaged in terrorist activities, but also a person whom the Government reasonably believes is likely to engage in terrorist activities.

National security reasons also prohibit any person from being admissible if:

- that person is coming to the United States to try to overthrow the U.S. Government by force, violence or other unlawful means
- that person is a member of the Nazi or some other totalitarian party
- that person’s entry or activities in the United States would harm U.S. foreign relations.

### **Public Charge**

The U.S. Government does not want people to come to the United States for the purpose of receiving public welfare. To avoid this, the law states that a person who is likely to become a public charge is inadmissible. This means that the person must be able to show that he or she has enough money to support himself or herself while in the United States.

For those who are trying to immigrate, and who do not have a job in the United States, USCIS will require that the person filing the visa petition on behalf of the immigrant must also file an affidavit of support. In this affidavit of support, the petitioner must be able to show that he or she has enough money to support the immigrant, in addition to the petitioner's own family, above the poverty level.

Sometimes, the petitioner alone cannot show enough income to be able to support the immigrant. In those cases, the petitioner can find another person to be a co-sponsor. The co-sponsor files his or her own affidavit of support, and also must be able to show that she or she can support his or her own family plus the immigrant, with income above the poverty level.

Affidavits of support are critical legal documents, and should not be entered into lightly. They are binding contracts between the sponsor and the U.S. Government to provide financial support to the immigrant. If the immigrant does go on public welfare, the U.S. Government can sue a person who has filed an affidavit of support for the money paid to the immigrant. In fact, if the sponsor does not provide financial support, the immigrant can sue the sponsor. A person may be required to provide support because of the affidavit of support even if the immigrant is no longer a relative. This can happen, for example, when an immigrant was originally married to the petitioner, but later got a divorce.

### **Labor Certification**

Before a person can immigrate to the United States based on an immigrant employment visa, the employee must first get a labor certification from the U.S. Department of Labor. That is, the employer must go through a legal process of showing that there are no U.S. workers available for the job that the immigrant is filling. This is a complex and time-consuming process. Until the employer gets the labor certification, the immigrant is inadmissible.

### **Fraud**

A person is inadmissible if he or she lied to a U.S. Government official in order to get a visa. Similarly, a person who falsely claims to be a U.S. citizen is inadmissible. Alien smugglers and student visa abusers are likewise inadmissible.

### **Illegal Presence/Deportation**

A person who has previously violated U.S. immigration law will be inadmissible to return to the United States for some period of time:

- A person who was deported cannot return to the United States for 10 years.
- A person who was removed from the United States as an arriving alien, or through the expedited removal process cannot return to the United States for 5 years.
- A person who was removed for being convicted of an aggravated felony cannot

return to the United States for 20 years.

- A person who was unlawfully present in the United States for more than 180 days, but less than 1 year is barred from returning to the United States for 3 years.
- A person who was illegally present in the United States for 1 year or more is barred from returning to the United States for 10 years.

Illegal presence can occur when a person violates a condition of his or her visa, or has stayed in the United States beyond the time permitted. Note that the time that a person is permitted to stay in the United States may not be the same as the time that the visa is valid. When a person enters the United States on a visitor's visa, the visa is usually valid for 10 years, and permits multiple entries. However, when a person is actually admitted to the United States using a visitor's visa, CBP usually gives permission for the alien to stay for 6 months, even if the visitor's visa is good for another several years. The alien must leave the United States before the date that is written on the alien's I-94 card, which is given to the alien when he or she enters the United States. If the alien has not left by this date, the alien is illegally present in the United States, even if the alien's visa is valid until a later date.

### **Grounds of Deportability**

Similar reasons exist to allow the U.S. Government to force an alien to leave when the alien has been lawfully admitted to the United States. These are called the grounds of deportability. The important thing to remember is that the grounds of deportability only apply to a person who was lawfully admitted. Otherwise, if the person is seeking admission, has entered illegally, or has stayed beyond the time permitted, the grounds of inadmissibility apply.

### **Criminal Reasons**

Like the grounds of inadmissibility, certain crimes can make a person deportable. There is one big difference between the criminal grounds of inadmissibility and the criminal grounds of deportation, however. To be deportable, the alien must have been convicted of the crime. If an alien admits to a criminal act, but has never been convicted, the alien is not deportable.

The first set of criminal convictions that makes a person deportable are the crimes of moral turpitude. These crimes are the same as those listed above in the section on the grounds of inadmissibility. One single conviction of a crime of moral turpitude will not make a person deportable if the conviction occurred 5 years after admission, or 10 years after adjustment of status.

Convictions involving illegal drugs, or the trafficking in persons can also make a person deportable.

There are a few additional categories of crimes that will allow the U.S. Government to deport an alien. The first are crimes which are called "aggravated felonies." "Aggravated felonies" include:

- murder
- rape
- sexual abuse of a minor
- money laundering
- crimes of violence with a jail term of at least 1 year
- kidnapping
- trafficking in illegal drugs, firearms, explosives, or people.

Being convicted of an aggravated felony has serious immigration consequences. First, if a person is placed in removal proceedings for being convictions of an aggravated felony, that person cannot apply for cancellation of removal (discussed later in this report). It will also bar a person from returning to the United States for 10 years.

Other convictions that allow the U.S. to deport an alien include:

- certain firearm offenses
- domestic violence
- sexual abuse of a minor.

These crimes do not technically make an arriving alien inadmissible. However, this does not mean that an arriving alien is off the hook. Rather, the arriving alien with a conviction for one of these crimes will be admitted to the United States, but then immediately detained and placed in removal proceedings for being deportable. Also, if an alien has entered the United States illegally, but is convicted of an aggravated felony, that alien may still be removed from the United States.

### **Arrest and Detention**

Often, when the Government wants to force an alien to leave the United States, the Government will arrest the person, and put him or her in detention. This can occur, for example, if a person is convicted of a crime, and serves time in prison. At the end of the prison term, the Government can keep that person detained, and begin removal proceedings.

This can also happen as a result of routine contact with the Government. For example, if a person attends a naturalization interview with USCIS, and USCIS learns that the person was only able to become a permanent resident because of fraud, USCIS can arrest the person during the interview.

Another example of where an alien could be detained is when an alien is stopped by local or state authorities. Many local and state governments across the country are adopting policies to require police officers to ask a person about his or her immigration status if the officer has reason to believe that he or she is an alien. This can happen, for example, when a person is stopped for a routine traffic violation. The police may report any aliens who do not have proof of their immigration status to ICE for the possibility of starting removal proceedings.

Often, when an alien is convicted of a crime in the United States, ICE will be informed of the conviction. ICE will then decide whether to put a “detainer” on that person. That is, once the alien has served his or her sentence for the conviction, ICE will have an order that the person continue to be detained until ICE can take the person into custody for removal proceedings. Legally, a person can only be detained after his or her sentence ends by state or local authorities for 48 hours. In practice, many state or local authorities may hold the person indefinitely until ICE actually takes custody.

Finally, it is possible for the Government to receive a tip that aliens are working illegally somewhere. The Government may be able to send a number of officers to that work place, and arrest workers the Government suspects are present and working in the United States illegally. In fact, in recent years, ICE has stepped up its place of employment raids.

There are a limited number of beds in U.S. Government detention facilities. This means that at times, the Government must detain the person in a state or local prison. In fact, the Government has agreements with a number of state prisons to use those prisons to detain aliens who may be placed in removal proceedings. This means that sometimes aliens in removal proceedings will be placed with the general population of criminals while awaiting a removal hearing.

## **Bond**

Aliens who are detained may be able to request bond. This means that the alien pays some amount of money to the Government. In return the Government allows the alien out of detention. If the alien fails to show-up for hearings before the Immigration Court, the alien will lose the money. Otherwise, the money will be returned to the alien at the end of the removal proceedings. The bond can also be posted by a friend or relative of the detained alien.

Often, the price of the bond can be set pretty high. The lowest amount of bond will be \$1500. On occasion, the Government can release a person without bond. If a person cannot afford to pay the full amount of the bond, there are companies that will post the bond for him or her. In return, the company will ask for collateral, or some property that the company will have the legal right to take should the alien fail to show-up for a hearing.

The amount of the bond is set by the Government. It may be possible to get the bond reduced at a bond redetermination hearing. In deciding whether to reduce the amount of the bond, the Immigration Judge will consider:

- ties to the community, such as employment, church membership and participation in community organizations
- family ties, such as a spouse or child who is a U.S. citizen or legal permanent resident
- a permanent address
- whether the person may be eligible for some legal means to stay in the United

- States
- has the alien shown a sense of responsibility.

Essentially, the Immigration Judge is looking to see if the alien is likely to flee once released on bond, or stay and attend future hearings.

### **Mandatory Detention**

Some people are not allowed to be released on bond. They are:

- people who have committed 2 crimes of moral turpitude
- people who have committed aggravated felonies
- people who have committed crimes involving drugs or firearms
- people who have committed 1 crime of moral turpitude, where the sentence is at least 1 year
- terrorists, or people involved in terrorist activities
- people who applied for asylum who have not shown a credible fear of persecution.

Often, aliens who are subject to mandatory detention come to the attention of ICE when the conviction happens. As stated above, ICE will then further detain the alien after he or she has served her sentence for the conviction. This person will remain detained until the removal proceedings have been completed. This can be a big problem because the Government will hear the cases of people who are being detained more quickly than those out on bail. This could interfere with the alien's ability to prepare a defense against removal, communicate with a lawyer, or apply for one of the legal grounds for relief from removal.

All aliens, including permanent residents, should understand the political climate after the September 11th terrorist attacks. Government agencies are now communicating with each other more often, and more efficiently. Therefore, any contact with a Government agency could bring an alien who is removable, and who is subject to mandatory detention, to ICE's attention.

An alien should also understand that even if he or she is not detained when the Government issues the Notice to Appear (see below), if the alien is subject to mandatory detention, ICE may have officers waiting to take the alien into custody when the alien shows up for a removal proceeding. This is not an excuse to fail to attend such proceedings, as that can have serious legal consequences. However, an alien who is subject to mandatory detention should be wise to expect to be detained when attending a proceeding, and should make appropriate arrangements with his or her family and lawyer beforehand.

The Government does have a new program, where it may allow certain aliens to be released. These aliens will either be closely watched by the Government, or be required to wear an electronic bracelet that monitors where the alien is. This program has been introduced in Baltimore,

Philadelphia, Miami, St. Paul, Denver, Kansas City, San Francisco and Portland, OR.

## Removal Proceedings

Before an alien can be forced to leave the United States, the Federal Government must begin removal proceedings. In a removal proceeding, the alien must be given notice of the Government's desire to force the alien to leave, and the reasons why the Government wants the alien to leave. The alien must then be given an opportunity to be heard.

### Notice to Appear

Removal proceedings begin when the Government gives the alien a Notice to Appear, and files this notice with the Immigration Court. Three government agencies may issue this Notice to Appear. They are U.S. Citizenship and Immigration Services ("USCIS"), Immigration and Customs Enforcement ("ICE"), and U.S. Customs and Border Protection ("CBP").

The Notice to Appear gives the alien the reason or reasons why the Government wants the alien to leave. The reasons will be one or more of the grounds of inadmissibility or deportability. The notice should briefly describe the facts that the Government believes make the alien inadmissible or deportable, and say what section of the law applies to those facts.

Through this notice, the Government orders the alien to appear at the first removal hearing. The notice may provide the time and location of the first removal hearing. However, sometimes, the Government will tell the alien the time and location of the first removal hearing in a later notice.

The removal hearing should be scheduled at least ten days after the Government gives the Notice to Appear to the alien. This gives the alien time to find an attorney to represent him or her during the removal proceedings.

If the alien wants an attorney, but has not been able to find one before the first removal hearing, the alien must attend the hearing, and tell the Immigration Judge. The Immigration Judge must give the alien at least one postponement to permit the alien a chance to find an attorney.

The back of the Notice to Appear gives the alien certain warnings, and tells the alien what his or her rights and responsibilities are. For example, the notice warns the alien that any statement he or she makes can be used as evidence against him or her in the removal proceedings. The notice will also warn the alien that failure to appear at the removal hearing may result in an order of removal.

The rights of an alien in removal proceedings includes the right to have an attorney represent him or her before the Immigration Court. *Unlike criminal proceedings, however, the Government does not have to pay for the alien's attorney even if the alien is poor.*

## **Master Calendar Hearing**

The first removal proceeding is called the master calendar hearing. The master calendar hearing gives the alien the first opportunity to respond to the Notice to Appear.

At this point, it is important to recognize a key difference between removal proceedings that involve allegations of inadmissibility, and those that involve allegations of deportability. The grounds of inadmissibility apply when a person has entered the United States illegally, or has entered the United States through fraudulent means. The grounds of deportability apply when a person has entered the United States legally, but something has happened that allows the Government to try to force the alien to leave the United States.

If you do not show up for your hearing, the court will order your removal from the United States. You will not be allowed to come back to the United States for 10 years. Only if the Government failed to tell you the time and location of the hearing, if you never received the Notice to Appear, or if there are exceptional circumstances will you be able to reopen the case.

When the removal proceedings involve allegations of inadmissibility, the alien has the burden to show that he or she actually is admissible to the United States. This means that the alien must present evidence to disprove the allegations the Government has made in the Notice to Appear.

When the removal proceedings involve allegation of deportability, the Government has the burden to show that the person is an alien who is deportable. This means that the Government must prove the allegations in the Notice to Appear. The alien then has an opportunity to present evidence to counter the Government's evidence.

## **Best Language**

The Immigration Judge will ask the alien or the alien's attorney what the alien's best language is. The court will provide an interpreter in that language. People who come from Haiti or West Africa may have learned French in school. This does not mean that an alien from Haiti or West Africa should say that French is his or her best language. Instead, the alien can, and should, designate his or her native language, such as Creole or a tribal language as his or her best language.

## **Plea**

During the master calendar hearing the alien must plead to the Notice to Appear. This means that the alien is given the chance to admit to the truth of the facts stated in the Notice to Appear, or deny them. Before doing this, the alien should read the Notice to Appear very carefully to see if there are any mistakes. In a deportation proceeding (as opposed to an inadmissibility proceeding), the alien may request that the Government present its evidence to the court that supports the allegations in the Notice to Appear, instead of admitting or denying any of the allegations.

## **Country of Removal**

The Immigration Judge will ask the alien to name a country of removal, just in case the court finds in favor of the Government, and orders removal. Typically, this is the alien's home country. That may not always be the case. If the alien intends to make a claim for asylum, he or she should tell the court that he or she declines to designate a country of removal.

## **The Government's Case**

The first thing that the Government must prove in a deportation proceeding is that the person is in fact an alien. This may not be as straight-forward as it may seem. Usually, the Government can show that the person said he or she is an alien when asked by a Government official, such as a police officer. Saying to a police officer that you are an alien may be enough for the Government to prove that you are an alien. However, sometimes a person may be a citizen of the United States, and not even know it. This could happen when a parent, or even a grandparent, is a U.S. citizen. Depending on the law that was in effect at the time of the person's birth, he or she may be able to show that he or she is in fact a citizen. If this happens, the removal proceedings will stop, because U.S. citizens cannot be removed from the United States.

If you were born in a foreign country and have a U.S. citizen for a parent, the laws that determine whether you are a U.S. citizen are complicated. Two charts are attached to the end of this report to help you see if you may be a U.S. citizen.

The next thing that the Government must prove in a deportation proceeding is that the alien is deportable. If the allegation involves a criminal conviction, for example, the Government must prove that the conviction happened.

## **Motions**

During the master calendar hearing, the alien has the chance to make certain motions. This is just a request that the Immigration Court takes some specific action. For example, if the Government only got the evidence by violating the law, the alien can make a motion to suppress. If granted, this would mean that the Government is not permitted to present the evidence to the Immigration Judge. This could make it difficult for the Government to prove its case.

Other motions include a motion for a continuance (to postpone the hearing), and a motion for a change in venue (transfer the case to an Immigration Court that is more convenient for the alien).

## **Applying for Relief from Removal**

If the alien cannot disprove the grounds of inadmissibility, or the Government proves the

grounds of deportability, the alien will then have an chance to request relief from removal. This means that although the alien is inadmissible or deportable, there is some section of the law that may allow the alien to stay in the United States anyway. Some forms of relief from removal involve their own application process. The Immigration Judge will schedule another hearing to allow the alien time to submit an application for a form of relief from removal. Some of the grounds for relief from removal will be discussed later in this report.

### **Merits Hearing**

If the alien applies for some form of relief from removal, the Immigration Judge will schedule a second hearing. This second hearing is called the merits hearing. The judge will schedule this hearing to give the alien enough time to fill out the paperwork, and make all of the applications. If the applications involve any additional filing fees, the alien will need to pay them.

At the merits hearing, the alien will go first in presenting evidence to the Immigration Judge. This can include documents, and witnesses. The Government's attorney, however, will have an opportunity to ask questions of any of the witnesses. This is called cross-examination. In fact, the Immigration Judge can also ask questions of any witnesses.

### **Order of Removal**

If the alien cannot prove admissibility, or the Government has proven deportability, and the alien does not qualify for any form of relief from removal, the Immigration Judge will order the alien removed from the United States. The order can be made either in writing or orally in the presence of the alien. The order does not become final until the time for filing an appeal expires, or the alien waives his or her right to an appeal.

### **Appeals**

An alien can appeal an order of removal to the Board of Immigration Appeals. To do so, the alien must file a Notice of Appeal (Form EOIR 26) along with the appropriate filing fee within 30 days after either the mailing of a written decision by the Immigration Judge, or the Immigration Judge orally states in the presence of the alien that he or she is being ordered removed. An alien can also appeal from a decision of the Board of Immigration Appeals to the appropriate U.S. Court of Appeals. If the court decides against the alien, the alien can request that the U.S. Supreme Court hear the appeal. The U.S. Supreme Court, however, rarely decides to hear an appeal on immigration matters from the U.S. Courts of Appeals.

## Removal

ICE has 90 days from the date on which the order of removal becomes final to actually remove the person from the United States. ICE will send the alien a letter instructing the alien to surrender to ICE at a certain time and place. If the alien was released under bond during the removal proceedings, ICE will send a letter to the person who paid the bond to surrender the alien to ICE for removal. ICE may detain the alien during this 90 day period while waiting to actually remove the person. In some instances, a person may be able to request voluntary departure instead of waiting for ICE to arrange for his or her removal.

If you refuse to be removed within this 90 day period, you could be fined, imprisoned for up to 4 years (or 10 if you were ordered removed for certain criminal convictions), or both. This can happen if you hide from the Government, or do not surrender in time to allow ICE to remove you.

On occasion, ICE may not be able to remove the alien to his or her country of nationality. For example, if an alien is convicted of a crime, some countries will not allow the alien to return. If ICE cannot remove the alien within the 90 day period, the alien must be released. However, ICE may require the alien to appear at ICE for identification, or to have a medical or psychological evaluation.

If you request voluntary departure, but do not leave the United States in time, you will lose your ability to apply for many immigration remedies for 10 years.

## Expedited Removal Proceedings

In some instances, a person may be removed from the United States immediately without a hearing. This is called expedited removal. Only aliens who have not yet been formally admitted by a CBP official can be forced to leave the United States using the expedited removal proceedings.

### Who May be Removed This Way?

The Government can only make a person leave through expedited removal proceedings if an official from CBP has not yet formally admitted the person to the United States. That is, every alien who wants to come into the United States must come to the border, or to a port of entry (such as an airport), and ask permission to enter from a CBP official. The CBP official will examine the person's travel documents (passport and visa) to see if he or she has been given permission to ask to be admitted to the

A person in expedited removal proceedings does not have the same rights as a person in full removal proceedings. There is no right to an attorney. The person will not be allowed to contact an attorney or even a family member. In addition, there is no right to appeal a decision in an expedited removal proceeding.

United States. The CBP officer will also ask the alien questions to see if there is a legal reason why this person cannot be admitted to the United States.

It is when the CBP official is examining the alien's documents, and asking these questions, that some people can be placed in expedited removal proceedings. There are two reasons that can cause a person at the border or at a port of entry to be placed in expedited removal proceedings. The first is when the alien has no documents. That is, the alien comes to the border without a passport, or without papers showing that he or she has a visa. That person may be turned away at the border, and forced to leave the United States through expedited removal.

The second reason is that the CBP official believes that the alien has committed visa fraud. That is, the CBP official believes that the alien has told a lie in order to get his or her visa. For example, a person may have gotten a visitor's visa from the U.S. Consulate in his or her home country, but may have come to the United States with the goal of trying to stay here permanently. In order to get a visitor's visa, an alien must have the goal of returning to his or her home country because it is a non-immigrant visa. If an alien told the U.S. Consulate that he or she wanted to return to the home country, when in fact he or she actually wanted to come to the United States to stay permanently, that person has lied to a Government official in order to get a visa. This is visa fraud. If the CBP official believes that a person has committed visa fraud, that person can be forced to leave the United States before even being admitted through expedited removal proceedings.

CBP officials at the border or port of entry may ask questions to test whether an alien lied to get a visa. If a person has a visitor's visa, but tells the CBP official at the border that he or she actually got a visa in order to come to the United States to get married, the CBP official may believe that the person has committed visa fraud, and force that person to return to his or her home country.

Other people who can be forced to leave the United States immediately through expedited removal proceedings are aliens who have slipped across the border to enter the United States without going to a CBP official to ask to be admitted to the United States. The law says that if an alien has entered the United States illegally and cannot show that they have been present in the United States for two years, they can be forced to leave through expedited removal proceedings. More specifically, if an alien is found within 100 miles of the border with Mexico, and that alien has not been in the United States for more than 14 days, CBP officers may force the person to leave the United States immediately without a hearing.

If a person is forced to leave the United States through expedited removal proceedings, that person may not come back to the border or to any port of entry to ask for permission to be admitted to the United States for 5 years.

The one exception to expedited removal is if a person has come to the United States to claim asylum. That is, the alien must fear being persecuted if he or she is forced to return to his or her home country. If the alien makes a claim for asylum, a official from USCIS will interview the person to see if he or she has a credible fear of persecution. If the person has a credible fear, he or she will be placed in full removal proceedings, and have all of the rights that come with those legal proceedings (such as the right to be represented by an attorney). During the full removal proceedings, the alien can make the formal application for asylum.

Unlike other people who are in expedited removal proceedings, a person claiming asylum can contact an attorney. However, the Government may only allow the person 48 hours to do so. During this time, the alien will likely be detained by ICE.

If the USCIS official does not believe that the alien has a credible fear of persecution, the alien may apply to an Immigration Judge to review the matter. The Immigration Judge will have 7 days to review the USCIS official's decision. During that time, ICE may keep the alien in detention.

## **Relief from Removal**

This section discusses various forms of relief from removal that are available under U.S. law. This discussion is not meant to be an exhaustive list of every type of relief available. It is meant to be illustrative of the types of relief for which an alien who has found to be inadmissible or deportable may be able to apply.

### **Cancellation of Removal/Suspension of Deportation**

Cancellation of removal allows certain people to stay in the United States, despite being found inadmissible or deportable. There are three different types of cancellation of removal available under U.S. law, each with their own legal requirements. They are available for: (1) non-permanent residents; (2) victims of abuse; and (3) permanent residents.

An earlier law provided for a form of relief called suspension of deportation. It was generally easier to apply for suspension of deportation than it currently is to apply for cancellation of removal. Under the current law, certain people from El Salvador, Guatemala, former Soviet countries or certain former Communist countries of Eastern Europe may still apply for relief under the older suspension of deportation rules.

### **Non-Permanent Residents**

An Immigration Judge may grant cancellation of removal to a non-permanent resident if four conditions are met:

- The person has been living continuously in the United State for ten years prior to

receiving the Notice to Appear. Short trips abroad for 90 days or less will not break the ten year period. However, the total number of days outside of the United States can be no greater than 180 days.

- The person has had good moral character for those ten years.
- The person has not been convicted of certain crimes. For example, a conviction of a crime involving moral turpitude, a crime involving illegal drugs, prostitution, money laundering, aggravated felonies, visa fraud, or falsely claiming to be a U.S. citizen renders a person ineligible to cancellation of removal.
- Removal of the person would cause exceptional and extreme unusual hardship for a child, spouse or parent who is a legal permanent resident or U.S. citizen. Note that if the permanent resident or U.S. citizen is a child, the immigration courts will only consider the hardship that the child would face if the child were to leave the United States with the parent. The courts will not consider the hardship that the child would face if the child stayed in the United States without the parent. One example of the type of hardship that the court would consider is if the child had a serious medical condition, and treatment were not available in the parent's home country.

Even if all four conditions are met, the Immigration Judge may still choose not to grant cancellation of removal. The decision is left to the judge's discretion.

Certain aliens are not eligible to apply for cancellation of removal. They are:

- an alien who entered the United States as a crewman subsequent to June 30, 1964
- an alien who has entered the United States under a J (exchange visitor) visa, to receive graduate medical education or training
- an alien who has entered the United States under a J (exchange visitor) visa, and who has not fulfilled the two-year foreign residence requirement
- certain aliens who pose a security threat to the United States
- an alien who has persecuted others
- an alien who has previously received cancellation of removal or suspension of deportation

Cancellation of removal also leads to the adjustment of status to a lawful permanent resident. However, there are only 4,000 slots available each year. If the slots have been used for the year, a decision on whether to grant cancellation of removal will be delayed until more slots become available.

Although cancellation of removal leads to legal permanent residence, it is extremely risky to place an alien in removal proceedings purposefully to apply for this form of relief.

### **Victims of Abuse**

The Violence Against Women Act provides relief from removal for spouses and children who have been abused by U.S. citizen or legal permanent residents. The requirements to apply for this type of cancellation of removal are:

While the name of the law is the Violence Against Women Act, this form of relief is not limited to women. If the abused spouse is a man, he may still be eligible to apply for this form of cancellation of removal.

- The alien has been battered or subject to extreme cruelty by a spouse, former spouse or parent.
- The spouse, former spouse or parent is a U.S. citizen or legal permanent resident.
- The alien has been continuously present in the United States for three years before applying for cancellation of removal.
- The alien has shown good moral character for those three years.
- The alien is not inadmissible or deportable due to criminal grounds.
- The removal of the alien would cause extreme hardship to the alien, the alien's child, or the alien's parent.

This form of cancellation of removal is also discretionary, which means that even if all of the requirements are met, the Immigration Judge may still choose not to grant it. This form of cancellation of removal is also subject to the 4,000 per year limit.

### **Legal Permanent Residents**

The eligibility requirements for cancellation of removal are somewhat more lenient for legal permanent residents. They are:

- The alien must have been a legal permanent resident for 5 years or more.
- The alien must have been continuously residing in the United States for 7 years after having been admitted to the United States in any status.
- The alien must not have been convicted of an aggravated felony.

As with cancellation for removal for non-permanent resident, certain legal permanent residents are not eligible to apply for cancellation of removal:

- a permanent resident who entered the United States as a crewman subsequent to June 30, 1964
- an alien who has entered the United States under a J (exchange visitor) visa, to receive graduate medical education or training
- an alien who has entered the United States under a J (exchange visitor) visa, and who has not fulfilled the two-year foreign residence requirement
- persons who pose a security threat to the United States

- an alien who has persecuted others
- a permanent resident who has previously received cancellation of removal or suspension of deportation.

Again, this form of cancellation of removal is left to the discretion of the Immigration Judge. That means that even if the requirements are met, the judge may still deny the application. This form of cancellation of removal is also subject to the 4,000 per year cap.

### **Nationals of El Salvador, Guatemala, the former Soviet Union and former Communist Countries of Eastern Europe**

Provisions of the Nicaraguan Adjustment and Central American Relief Act provide relief to certain nationals of El Salvador, Guatemala, the former Soviet Union and former Communist countries of Eastern Europe. The eligibility rules are a little more complex, and require the alien to have entered the United States before a certain date. Nationals of the former Soviet Union and former Communist countries of Eastern Europe must also have applied for asylum prior to December 31, 1991. These nationals may apply for relief under the rules that were applicable to suspension from deportation. These requirements for suspension of deportation are easier to meet than the requirements for cancellation of removal.

#### **Registry**

If a person has lived in the United States for a long period of time, USCIS has the discretion to grant that person legal permanent resident status if certain conditions are met. Those conditions are:

- The alien entered the United States before January 1, 1972.
- The alien has lived continuously in the United States since entry.
- The alien has good moral character.
- The alien is not ineligible for citizenship based on terrorism grounds.
- The alien is not deportable based on terrorism grounds.

#### **Asylum**

Asylum is a legal program that serves the humanitarian purpose of allowing a person who fears persecution in his or her home country to stay in the United States. A person who has been granted asylum, called an asylee, may apply for permanent residency in the United States one year after asylum has been granted. An asylee may also apply for “derivative asylum status” for his or her spouse and children under the age of twenty-one.

The requirements to apply for asylum are:

- The alien must be physically present in the United States or at a port of entry.

- The alien must be unable or unwilling to return to his or her home country because of persecution or a well-founded fear of persecution.
- The persecution must be because of the person's race, religion, nationality, membership in a particular social group or political opinion.

A person may not be able to apply for asylum if he or she had previously applied, and the application was denied by an Immigration Judge or the Board of Immigration Appeals. However, the person may be able to demonstrate that there are changed circumstances which materially affect his or her eligibility for asylum. For example, if the situation in the applicant's home country have changed that cause the person to fear persecution if he or she returned, he or she may be able to show that circumstances have changed.

Although a person may have a well-founded fear of persecution if he or she returned to the home country, there may still be reasons to deny asylum:

- Another country is willing to grant the applicant asylum.
- The applicant has participated in the persecution of another.
- The applicant has been convicted of certain crimes.
- The applicant poses a danger to the national security of the United States.
- The applicant has engaged in terrorist activities, or who is likely to engage in terrorist activities.
- The applicant has been firmly resettled in another country before coming to the United States.

An application for asylum must be filed within one year of arriving in the United States. Thus, if the alien is placed in removal proceedings more than one year after entry into the United States, he or she cannot apply for asylum. There are two exceptions to this rule: (1) changed circumstances in the person's home country now cause a person to have a well-founded fear of persecution if he or she returns; and (2) extraordinary circumstances delayed the filing of the application for asylum.

A person who has been granted asylum may also receive authorization to work in the United States. However, a person who applies for asylum cannot work while the application is still being considered by the Government. A person who has received a recommended approval or a conditional approval can receive work authorization.

### **Restriction on Removal**

Restriction on removal provides that the Attorney General may not remove an alien if the Attorney General believes that the person's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group or political opinion. This is a higher standard than that of an asylum case.

Like asylum, a person cannot benefit from restriction on removal if that person:

- has persecuted others,
- has been convicted of certain crimes,
- has committed a serious, non-political crime before coming to the United States, or
- is a danger to U.S. security.

A person who has received restriction on removal, and has not been granted asylum, cannot apply for permanent residency. Nor may a person who has received restriction on removal bring family members into the United States.

### **Stay of Removal**

Once the Immigration Court issues a final order of removal, the alien may request that ICE hold off on enforcing the order. This is known as a “stay.” A stay is usually requested when the alien plans to appeal the order to the Bureau of Immigration Appeals. However, an alien can request a stay, even if he or she does not plan to appeal. ICE, however, rarely grants a stay if there is not an appeal to the Bureau of Immigration Appeals.

### **Voluntary Departure**

Once a person has been removed from the United States, that person becomes inadmissible to the United States for up to ten years. A person can avoid having a removal order on his or her record through voluntary departure. By doing so, the person avoids the ban on returning to the United States.

An alien may apply for voluntary departure at one of three stages in the process: (1) before removal proceedings are initiated; (2) before or at the master calendar hearing; or (3) at the conclusion of the removal proceedings.

#### **Application Made Before Removal Proceedings Are Initiated**

An alien may apply for voluntary departure with ICE before removal proceedings are initiated. The alien must agree to waive the right to a removal hearing. In return, the alien may be given up to 120 days to leave the United States at his or her own expense.

#### **Application Made at the Master Calendar Hearing**

An alien may apply for voluntary departure with ICE before or at the master calendar hearing. If granted, the alien will have up to 120 days to leave the United States at his or her own expense. ICE decides whether to grant voluntary departure, and may require that the alien post a bond that is refunded once the alien can show proof that he or she left the United States.

An alien may not be granted voluntary departure if:

- The alien is deportable for committing an aggravated felony.
- The alien is deportable for engaging in terrorist activities.
- The alien was previously granted voluntary departure after being found inadmissible for entering the United States without inspection.

To qualify for this form of voluntary departure, the alien must request no other form of relief, admit that he or she is removable from the United States, and waive the right to appeal on all issues.

### **Application Made at the Conclusion of the Removal Proceeding**

An alien may request that the Immigration Judge grant voluntary departure at the end of the removal proceedings. To qualify, the alien must show:

- that he or she has the money to leave the United States, and that he or she intends to do so
- that he or she has had good moral character for five years prior to applying for voluntary departure
- that he or she has been physically present in the United States for at least one year before the Notice to Appear
- that he or she is not removable due to the commission of an aggravated felony, or due to national security reason
- that he or she was not previously granted voluntary departure after being found inadmissible for entering the United States without inspection
- that he or she has did not fail to leave the United States in the specified time period after being previously granted voluntary departure.

If granted, the alien will have to post a bond of at least \$5,000 within five days of the judge's order. The judge may grant the alien up to 60 days to leave the United States. The judge may also impose any other condition he or she believes is necessary to ensure the alien's timely departure.

If the alien wishes to apply for other forms of relief, such as asylum, he or she can only apply for voluntary departure at the conclusion of the removal proceedings.

### **Citizenship**

A U.S. citizen cannot be removed from the United States. For this reason, it may be worthwhile to explore whether a person placed in removal proceedings is actually a U.S. citizen due to the citizenship of his or her parents.

The laws addressing who has acquired citizenship through their parents has changed numerous times over the years. Which version of the law applies depends on when the person in

question was born. The legal requirements also depend on whether the person's parents were married, whether one or both of the parents were U.S. citizens, whether the U.S. citizen parent has resided in the United States for any period of time, and whether the person in question has ever resided in the United States. Two charts, one for children born outside the United States in wedlock, and one for children born outside the United States out of wedlock, attached to this report summarize the different rules.

During a removal proceeding, an alien is not technically applying for citizenship. Rather, the alien is attempting to prove to the Immigration Judge that he or she is actually a U.S. citizen. To do this, the alien will need to present evidence. Such evidence can include birth certificates for the alien as well as for the alien's parent. It may also include evidence addressing whether the alien or the alien's parents ever lived in the United States.

When it is not obvious that one of the parents is a U.S. citizen, it may be worthwhile to explore whether the grandparents were U.S. citizens.

### **Do I Need a Lawyer?**

The removal process is a complicated proceeding. The process involves responding to Government notices in a timely manner, gathering evidence and putting it together in such a way so as to convince an Immigration Judge that the alien either should not be removed, or that the judge should grant some form of relief from removal. Each forms of relief from removal has its own application process. Moreover, the Government is not required to provide a lawyer to any alien going through the removal process. If the alien can afford it, he or she would be well-advised to discuss his or her case with a legal professional knowledgeable of U.S. immigration law.

### **About the Author**

William J. Kovatch, Jr. worked as a staff attorney with the U.S. Government for almost eight years, concentrating on international law related issues. Bill has litigated complex cases before U.S. courts, NAFTA panels, and the World Trade Organization. Prior to his government work, Bill served as a judicial clerk with the District of Columbia Court of Appeals.

Bill earned his law degree from Temple University in 1998, and then his Master of Law degree, with a concentration in Transnational Law, in 2000. He holds a Master of Arts degree in Comparative Politics from the American University, and a Bachelor's degree from the University of Miami.





## Attachment 1

# Acquisition of Citizenship for Children Born in Wedlock Outside of the United States

Source – USCIS , Adjudicator's Field Manual: Redacted Public Version (posted at <http://www.uscis.gov> July 2007).



**Children Born Outside U.S. in Wedlock**

<b><u>PERIOD STEP 1</u></b>	<b><u>PARENTS STEP 2</u></b>	<b><u>USC PARENT STEP 3</u></b>	<b><u>CHILD STEP 4</u></b>
Period in which child was born.	Citizenship of the parents at time of child's birth.	Determine if residence requirement was met prior to the birth of the child. If yes, the child was a USC at birth.	Determine if child has lost U.S. citizenship. The child lost on the date it became impossible to meet the retention requirements.
Prior to 5/24/34	Either parent a USC*	U.S. citizen had resided in the U.S.	NONE
On/after 5/24/34 and prior to 1/13/41	Both USCs	One parent had resided in the U.S.	NONE
	One USC and one alien	USC parent had resided in the U.S.	** 5 years residence in the U.S. or its OLP between ages 13 and 21. (Must start before age 16.)
On/after 1/13/41 and prior to 12/24/52	One USC and one alien	USC had resided in the U.S. or OLP for 10 years, at least 5 of which were after age 16. <b><u>EXCEPTIONS</u></b> for honorable service in U.S. Armed Forces: 1. Between 12/7/41 & 12/31/46, 5 of the required 10 years must have been after age 12. 2. Between 1/1/47 & 12/24/52, 10 years physical presence, at least 5 of which were after age 14. <b>Note 3</b>	<b>OR</b> ** 2 years continuous physical presence in U.S. between ages of 14 and 28. (Must start before age 26.) <b>OR</b> ** NONE, if at time of child's birth, USC parent was employed by the <b><i>U.S. Government or a specified U.S. organization</i></b> . does not apply if parent used an exception. <b>Notes 1, 2, 4</b>
	Both USCs	One had resided in the U.S. or OLP <b>Note 3</b>	NONE
On/after 12/24/52 and prior to 11/14/86	Both USCs	One had resided in the U.S. or OLP <b>Note 3</b>	NONE
	One USC and one alien	USC physically present in U.S. or OLP 10 years, at least 5 after age 14. <b>Note 3</b>	NONE
On/after 11/14/86	Both USCs	One had resided in the U.S. or OLP <b>Note 3</b>	NONE
	One USC and one alien	USC physically present in U.S. or OLP 5 years, at least 2 after the age of 14. <b>Note 3</b>	NONE

**NOTES:**

1. Absence of less than 12 months in the aggregate will not break residence; absence of less than 60 days in the aggregate will not break continuity of physical presence. Honorable service in the U.S. Armed Forces counts as residence or physical presence.
2. A child is relieved from the retention requirements if, prior to his 18th birthday, the child begins to reside permanently in the U.S. and the alien parent naturalizes.
3. Includes periods spent abroad while employed by the U.S. government or an international organization OR as the dependent unmarried son or daughter member of the household of such employee.
4. Public Law 95-432 of October 10, 1978 repealed retention requirements prospectively only. Anyone born on or after 10/11/52 (i.e., not age 26 on 10/10/78) no longer had retention requirements.

\* Mother added because of Technical Amendments of 1994.

\*\* Retention requirements were repealed because of Technical Amendments of 1994, which made a process available for restoration.

## Attachment 2

# Acquisition of Citizenship for Children Born out of Wedlock Outside of the United States

Source – USCIS , Adjudicator's Field Manual: Redacted Public Version (posted at <http://www.uscis.gov> July 2007).



**Nationality Chart # 2**

**Children Born Outside the U.S. Out of Wedlock**

<b><i>Birth date of child</i></b>	<b>U.S. Citizen Mother</b>
Prior to 5/24/34	The child was born an alien. <b>HOWEVER</b> , the child became a U.S. citizen retroactively to birth on 01/13/41 if: 1. The mother had resided in the U.S. or OLP prior to the child's birth, <b>UNLESS</b> 2. The child was legitimated by <i>alien</i> father prior to 1/13/41.
On/after 5/24/34 & prior to 12/24/52	Mother had resided in the U.S. or OLP at any time prior to the child's birth.
On/after 12/24/52	Mother had one year of continuous physical present in the U.S. or OLP at any time prior to child's birth.
<b><i>Birth date of child</i></b>	<b>U.S. Citizen Father Legitimizes Child</b>
Prior to 5/24/34	1. Child legitimated at any time after birth under law of father's domicile. 2. USC parent(s) had the required residence at time of child's birth. 3. <b>See Chart 1</b> 4. No residence required for child to retain U.S. citizenship.
On/after 5/24/34 & prior to 1/13/41	1. Child legitimated at any time after birth under law of father's domicile. 2. USC parent(s) had the required residence at time of child's birth. 3. <b>See Chart 1</b> 4. Child met retention requirements. 5. <b>See Chart 1</b>
On/after 1/13/41 & prior to 12/24/52	1. Child legitimated before age 21 under law of father's or child's domicile. 2. USC parent(s) had the required residence at time of child's birth. 3. <b>See Chart 1</b> 4. Child met retention requirements. 5. <b>See Chart 1</b>
On/after 12/24/52 & prior to 11/14/86	1. Child legitimated before age 21 under law of father's or child's domicile. 2. Child legitimated <b>PRIOR</b> to 11/14/86 3. Child must be unmarried. 4. USC parent(s) had the required residence at time of child's birth. 5. <b>See Chart 1</b> 6. No residence required for child to retain U.S. citizenship.
<b><i>Relationship established</i></b>	<b>U.S. Citizen Father Legitimizes OR Acknowledges Child</b>
On/after 11/14/86	1. Child legitimated OR acknowledged before age 18*: · Legitimated under law of child's residence or domicile, <u>OR</u> · Paternity acknowledged in writing under oath, <u>OR</u> · Paternity established by court order. 2. Blood relationship established. 3. Father, unless deceased, has agreed in writing under oath to provide financial support until child reaches age 18 if not married to the mother. 4. Child must be unmarried. 5. USC parent(s) had the required residence at time of child's birth. 6. <b>See Chart 1</b> *A child 18 or over on 11/14/86 could use the old law. A child at least 15, but under 18, could use either law (DOB on/after 11/15/68)..