

7 FAM 1440

CONSULAR REPORT OF BIRTH OF A CITIZEN/NON-CITIZEN NATIONAL OF THE UNITED STATES

(CT:CON-284; 03-06-2009)
(Office of Origin: CA/OCS/PRI)

7 FAM 1441 INTRODUCTION

7 FAM 1441.1 Summary

(CT:CON-163; 04-10-2007)

- a. The Form FS-240 ,Consular Report of Birth Abroad of Citizen of the United States of America, (see Exemplars on Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS) Intranet), is a formal document certifying the acquisition of U.S. citizenship at birth of a person born abroad to a U.S. citizen parent(s). Under U.S. law (22 U.S.C. 2705) it is proof of U.S. citizenship—in legal terms, it establishes a “prima facie case” of U.S. citizenship. Records of the issuance of Form FS-240 are maintained in the Passport Information Electronic Records System (PIERS), feature. Vital Records in PIERS are proof of U.S. citizenship and may be accessed by consular officers and passport specialists for emergency verification of citizenship. (See 7 FAM 1300 Appendix I)
- b. The Form FS-240 is not a birth certificate, such as is issued by a government-authorized bureau or office of vital statistics, because consular officers are not authorized to assume a foreign local or state vital statistics function. The Form FS-240 is a consular declaration of the fact of acquisition of U.S. citizenship at birth based upon:
 - (1) The certification of, or attestation to, the facts of birth by a legally authorized local official in the place where the birth occurred;
 - (2) The affidavit executed by the parent(s) or legal guardian(s) or other evidence regarding the physical presence of the U.S. citizen/national parent(s), or in the case of two citizen parents, residence, necessary to transmit U.S. citizenship/non-citizen nationality to the child;
 - (3) Evidence of the biological relationship between the U.S. citizen and

the child;

- (4) Evidence of the legal relationship between the U.S. citizen and the child, such as proof of the U.S. citizen/national parent(s)'s citizenship and marriage or for births out of wedlock, legitimation in accordance with Section 309 INA (8 U.S.C. 1409) or predecessor statute, and an affidavit of parentage and financial support if the child is born out of wedlock to a U.S. citizen father;
 - (5) Evidence of citizenship/nationality of the U.S. citizen/national parent(s); and
 - (6) Consular adjudication of the child's claim to U.S. citizenship. (See 7 FAM 1100).
- c. The purpose of issuing a Form FS-240 is to provide an accurate record, which has been fully documented, of the acquisition of U.S. citizenship at birth by a child born in a foreign state that can be used by that citizen throughout life.
- d. Forms related to the Form FS-240 procedure include:

Current Forms ...

Form DS-2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America.

Form DS-1350, Certification of Birth (Issued by Passport Services' Vital Records Section) (see Exemplars on CA/OCS Intranet).

Form FS-240, Consular Report of Birth Abroad of a Citizen of the United States of America (Issued by U.S. Embassies and Consulates Abroad) (see Exemplars on CA/OCS Intranet).

Previous Forms

Form FS-545, Former Number for Certification of Birth (Prior to 1990, consular officers abroad issued the Certification of Birth).

Form FS-579, Former Number for Application for Consular Report of Birth Abroad of a Citizen of the United States of America.

The previous version of Form FS-240 resembles the application Form DS-2029 more than it does the current Form FS-240. Either Form FS-240 version may still be accepted as evidence of acquisition of citizenship. 7 FAM 1330 will provide guidance regarding evidence/proof of U.S. citizenship, when published.

The former version of the Form DS-1350 looked just like the former Form FS-545.

NOTE: Consular Report of Birth Abroad of a Citizen of the United States of America and certifications of birth issued before November 1990 are still

valid, absent any evidence of expatriation by the registrant, or other information that calls into question the U.S. citizenship claim, if the bearer's identity is satisfactorily established. The reports remain valid until revoked by CA/PPT/L/LA. (See 7 FAM 1441.6, 7 FAM 1380). Consular officers cannot simply "void" or "cancel" previously issued Form FS-240s or Form DS-1350s.

7 FAM 1441.2 Social Security Number (SSN) Applications For U.S. Citizen Minors Born Abroad

(CT:CON-163; 04-10-2007)

- a. The Social Security Administration (SSA) has informed the Department that it can no longer accept Form DS-2029 as an application for a SSN. This change was effective November 20, 2006.
- b. 7 FAM 530 will reflect the new SSA requirements when published.
- c. The Social Security Web page provides guidance on completion of Form SS-5-FS, Application for a Social Security Card .
- d. For information about SSA requirements on establishing the identity of a minor born abroad applying for a Social Security number using Form SS-5-FS, (see 7 FAM 530) (under development).

SSA

New Rule For Getting a Social Security Number and Card

SSA Publication 10120

SSA Publication 10023

SSA 00203.200 Evidence of Identity for an SSN Card

Baby's First Number

7 FAM 1441.3 Role of the Consular Officer

(CT:CON-163; 04-10-2007)

The consular officer is responsible for adjudication of a U.S. citizenship claim for applicants for a Form FS-240. This includes assessment of the validity of the citizenship claim (see 7 FAM 1100), review of the evidence of identity (see 7 FAM 1320) and evidence of citizenship/non-citizen nationality (see 7 FAM 1330).

7 FAM 1441.4 Role of CA/OCS

(CT:CON-163; 04-10-2007)

- a. Consular Affairs, Overseas Citizen Services, American Citizen Services (CA/OCS/ACS) can assist posts in adjudication of Form DS-2029,.
- b. Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI) (ASKPRI@state.gov) can assist with analysis and advisory opinion about complex legal questions. PRI also reconsiders previous findings of disapproval of a Form FS-240 and review of a case for possible revocation of a Form FS-240 before it is directed to Office of Legal Affairs and Law Enforcement Liaison, Legal Affairs Division (CA/PPT/L/LA) for revocation. (See 7 FAM 1441.6 and 7 FAM 1380).

7 FAM 1441.5 Passport Services Vital Records Section

(CT:CON-163; 04-10-2007)

- a. The Vital Records Section of Passport Services (CA/PPT/TO/RS/RP/VR) is an integral part of the Records Services Division of Passport Services. The Section's mission is to manage the various vital records (non-passport) under the purview of the Bureau of Consular Affairs (CA) and to issue certified or authenticated copies of such records pursuant to authorized requests. The Vital Records Section also affixes apostilles on consular birth and death records in accordance with The Hague Legalization Convention. (See 7 FAM 876)
- b. Delegation of Authority: Under Delegation of Authority Number 143 from the Under Secretary for Management dated October 30, 1981, the Assistant Secretary for CA is authorized to issue certificates of authentication and certifications under the seal of the Department of State and in the name of the Secretary of State or the Acting Secretary of State, for documents maintained by Passport Services. This authority has been redelegated to officers in Passport Services Vital Records Section.
- c. Passport Services Vital Record Section Review of Issued Form FS-240: The Vital Records Section of Passport Services reviews the citizenship status of those requesting authenticated copies of an issued Form FS-240 or Form DS-1350 to ensure that the subject of the record is still a U.S. citizen. Passport Services' Vital Records Section denies the release of records when it determines that the subject is not a U.S. citizen or that the requester is not eligible to receive the information under the Freedom of Information Act (FOIA) or Privacy Act (PA). Vital Records does not revoke or cancel a Form FS-240. That is the responsibility of CA/PPT/L/LA after initial analysis by CA/OCS/PRI. (See 1 FAM 253.3 and 7 FAM 1441.6 and 7 FAM 1380)
- d. Correction, Amendment, Certification and Replacement:
 - (1) The Vital Records Section of Passport Services amends and/or

corrects Form FS-240 to reflect name and other vital data changes due to adoptions, or other legal alterations, as well as typographic errors. (See 7 FAM 1447)

- (2) Serving as the registrar of vital records for the Department, the Section issues certified replacements of the Form FS-240, Consular Report of Birth. It also issues the Form DS-1350, which is available in multiple copies. (See 7 FAM 1448) As appropriate, records may be excluded or excised prior to release in accordance with the FOIA and PA. (See 7 FAM 060 and 7 FAM 1300 Appendix J, (under development)) Form FS-240 and Form DS-1350 are not excised.
 - (3) 7 FAM 1446.3-1 provides guidance regarding the role of posts in correcting errors discovered after a Form FS-240 is prepared but before it is sent to the Department for filing. Errors discovered after the application has been sent to the Department must be corrected by using the Vital Records Section of Passport Services amendment procedure.
- e. Consular posts in need of assistance from the Vital Records Section should direct their inquiries to their CA/OCS/ACS contacts. The CA/OCS/ACS officer will make the initial contact with the Vital Records Section. This will save posts from searching for the appropriate Vital Records officer or sending blanket e-mails seeking assistance.
- f. Panama Canal Zone Vital Records: Persons seeking consular vital records or Panama Canal Zone civil records can write to the Vital Records Section at:
- U.S. Department of State
Passport Services
Vital Records Section
1111 19th Street, NW, Suite 510
Washington, DC 20522-1705
- g. Requests should include all available information pertaining to the event or document desired. In addition to a return address, the requester should include a daytime telephone number or e-mail address in the event more information is required. The written request must be notarized and include a photocopy of the requester's valid drivers license or other government-issued identification card. (See 7 FAM 1448) Appropriate fees must be provided by check or money order, payable through a U.S. bank. Current fees, along with additional information, are available on the Bureau of Consular Affairs Internet page or by calling the Passport Services Vital Records Section's automated line at 202-955-0307.

7 FAM 1441.6 Role of The Bureau of Consular Affairs, Passport Services, Office of Legal Affairs and Law Enforcement Liaison, Legal Affairs Division (CA/PPT/L/LA)

(CT:CON-284; 03-06-2009)

- a. CA/PPT/L/LA is responsible for revocation of a Form FS-240 or Form DS-1350. (See 7 FAM 1380 for guidance about revocation of a passport).
- b. Revocation of someone's U.S. citizenship documentation due to non-acquisition is a serious matter. The Bureau of Consular Affairs (CA) has established safeguards to ensure that careful consideration is given to such cases before revocation is recommended or approved. This includes analysis by:
 - (1) The officer initially reviewing the case, which may be at a post or at a passport office, agency or center, or the Passport Services Vital Records Section;
 - (2) CA/OCS/ACS and CA/OCS/PRI; and
 - (3) CA/PPT/L/LA.
- c. Before CA/PPT/L/LA will consider revocation of a Form FS-240:
 - (1) The post or passport office/agency/center recommending the revocation must prepare a summary of the facts of the case and submit to CA/OCS/PRI (ASKPRI@state.gov) copies of relevant documents (except documents available in PIERS or the American Citizen Services (ACS) system, which PRI can readily retrieve) and a summary of the basis for the post's conclusions;
 - (2) CA/OCS/PRI (ASKPRI@state.gov) will conduct a legal analysis of the recommendations submitted by the official who initially determined the document may have been issued in error, and prepare a memorandum from the Director of CA/OCS/PRI to the Director of CA/PPT/L/LA, cleared by the Director of CA/OCS/ACS. (See 7 FAM 1380 and 1 FAM 253.3) If PRI does not conclude that the Form FS-240 should be revoked, PRI will prepare an advisory opinion to the post of office that recommended the revocation explaining our conclusions; and
 - (3) CA/PPT/L/LA will review the legal analysis prepared by CA/OCS/PRI and if it concurs will prepare the text of the revocation letter notifying the bearer that the Form FS-240 has been revoked, enter the appropriate lookout in the Consular Lookout and Support System (CLASS), and notify the Vital Records Section of Passport Services to properly annotate the permanent record. If a passport

was also issued to the individual, CA/PPT/L/LA will follow the procedures in 7 FAM 1380 for revocation of the passport.

- d. CA/PPT/L/LA also coordinates with the Division for Vital Statistics, National Center for Health Statistics at the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services. (See 7 FAM 1414 on issues related to passports and birth certificates).

7 FAM 1442 AUTHORITY

(CT:CON-163; 04-10-2007)

- a. Authority for consular officers to issue a Form FS-240 is derived from the Vienna Convention on Consular Relations (VCCR). Article 5, paragraphs (d) and (f) of the VCCR provide:

Consular functions include:

“(d) issuing passports and travel documents to nationals of the sending State;

(f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State.”

- b. 22 U.S.C. 2705 provides that a Form FS-240, issued by a consular officer to document a citizen born abroad shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General or by a court having naturalization jurisdiction.” 8 U.S.C. 1504 (Section 361 INA) authorizes the Secretary of State to cancel any Report of Birth Abroad of a Citizen of the United States of America, or certified copy thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained from, or was created through, illegality or fraud.
- c. U.S. Regulations: Department of State regulations pertaining to Form FS-240, Consular Report of Birth published in 22 CFR Part 50.5 through 22 CFR 50.8.

7 FAM 1443 WHO CAN APPLY

7 FAM 1443.1 Who is Eligible to Apply

(CT:CON-163; 04-10-2007)

- a. A consular officer may issue a Form FS-240 for any child who is eligible

for it upon application made at any time before the child's 18th birthday. Requests for application for a Form FS-240 after the age of 18 should be directed to CA/OCS/PRI (ASKPRI@state.gov).

- b. The child's parent(s) or legal guardian(s) must complete Form DS-2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America. If there is no parent or guardian, CA/OCS/PRI, in consultation with CA/PPT and L/CA, will determine who may apply on behalf of the minor.

NOTE: This exception is generally limited to extraordinary cases involving death of the entire family, except the child.
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- c. If approved, the revised Form FS-240 is issued. The form is a two-part set consisting of the original Form FS-240 and a Department file copy.
- d. The Form DS-2029 is to be executed only by a child's parent(s) or legal guardian(s). Either parent, including an alien parent, may execute the application. No other persons are authorized to apply on a child's behalf, except with notarized authorization from the child's parent(s) or guardian, or with specific case-by-case authorization from CA/OCS/PRI (ASKPRI@state.gov) in exceptional cases. For abandoned or unaccompanied minors, CA/OCS/PRI may authorize a consular officer to execute the application.
- e. Protecting the Form FS-240 against fraudulent use is essential. For this reason, issue only one original of the report. (See 7 FAM 1448).
- f. The Form FS-240, in certain circumstances, now may be amended (see 7 FAM 1447) or replaced (see 7 FAM 1448).
- g. Custody Dispute: There is no two-parent signature requirement for a Form FS-240 with respect to permission to issue. 7 FAM 1130 provides guidance regarding adjudication of a citizenship claim. In the case of a child involved in a custody dispute, either parent may apply for the Form FS-240 regardless of which parent has been awarded custody. In the rare event that separate applications are received from both parents, as in the case of a divorce, approve the application received first. Once the Form FS-240 has been issued, the other parent may obtain a Certification of Report of Birth. (See 7 FAM 1446.2-5). Direct questions about a Form FS-240 and a child custody dispute to CA/OCS/PRI (ASKPRI@State.gov).

7 FAM 1443.2 Adopted Children

(CT:CON-163; 04-10-2007)

- a. Alien Children Adopted by U.S. Citizens: Alien children adopted by U.S. citizens are not eligible for a Form FS-240. If the adopted child later acquires U.S. citizenship under the Child Citizenship Act of 2000 (see 7

FAM 1150), the child may be eligible for a U.S. passport and a Certificate of Citizenship, but not for a Form FS-240.

- b. **Citizen Child of U.S. Citizen Parent Adopted by Others:** A child who is born abroad to a U.S. citizen parent or parents and then adopted may be eligible for a Form FS-240, if the birth parent(s) cooperate in providing documentary evidence to establish the citizenship claim. (See 7 FAM 1330). The application could be initiated by the adoptive parents, working with the U.S. citizen birth parent(s). The U.S. citizenship of a child whose birth is being reported depends on the existence of a legal and a genetic relationship between the child and parent(s) through whom citizenship is being claimed. (See 7 FAM 1131.4). When an application is initiated for an adopted child, the consular officer must be satisfied that the evidence presented establishes a valid claim to U.S. citizenship through the biological parent(s). In the case of the biological child of an unmarried U.S. citizen father being adopted by two foreign nationals, the biological father would have to execute the affidavit of financial support in order for the child to acquire U.S. citizenship under Section 301(g) INA as made applicable by Section 309 INA. The fact that the prospective adoptive parents demonstrate intent to support the child does not obviate the 309(a) requirements.
 - (1) The Form DS-2029 will list the names of the child's biological parents, since nationality is derived from the biological U.S. citizen parent(s), not the adoptive parents. This establishes a clear citizenship record should any questions arise later.
 - (2) However, the names of the adoptive parents can be listed on the actual Form FS-240 provided satisfactory evidence of adoption has been presented. The name on the Form FS-240 or Form DS-1350 will be the birth name unless the adoption decree or other court order reflects a name change.
- c. When the officer is not convinced that a genetic relationship exists between the child and the person(s) named on the application as the biological parent(s), refer to 7 FAM 1131.5 and consult CA/OCS/PRI (ASKPRI@state.gov).
- d. See 7 FAM 1446.2-2 regarding listing of parents' names on the Form FS-240.

7 FAM 1443.3 Stillborn Children and Children Who Die Shortly After Birth

(CT:CON-184; 09-05-2007)

- a. 7 FAM 250 Appendix C and 7 FAM 275 provide further guidance regarding the consular services available in these death cases.

- b. Posts may be called upon to assist U.S. citizen families abroad when birth results in stillborn infants or when infants die shortly after birth. The term "perinatal death" is used to refer to both stillborn infants and infants who die shortly after birth (under one week – 7 days). Neonatal deaths are variously defined as the death of a live-born infant during the first day, the first week, the first 27 days, or the first 28 days of life. Stillbirth occurs in about one in 200 pregnancies in the United States.
- c. When fetal death occurs after 20 weeks of pregnancy, it is referred to as stillbirth or Sudden Antenatal Death Syndrome. A fetal death prior to 20 weeks is a miscarriage. Different countries have different standards regarding this distinction, which can determine the host country policy on the issuance of a birth or death certificate.

For Example:

In the United Kingdom, this term is used for an infant delivered showing no signs of life after 24 weeks gestation.

- d. Perinatal death in the United States alone can affect as many as 40,000 families annually. While the causes may be many, the experience of loss is nearly universal. "Perinatal bereavement" is the grief experienced in and around the time of birth, and the initial synthesis of the grieving process may last two years or more. In such cases, families should be provided with compassionate and respectful consular assistance. You may also wish to direct them to a U.S. or locally based support organization.

See:

Compassionate Friends

SANDS Stillbirth and Neonatal Death Society United Kingdom

- e. Certificates of Birth Resulting in Stillbirth and Certificates of Stillbirth:
 - (1) Many U.S. and foreign jurisdictions now have provisions for the issuance of a civil record in these cases, in the form of a Certificate of Birth Resulting in Stillbirth or a Certificate of Stillbirth, whereas other jurisdictions only provide for the issuance of a fetal death certificate.
 - (2) At the present time, there is no specialized form for a comparable Consular Report of Stillbirth. When CA/OCS/PRI undertakes revision of Form FS-240, Form DS-2029 and Form DS-1350 after the Centers for Disease Control and Prevention (CDC) publish new rules regarding minimum standards for issuance of birth and death certificates in Fall-Winter 2007-2008 to implement the Intelligence Reform and Terrorist Prevention Act Of 2004 (Public Law 108-458),

this option will be incorporated into the redesign, along with other elements. (See 7 FAM 1415).

- (3) In foreign jurisdictions that issue a civil Certificate of Birth Resulting in Stillbirth or a Certificate of Stillbirth or comparable document, posts may annotate the remarks section of the Form DS-2029 with the facts of the case to reflect that the document is a Consular Report of Birth Resulting in Stillbirth. Posts may use a typewriter to indicate on the Form DS-240 that the document issued is a Consular Report of Stillbirth.
- (4) Adjudication of citizenship in such a case should be done with a minimum of inconvenience and burden to the family. In most cases, simple verification of the citizen parent(s)' passport should be sufficient. When in doubt, consult CA/OCS/PRI (ASKPRI@state.gov).

U.S. State Government Certificates of Birth Resulting in Still Birth

Arizona Certificates of Birth Resulting in Still Birth (2001)

Indiana Certificates of Birth Resulting in Still Birth (2002)

Louisiana Certificates of Birth Resulting in Still Birth (2003)

Maryland Certificates of Birth Resulting in Still Birth (2003)

Massachusetts Certificates of Birth Resulting in Still Birth (2002)

Minnesota Certificates of Birth Resulting in Still Birth

Missouri (2004)

New Jersey Certificates of Birth Resulting in Still Birth (2004)

South Carolina Certificates of Birth Resulting in Stillbirth (2004)

Texas Certificates of Birth Resulting in Still Birth (2005)

Utah Certificates of Birth Resulting in Still Birth (2002)

Virginia Certificates of Birth Resulting in Still Birth (2003)

Wisconsin Legislature Certificates of Birth Resulting in Still Birth (2004)

U.S. States That Issue Certificates of Stillbirth

Colorado (2004)

Delaware (2004)

Idaho

Illinois

Iowa

Kentucky

Michigan (2002)

Ohio

Oregon (2006)

Foreign Government Sites Certificates of Fetal Still Birth or Death

U.K. General Register Office (United Kingdom)

U.K. Registration of Still Births

Scotland General Register – Registering a Stillbirth

Canada Stillbirth Database

- f. Foreign Jurisdictions That Do Not Issue Certificate of Birth Resulting in Stillbirth or Certificate of Stillbirth: When the stillbirth occurs in a jurisdiction that does not issue a Certificate of Birth Resulting in Stillbirth or a Certificate of Stillbirth, posts may issue a Form DS-2060, Report of Death of an American Citizen Abroad, with appropriate annotation in the remarks section reflecting the stillbirth. This should be based on a doctor's sworn statement of the facts or hospital certificate if no civil document exists. Adjudication of citizenship in such a case should be done with a minimum of inconvenience and burden to the family. In most cases, simple verification of the citizen parent(s)' passport should be sufficient. When in doubt, consult CA/OCS/PRI (ASKPRI@state.gov). (See 7 FAM 275 and 7 FAM 250 Appendix C).
- g. Disposition of Fetal Remains: 7 FAM 275 and 7 FAM 200 Appendix C provide guidance regarding consular documentation in such cases, and assistance to families in recovering the remains if permitted under local law.

See:

Centers for Disease Control and Prevention

- **National Center for Health Statistics – Standard Certificates of Live Birth, Death and Fetal Death Report**

Fetal Death Data

7 FAM 1444 HOW TO APPLY

7 FAM 1444.1 Personal Appearance

(CT:CON-163; 04-10-2007)

- a. The Form DS-2029 is usually made at the same time as a Form DS-11 Passport Application.

- b. **Minor Should Appear With Parent:** The personal appearance of the child on whose behalf the report of birth is requested may be required at the consular officer's discretion (for example, when the consular officer suspects that the child is deceased or that the child's true identity is not being reported). Minors of age 13 or above generally should be required to appear with the requesting parent(s) or guardian(s). When in doubt, consult ASKPRI@state.gov.
- c. **Medical Evacuation of the Child:** When the infant or child is seriously ill and the subject of a medical evacuation, a personal appearance may not be possible. Consult CA/OCS/PRI (ASKPRI@state.gov) in extraordinary cases. Often it may be necessary for the family to pursue the Form FS-240 later, after the medical evacuation.

7 FAM 1444.2 When to Apply

(CT:CON-163; 04-10-2007)

- a. **General Rule: Apply Before the Age of 18:** The Form DS-2029 may be made at any time before the child's eighteenth birthday.
- b. **Delayed Reporting of the Birth of a U.S. Citizen Abroad Not Preferable:** Because the availability and/or reliability of the information and supporting evidence presented diminishes with time, it is desirable that the application be made as soon after birth as possible. Accordingly, posts should impress upon U.S. citizen parents resident in their consular districts the advantage of a prompt reporting of the birth of their children. Delay in reporting could cause inconvenience and possibly deprive a child of this valuable document.
- c. **After Age 18:** Refer all Form DS-2029 request made on or after a child's eighteenth birthday to CA/OCS/PRI (ASKPRI@state.gov). The request should be accompanied by a statement from the individual applying for the document explaining why the birth was not reported earlier. Occasionally the Department has authorized issuance when the person is over the age of 18, generally for applications initiated prior to the age of 18 or in extraordinary circumstances such as disasters/evacuations. Otherwise, an overseas applicant whose citizenship is not adjudicated until after age 18 is issued only a U.S. passport, but not a Form FS-240.

7 FAM 1444.3 Where to Apply

7 FAM 1444.3-1 Registering Within Consular District

(CT:CON-163; 04-10-2007)

- a. **Applications Normally Made In Consular District Where Birth Occurred:** Form DS-2029 is normally filed in the consular district in which the birth

occurred. It is permissible, however, for a birth that occurred in one consular district to be reported in another.

- b. **Post Closures:** When there is a post closure, (CA/OCS and CA/EX) (Bureau of Consular Affairs, Office of the Executive Director) normally designates another post to handle consular issues previously covered by the closed post.
- c. **Applications Normally Executed Abroad:** The Form DS-2029 is usually executed abroad. 22 CFR 50.6 provides for issuance of certain Form FS-240 during time of war.
- d. **Family in the United States, Child Has Never Been Documented as A U.S. Citizen:**
 - (1) Cases occasionally arise in which a family that had lived abroad for a period of time returns to the United States for residence. A child was born during the period of residence abroad, but the parents neglected to register the birth at the consular post. The question then arises as to whether the parents can register the birth at the post even though the child is physically present in the United States.
 - (2) In these cases the parents usually would have obtained a passport for the child, but in rare cases this category could also include persons who came to the United States with a child on a non immigrant visa. These cases usually involve medical emergencies in which the parents do not have time or lack full documentation to complete the process. (See 7 FAM 1133.5-20 and 9 FAM 40.2 N1).
 - (3) Parents may execute an application for a Form FS-240 before a notary public in the United States and transmit the application, together with the supporting evidence needed to establish the citizenship claim and identity and the requisite fees to the U.S. embassy or consulate in whose consular district the child was born.
 - (4) The post should consult with CA/OCS/PRI (ASKPRI@state.gov) if any unusual adjudication issues arise.
- e. **U.S. Citizen Consular Agents and U.S. Military Acceptance Agents:** In most instances, an Form DS-2029 is made at a U.S. embassy or consulate. In certain circumstances, however, the application is initiated and the jurat (oath) administered before a person other than a consular officer. It is then forwarded to the appropriate post for completion and issuance of the Form FS-240. This most often occurs in cases of children born in remote locations or U.S. military hospitals and in cases where the applicant finds it impossible to travel to the post to report the birth, or such travel would entail extraordinary hardship, particularly where the health of the child is at issue. The consular agent or U.S. military Acceptance Agent must be a U.S. citizen/national in order to accept a

Form DS-2029, since this requires verification of citizenship and identity.

- f. Protecting Powers: Foreign diplomatic and consular officers acting as protecting powers to the United States (see 7 FAM 1000 Third Country Representation) are authorized to accept Form DS-2029 in those designated jurisdictions as specified in the protecting power agreement.

7 FAM 1444.3-2 Registering Outside Consular District in Country of Birth

(CT:CON-163; 04-10-2007)

For a variety of reasons, parents sometimes find it convenient, or necessary, to report the birth to a post located in a district other than the one in which the child was born. When this happens two different procedures may apply.

- (1) Another Consular District, Same Country: If the child's birth has occurred in another consular district, but in the same country, the consular officer may proceed to complete and approve the Form FS-240, provided there are no fraud concerns. If the consular officer does not conclude it is appropriate to approve a Form FS-240 under these circumstances, or for other reasons, the consular officer should so advise the originating post and CA/OCS/ACS, stating the reason for refusal.
- (2) Another Country: If the child's birth occurred in another country, use the following procedure.
 - (a) The application for the Form FS-240 is prepared by the parent(s) or guardian(s) completing items 1 through 15 of the form, and the oath or affirmation is administered by the consular officer in item 16. The seal of the embassy or consulate must be included in item 16.
 - (b) Forward the application together with all supporting documents to the consular officer in the district where the birth occurred.
 - (c) The officer accepting the application collects the prescribed fee. The officer who accepted the application accounts for the fee and transmits the application to the post in the consular district where the birth occurred.
 - (d) The consular officer to whom the application has been transmitted examines it and lists the supporting documents in the space provided at the bottom of the application.
 - (e) Approval: If the consular officer in the district where the birth occurred approves the application, that officer:
 - Completes the approval block (item 18) of the form;

- Issues the Form FS-240;
- Forwards the issued Form FS-240 application and file copy of the Form FS-240 to the Department for filing at the following address;, and

U.S. Department of State
Passport Services
Records Services Division
1111 19th Street, N.W., Suite 560
Washington, D.C. 20522-1705

- The consular officer also transmits the completed Form FS-240 to the parent(s) or legal guardian(s) or to the originating post.
- (f) Take Appropriate Anti-Fraud Measures: If the post concludes that the claim to citizenship is not established or the identity of the subject is in question, follow established anti-fraud procedures, conferring with CA/FPP (Consular Affairs, Fraud Prevention Programs) as appropriate
- (g) Disapproval: Take appropriate action to enter the name in the CLASS (Consular Lookout and Support System) system. Inform the parents in writing that the application is disapproved. The family may, of course, submit additional evidence at any time, and request reconsideration of the case by CA/OCS/PRI (ASKPRI@state.gov). The disapproval letter should be made part of the records sent to Passport Services for record keeping. (See 7 FAM 1300 Appendix H, under development).

7 FAM 1444.4 No U.S. Mission in Country of Birth - Application Outside of Country of Birth

(CT:CON-163; 04-10-2007)

- a. If a child is born outside the country in which the application for a Form FS-240 is made, the consular officer generally should follow the procedures in 7 FAM 1444.3-2 (b).
- b. However, in certain rare instances, CA/OCS may authorize approval of a Form FS-240 at a consular post outside the country in which the birth occurred, generally when there is no U.S. diplomatic or consular representation in the country of birth, and the United States is not represented by a third country (See 7 FAM 1000). CA/OCS may authorize approval of the Form FS-240 by the consular post that has been designated as having consular authority over the country of birth. For

additional guidance on this subject consult CA/OCS/PRI (ASKPRI@state.gov).

- c. When a birth takes place in a country in which the United States has no diplomatic or consular representative, but maintains an Interests Section in the embassy of a third country, the Interests Section accepts the report, collects the fee, and forwards the application and supporting documents to the appropriate post in the third country for adjudication. (See 7 FAM 1444.3-1 f).

7 FAM 1445 FORM DS-2029, APPLICATION FOR CONSULAR REPORT OF BIRTH ABROAD OF A CITIZEN OF THE UNITED STATES OF AMERICA

7 FAM 1445.1 Completing Form DS-2029

(CT:CON-163; 04-10-2007)

Parents or legal guardians must apply for a Form FS-240 on Form DS-2029. The first page of the form is the application for a Form FS-240. The parent is to complete this portion through item 1-15, with consular assistance as needed.

7 FAM 1445.2 Guide for Completing a Form DS-2029

(CT:CON-284; 03-06-2009)

- a. Application for a Form FS-240 must be made using Form DS-2029. (See 7 FAM 1440 Appendix A).
- b. Application for a Consular Report of Birth Abroad of a Citizen of the United States of America Adjudication Chart: The following summarizes the documentary and adjudication issues related to the Form DS-2029. Consular officers should be familiar with the provisions of 7 FAM 1100 and the referenced appendices for 7 FAM 1300 regarding names, place of birth, and the CLASS (Consular Lookout and Support System), as well as the proviso in 7 FAM 1420 and 7 FAM 1300 Appendix D concerning geographic place names.
- c. Part A. This section is to be completed by the applicant parent or legal guardian. Items 1-15 below are annotated instructions that appear on the reverse side of the Form DS-2029 . The parent or legal guardian should complete this application. The numbers correspond to the

numbered items on the Form DS-2029.

- (1) Line 1: Name of Child in Full: Enter the name of the child as it is recorded on the local birth certificate. Translations of foreign names are acceptable. (See 7 FAM 1300 Appendix C Names to be used in Passports for detailed discussion about names).
 - (a) For children under the age of 5, if a parent reporting the birth claims that the local birth record shows an erroneous given name, the parent should be requested to obtain an amended, local birth certificate. If amendment of the local birth certificate would entail unusual hardship, or is not provided for under local law, the correct given name may be used on the application when the parent reporting the birth provides an explanatory affidavit and supporting evidence reflecting exclusive use of the correct name.
 - (b) This accommodation usually relates to situations in which there is a misspelling of the name on the local birth record, or where the family added or dropped a given name after the birth was registered with local authorities.
 - (c) This alternative should not be used for children over the age of five without a review of public documents regarding their identity, such as school ID cards, school records, insurance cards, etc. When in doubt, consult CA/OCS/ACS, which will confer with CA/OCS/PRI for consistency.
 - (d) When the child's name has been changed by adoption or by other court action, the new name may be recorded on the application only if it is substantiated by an adoption decree or other documentary evidence of the court action. If a parent requests a different surname than the one appearing on the birth record, consult 7 FAM 1445.5-4. (See 7 FAM 1446.2-2 and 7 FAM 1300 Appendix C.
- (2) Line 2: Sex: Mark (X) on the box to indicate whether the child is male or female.
- (3) Line 3: Date of Birth: Write the month in full; e.g., September 1, 2005. Do not abbreviate.
- (4) Line 4: Hour: Strike out either A.M. or P.M. and enter the conventional local time as shown on the birth certificate, e.g., 3:00 P.M. (Do not show 15:00 hours). If the time of birth is not shown on the local record, enter the time as given by the parent. If the time is not known, enter the words "not known."
- (5) Line 5: Place of Birth in Full (City, State, Country): Enter only the name of the city, state (or province if applicable) and country, not

the name of the hospital. Parents do have the option of listing city of birth only. (See 7 FAM 1300 Appendix D and 7 FAM 1420, 7 FAM 1422).

NOTE 1: Listing One Parent: Items 6-14 request identical information from both parents. 7 FAM 1445.4-7 provides guidance regarding circumstances when only one parent's name should be listed.

NOTE 2: Listing Two Parents of the Same Gender: At the present time, the Form FS-240 cannot be issued listing two parents of the same gender because the current design of the form provides for "Mother" and "Father." The Form FS-240 is a citizenship adjudication based on both a legal and genetic relationship to the child under Section 301 INA and 309 INA (8 U.S.C. 1401, 8 U.S.C. 1409). (See 7 FAM 1445.4-7 and 7 FAM 1330). When the forms associated with the reporting of the birth of a U.S. citizen abroad are amended following the publication by the Centers for Disease Control and Prevention of new rules regarding birth certificates, the Bureau of Consular Affairs will undertake to redesign the forms with Parent/Parent designations.

- (6) Line 6: Full Name: Enter only the names of the parents in accordance with 7 FAM 1445.4-1 and 7 FAM 1300 Appendix C. Include the maiden name of the mother.

Father	Mother
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- (7) Line 7: Date of Birth: This line requests the dates of birth of both parents. Write the month in full; e.g., October 14, 2003. Do not abbreviate.

Father	Mother
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- (8) Line 8: Place of Birth: This line requests the places of birth of both parents. Enter only the city, state, country.

NOTE: 7 FAM 1420 proviso and the City of Birth only option. If a parent attempts to list a city and country affiliation not approved by the Department, the consular officer should cross out the inappropriate reference. (See 7 FAM 1300 Appendix D).

Father	Mother
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- (9) Line 9: Present Address: This line requests the present address for both parents. Use the address that is current at the time the application is executed.

Father	Mother
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- (10) Line 10: Address in the United States: Enter either the address at which parents will be residing or receiving mail upon arrival or return to the United States, or the last address in the United States. The address should be written out in every instance. Do not write "same" or "Same as Husband."

Father	Mother
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- (11) Line 11: Evidence of U.S. Citizenship (If Alien, show nationality): List type of document, document number, date and place of issuance and name of individual as recorded on the document (if different than item 6). If the citizenship evidence of the U.S. citizen parent is not presented, write "None." If parent is an alien, indicate nationality. List the parent(s) name as it appears on the passport or national identity card and the child's birth certificate. If the parent has a U.S. birth certificate, but no U.S. passport but the government-issued identity document is in a name that differs from the name on the birth certificate (see 7 FAM 1300 Appendix C the name of the parent should be the name that best identifies the parent.

Father	Mother
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- (12) Line 12: Precise Periods of Physical Presence in United States.
- (a) This item needs to be completed only if one of the parents is not a U.S. citizen, so that citizenship is transmitted through the sole U.S. citizen parent. Statements on additional paper should also be sworn and subscribed before the consular official.
 - (b) Notwithstanding the foregoing, in the case of a child born to two U.S. citizen parents, the consular officer may require this item to be completed on behalf of one (or both) of the parents if there is any question that neither of the parents ever resided in the United States.
 - (c) Except in the case of an individual who has rarely traveled outside the United States, completion of this item generally requires the use of additional paper, which should be attached to Form DS-2029 with the words "see attached" entered in item 12. Statements on additional paper should also be sworn and subscribed before the consular official. "N/A" (Not Applicable) may be entered in this item for a non-U.S. citizen parent.
 - (d) Write actual physical presence in the United States prior to the child's birth in exact detail. Do not include a period that

will be mentioned in item 13. Vacation trips abroad, schooling in foreign countries, and any other brief absences cannot be counted as physical presence in the United States. (See 7 FAM 1130).

- (e) When doubt exists that the parent’s physical presence in the United States is sufficient to transmit citizenship, documentary evidence of the claimed physical presence is required.

Father	Mother
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(13) Line 13: Precise Periods Abroad in U.S. Armed Forces, In Other U.S. Government Employment, With Qualifying International Organization, or as Dependent of Such Person (Specify): This section needs to be completed only if acquisition of citizenship is dependent upon these periods. Official written evidence from the appropriate governmental department or international organization must be presented to support any critical periods shown. If acquisition is not dependent upon these periods, N/A may be entered.

Father	Mother
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(14) Line 14: Previous Marriages: (Show Dates and Manner of Termination of All): List any previous marriages prior to the parents’ current one in the following manner: Date of marriage, manner of termination, date of termination. If parents had no previous marriages, write “None.” Do not include name of previous spouse(s). (See Note in item 15).

Father	Mother
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(15) Line 15: Date and Place of Present Marriage (mm/dd/yyyy) (City, State Country): Show date and place of marriage of child’s parents. If the parents are not married to each other, type “Not Married” in this space.

NOTE: Parents may be permitted to list events in items 14 and 15 for which they are not presenting supporting documentary evidence provided the child’s citizenship is not dependent upon the event. Listing the fact of a marriage on a Form FS-240 does not legally prove the ultimate validity of that marriage. For example, in some instances a marriage, which serves to confer legitimacy upon a child, may not be valid as between the two parents. Parents who have questions as to the legal validity of a marriage should consult a local attorney or other competent authority in the pertinent jurisdiction. If the parents are married to other persons (not each other) at

the time of the child's births, 7 FAM 1130 provides guidance regarding presumption that a child born during a marriage is the issue of that marriage (absent evidence of a lack of a genetic relationship to the child) (see 7 FAM 1100 for guidance about Assisted Reproductive Technology) and development of evidence to overcome the presumption. (See 7 FAM 1420 proviso regarding listing of place names and 7 FAM 1300 Appendix D).

d. Part B. This section is to be completed by consular officer, designated nationality examiner, U.S. citizen consular agent, U.S. citizen military acceptance agent, U.S. notary public or other person qualified to administer oath. Authorization for a foreign notary would have to be specifically granted by CA/OCS/PRI (ASKPRI@state.gov) and would only be approved in extraordinary circumstances.

Line 16: Affirmation: The informant must swear to or affirm the truthfulness of the statements in the application before a consular officer, U.S. citizen consular agent, U.S. citizen designated nationality examiner, U.S. citizen military acceptance agent, or, when authorized by CA/OCS/PRI (ASKPRI@state.gov) U.S. notary public. The informant must then list his or her name, sign the document and list relationship to the child. The person administering the oath should affix his or her seal, list name, title, sign the document, list their location (city), and date (mm/dd/yyyy).

e. Part C. This section to be completed by consular employees.

(17) Line 17: Documents Presented: This information is to be completed at the post exercising consular jurisdiction over the place of birth.

- (a) List all birth, marriage, death, or divorce documents, giving the title and issuance date of each.
- (b) Attach certified true copies of those documents or the originals, if appropriate, to the application.
- (c) If the documents are not presently available but were previously submitted in connection with a Form FS-240 for other children, they should be noted by listing the name, date and place of birth of the subject of the previous Form FS-240 or passport and the place where the report was completed.
- (d) In establishing physical presence, identify the nature of the documentation presented; e.g., New York school records.
- (e) All foreign language documents must be translated, at least in summary.
- (f) The section of law under which citizenship is acquired should not be cited.

NOTE: At present, the information in line 17 entered by the adjudicating post/office is done manually. The next revision of the forms associated with the report of birth process will strive to make the process electronic, including the use of 2-D bar codes. The ultimate goal is to have an interactive electronic process by which applicants can execute the application electronically, consular personnel can adjudicate electronically and the record keeping system between ACS system and PIERS interface. In the interim, it is necessary to maintain paper records of the application and adjudication due to both the record retention of ACS system, the functions of the Vital Records Section and for litigation, appeals and revocations.

- (18) See Upper Right Corner: If the application is approved, initial the approval line and enter the required data in this block.
- Serial No.
 - Date Issued (mm/dd/yyyy)
 - Approved By
 - FS Post (Foreign Service)

7 FAM 1445.3 Administering Jurat

(CT:CON-163; 04-10-2007)

A consular officer, a designated U.S. citizen nationality examiner, a U.S. citizen consular agent, a designated U.S. citizen U.S. military passport acceptance agent, or, when authorized by CA/OCS/PRI, a U.S. or foreign notary, may administer the jurat on the DS-2029 (page 1, Section B).

NOTE: Authorization for use of a foreign notary is provided only in extraordinary circumstances.

7 FAM 1445.4 Approving Applications

(CT:CON-284; 03-06-2009)

- a. Consular Officer Approval: Without specific authorization by CA/OCS, only a consular officer at a post in whose country the birth occurred may complete and approve the application and issue the Form FS-240. You must be satisfied as to identity, adjudicate the citizenship claim to determine that the child acquired U.S. citizenship, and the child's name must clear the Consular Lookout and Support System (CLASS). (See 7 FAM 1100, 7 FAM 1320 , and 7 FAM 1300 Appendix). Approve the application by initialing the approval block (Line 18). Then you may issue and sign the Form FS-240 using the ACS system.

NOTE: If the parents' name hits in the CLASS system, e.g., an HHS (Health and Human Services) hit against a U.S. citizen parent, the child can still be issued a Form FS-240, but the parent's passport should be confiscated and revoked in accordance with 7 FAM 1380.

b. Department Authorization:

- (1) When Required. CA/OCS/ACS authorization of consular approval is required in cases involving:
 - (a) A "hold" on the registrant's name that appears in CLASS;
 - (b) A question about the genetic/blood relationship between the citizen parent and the child (7 FAM 1133.4);
 - (c) A possibility of fraud;
 - (d) The possibility that the child may have committed an expatriating act (see 7 FAM 1200). Note that any renunciation of U.S. citizenship by a minor, while permitted under U.S. law, is subject to review upon application at age 18 under 8 U.S.C. 1483(b); and
 - (d) The application is made after the child's eighteenth birthday.
- (2) Expeditious Request: If you need to request an advisory opinion from the Department, forward an email to your counterpart in CA/OCS/ACS, and either fax or scan copies of the original documents presented. CA/OCS/ACS will consult CA/OCS/PRI (ASKPRI@state.gov) as appropriate in formulating an advisory opinion.
- (3) Approval Delayed: Keep the original application in every referred case, pending Department decision. Make no entry in the approval section of the application unless and until the Department authorizes the approval of the application.

c. Application in Suspense:

- (1) A post may hold an Form DS-2029 in suspense while awaiting receipt of documentary evidence, such as the parent's citizenship, marriage/divorce evidence, evidence of the U.S. citizen parent's physical presence in the United States, or Department authorization to approve the application. An application may generally be held in suspense for 90 days. 7 FAM 1445.8 provides guidance about abandoned applications,
- (2) Do not keep any application in suspense when the available evidence supports a determination of acquisition of U.S. citizenship.
- (3) Approve the application under the applicable section of law which the available evidence will support (for example, section 309(c) INA

(8 U.S.C. 1409), if the parents are citizens but no evidence of their marriage was presented, or under section 301(g) (8 U.S.C. 1401), if both parents are citizens but only one has presented evidence of citizenship).

- (4) Send documents submitted in support of a Form FS-240 for filing with the Form FS-240 file copy and the application. Failure to submit all items at one time causes significant filing and retrieval problems for the Department.
- d. Disposition of Approved Applications: Promptly send (monthly) via registered pouch the approved Form DS-2029 and supporting documents stapled together under the Department file copy of Form FS-240 to the Department at the following address:

U.S. Department of State
Passport Services
Records Services Division
1111 19th Street, N.W., Suite 560
Washington, D.C. 20522-1705

7 FAM 1445.5 Documentary Evidence Required

7 FAM 1445.5-1 Children Previously Documented as U.S. Citizens

(CT:CON-163; 04-10-2007)

If a child born abroad to a U.S. citizen parent(s) who acquired U.S. citizenship under Section 301(g) INA (8 U.S.C. 1401(g)) or Section 301(g) INA as made applicable by Section 309 INA (8 U.S.C. 1409) has been documented previously with a full validity U.S. passport or certificate of citizenship, the Form DS-2029 need only be accompanied by proof of the child's identity, birth and citizenship. Absent the actual presentation of proof of citizenship, i.e., a full validity passport or certificate of citizenship, the parent must provide sufficient information to allow the consular officer to verify the issuance of either of those documents. In the case of a previously documented child, the consular officer must be careful to ensure that the child's U.S. citizenship was acquired at birth abroad and not derivatively through the naturalization of the parent(s). If PIERS reflects that an older child has previously been issued a Form FS-240 or passport, the consular officer must confirm that the U.S. citizen parent's marital status has not changed, resulting in different requirements for physical presence of the citizen parent in the United States of an outlying possession prior to the second child's birth.

NOTE: This section does not pertain to persons who acquired U.S. citizenship under the Child Citizenship Act of 2000.

7 FAM 1445.5-2 Children Not Previously Documented as U.S. Citizens

(CT:CON-207; 11-13-2007)

When a Form DS-2029 is completed for a Form FS-240 on behalf of a child to a U.S. citizen parent(s) who acquired U.S. citizenship under Section 301(g) INA or Section 301(g) INA as made applicable by Section 309 INA who has never been documented as a U.S. citizen, it must be accompanied by evidence of citizenship provided in 7 FAM 1100 and post must be satisfied that the child has a valid claim to U.S. citizenship or U.S. Non-Citizen Nationality. (See 7 FAM 1100).

NOTE: This section does not pertain to persons who acquired U.S. citizenship under the Child Citizenship Act of 2000.

7 FAM 1445.5-3 Proof Of The Child's Birth

(CT:CON-284; 03-06-2009)

- a. 22 CFR 50.5(a) provides that "proof of child's birth usually consists of, but is not limited to, an authentic copy of the record of the birth filed with local authorities, a baptismal certificate, a military hospital certificate of birth, or an affidavit of the doctor or the person attending the birth. If no proof of birth is available, the person seeking to register the birth shall submit his affidavit explaining why such proof is not available and setting forth the facts relating to the birth."
- b. The United States is a party to the International Covenant on Civil and Political Rights. (See Treaties in Force to confirm whether the treaty is in force in the host country). Article 24 of this treaty provides:

"2. Every child shall be registered immediately after birth and shall have a name."

- c. The Department of State is aware of incidents in which local authorities in foreign countries have been reluctant to, or declined to; issue a civil birth certificate or comparable local document to a non-resident child. For example:
 1. Child born on an aircraft or vessel;Refugee child; and
Child who died shortly after birth. (See 7 FAM 1443.4)

- d. Posts should bring such cases to the attention of CA/OCS/PRI (ASKPRI@state.gov), which will provide an advisory opinion on the appropriate course of action, in consultation with CA/OCS/ACS.
- e. Satisfactory proof of the child's birth must be submitted before the Form FS-240 is prepared. Responsibility for obtaining satisfactory proof of the child's birth rests on the person applying for the Form FS-240. Primary evidence of birth is a certified copy of a birth registration issued by local authorities. Mere inconvenience in obtaining a local birth certificate is not sufficient to waive this requirement. Secondary evidence is rarely used in modern day adjudication. Posts should bring such cases to the attention of CA/OCS/ACS for an advisory opinion on how to proceed, since these cases involve countries that will not issue a civil record.

For example:

One country would not issue a birth certificate to a child who was conceived as a result of Assisted Reproductive Technology in which the egg and sperm donors were siblings.

Another example was a country that would not issue a civil birth certificate for a married woman unless her husband was present. Her husband was serving in the U.S. military and had been medically evacuated after he was wounded. The hospital birth certificate was determined to be sufficient under the circumstances.

- f. The Department accepts U.S. military hospital birth certificates for births of military dependents abroad. Secondary evidence of birth includes a baptismal certificate, a local or military hospital birth certificate, a certification of the birth by the physician attending the birth, or an affidavit executed by another person attending the birth, setting forth the facts and circumstances of the birth. (See 7 FAM 1330) You should request submission of primary evidence of birth, especially in the case of a child older than five years. For guidance about diplomatic official and no fee regular passports (see 7 FAM 1390).
- g. If no such proof of the birth is obtainable, the applicant must submit an affidavit explaining why such proof is not obtainable and setting forth the facts relating to the birth. An affidavit in and of itself is not sufficient to establish a citizenship claim. For posthumous children cases, such as children whose parent or parents died in service to the United States, personnel and DNA testing of remains or surviving family members may be necessary. (See 7 FAM 1330 and 7 FAM 1130). In every case the consular officer must be satisfied that the evidence submitted is sufficient to establish the facts of birth, particularly when the adoptive parent(s) or legal guardian(s), rather than the natural parent(s) report the facts of the child's birth. It should be remembered that the claim to U.S. citizenship at birth of any child applying for a Form FS-240 is derived through the

biological parent(s). The original birth evidence submitted, or a photocopy certified by the consular officer after comparison with the original, must be sent to the Department with the application for retention in the files monthly via registered pouch to the following address:

U.S. Department of State
Passport Services
Records Services Division
1111 19th Street, N.W., Suite 560
Washington, D.C. 20522-1705

- h. When a child is born out of wedlock to a citizen father and an alien mother, you must require an Affidavit of Parentage, Physical Presence and Support from the father acknowledging that he is the natural father of the child; the alternative is to request a court judgment of paternity. A statement of support must be included in the affidavit in those cases where the child's acquisition of U.S. citizenship is determined by the provisions of section 309 of the INA (8 U.S.C. 1409). The affidavit is also useful to document the mother's claim to parentage.
- i. When an affidavit is required, attach it to Form DS-2029 for retention in the Department's files.

7 FAM 1445.5-4 Evidence of Change of Child's Name

(CT:CON-284; 03-06-2009)

- a. In general, the name entered on the Form DS-2029 should be the name recorded on the local birth certificate. Translations of foreign names are acceptable. (See 7 FAM 1300 Appendix C Names to be entered in Passports). If a parent reporting the birth claims that the local birth record shows an erroneous given name, due to mandatory host country naming conventions compelling parents to name children names they never intend to use or error, the parent should be requested to obtain an amended local birth certificate if that is possible under local law. If amendment of the local birth certificate would entail unusual hardship, the correct given name that best identifies the child can be used on the application and the parent reporting the birth provides an explanatory affidavit and verification by the vital records office that they cannot or will not amend the original record.
- b. When the parent or guardian requests that a surname be entered on the Form FS-240 other than the one which appears on the birth record, the following guidelines apply:
 - (1) The facts of birth shown on the application must establish a verifiable claim to U.S. citizenship;

- (2) When a child's name has been legally changed by adoption or by other court action, the new name may be recorded on the application when it is substantiated by an adoption decree or other documentary evidence, respectively;
- (3) In the case of a child born out of wedlock, use of the father's surname must be supported by evidence of paternity. Such evidence may be in the form of an affidavit of paternity from the father, an amended birth certificate showing the father's surname, or proof of other legal action establishing paternity; and
- (4) In the case of a child born during a marriage where the mother claims her husband is not the biological father, and where paternity has not been otherwise judicially or administratively established, the use of the biological father's surname must be supported by an affidavit from the biological father acknowledging paternity and a statement from the husband denying paternity. The party who has the burden of proof (usually the applicant) must show the existence of the fact in dispute by a preponderance of the evidence. The standard for most citizenship cases is a preponderance of the evidence. This has been defined variously as "the fact in question is more likely than not to be true," or "51% of the evidence" supports the truthfulness of the point asserted. DNA testing of the mother, the child and putative father may be done by a laboratory approved by the American Association of Blood Banks (AABB). (See the AABB List of Laboratories and 7 FAM 1100). Applicants should be asked to obtain a new local birth certificate in the correct name or a letter from local authorities advising it is not possible to issue a new birth certificate under local law or procedures. The Department recognizes that some countries refuse to issue a new document.

NOTE: There may be other evidence available to post indicating that it would be impossible for the husband to be the father of the child. For example: The husband was not accessible at the probable time of conception because he was deployed in the U.S. military or otherwise physically separated from the mother. Some prisons do have "conjugal visits" so serving a sentence in prison may not preclude fathering a child.

7 FAM 1445.5-5 Evidence of Parent's U.S. Citizenship and Identity

(CT:CON-284; 03-06-2009)

- a. The consular officer must require adequate proof that the parent(s) through whom U.S. citizenship is claimed was a citizen (were citizens) of

the United States at the time of the child's birth. The consular officer, in approving Form DS-2029, makes a determination of the section of law under which the child's citizenship is acquired, and makes sure that the parent supports every such determination by documentary evidence.

- b. 7 FAM 1350 provides guidance on establishing the identity of a minor.
- c. The parents may submit as evidence of citizenship any of the types of evidence ordinarily acceptable for passport purposes, provided the evidence meets the criteria described in 7 FAM 1330 and 7 FAM 1100. These include an original or certified birth certificate, a U.S. passport, a previously approved Form FS-240, a certificate of citizenship or naturalization, or other acceptable secondary evidence of birth, such as a baptismal certificate.
- d. For U.S. citizen adoptive children, information about the birth parents' citizenship and physical presence must be provided. For children born out of wedlock, Section 309 INA (8 U.S.C. 1409) must be satisfied. (See 7 FAM 1446.2-2).
- e. A determination that a child acquired citizenship under section 301(c) INA (8 U.S.C. 1401) can be made only if evidence of the citizenship of both parents is presented.
- f. If both parents are U.S. citizens but only one parent presents evidence of citizenship, the consular officer should inform the parents that the child will be considered to have acquired citizenship under section 301(g) INA (8 U.S.C. 1401) if the parent who submitted evidence of the child's citizenship is able to transmit citizenship under this provision of law.

NOTE: While the parents should be encouraged to submit sufficient evidence to document the child's acquisition of citizenship under section 301(c) (8 U.S.C. 1401), you do not need to delay approval of the Form FS-240 when the available evidence supports acquisition under section 301(g) (8 U.S.C. 1401). (See 7 FAM 1133.2 through 1133.4-3 d).

- g. Consular officers should contact the CA/OCS/ACS by email, fax, phone or telegram, using CPAS TAGS, in any case where an advisory opinion is sought in adjudicating a parent's current citizenship status.
- h. Annotate Application: You should not make reference or notation on the application to the section of law under which the child is considered to have acquired citizenship.
- i. Genetic Relationship: If posts have reason to question the genetic relationship between the U.S. citizen parent(s) and the child, consult 7 FAM 1131.3 and 7 FAM 1131.4-2.
- j. Suspected Fraud: Consult 7 FAM 1131.5, and contact CA/FPP. 7 FAM 1380 and 7 FAM 1441.6 provide guidance on revocation of the Form FS-

240 if that is indicated.

7 FAM 1445.5-6 Evidence of Parent's Residence/Physical Presence in United States

(CT:CON-163; 04-10-2007)

- a. When citizenship is claimed under 301(c) INA (8 U.S.C. 1401(c)), the determination of whether one of the U.S. citizen parents ever resided in the United States or an outlying possession can usually be determined by a brief interview with one of the parents. Evidence of such residence would be required only in unusual circumstances in which neither parent ever spent any substantial period of time in the United States. Consular officers should consult with CA/OCS/PRI (ASKPRI@state.gov) in such cases for guidance. (See 7 FAM 1100).
- b. When citizenship is claimed under Section 301(d), (e), or (g) (8 U.S.C. 1401) or Section 309(c) INA (8 U.S.C. 1409) or under predecessor statutes of the Immigration and Nationality Act, the Form DS-2029 must show that the U.S. citizen parent had the necessary periods of physical presence in the United States or its outlying possessions to transmit U.S. citizenship to the child. (See 7 FAM 1133.3).
- c. When doubt exists that the parent's physical presence in the United States meets the requirements necessary to establish the child's U.S. citizenship, documentary evidence of the citizen parent's physical presence in the United States for the periods claimed is required to be submitted with the application. For instructions on computing periods of physical presence, consult 7 FAM 1133.3-5.
- d. You may accept established proof of registration in U.S. public or private schools, court records, military records, U.S. employment and income records, medical records, or other similar documents as valid evidence of physical presence for the periods of time required by the citizen parent to transmit citizenship. 7 FAM 1133.3 provides specific guidance about calculating residence and physical presence, including periods of absence.
- e. In the absence of such primary evidence and upon presentation of satisfactory proof of the inability to obtain such evidence, consuls may accept the sworn statements of at least two U.S. citizens having personal knowledge of the parent's periods of physical presence in the United States as sufficient evidence to establish the claim.
- f. For purposes of Section 301(g) (8 U.S.C. 1401(g)) or former Section 301(a)(7) INA (8 U.S.C. 1401(a)(7)), time spent abroad by a U.S. citizen parent under the following circumstances and in certain periods can be counted as U.S. physical presence:
 - (1) Service in the U.S. Armed Forces;

- (2) Service as a U.S. Government employee as explained in 7 FAM 1133.3; contract employment does not qualify;
- (3) Service with a qualifying international organization as specified in 7 FAM 1133 Exhibit 1133.3-3 International Organizations Designated by Executive Order; or
- (4) Periods of time as a dependent unmarried son or daughter and member of the household of someone to whom any of the first three types of service applies as explained in 7 FAM 1133.3.

7 FAM 1445.5-7 Evidence of Parent's Marriage

(CT:CON-163; 04-10-2007)

- a. The marital status of the genetic parent(s) can be the determining factor in whether a child has a claim to U.S. citizenship. The existence of a marriage also relates to the section of law under which U.S. citizenship is acquired. A child's genetic parents must have been married at the time of the child's birth for the child to acquire U.S. citizenship under Section 301(c), (d), (g) or (h) of the INA (8 U.S.C. 1401) and predecessor statutes. If the child's genetic parents were not married at the time of birth, the child can acquire citizenship only under Section 309 of the INA (8 U.S.C. 1409). When the child's citizenship claim is dependent upon the existence of a valid marriage, proof of the marriage must be submitted. (See 7 FAM 1130).
- b. If the parents cannot obtain a marriage certificate because the records have been destroyed due to disaster or other catastrophic event at registrar's office, they must submit other evidence of their marriage, such as extracts from religious records, affidavits from persons in a position to know when and where they were married, and any other pertinent evidence. Inconvenience is not a sufficient basis to accept secondary evidence of a marriage.
- c. If either of the parents was married previously, and the child's claim to U.S. citizenship is dependent upon the marriage of the parents, evidence of the termination of the previous marriage or marriages must be presented. A divorce or annulment decree or a death certificate is sufficient evidence. Certified true copies of the original documents should be attached to the application file copy unless submitted with an application for another Form FS-240.
- d. When the child's citizenship is not dependent upon the existence of the parents' marriage or termination of a previous marriage, it is not necessary to delay issuance of a Form FS-240 and/or a passport if the parents cannot present evidence of those events. Parents may present these documents at a later date if they wish to complete the file. Such records should be sent by the parents directly to the Department at the

following address:

U.S. Department of State
Passport Services
Vital Records Section
1111 19th Street, N.W., Suite 510
Washington, D.C. 20522-1705

7 FAM 1445.6 Fees

(CT:CON-163; 04-10-2007)

- a. Refer to the current Schedule of Fees, 22 CFR 22.1, for the fee required for Form DS-2029. Application for a Consular Report of Birth Abroad of a Citizen of the United States of America.
- b. Personal checks are not acceptable for reports issued abroad. Payment may be made by cash, money order, certified or corporate check, traveler's check or by credit card in consular districts authorized to accept that method of payment.
- c. The Form DS-2029 application fee covers the cost to the U.S. Government to process the application, and is assessed whether or not a Form FS-240 is issued.
- d. The fee should be collected before an oath is taken on Form DS-2029, and the consular officer should not "preview" cases to determine whether issuance is likely in order to avoid payment of the fee.
- e. The fee is not refundable. If the Form DS-11 and Form DS-2029 are being adjudicated simultaneously and it is determined that there is no valid claim to U.S. citizenship/nationality, you should only collect one fee since the citizenship adjudication is not duplicative.

7 FAM 1445.7 Disposition of Evidence

7 FAM 1445.7-1 Returning Evidence

(CT:CON-207; 11-13-2007)

- a. When evidence of the citizenship of the parent(s) or child is in the form of any of the documents provided in 7 FAM 1100, record the pertinent information concerning the document on the Form DS-2029 and return the evidence to the person filing the report.

NOTE: At present recording the evidence of citizenship presented is done manually. The next revision of the forms associated with the report of birth process will strive to make the process electronic, including the use of 2-D

bar codes. The ultimate goal is to have an interactive electronic process by which applicants can execute the application electronically, consular personnel can adjudicate electronically and the record keeping system between ACS and PIERS interface. In the interim, it is necessary to maintain paper records of the application and adjudication due to both the record retention of ACS, the functions of the Vital Records Section and for litigation, appeals and revocations.

- b. Except as noted in 7 FAM 1445.7-2, all other evidence submitted in support of the Form FS-240 should be photocopied, certified by the consular officer as a true copy of the original, and attached to the application. Then return the original evidence to the persons filing the application.

7 FAM 1445.7-2 Retaining Evidence

(CT:CON-163; 04-10-2007)

- a. Approved Applications: Attach the originals of all affidavits submitted in connection with the issued Form FS-240. The Department will retain them in its files.
- b. Request for Fraud Advisory Opinion: In any cases where the submitted evidence is suspected to be counterfeit, appears to have been altered, or provides other reason for suspecting fraud, send the original evidence to the Consular Affairs Office of Fraud Prevention Programs (CA/FPP), attached to the application. Upon inquiry, inform the applicant that the evidence will be kept in the Department's permanent files.
- c. Request for Advisory Opinion Other Than Fraud: The post may consider it necessary in rare cases, other than those involving fraud, to have the Department review the evidence presented in support of the application prior to a final determination. In those cases, forward photocopies or scanned copies of the documents presented, or the originals if deemed appropriate, to CA/OCS/PRI with a photocopy or scanned copy of the application. When the post indicates that the person filing the application has requested the return of the evidence, CA/OCS/PRI will do so at the time of reply or explain why it is being retained.

7 FAM 1445.8 Denial or Withdrawal of Applications

(CT:CON-284; 03-06-2009)

- a. *The final disposition of all fee-paid applications must be issuance, denial, or withdrawal in writing by the applicant.*
- b. When available evidence does not support acquisition of U.S. citizenship under any section of law, the application may be kept in suspense for up

to 90 days, pending submission of additional evidence.

- c. If the required evidence is not submitted within that time period, *the application must be denied. The applicant should be notified in writing of the reason for the denial. Refer to 7 FAM 1300 Appendix T for the "Information Request Letter" text to be used in advising parent(s) of the reason for the denial.*
- d. *Enter* a CLASS lookout for insufficient evidence (Reason Code I) (see 7 FAM 1300 Appendix A and 7 FAM 1300 Appendix H. Send the *denied* Form DS-2029 and accompanying documents to the Department for filing via registered pouch to the following address:

Department of State
Passport Services
Records Services Division
1111 19th Street, N.W., Suite 560
Washington, D.C. 20522-1705

- e. If the parents later pursue the Form FS-240 , supplying any missing evidence of the citizenship claim, he or she must execute a new application, a new fee at the current rate should be charged.

7 FAM 1445.9 Disapproved Applications

(CT:CON-163; 04-10-2007)

- a. Disposition: When a post determines that the child whose application is submitted has not acquired U.S. citizenship at birth,
 - (1) The parent(s) should be advised in writing;
 - (2) if a passport is also being denied, the parents should be advised in writing in accordance with 7 FAM 1300;
 - (3) The child's name should be entered in the CLASS system;
 - (4) Deny the application within the electronic system, generate an electronic lookout, and transfer the record electronically to CA/OCS/ACS;
 - (5) Send the paper application, attaching copies of all documents submitted to support it, to CA/OCS/ACS so that the official record filed supports the finding of non-acquisition. When posts have the ability to enter lookouts in CLASS directly through PLOTS (see 7 FAM 1300 Appendix H, under development); and

SEND PAPER FILES VIA REGISTERED POUCH TO:

U.S. Department of State
Passport Services

Records Services Division
1111 19th Street, N.W., Suite 560
Washington, D.C. 20522-1705

- (6) If fraud is suspected, send the application and the originals of all supporting documents to CA/FPP. The application should be sent to the Department under cover of a memorandum stamped, "DO NOT FILE--FOR CA/FPP ACTION" (see CA/FPP intranet page).
- b. Reconsideration: CA/OCS/PRI is always willing to review additional evidence, provided it is pertinent to the acquisition claim. Such evidence may have been unavailable at the time of the initial application. No formal application or filing of appeal need be taken when submitting such evidence. The post should forward an electronic memo summarizing the case with reference to the previous application and attach the new evidence. CA/OCS/PRI will review the case and advise the post accordingly.

7 FAM 1446 ISSUING THE FORM FS-240, CONSULAR REPORT OF BIRTH

7 FAM 1446.1 Approved Application Prerequisite

(CT:CON-163; 04-10-2007)

Issuing a Form FS-240 is dependent on the approval of Form DS-2029 by a consular officer at a Foreign Service post in the consular district where the child's birth occurred or at a post in another consular district in the same country, or when authorized by CA/OCS/ACS to approve a particular application. Do not issue a Form FS-240 without approving the required application.

7 FAM 1446.2 Issuance Procedures

7 FAM 1446.2-1 Controlled Form

(CT:CON-163; 04-10-2007)

- a. As the Form FS-240 is by law proof of U.S. citizenship (22 U.S.C. 2705), the document is issued in a single set on a controlled, pre-numbered form. The set consists of an original Form FS-240 that is given to the parents and a Department file copy.
- b. Supply of the form is controlled by Consular Affairs, Office of the Executive Director, General Services Division (CA/EX/GSD). Questions

concerning how to order Form FS-240 through CA/EX/GSD should be sent to the Department via email to the "CA Consular Supplies" mailbox, email address CASUPPLIES@STATE.GOV. This address should also be used to follow up on or inquire about the status of previous orders, and to report transfer and return of consular supplies. Supply requests via cable are no longer required. Requests sent to individual email addresses in CA/EX/GSD will be forwarded to the CA Consular Supplies mailbox. The Consular Equipment and Supplies Handbook, available on the Consular Affairs Intranet page, provides further guidance on how to order seals, stamps and other equipment.

7 FAM 1446.2-2 Physical Preparation of a Form FS-240 by Consular Section

(CT:CON-163; 04-10-2007)

- a. Once a consular officer has approved the Form DS-2029 , , he or she authorizes the actual Form FS-240, to be printed through the ACS system. The Form FS-240 is a controlled item made up or an original and a carbon copy. The applicant receives the top copy, the bottom (pink) copy must be sent to the Department for filing within 30 days after the issuance along with copies of any supporting documents.
- b. The ACS system causes the Form FS-240 to be printed using a laser printer. The data from the Form DS-2029 is entered in the mandatory fields in the Form FS-240 as it appears on the approved Form DS-2029.
- c. Parents' Names on the Form FS-240: The parents' names must be the same as the names shown on the application, except in the case of a legal adoption.
 - (1) Use Parents' Legal Name: The parents' current legal name should be used on the Form FS-240. Do not show the mother's maiden name unless that is her legal last name.
 - (2) Request by a Parent Not to List the Name of the Second Parent: Form FS-240 is a U.S. citizenship document. Proof of parentage is based on the local birth certificate. Generally, if the names of both parents appear on the local birth certificate, those names should be listed on the Form DS-2029 and Form FS-240. There are limited exceptions to this general proviso explained below.
 - (3) Adoption Cases: For adoption cases, in which a child born abroad who acquired derivative U.S. citizenship at birth through a U.S. citizen birth parent or parents, the name(s) of the U.S. citizen birth parent(s) should appear on line 6 of the Form DS-2029, although the adoptive parent may be listed in line 16 as the person providing information. Only the names of the adoptive parents, not the birth

parents, appear on the Form FS-240. This is consistent with vital records practices in U.S. states.

- (4) Assisted Reproductive Technology (ART) Cases: Medical technology has developed faster than the law on this subject in most countries. Some countries will automatically list a father and mother on a birth certificate based on self-reporting or reporting by a physician or midwife. This can result in some unusual situations. Posts should contact CA/OCS/PRI (ASKPRI@state.gov) for specific guidance when preparing a Form FS-240 in an assisted reproductive technology (ART) case. The key point is that the INA requires a legal and literal biological/genetic relationship. Thus, the basic rule is that citizenship should be determined based on the man who provided the sperm and the woman who provided the egg. An approved Form FS-240 should list the name of the sperm provider as the father, and the name of the egg provider as the mother. If the donor of the egg or sperm is anonymous, the consular officer should assume that the donor is not a U.S. citizen, and adjudicate the case accordingly. If approved; the Form FS-240 in this case would leave blank the item listing the mother or father, as the case may be.

- (a) Example 1. Artificial Insemination – Anonymous Donor Sperm; U.S. Citizen Mother and her U.S. Citizen Husband.

If the child was conceived through artificial insemination using anonymous donor sperm, the U.S. citizen husband is not the biological father of the child. If the birth certificate lists the husband as the father of the child, but the parents or their representatives advise that in fact the child was conceived in this way, the child may have a claim to U.S. citizenship through the U.S. citizen mother. The case could be adjudicated as a birth out of wedlock to a U.S. citizen mother, requiring only one year of physical presence in the United States prior to the child's birth (Section 309(c) INA (8 U.S.C. 1409)). A line of dashes should be typed in the space for the name of the father on the Form DS-2029, and Section 17 of the Form DS-2029 should explain the discrepancy between the birth certificate and the facts of the artificial insemination. The husband's name could be listed on the amended Form FS-240 if the husband adopts the child. (See 7 FAM 1447).

- (b) Example 2. Donor Egg, Alien Spouse Sperm, In Vitro Fertilization, Transplanted Embryo. U.S. citizen wife gives birth to child.

In this example, only the alien spouse is genetically related to the child. The local birth certificate may list the U.S. citizen mother who gave birth to the child as the mother and her alien husband as the father. The family presents evidence that this is an Assisted Reproductive Technology case

involving a transplanted embryo using a donor egg. The child has no claim to U.S. citizenship.

- (c) Example 3. Egg harvested from U.S. citizen wife, fertilized in vitro by U.S. citizen husband's sperm. Embryo transplanted to U.S. citizen maternal grandmother who gives birth to the child abroad. Foreign birth certificate lists the grandmother, who gave birth to the child (gestational surrogate) as the mother and her son in law, the biological father, as the father.

The child is the issue of the genetic mother and father (the U.S. citizen husband and wife). The Form DS-2029 should list the husband and wife in line 6. Section 17 should explain that local law required the birth certificate to list the grandmother and the son-in-law as parents, and clarify that the husband and wife are the legal and genetic parents. Documentary evidence of the medical procedures may clearly establish what transpired. If there is any indicia of fraud, or the procedure took place in a country where the consular officers have doubts about the reliability of such evidence, parents may submit to DNA tests of themselves and the child, in accordance with 7 FAM 1130 procedures, by a laboratory approved by a American Association of Blood Banks (AABB). (See the AABB List of Laboratories). The case would be adjudicated as a birth in wedlock to two U.S. citizens abroad.

(See DNA and Parentage Blood Testing on the Consular Affairs Internet page).

If the husband in this scenario was not a U.S. citizen, you would treat this case as a child born in wedlock to one U.S. citizen parent and one alien parent, under which citizenship could be transmitted by the U.S. citizen mother to the child under Section 301(g) INA (8 U.S.C. 1401). If the mother lacked sufficient physical presence to transmit citizenship under Section 301(g) INA, you could not adjudicate it as a birth out of wedlock in order for the U.S. citizen mother to transmit under Section 301(g) INA (8 U.S.C. 1401) as made applicable by Section 309(c) INA (8 U.S.C. 1409). However, the child might be eligible for citizenship under the Child Citizenship Act of 2000 through the U.S. citizen grandmother, who may be eligible to apply for a Certificate of Citizenship for the child through expeditious naturalization. The child would not be eligible for a Form FS-240 if citizenship was acquired under the Child Citizenship Act. (See 7 FAM 1140).

- (d) Example 4. U.S. Citizen Mother; Anonymous Donor Sperm, In Vitro Fertilization; Birth Out of Wedlock. Local birth certificate lists Parent 1 and Parent 2, same sex parents.

If the U.S. citizen mother had one year of continuous physical presence in the United States prior to the child's birth abroad you would adjudicate the

case under Section 301(g) INA (8 U.S.C. 1401) as made applicable by Section 309(c) INA (8 U.S.C. 1409) as a birth out of wedlock case. The Form FS-240 is a U.S. citizenship document, not a civil record. The primary purpose of the Form DS-2029 and the Form DS-11 is to document the acquisition of citizenship, not to document relationships. You would not list the names of the parents as they appear on the local birth certificate because only the names of the biological/genetic parent(s) appear in Part A of the Form DS-2029 as currently designed. All forms associated with the reporting of the birth of a U.S. citizen abroad will undergo complete revision after the Centers for Disease Control and Prevention publish new rules regarding minimum standards for birth certificates in Spring/Summer 2007. At that time, the Bureau of Consular Affairs will incorporate into the design a Parent/Parent references rather than Mother/Father. This will make amending the Form FS-240 and issuing the Form DS-1350 listing two same sex parents easier after the non-biological parent adopts the child.

When explaining this issue to a same sex couple who are registered partners, in a civil union or domestic partners, adjudicating posts and the Vital Records Office should make clear that we are in no way questioning their legal relationship to the child or to one another. The biological parent will be listed on the Form DS-2029 and Form DS-11 as "mother" or "father" as applicable. The co-parent may execute Form DS-11s on behalf of the child if a legal adoption occurs or if the biological parent executes a legally appropriate power of attorney. The co-parent may be listed as "person to be notified in case of emergency" on the Form DS-11 whether or not an adoption has occurred since this information does not require a legal relationship.

- (5) Rape and Incest Cases: If posts encounter these situations you should interview the U.S. citizen mother, preferably in a private office in the consular section rather than at the counter window. Consular officers should review 7 FAM 1932 regarding Sexual Assault, 7 FAM 1720 and 7 FAM 1730 before interviewing adults or minors in these circumstances. The applicant should submit copies of police and medical reports. If post is satisfied that the child was conceived as a result of such a crime, the name of the father may be omitted from the Form DS-2029 and the Form FS-240 even if it appears on the local birth certificate. Posts may consult CA/OCS/PRI for guidance if needed. (ASKPRI@state.gov). Attach all supporting documents to the Form DS-2029, annotate line 17 as appropriate.
- (6) Allegation that Husband is Not the Father of the Child: (See 7 FAM 1445.5-5 b 4).
- (7) U.S. Citizen Parent or Both Parents Deceased: It is possible to issue a Form FS-240 for a child whose U.S. citizen parent(s) is

(are) deceased. (See 7 FAM 1180). The applicant or "Person Providing Information" (line 17) on the Form DS-2029 would be the surviving parent or the legal guardian. In countries where guardianship is automatic based on degrees of kinship and not a result of a court order, bring the case to the attention of CA/OCS/PRI (ASKPRI@state.gov); we will review the local law and provide an advisory opinion. In these cases a relative of the U.S. citizen parent is usually assisting in obtaining documentation to establish the citizenship claim. This could include DNA testing where appropriate. (See 7 FAM 1130).

- d. Consular Officer Seal and Signature: The consular officer signs the two typed sheets and seals each with the embossed consular seal.
- e. Date of Issuance: Issue the Form FS-240 as soon as practicable after the application is approved.

7 FAM 1446.2-3 Record Maintenance

(CT:CON-163; 04-10-2007)

Record the serial number of the Form FS-240 in the appropriate space on the upper right corner of the application and list it in the ACS System.

7 FAM 1446.2-4 Release of Document

(CT:CON-163; 04-10-2007)

Issue the completed Form FS-240 to the parent(s) or legal guardian(s) who initiated the application.

7 FAM 1446.2-5 Certification of Issuance

(CT:CON-163; 04-10-2007)

- a. The Certification of Birth (Form FS-545) which was formerly issued by Foreign Service posts abroad is no longer issued. A document similar in appearance Form DS-1350, Certification of Birth, is issued only at the Department and can be provided to the registrant (person in whose name it was issued), parent(s), legal guardian(s) in multiple copies upon payment of the appropriate fees (see Schedule of Fees, 22 CFR 22.1).
- b. The fee may be paid by a U.S. dollar check or money order made payable to Passport Services and must accompany the request for the document. Parents should be advised that they will need to wait 6 months after the Form FS-240 is issued before they can apply for a certification to allow time for the report to be filed at the Department.

7 FAM 1446.2-6 Requests for Additional Copies

(CT:CON-163; 04-10-2007)

No copy of an original Form FS-240 is retained at the post. No duplicate is issued to the parent(s) or guardian(s) or other requesting party, except as is provided in 7 FAM 1446.3, 7 FAM 1447, and 7 FAM 1448. Applicants requesting additional copies of the Form FS-240 at a consular office should be advised that copies of the original are not available, but certifications are available.

7 FAM 1446.2-7 Disposition of File Copy

(CT:CON-163; 04-10-2007)

Forward the Department's file copy of the Form FS-240 to the Department for filing within 30 days after the issuance of the report, with the application and supporting documents attached below it via registered pouch. Staple or otherwise affix documents together to prevent separation in transmission or filing errors. File copy should be sent by pouch or express mail to the following address:

U.S. Department of State
Passport Services
Records Services Division
1111 19th Street, NW, Suite 560
Washington, DC 20522-1705

Do not use regular mail to avoid damage to the documents in the sanitizing process.

7 FAM 1446.3 Correcting Errors

7 FAM 1446.3-1 Immediate Discovery

(CT:CON-163; 04-10-2007)

If post discovers an error on the Form FS-240 after it is prepared, but before it is sent to the Department for filing, post can issue a new report of birth. Stamp or mark as "void" the erroneous document and file copy. The incorrect document should be destroyed at post. Line through the serial number, and issuance data, if applicable, of the erroneous report on the pertinent Form DS-2029 application and enter the issuance data and serial number of the new Form FS-240 on it. No additional fee is charged for such issuances.

7 FAM 1446.3-2 Delayed Discovery

(CT:CON-163; 04-10-2007)

Errors discovered after the application has been sent to the Department must be corrected using the amendment procedure. (See 7 FAM 1447).

7 FAM 1447 AMENDING THE FORM FS-240

7 FAM 1447.1 Why Amended

(CT:CON-163; 04-10-2007)

An amendment is usually made to correct an error in information appearing on the face of the document. It may also record a change of name by an adoption or other legal proceeding.

7 FAM 1447.2 Where Amended

(CT:CON-163; 04-10-2007)

- a. After a Form FS-240 has been issued and the Form DS-2029 filed in the Department, the document can be amended only by the Passport Services' Vital Records Section, CA/PPT/TO/RS/RP/VR.
- b. Upon presentation of sufficient evidence, that office prepares a new Form FS-240 showing the amended data, upon request by the parent(s), legal guardian(s), or the registrant (person in whose name it was issued).
- c. After the registrant's 18th birthday, only the registrant may request amendment.

7 FAM 1447.3 Requesting Amendment

7 FAM 1447.3-1 Written Request

(CT:CON-163; 04-10-2007)

Direct persons requesting an amendment of the Form FS-240, for whatever reason, to submit a signed notarized request addressed to:

U.S. Department of State Passport Services Vital Records Section 1111 19th Street, NW, Suite 510 Washington, DC 20522-1705
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7 FAM 1447.3-2 Contents of Request

(CT:CON-163; 04-10-2007)

Advise requestors to include appropriate supporting documents (such as an adoption decree or court decree showing legal change of name). In every case include the previously issued Form FS-240, or an affidavit explaining the unavailability of this document, as well as the appropriate fee, the same as for the originally issued Form FS-240. The fee will be refunded if it is determined that the need for amendment is due to Department error. All documents must be certified, affidavits notarized, and request must include a notarized photocopy of photo identification, such as a drivers license.

7 FAM 1447.4 Identifying Amended Document

(CT:CON-163; 04-10-2007)

The serial number assigned to an amended Form FS-240 will be the same as the number on the original, but will be followed by a dash and a number indicating it is not the original issuance (e.g., -1 for first amendment).

7 FAM 1448 REPLACING A FORM FS-240

7 FAM 1448.1 Requesting Replacement

7 FAM 1448.1-1 Written Request

(CT:CON-163; 04-10-2007)

When a Form FS-240 is lost, stolen, or mutilated, or accidentally destroyed, a person may obtain a replacement from the Department by following the instructions on the CA Internet page on "How to Apply for a Certified Copy of a Consular Report of Birth Abroad", submitting a notarized written request to:

U.S. Department of State Passport Services Vital Records Section 1111 19th Street, NW, Suite 510 Washington, DC 20522-1705
--

7 FAM 1448.1-2 Contents of Request

(CT:CON-163; 04-10-2007)

- a. Advise the requester to include the following complete identifying information
 - (1) Submit a signed and notarized written request including all pertinent facts of the occasion along with a copy of the requester's

valid photo identification. Only the subject, parent, or legal guardian may request a birth record. The following information must be included in the request:

- (2) General Information
 - (a) Date of request;
 - (b) Purpose of request;
 - (c) Document Requesting (Certificate of Birth, Report of Death, Certificate of Witness of Marriage, or Certification of No Record);
 - (d) Number of documents requesting;
 - (e) Current mailing address and daytime telephone number.
- (3) Facts of Birth, Death, or Marriage
 - (a) Name (at birth/death/marriage);
 - (b) Name after adoption (if applicable);
 - (c) Date of birth/death/marriage;
 - (d) Country of birth/death/marriage;
 - (e) Father's name;
 - (f) Father's date and place (state/country) of birth;
 - (g) Mother's name;
 - (h) Mother's date and place (state/country) of birth.
- (4) Passport Information:
 - (a) Passport used to first enter the United States;
 - (b) Name of bearer;
 - (c) Date of issuance;
 - (d) Passport number; and
 - (e) Date of inclusion (if passport was not issued to the subject).
- (5) Current passport
 - (a) Name of bearer;
 - (b) Date of issuance; and
 - (c) Passport number.
- (6) Fees
 - (a) See 22 CFR 22.1 for Current Schedule of Fees.
 - (b) Check or money order must be signed, dated, and made

- payable to "Department of State";
- (c) Remittance must be payable in U.S. dollars through a U.S. bank; and
 - (d) Do not send cash.

Turnaround Time

In most cases, turnaround is four to eight weeks.

Expedited Service

Overnight delivery can save about ten days mailing time, but there is no way to reduce the processing time. The Department can provide overnight return express delivery services if requested, and upon payment of the overnight delivery fee. Alternatively, requester may opt to provide a pre-paid airbill for the carrier of choice.

Additional Information

The Vital Records Section of Passport Services may be reached by phone at (202) 955-0307.

7 FAM 1448.1-3 Affidavit Regarding Loss or Theft

(CT:CON-163; 04-10-2007)

The request must include an affidavit setting forth the circumstances surrounding the loss, theft, or mutilation of the previous document, and the appropriate fee, as determined by the current Schedule of Fees (22 CFR 22.1) in effect at the time of the request.

7 FAM 1448.2 Identifying Replacement Document

(CT:CON-163; 04-10-2007)

The serial number assigned to a replacement Form FS-240 will be the same as the number of the original document but will be followed by a dash and a number indicating it is not the original issuance (e.g., -1 for first replacement document).

7 FAM 1449 ADMINISTRATIVE FUNCTIONS

7 FAM 1449.1 Controlling Form FS-240

7 FAM 1449.1-1 Issuing in Sequence

(CT:CON-163; 04-10-2007)

Blank Form FS-240 are pre-numbered and are assigned in numerical blocks by CA/EX/GSD to issuing Foreign Service posts upon receipt of an e-mail requisition. When producing/issuing Form FS-240, use the blank sets in sequential order. All reports of birth begin with the numerals "159" (per GAO Style Manual) which is the Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics (NCHS) designation for U.S. State Department vital records.

7 FAM 1449.1-2 Disposing of Imperfect Forms

(CT:CON-163; 04-10-2007)

If a Form FS-240 form is found to have been damaged or rendered imperfect in the manufacturing process, mark it VOID and issue the next number in the series. Note in the electronic issuance record (TDIS or ACS+) the spoilage or imperfection that results in the voiding and destruction of the document. (See 7 FAH-1).

7 FAM 1449.1-3 Storing Blank Form FS-240

(CT:CON-163; 04-10-2007)

Keep blank Form FS-240's in a vault, safe, or file cabinet equipped with a three-way combination lock accessible only to Foreign Service officers assigned to the post as a safeguard against attempted fraud. The accountable consular officer follows procedures in 7 FAH-1 regarding inventory and receipt of accountable materials when a new shipment of Form FS-240s arrives at post.

7 FAM 1449.2 Accountable Consular Officer

(CT:CON-163; 04-10-2007)

Designated accountable consular officers (ACO), under the supervision of the consular section chiefs, are responsible for the procedural integrity of the nationality function. Established internal control practices, coupled with systems-generated reports that allow monitoring of system use, as well as control of inventory of Form FS-240, sufficiently address vulnerability. Posts are no longer required to submit spoiled Form FS-240 to the Department for destruction. Authority is delegated to posts, as Form FS-240 issuing offices, to manage these issues without interposition of the Department. Opened packages or repackaged non-standard quantities must be reconciled. (See 7 FAH-1).

7 FAM 1449.3 Confidentiality of Records

7 FAM 1449.3-1 Individual Records

(CT:CON-163; 04-10-2007)

Information contained in the Form FS-240 (including the Form DS-2029 application, the Form FS-240, and Form DS-1350 as well as data in the ACS System is subject to the Privacy Act. Information in the files may not be divulged to third parties without the registrant's consent except as provided by the Privacy Act. (See 7 FAM 060 and 7 FAM 1300 Appendix J (under development)).

7 FAM 1449.3-2 Group Records

(CT:CON-163; 04-10-2007)

Consular officers may not furnish requestors a list of persons whose birth and citizenship are registered at a U.S. Foreign Service post, nor may you provide any summary of such records. The Privacy Act prohibits this information from being released. (See 7 FAM 060 and 7 FAM 1300 Appendix J (under development)). This caveat does not pertain to warden lists, which have no relation to birth records. (See 7 FAM 070.)

7 FAM 1449.4 Controlling Fees Collected

(CT:CON-163; 04-10-2007)

Collect and account for fees submitted for the issuance of Form FS-240 as required by standard Department accounting and fiscal procedures (see 7 FAH-1).