

Instructions for Form I -361, Affidavit of Financial Support and Intent to Petition for Legal Custody of P.L. 97-359 Amerasian

Department of Homeland Security
U. S. Citizenship and Immigration Services

What Is the Purpose of This Form?

This affidavit may be used only to sponsor persons born in Korea, Laos, Vietnam, Kampuchea, and Thailand after December 31, 1950, and before October 22, 1982, and who were fathered by U.S. citizens. It must be filed in support of Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant.

The sponsor must complete, sign, and submit this form in duplicate with Form I-360 to the district or suboffice of U.S. Citizenship and Immigration Services (USCIS) that has jurisdiction over the sponsor's place of residence. Failure to submit this form in duplicate may result in the rejection of your petition.

Who May Sponsor?

In order to sponsor a Public Law 97-359 Amerasian, you must be a U.S. citizen or lawful permanent resident, 21 years of age or older, and of good moral character.

What Are the Financial Sponsorship Requirements?

You must furnish financial support during an entire 5-year period, beginning:

1. On the date the Amerasian acquires the status of an alien lawfully admitted for permanent residence; or
2. During the entire period, beginning on the date the Amerasian acquires the status of an alien lawfully admitted for permanent residence and ending on the date when the Amerasian becomes 21 years of age, whichever period is longer.

The financial support must be sufficient to maintain your family, including the Amerasians in the United States, at a level equal to at least 125 percent of the current official poverty line (as established by the Director of the Office of Management and Budget, under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 and as revised by the Secretary of Health and Human Services under section 652 of that Act) for a family of the same size as your family, including the Amerasian.

Special Sponsorship Requirement

You must agree to petition the court having jurisdiction within 30 days of the Amerasian's arrival in the United States to be awarded legal custody according to the laws of the State where the Amerasian will reside until the Amerasian is 18 years of age.

In addition, an appropriate public, private, or State agency must arrange the Amerasian's placement with you in the United States, and you must be able to accept the Amerasian for care in your home under the laws of the State of the Amerasian's intended residence.

See the instructions on Form I-360 concerning placement of a beneficiary under 18 years of age.

Execution of Affidavit

You must sign the affidavit in your full, true, and correct name and affirm or make it under oath.

If you are in the United States, the affidavit must be sworn to or affirmed before a USCIS officer.

If you are outside the United States, the affidavit must be sworn to or affirmed before a USCIS officer or a U.S. Department of State consular officer.

Supporting Evidence

You must submit in duplicate evidence of income and resources, as appropriate:

1. Statement from an officer of the bank or other financial institution in which you have deposits, giving the following details regarding your account:
 - A. Date the account was opened;
 - B. Total amount deposited for the past year; and
 - C. Present balance.
2. Statement from your employer, preferably on business stationery, showing:
 - A. Dates and nature of employment;
 - B. Salary paid; and
 - C. Whether position is temporary or permanent.

3. If you are self-employed:
 - A. Copy of last income tax return filed; or
 - B. Report of commercial rating concern.
4. List containing the serial numbers and denominations of bonds and name(s) of record of the owner(s).

Sponsor and Alien Liability

Public Law 97-359 provides that the Secretary of Homeland Security may seek to enforce this guarantee of financial support and intent to petition for legal custody with respect to the Amerasian against you in a civil suit in the U.S. district court for the district in which you reside. However, you or your estate will not be liable under this guarantee if you die or are adjudicated as bankrupt under Title 11, United States Code.

If the Amerasian is under 18 years of age, you are responsible for interim costs incurred by the Amerasian from the time he or she is released for emigration by his or her mother or legal guardian until you are awarded legal custody of the Amerasian. Furthermore, while all health costs incurred by the Amerasian are your responsibility, you should be aware that some health insurance policies may not cover persons who are not members of the policy holder's immediate family.

Effective October 1, 1980, amendments to section 1614(f) of the Social Security Act and Part A of Title XVI of the Social Security Act establish certain requirements for determining the eligibility of aliens who apply for the first time for Supplemental Security Income (SSI) benefits.

Effective October 1, 1981, amendments to section 415 of the Social Security Act establish similar requirements for determining the eligibility of aliens who apply for the first time for Aid to Families with Dependent Children (AFDC) benefits.

Effective December 22, 1981, amendments to the Food Stamp Act of 1977 affect the eligibility of alien participation in the Food Stamp Program.

These amendments require that the income and resources for any person who, as the sponsor of an alien's entry into the United States, executed an affidavit of support or similar agreement on behalf of the alien, and the income and resources of the sponsor's spouse (if living with the sponsor) will be considered as the income and resources of the alien under formulas for determining eligibility for SSI, AFDC, and food stamp benefits during the three years following the alien's entry into the United States.

An alien applying for SSI must make available to the Social Security Administration documentation concerning his or her income and resources and those of the sponsor, including information that was provided in support of a petition for immigration benefits. An alien applying for AFDC or food stamps must make similar information available to the State public assistance agency.

The Secretary of Health and Human Services and the Secretary of Agriculture are authorized to obtain copies of any documentation of this type submitted to USCIS or the Department of State and release this documentation to a State public assistance agency.

Sections 1621(c) and 415(d) of the Social Security Act and 5 (i) of the Food Stamp Act also provide that an alien and his or her sponsor will be "jointly and severably" liable to repay any SSI, AFDC, or food stamps benefits that are incorrectly paid because of misinformation provided by a sponsor or because of a sponsor's failure to provide information. This means the sponsor would be fully responsible if the alien is unable to pay.

Incorrect payments that are not repaid will be withheld from any subsequent payments for which the alien or sponsor are otherwise eligible under the Social Security or Food Stamp Acts, except where the sponsor was without fault or where good cause existed.

The provisions do not apply to the SSI, AFDC, or food stamp eligibility of aliens admitted as refugees or granted asylum, and of dependent children of the sponsor's spouse. The provisions also do not apply to the SSI eligibility for an alien who becomes blind or disabled after admission to the United States for permanent residence.

USCIS Forms and Information

To ensure you are using the latest version of this form, visit the USCIS Web site at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling our USCIS National Customer Service Center at **1-800-375-5283**. For TDD (hearing impaired) call: **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our Internet-based system, **InfoPass**. To access the system, visit our Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with Form I-361, we will deny your Form I-361 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

This will not be accepted if more than a year has elapsed from the date of execution.

USCIS Privacy Act Statement

AUTHORITIES: The information requested on this form, and the associated evidence, is collected under the Immigration and Nationality Act, section 101, et seq.

PURPOSE: The primary purpose for providing the requested information on this form is to determine if you have established eligibility for the immigration benefit for which you are filing. The information you provide will be used to grant or deny the benefit sought.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in denial of your form.

ROUTINE USES: The information you provide on this form may be shared with other Federal, State, local, and foreign government agencies and authorized organizations following approved routine uses described in the associated published system of records notices [DHS-USCIS-007 - Benefits Information System and DHS-USCIS-001 - Alien File, Index, and National File Tracking System of Records, which can be found at www.dhs.gov/privacy]. The information may also be made available, as appropriate, for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0021. **Do not mail your completed Form I-361 to this address.**