

DOS Announces New Interpretation of Citizenship at Birth Accounting for Advances in Assisted Reproductive Technologies

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On May 18, 2021, the U.S. Department of State (DOS) updated its interpretation of the requirements for acquisition of U.S. citizenship at birth as provided by the Immigration and Nationality Act (INA).

DOS announced that “children born abroad to parents, at least one of whom is a U.S. citizen and who are married to each other at the time of the birth, will be U.S. citizens from birth if they have a genetic or gestational tie to at least one of their parents and meet the INA’s other requirements. Previously, the Department’s interpretation and application of the INA required that children born abroad have a genetic or gestational relationship to a U.S. citizen parent.”

This new interpretation and application of the INA allows a U.S. citizen who has a child overseas through surrogacy, an egg donor, in vitro fertilization and/or other advances in assisted reproductive technology to transmit U.S. citizenship to his or her child/ren, even if there is no genetic or gestational relationship to the U.S. citizen parent. As stated in DOS’ announcement, this change in policy “takes into account the realities of modern families.” This is welcome news for a growing number of families who rely on the advancements of reproductive technologies to build their families.

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National Law Review, Volume XI, Number 141

Source URL: <https://natlawreview.com/article/dos-announces-new-interpretation-citizenship-birth-accounting-advances-assisted>