§ 1408. Nationals but not citizens of the United States at birth

Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens, of the United States at birth:

(1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;

(3) A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in such outlying possession; and

(4) A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years—

(A) during which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and

(B) at least five years of which were after attaining the age of fourteen years.

The proviso of section 1401(g) of this title shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.

(June 27, 1952, ch. 477, title III, ch. 1, § 308, 66 Stat. 238; Pub. L. 99–396, § 15(a), Aug. 27, 1986, 100 Stat. 842; Pub. L. 100–525, § 3(2), Oct. 24, 1988, 102 Stat. 2614.)

AMENDMENTS

1988—Par. (4). Pub. L. 100–525 amended Pub. L. 99–396. See 1986 Amendment note below.

1986—Par. (4). Pub. L. 99–396, as amended by Pub. L. 100–525, added par. (4).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–525, § 3, Oct. 24, 1988, 102 Stat. 2614, provided that the amendment made by section 3 is effective as if included in the enactment of Pub. L. 99–396.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–396, § 15(b), Aug. 27, 1986, 100 Stat. 843, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to persons born before, on, or after the date of the enactment of this Act [Aug. 27, 1986]. In the case of a person born before the date of the enactment of this Act—

''(1) the status of a national of the United States shall not be considered to be conferred upon the person until the date the person establishes to the satisfaction of the Secretary of State that the person meets the requirements of section 308(4) of the Immigration and Nationality Act [par. (4) of this section], and

''(2) the person shall not be eligible to vote in any general election in American Samoa earlier than January 1, 1987.''

§ 1409. Children born out of wedlock

(a) The provisions of paragraphs (c), (d), (e), and (g) of section 1401 of this title, and of paragraph (2) of section 1408 of this title, shall apply as of the date of birth to a person born out of wedlock if—

(1) a blood relationship between the person and the father is established by clear and convincing evidence,

(2) the father had the nationality of the United States at the time of the person's birth,

(3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and

(4) while the person is under the age of 18 years—

(A) the person is legitimated under the law of the person's residence or domicile,

(B) the father acknowledges paternity of the person in writing under oath, or

(C) the paternity of the person is established by adjudication of a competent court.

(b) Except as otherwise provided in section 405 of this Act, the provisions of section 1401(g) of this title shall apply to a child born out of wedlock on or after January 13, 1941, and before December 24, 1952, as of the date of birth, if the paternity of such child is established at any time while such child is under the age of twenty-one years by legitimation.

(c) Notwithstanding the provision of subsection (a) of this section, a person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.

(June 27, 1952, ch. 477, title III, ch. 1, § 309, 66 Stat. 238; Pub. L. 97–116, § 18(l), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 99–653, § 13, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 100–525, §§ 8(k), 9(r), Oct. 24, 1988, 102 Stat. 2617, 2621.)

REFERENCES IN TEXT

Section 405 of this Act, referred to in subsec. (b), is section 405 of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–525, § 8(k), amended Pub. L. 99–653. See 1986 Amendment note below.

Subsec. (b). Pub. L. 100–525, § 9(r)(1), substituted ''before December 24, 1952'' for ''prior to the effective date of this chapter'' and ''at any time'' for ''before or after the effective date of this chapter and''.

Subsec. (c). Pub. L. 100–525, § 9(r)(2), substituted ''after December 23, 1952'' for ''on or after the effective date of this chapter''.

1986—Subsec. (a). Pub. L. 99–653, as amended by Pub. L. 100–525, § 8(k), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The provisions of paragraphs (c), (d), (e), and (g) of section 1401 of this title, and of paragraph (2) of section 1408, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this chapter, if the paternity of such child is established while such