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Acquisition of U.S. Citizenship by Birth on U.S. Soil

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One of the easiest ways to prove U.S. citizenship is being physically born on U.S. soil. This principle comes from the theory of *jus soli* or “right of the soil.” The United States adopted this theory by enactment of the Fourteenth Amendment to the U.S. Constitution. Section 1. of the Fourteenth Amendment states in pertinent part:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

As a result, under the Fourteenth Amendment, anyone that is physically born in the United States or its territories are automatically U.S. citizens at birth. Absent a voluntary or involuntary renunciation of U.S. citizenship, the Birth Certificate of a person born in one of the 50 states or its territories is conclusive proof of his or her U.S nationality.

The only exception to this principle is children born in the United States to diplomats that have diplomatic immunity. The reason that these children are not automatically U.S. citizens at birth, even though born in the United States, is due to the fact that U.S. laws do not apply to diplomats with diplomatic immunity and their children. This includes the Fourteenth Amendment to the U.S. Constitution. Therefore, when handling cases of children born to diplomats, it is important to determine whether or not the parent diplomat did or did not have diplomatic immunity at the time of the child’s birth to determine whether or not the child is a U.S. citizen. If there was no diplomatic immunity, then the child is a U.S. citizen. If the parent did have diplomatic immunity, then the child is rather considered a U.S. lawful permanent resident at birth. If the child later wishes, then he or she can later “register” with United States Citizenship and Immigration Services (“USCIS”) and, thereafter, apply for U.S. citizenship.

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For more information concerning U.S. citizenship or issues concerning children of diplomats born in the United States, please do not hesitate to contact the Law Firm of Shawn Quinn – Attorney at Law.

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