

**Rule 15.15. Petition for Adoption of a Foreign Born Child.**

(a) *General Rule.* Prospective Adoptive Parents or adopting parents who are residents of the Commonwealth may petition the court in any county as provided in 23 Pa.C.S. § 2302 to proceed with an adoption of their foreign born adoptee or adopted child who has entered the United States pursuant to an IR-2, IR-3, IH-3, IR-4 or IH-4 United States Visa.

(b) *Required Documents.* The following documents shall be filed in the following order with the clerk:

- (1) Preliminary Decree;
- (2) Final Decree;
- (3) Petition for Adoption of a Foreign Born Child;
- (4) Copy of United States Visa;
- (5) Reports of investigations, home studies, preplacement and postplacement;
- (6) Copy of birth certificate of foreign born adoptee or adopted child (if available), with translation;
- (7) Copy of any other relevant foreign decrees and/or documents with translations;
- (8) Consents of any person and/or agency having custody and/or legal and/or physical rights to the adoptee or adopted child;
- (9) Report of Intermediary (if an intermediary was involved);
- (10) Verifications signed by petitioners, intermediary and translator(s) stating that facts set forth are true and correct, copies are true and correct copies of originals, that the English translation of foreign documents is accurate, and that false statements are subject to the penalties of 18 Pa.C.S. § 4904;
- (11) Pennsylvania Department of Health, Division of Vital Records Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child with Parts 1 and 2 (and Part 3, if applicable) completed;
- (12) Pennsylvania Department of Health, Division of Vital Records Form No. HD01275F, Statement of Citizenship and Residency; and
- (13) A copy of U. S. Government Form N-560, Certificate of Citizenship, and/or a copy of the adoptee's or adopted child's United States passport, if either or both documents are available.

(c) *Form of Documents.* The Preliminary Decree, Final Decree, Petition for Adoption of a Foreign Born Child, Report of Intermediary (if applicable), and verifications referenced in subparagraph (b)(10) above shall be in substantially the form approved by the Supreme Court. See Appendix of Forms to these Rules.

(d) *Judicial Review and Hearing.*

(1) *Scope of Review.* The petition and accompanying documents filed under this Rule shall be subject to review by the court as prescribed by the Pennsylvania Adoption Act, 23 Pa.C.S. § 2101 *et seq.*, Pennsylvania Orphans' Court Rules and local rules.

(2) *Home Study and Investigation.* The court may rely in whole or in part upon a home study containing information required by 23 Pa.C.S. § 2530(b) and an investigative report containing information required by 23 Pa.C.S. § 2535(b) previously commissioned in the foreign adoption proceeding without regard to when such reports were prepared. The court may in its discretion require additional reports and investigations to be made in accordance with the Pennsylvania Adoption Act, Pennsylvania Orphans' Court Rules and local rules.

(3) *Original Documents, Decrees and Translations.* All original documents, decrees and translations must be available for review by the court upon request.

(4) *Pre-adoption Requirements.* In order to grant an adoption, the court must be satisfied that the pre-adoption requirements set forth in 23 Pa.C.S. §§ 2530—2535 have been met. If the Prospective Adoptive Parents or adopting parents were Pennsylvania residents at the time that the United States Visa was issued to the foreign born child, the court may accept an IH or IR United States Visa as proof that the pre-adoption requirements have been met.

(5) *Proof that the Child is an Orphan.* In order to grant an adoption, the court must be satisfied that the adoptee is an orphan. The court may accept the IH or IR United States Visa of the adoptee or adopted child as proof that the foreign born child is an orphan.

(6) *Hearing.* The court shall schedule a hearing to allow for testimony pursuant to 23 Pa.C.S. §§ 2721—2724. Petitioners and the adoptee or adopted child shall appear at the hearing. The court may in its discretion require the presence of additional persons, including a representative of the intermediary.

(e) *Disclosure of Fees and Costs.* At the hearing on the petition for adoption, there shall be offered in evidence a report, verified by the petitioners and counsel, setting forth the amount of fees, expenses, and costs paid or to be paid to counsel, and any other fees, costs and expenses paid or to be paid to an intermediary and/or any other person or agency in connection with the adoption of the foreign born adoptee or adopted child. The court may request an itemization of any of the amount(s) reported.

(f) *Final Decree.* After the hearing, the court shall determine if the adoption of the foreign born adoptee or adopted child can be granted, and if so, the court shall enter a decree as provided in 23 Pa.C.S. § 2902.

(g) *Clerk of the Appropriate Court.* Upon the filing of a decree granting the adoption under this Rule, the clerk shall enter the decree and date of the decree on the docket. The clerk shall send Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child, and Form No. HD01275F, Statement of Citizenship and Residency, to the Department of Health, Division of Vital Records, along with a copy of U. S. Government Form N-560, Certificate of Citizenship, and/or a copy of the adoptee's or adopted child's United States passport, if either or both documents have been provided by the Prospective Adoptive Parent(s) or adopting parent(s). The clerk shall issue to the Prospective Adoptive Parent(s) or adopting parent(s) a certificate of adoption in accordance with 23 Pa.C.S. § 2907.

(h) *Only One Court May Assume Jurisdiction.* Prospective Adoptive Parent(s) or adopting parent(s) shall not proceed under this Rule if the foreign adoption has been registered or otherwise finalized by a court of this Commonwealth or any other state.

**Explanatory Comment:** Pursuant to 23 Pa.C.S. § 2908(e), as amended by Act 96 of 2006, a set of forms, consisting of a Petition for Adoption of a Foreign Born Child, Report of Intermediary, Verification of Translator, Preliminary Decree, and Final Decree are set forth in the Appendix to these Rules.

In most instances, the adopting parent(s) of a foreign born adopted child who has entered the United States with an IR-2, IR-3 or IH-3 United States Visa will not need to proceed under Pa.O.C. Rule 15.15, but can register the foreign adoption decree pursuant to Rule 15.14. Situations may arise, though, that necessitate proceeding under this Rule, such as the inclusion of an incorrect birth year on the foreign adoption decree, or other personal family reasons. In these situations, adopting parent(s) of a foreign born adopted child entering the United States with an IR-2, IR-3, or IH-3 United States Visa may proceed under Rule 15.15; however, adopting parent(s) should be advised by counsel of the additional costs, additional documentation required, and the delay caused by the need for a hearing.

If a foreign born adoptee has entered the United States with an IH-4 or IR-4 United States Visa, the Prospective Adoptive Parent(s) must proceed under Rule 15.15 because the adoption of their foreign born adoptee was not finalized in the country of the adoptee's birth.

If the foreign born adoptee or adopted child has been issued a United States Visa, regardless of the type of Visa issued (e.g., IR-2, IH-2, IR-3, IH-3, IR-4 or IH-4), the birth parents of the foreign born child do not need to receive notice of the opportunity to enter into a Contact Agreement. Efforts to locate parents in a foreign country and notify them of the opportunity to enter into a post-adoption contact and/or communication agreement are both impractical and costly. If the foreign born adoptee or adopted child is entering the country with a United States Visa, then it has been established to the satisfaction of the Department of Homeland Security, United States Citizenship and Immigration Services that the foreign born child is an orphan; thus, the child has no legal parents to receive notice. See Rule 15.15(d)(5).

Only one state court, whether in this Commonwealth or another state, should exercise jurisdiction over the registration of the foreign adoption decree or the completion of the adoption initiated in the native country of the foreign born child. Thus, if the adoption has been finalized or the foreign adoption decree has been registered in another state court or in another court within this Commonwealth, the adopting parents need not and should not proceed under this Rule. In similar fashion, if the adoption of the foreign born adopted child has been finalized in this Commonwealth, and thereafter, another petitioner seeks to adopt this adopted individual, the subsequent proceeding will be a standard proceeding under the applicable provisions of the Adoption Act, 23 Pa.C.S. § 2101 *et seq.* Such a situation could occur when the adopted individual is to be adopted by a step-parent after divorce or death of the original adopting parents, or when, after termination of parental rights, the adopted child is to be adopted by Prospective Adoptive Parents different than the adopting parents.

The documents referenced in Rule 15.15 should be filed with the clerk, except in Philadelphia County, where they should be filed with the Clerk of the Family Court Division. The petition and accompanying documents under this Rule, including the decree granting the adoption, are confidential and should be impounded and withheld from public inspection as provided in the Adoption Act, 23 Pa.C.S. §§ 2906, 2907, 2908(f), and 2911—2937 and Rule 15.21.

The clerk shall make available to the petitioners the necessary Department of Health, Division of Vital Records forms: Form No. HD01273F, Certificate of Adoption of a Foreign-Born Child; and Form No. HD01275F, Statement of Citizenship and Residency.