

Instructions for Affidavit of Financial Support and Intent to Petition for Legal Custody of Public Law 97-359 Amerasian



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

USCIS
Form I-361

What Is the Purpose of Form I-361?

You may only use 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. You must file it in support of Form I-360, Petition for Amerasian, Widower, or Special Immigrant.

Who May Sponsor a Public Law 97-359 Amerasian?

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 five year period, beginning:

1. On the date the Amerasian acquires lawful permanent resident status; or
2. During the entire period, beginning on the date the Amerasian acquires lawful permanent resident status and ending on the date when the Amerasian becomes 21 years of age, whichever period is longer.

You must provide financial support 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 gain 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 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.

General Instructions

USCIS provides forms free of charge through the USCIS Web site. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>. If you do not have Internet access, you may call the USCIS Contact Center at **1-800-375-5283** and ask that we mail a form to you. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Signature. Each affidavit must be properly signed and filed. For all signatures on this affidavit, USCIS will not accept a stamped or typewritten name in place of a signature. If you are under 14 years of age, your parent or legal guardian may sign the affidavit on your behalf. A legal guardian may also sign for a mentally incompetent person.

Evidence. At the time of filing, you must submit all evidence and supporting documentation listed in the **Supporting Evidence** section of these Instructions.

Copies. You may submit legible photocopies of documents requested, unless the instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filing or at any time during processing of an application, petition, or request. If you submit original documents when not required, the documents may remain a part of the record, and USCIS will not automatically return them to you.

Translations. If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English.

How To Fill Out Form I-361

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this affidavit, use the space provided in **Part 7. Additional Information** or attach a separate sheet of paper; type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks "Provide the name of your current spouse"), type or print "N/A," unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None," unless otherwise directed.
4. **USCIS ELIS Account Number** (if any). If you have previously filed an application, petition, or request using the USCIS Electronic Immigration System (USCIS ELIS), provide the USCIS ELIS Account Number you were issued by the system. The USCIS ELIS Account Number is not the same as an A-Number. If you were issued a USCIS ELIS Account Number, enter it in the space provided.
5. **Part 4. Sponsor's Statement, Contact Information, Certification, and Signature.** Select the appropriate box to indicate that you either read this affidavit yourself or someone interpreted this affidavit for you from English to a language in which you are fluent. If applicable, select the box to indicate if someone prepared this affidavit for you. Further, you must sign and date your affidavit and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). Every Form **MUST** contain the signature of the sponsor (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.
6. **Part 5. Interpreter's Contact Information, Certification, and Signature.** If you used anyone as an interpreter to read the instructions and questions on this affidavit to you in a language in which you are fluent, the interpreter must fill out this section, provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, and his or her email address (if any). The interpreter must sign and date the affidavit.

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- 7. Part 6. Contact Information, Statement, Certification, and Signature of the Person Preparing this Affidavit, If Other Than the Sponsor.** This section must contain the signature of the person who completed your affidavit, if other than you, the sponsor. If the same individual acted as your interpreter **and** your preparer, that person should complete both **Part 5.** and **Part 6.** If the person who completed this affidavit is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you prepare this affidavit **MUST** sign and date the affidavit. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your affidavit is an attorney or accredited representative, he or she must also submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your affidavit, if his or her representation extends beyond preparation of this form.
- 8. Part 7. Oath of Sponsor.** You must sign the affidavit in your full name and affirm it under oath. If you are in the United States, you must affirm the affidavit before a USCIS officer. If you are outside the United States, you must affirm the affidavit before a USCIS officer or a U.S. Department of State consular officer. The USCIS officer or consular officer must also sign and date the affidavit.

NOTE: Do not sign this portion of the affidavit until you are in front of a USCIS officer or a U.S. Department of State consular officer

We recommend that you print or save a copy of your completed affidavit to review in the future and for your records.

Supporting Evidence

You must submit 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, 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 names of record of the owners.

You must submit all evidence requested in these instructions with your affidavit.

If you fail to submit required evidence, USCIS may reject or deny your affidavit for failure to submit requested evidence or supporting documents in accordance with 8 CFR 103.2(b)(1) and these instructions.

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) are 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 of his or her intended residence.

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 are "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 is fully responsible if the alien is unable to pay.

Incorrect payments that are not repaid are 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.

What Is the Filing Fee?

There is no fee to file Form I-361.

Where To File?

Please see our Web site at www.uscis.gov/I-361 or call our USCIS Contact Center at **1-800-375-5283** for the most current information about where to file this affidavit. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Address Change

You must notify USCIS of your new address within 10 days of moving from your previous residence. For information on filing a change of address go to the USCIS Web site at www.uscis.gov/addresschange or contact the USCIS Contact Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

NOTE: Do not submit a change of address request to USCIS Lockbox facilities because these facilities do not process change of address requests.

Processing Information

You must have a United States address to file this affidavit.

Initial Processing. Once USCIS accepts your affidavit we will check it for completeness. If you do not completely fill out this affidavit, you will not establish a basis of support for the beneficiary and USCIS may reject or deny your affidavit.

Requests for More Information. We may request that you provide more information or evidence to support your affidavit. We may also request that you provide the originals of any copies you submit. USCIS will return any requested originals when they are no longer needed.

Requests for Interview. We may request that you appear at a USCIS office for an interview based on your affidavit. At the time of any interview or other appearance at a USCIS office, we may require that you provide your fingerprints, photograph, and/or signature to verify your identity and/or update background and security checks.

Decision. The decision on Form I-361 involves a determination of whether you have established a basis of support for the beneficiary seeking an immigration benefit. USCIS will notify you of the decision in writing.

USCIS Forms and Information

To ensure you are using the latest version of this affidavit, 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 Contact Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

Instead of waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our online system, **InfoPass**, at <https://my.uscis.gov/en/appointment/v2>. 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 your Form I-361, we will deny your Form I-361 and may deny any other immigration benefit the beneficiary seeks. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

USCIS will not accept this affidavit 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.

PURPOSE: The primary purpose for providing the requested information on this affidavit is to determine if you have established eligibility for the immigration benefit for which you are filing. DHS will use the information you provide to grant or deny the benefit you are seeking.

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

ROUTINE USES: DHS may share the information you provide on this affidavit with other Federal, State, local, and foreign government agencies and authorized organizations. DHS follows 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]. DHS may also share the information, as appropriate, for law enforcement purposes or in the interest of national security.