



AAC

ALLIANCE FOR  
ADOPTEE  
CITIZENSHIP

**A GUIDE TO THE  
ADOPTEE CITIZENSHIP ACT  
OF 2021**



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# ALLIANCE FOR ADOPTEE CITIZENSHIP

The Alliance for Adoptee Citizenship (AAC) is a coalition of organizations dedicated to the passage of the Adoptee Citizenship Act in the 117th Congress (H.R.1593 & S.967). Our network is made up of a diverse group of adoptees, adoptive families, grassroots organizing and advocacy groups, and allies—all of whom are working together to amend a technical oversight in the Child Citizenship Act of 2000. This oversight has resulted in the exclusion of thousands of intercountry adoptees from rightfully receiving automatic citizenship as legally adopted children of U.S. citizen parents.

## Mission & Work

The AAC’s mission is to secure U.S. citizenship for all intercountry adoptees. As individuals who were legally adopted by U.S. citizen parents, adoptees should have the resources necessary to live and thrive as American citizens. This includes access to social security benefits, driver’s licenses, jobs, education, voting, home loans, passports, and more.

To achieve our mission of securing citizenship for all intercountry adoptees, the AAC is working to advance the passage of an inclusive Adoptee Citizenship Act in the U.S. Congress in 2021.

## National & Regional Member Organizations

- National Korean American Service & Education Consortium
- HANA Center (Illinois)
- Adoptees For Justice
- Family Coalition for Adoptee Citizenship
- Korean American Women’s Association of the USA, Inc.
- MinKwon Center (New York)
- Hamkae Center (Virginia)
- Korean Resource Center (California)
- Woori Center (Pennsylvania)
- Woori Juntos (Texas)



# ENSURING CITIZENSHIP FAIRNESS FOR INTERCOUNTRY ADOPTEES

## The Issue:

The United States has long promoted and actively participated in facilitating intercountry adoptions as a receiving country. In 2000, Congress enacted legislation granting automatic citizenship to international adoptees. However, because of a loophole in the Child Citizenship Act of 2000, thousands of adoptees who were legally adopted in the U.S. have been left without citizenship because of an arbitrary age cutoff.

To remedy this oversight, Congress must act quickly to pass a technical correction to the Child Citizenship Act and provide automatic citizenship to these individuals adopted by U.S. citizens.

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## Here's Why:

- Anyone legally adopted as a child by a U.S. citizen and raised in the United States should receive citizenship.
- Without addressing this technical flaw, adoptees raised in the U.S. will continue facing barriers that significantly impact their quality of life due to their citizenship status (e.g., barriers to banking, getting a job, social security benefits, applying for college, applying for a passport or license, voting, owning a home).
- No adoptee should be left behind. Since they were adopted by U.S. citizen parents, they should be treated as U.S. citizens. If an adoptee has been involved in the criminal justice system, they should fulfill penalties and then be allowed to continue with their lives like any other citizen.

## The Solution:

The Adoptee Citizenship Act of 2021 was introduced in the Senate (S967) by Sens. Blunt (R-MO), Hirono (D-HI), Collins (R-ME), Klobuchar (D-MN), Murkowski (R-AK), and Duckworth (D-IL); and introduced in the House (H.R. 1593) by Reps. Adam Smith (D-WA) and John Curtis (R-UT). It grants retroactive U.S. citizenship to all individuals internationally adopted into the U.S. before the age of 18.

This bipartisan legislation is a simple, common sense fix to a problem that has existed for far too long. It recognizes and counts those who were legally adopted by U.S. citizens as children raised in the United States. It upholds the fundamental legal principle that attributes the rights of a child naturally born to a U.S. couple to a child adopted by a U.S. couple.

Furthermore, it protects the rights of these adoptees against deportation that breaks up families and returns adoptees to places where they do not know the language, culture, or have any known family members or supports.

To ensure a healthy and globally respected adoption system in the United States, the Alliance for Adoptee Citizenship strongly supports the Adoptee Citizenship Act of 2021 and urges its swift passage to address the injustices experienced by thousands of children of U.S. citizens who, through no fault of their own, were not granted citizenship upon adoption.



# WHY CONGRESS MUST PASS THE ADOPTEE CITIZENSHIP ACT

LEAVE NO ADOPTEE BEHIND



Adoption by U.S. citizen parents should have resulted in citizenship for EVERY adoptee.



As children who were adopted and brought to the United States by U.S. citizens, adoptees should not be held responsible for other people's failure to finalize their adoption or immigration paperwork.



Regardless of the reason why they lack citizenship, adult adoptees and their loved ones are now unjustly suffering the consequences.

## NO ADOPTEE SHOULD BE DEPORTED

If all adoptees were properly granted citizenship at the time of their adoption—as was intended and affirmed as a human right by the Child Citizenship Act of 2000—then no adoptee would face the double punishment of deportation.



### Adoptees Without Citizenship

If arrested, may be issued an order of deportation, processed by ICE, and sent to a country they don't remember and have no connections to, and where they may be re-traumatized by another forced separation from home and family.



### Adoptees With Citizenship

If arrested, stay in the U.S. near friends, family, and the only home they know. Offenses are processed through the U.S. criminal justice system, as they are for any other child of U.S. citizen parents.



## REASONS WHY ADOPTEES LACK CITIZENSHIP

### ADOPTION ATTORNEYS

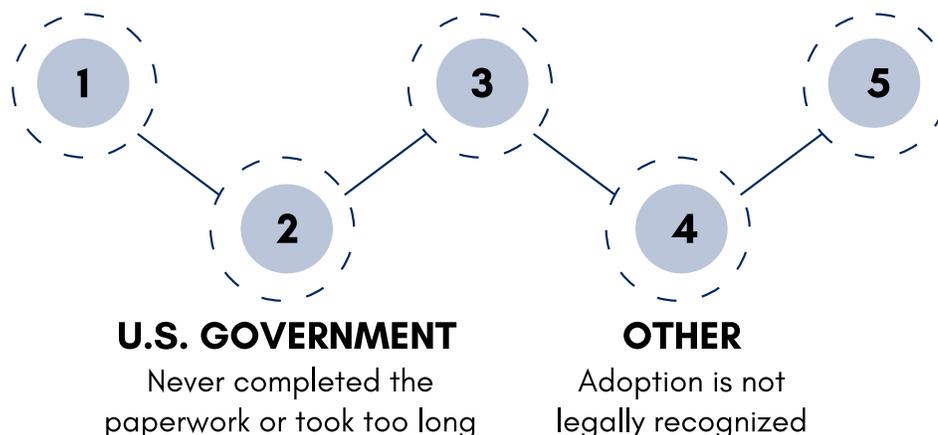
Misinformed others about inter-country adoption laws

### ADOPTION AGENCIES

Failed to inform and/or follow up with adoptive parents

### ADOPTIVE PARENTS

Failed to complete naturalization and/or incorrectly brought the adoptee into the country



## Emily



Emily was adopted from South Korea in 1964 when she was three months old. She is one of thousands of children adopted by U.S. military families - her father was a veteran of WWII - and raised as Americans. Growing up, Emily and her adoptive parents always believed she was a U.S. citizen. Emily paid her taxes, worked in the aerospace industry, got married, and had a son. At the age of 48, she was diagnosed with a severe spine disease that makes it impossible for her to work. Upon applying for disability, she was ineligible to receive benefits because she was not a citizen. In 2000, she was issued an order of deportation after the police found drugs on a passenger in Emily's car; she was not aware the person was carrying these drugs. She and her family now live in fear of separation in spite of the fact that she has fulfilled her legal obligations to the justice system and paid her debt to society. Emily will soon require surgery for her spine but, as an adoptee without citizenship, she does not qualify for disability or unemployment insurance support.

## Travis



Travis was adopted from Venezuela to Texas in 1971 when he was nine months old. Due to mishandling of his paperwork by the Venezuelan government, his U.S. citizen parents were unable to finalize his adoption until 1993. Travis was deported to Venezuela after being charged with a crime he did not actually commit. Although the court vacated, the immigration court refused to accept the dismissal. He does not have a home in Venezuela or a place to seek refuge. Travis now lives apart from his brothers, sisters, parents, wife, and young son and grapples daily with this loss.

## Keven



Keven was born in 1954 in Seoul, South Korea. He was adopted at the age of three by U.S. citizen parents. His father was a veteran of WWII and Korea. All his life, he and his adoptive parents believed he had U.S. citizenship. He worked for nearly 50 years as a journeyman carpenter, but had to quit his job to be a full-time caretaker when his wife fell ill with Small Cell Lung Cancer. After she passed away, Keven applied for Social Security benefits. However, he found he was unable to obtain these benefits because he has been unable to prove his citizenship. Keven's adoption paperwork was destroyed in a fire and he has not been able to secure the required paperwork from adoption or government agencies because he does not know his Korean name. He is now taking care of his granddaughter and has been surviving on his wife's pension for the last three years, but it is not enough to make ends meet. Keven yearns for financial security and peace of mind.



## MICHAEL LIBBERTON WAS BROUGHT TO ILLINOIS FOR ADOPTION FROM COLOMBIA IN 1978. HE FOUND OUT ONLY 5 YEARS AGO HE ISN'T A CITIZEN

BY ALISON BOWEN

CHICAGO TRIBUNE

Michael Libberton felt like a U.S. citizen his entire life. After all, since arriving in the U.S. from Colombia in 1978 as a toddler brought here for adoption by his parents, he assumed he was. Five years ago, he found out he wasn't.

Despite being adopted by U.S. citizen parents, federal law has limited citizenship options for some international adoptees. A bill introduced in March (H.R. 1593) and supported by Sen. Tammy Duckworth, D-Ill., would ensure all internationally adopted children can become citizens. The hurdles for people like Libberton are rooted in legislation from two decades ago. The Child Citizenship Act of 2000 guaranteed citizenship to international adoptees, but only applied to adoptees under age 18 when the law took effect on Feb. 27, 2001. That meant that people like Libberton, who is now 45 years old, found out often in adulthood that they were not citizens.



Michael Libberton is pictured here as a child with his parents, Jane and Charles Libberton, after they brought him from Colombia to the U.S. for adoption.

"People find out later in life, some as late as when they went to go claim retirement," said Taneka Jennings, deputy director of programs at the HANA Center, a nonprofit that helps immigrants. "If you never have a reason to look into it, many people just assume that they're citizens." Under immigration laws, someone like Jennings, adopted from South Korea in 1985, has citizenship but had she been born a different year, she may not.

"We believe that as people who did not choose to come here but were brought to this country by our U.S. citizen parents, we should have U.S. citizenship by the very fact that we were brought here," she said.

Advocates are aware, she said, of people being deported to their birth countries, where they do not know anyone, do not speak the language and cannot get a job or build a life. Sometimes, they are separated from young children born here. Jennings said people have already experienced shock and loss after leaving their birth family and birth country. "And then to have to go through that twice when it was never even your choice for that to happen the first time, it's unconscionable," she said.

Gregory Luce, Libberton's immigration attorney, has helped multiple people in this situation and said differences in the law mean that some adoptees automatically become U.S. citizens, depending on their age and which visa they entered on.

But those who do not get automatic citizenship must go through the naturalization process; Luce noted that the fee, which is \$725 and does not include paying an attorney, can be prohibitive.

In a March statement announcing her support for the bill, Duckworth said this legal technicality affects thousands, including people who have been deported to their birth country. "Our bipartisan bill would fix this unfair and harmful technicality and prevent needless heartache for many American families," she said in the statement.

Libberton, whose legal name is still his birth name of William Ortiz, grew up in Illinois and now lives in Florida. He was brought to Batavia by his parents after they adopted him in 1978. When he needed to submit paperwork to apply for welding school in 2016, he looked for his adoption documents and more information solidifying his citizen status only to find none.

"There was no paper trail of anything," he said. "It was a shock. I went through a lot of emotions." He asked his mother about it, who thought that they had finished all necessary paperwork because that's what they had been told at the time. Both mother and son were surprised to know this was not the case. Along with the barrier of Libberton not being under 18 on the date the legislation became law, he also did not have adoption paperwork finalized before age 18, another requirement. Luce said this is common; families do not realize they need to do more paperwork, or have been told by agencies abroad or in the U.S. that everything is set.

Now, Libberton finds himself with a wife, three children and the possibility that he might have to return to a country he doesn't even remember.



Michael Libberton is seen with his daughter Emma and wife Taylor.

It has also changed his own views on immigration. Before, he said, he did not understand why anyone would spend decades in the U.S. and still not be a citizen. Now, after going through multiple immigration lawyers, mountains of paperwork and anxiety-filled waits about his future, he said the immigration process is much more complex than he had assumed. "I was like, 'Oh, they should do it the right way. There should be no reason someone doesn't have citizenship after 20 years,'" he said.

"Finding out why, being part of the system, it's completely changed my mind on a lot of things and opened my eyes." He has a green card now, and is hoping to attain citizenship. For now, he hopes the bill passes, easing his path. "It's something I should have had from the beginning," he said.

## Adoptee Citizenship Act of 2021: Frequently Asked Questions (FAQ)

### What issue is addressed by the Adoptee Citizenship Act of 2021?

Presently, people adopted from overseas who were born before February 27, 1983 face a unique problem. Adopted as infants and children from abroad by U.S. citizens, they grew up in the United States believing they were American citizens. Yet, through no fault of their own, these adoptees never actually obtained U.S. citizenship. Citizenship should be a civil right for individuals who were adopted as children by U.S. citizen parents.

The Child Citizenship Act of 2000<sup>1</sup> was created to remedy this issue for every affected and eligible adoptee under 18 years of age at the time of its passing (i.e., born after February 27, 1983). However, this arbitrary age cutoff excluded adoptees who were adopted in the prior six decades since international adoption began.

This technical oversight in the law remains unresolved to this day and impacts tens of thousands of intercountry adoptees. The Adoptee Citizenship Act of 2021 ([H.R.1593](#) & [S.967](#)) will rectify this problem by granting U.S. citizenship to all individuals who were internationally adopted to the U.S. before the age of 18.

### How does this issue impact adoptees without citizenship?

The most immediate and dire consequence of this technical oversight is that, without the citizenship they are due, adoptees are deportable by law. Some have already been deported for criminal offenses committed in their pasts, for which they have dutifully served their time. Without citizenship, most international adoptees are inappropriately subject to the laws governing non-citizen, legally present immigrants.

Through no fault of their own, the lack of citizenship hinders adoptees' ability to participate in American life to the full extent possible. The vast majority of impacted adoptees' families and support networks are in the United States, where they have lived for almost their entire lives. Unlike their American-born peers, these international adoptees without citizenship cannot freely apply for jobs, work for the government, vote, drive, participate in jury duty, enroll in certain government programs, or travel abroad, like they should.

An international adoptee is brought to the country as an infant or child under the presumption that they will receive the same treatment as a child naturally born to a U.S.

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<sup>1</sup> Library of Congress, "H.R.2883 - Child Citizenship Act of 2000," CONGRESS.GOV, 1999, <https://www.congress.gov/bill/106th-congress/house-bill/2883>.

citizen parent on American soil. Yet, current law has robbed these individuals of this expectation, thereby necessitating the swift passage of the Adoptee Citizenship Act of 2021 to amend this oversight.

### How many people are affected by this issue?

No precise statistics are available from the U.S. Department of Homeland Security or the U.S. Department of State. According to the South Korean Ministry of Health and Welfare, an estimated 18,603 individuals of the total number of children adopted from South Korea to families in the United States in the last 60 years lack records of U.S. citizenship finalization.<sup>2</sup> There are also known cases of individuals without citizenship who were adopted from 27 additional countries, including Argentina, Brazil, China, Colombia, Costa Rica, Germany, Greece, Guatemala, El Salvador, Ethiopia, Haiti, India, Ireland, Iran, Jamaica, Japan, Mexico, Panama, Peru, Philippines, Russia, Spain, St. Kitts, Taiwan, Ukraine, Venezuela, and Vietnam.

### Why is this an issue? How did it start?

This issue is the result of the failure of a range of responsible parties that includes government entities, adoption agencies, lawyers, and adoptive parents.<sup>3</sup> In no case is the failure to naturalize the fault of the adoptee.

In many cases of intercountry adoption, the U.S. government legalized adoptions and adoption agencies facilitated them without first guaranteeing citizenship for these children. In addition, U.S. citizen parents did not take the necessary step of naturalizing their children in the allotted window of time between the child's adoption and their 16th birthday.

International adoption has been described as a two-step process. First, parents must follow "any state laws governing their [child's] adoption within the U.S." Second, parents must obtain their child's citizenship.<sup>4</sup> This second step involves applying to the

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<sup>2</sup> Min Joo, Kim "26,000 Korean adoptees without citizenship: data," The Korea Herald, Oct 31, 2017, <http://www.koreaherald.com/view.php?ud=20171031000935>.

<sup>3</sup> Bureau of Consular Affairs, U.S. Department of State, "Non-Convention Adoption Cases: Form I-604 Determination and Immigrant Visa Appointment Scheduling," Travel.State.Gov, April 30, 2019, <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/immigrant-visa-process/Non-Convention-Adoption-Cases-Form-I-604-Determination-and-Immigrant-Visa-Appointment-Scheduling.html>.

<sup>4</sup> Hauenstein, Holland L., "Unwitting and Unwelcome in Their Own Homes: Remediating the Coverage Gap in the Child Citizenship Act of 2000," *104 Iowa Law Review* 2123, n.31 (2019),

Immigration and Naturalization Service (INS), a process that could take up to three years, and requires producing a range of documentation. Given that a fundamental principle of adoption law is that “the rights and status of an adopted child are the same as those of a natural child,”<sup>5</sup> parents may have believed the same principle applied to federal citizenship laws, and that their children were automatically granted citizenship by virtue of their adoptions.

What are some examples of the ways people are impacted?

Keven was born in 1954 in Seoul, South Korea. He was adopted at the age of three by U.S. citizen parents. All his life, he and his adoptive parents believed he had U.S. citizenship. He worked for nearly 50 years as a journeyman carpenter, but had to quit his job to be a full-time caretaker when his wife fell ill with Small Cell Lung Cancer. After she passed away, Keven applied for Social Security benefits. However, he found he was unable to obtain these benefits because he has been unable to prove his citizenship. Keven’s adoption paperwork was destroyed in a fire and he has not been able to secure the required paperwork from adoption or government agencies because he does not know his Korean name. He is now taking care of his granddaughter and has been surviving on his wife’s pension for the last three years, but it is not enough to make ends meet. Keven yearns for financial security and peace of mind.

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Emily was adopted from South Korea in 1964 when she was three months old. She is one of thousands of children adopted by U.S. military families – her father was a veteran of WWII – and raised as Americans. Growing up, Emily and her adoptive parents always believed she was a U.S. citizen. Emily paid her taxes, worked in the aerospace industry, got married, and had a son. At the age of 48, she was diagnosed with a severe spine disease that makes it impossible for her to work. Upon applying for disability, she was

<https://ilr.law.uiowa.edu/print/volume-104-issue-4/unwitting-and-unwelcome-in-their-own-homes-remedying-the-coverage-gap-in-the-child-citizenship-act-of-2000>.

<sup>5</sup> John Bourdeau and Kristina E. Music Biro, “Effect of Adoption Upon Individuals’ Status, Rights, Duties, and Obligations,” *American Jurisprudence, Second Edition*, 2 Am. Jur. 2d Adoption § 172, November, 2021.

ineligible to receive benefits because she was not a citizen. In 2000, she was issued an order of deportation after the police found drugs on a passenger in Emily’s car; she was not aware the person was carrying these drugs. She and her family now live in fear of separation in spite of the fact that she has fulfilled her legal obligations to the justice system and paid her debt to society. Emily will soon require surgery for her spine but, as an adoptee without citizenship, she does not qualify for disability or unemployment insurance support.<sup>6</sup>

### Can adoptees without citizenship receive public benefits?

This depends on the particular benefit. U.S. Social Security benefits may be available to noncitizens by virtue of their employment, as “[m]ost U.S. jobs are covered under Social Security.”<sup>7</sup> Benefits such as federal student aid may also be available, although the process for obtaining them may be more difficult for adoptees without citizenship.<sup>8</sup>

Applying limits and additional requirements to receive public benefits is inappropriate when applied to the context of a child who was legally adopted from another country as an infant or child and was never provided citizenship.

### How many intercountry adoptees have been deported?

There are no exact numbers, as the U.S. Department of Homeland Security does not track whether an individual is an intercountry adoptee in the course of their deportation. Yet, based on what is known about the size of the international adoptee population, a very small segment of adoptees without citizenship have been deported. The non-profit organization Adoptees For Justice is aware of 50 such cases as of 2021.<sup>9</sup>

### What visas were used to bring intercountry adoptees to the U.S.?

Visas adoptive parents used to bring their children over included immediate relative

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<sup>6</sup> Alliance for Adoptee Citizenship, “Stories from the Community: Intercountry Adoptees Without Citizenship, Alliance for Adoptee Citizenship,” Alliance for Adoptee Citizenship, <https://www.allianceforadopteecitizenship.org/resources>.

<sup>7</sup> Nuschler, Dawn, “Social Security Benefits for Noncitizens,” Congressional Research Service, November 17, 2016, <https://crsreports.congress.gov/product/pdf/RL/RL32004/20>.

<sup>8</sup> “U.S. Citizenship & Eligible Noncitizens,” Wayback Machine, February 24, 2017, <https://web.archive.org/web/20170224140643/https://ifap.ed.gov/fsahandbook/attachments/1718FSAHbkVol1Ch2.pdf>.

<sup>9</sup> Adoptees for Justice, “Adoptees Without Citizenship Story Collection,” Adoptees for Justice, <https://adopteesforjustice.org/our-work/story-collection>.

visas IR-3 and IR-4. An IR-3 was issued when an adoption was completed abroad. It required that the parent (if unmarried), or at least one parent (if married), physically saw the child prior to or during the adoption proceedings. An IR-4 visa was issued when a child was coming to the U.S. for adoption. It was required for children adopted abroad by only one parent (if married), who were not seen by the parent(s) prior to or during their adoption.

After 2008, these also included permanent resident visas IH-3 and IH-4. An IH-3 was issued for children with final adoptions from a Hague Convention country. An IH-4 was issued for a child who came to the U.S. from a Hague Convention country to be adopted. Whether or not a child arrives on an IR 3/IH 3 visa or an IR 4/IH 4 visa, they are screened in advance for suitability for international adoption,<sup>10</sup> and his or her prospective adoptive parents are screened for their suitability to adopt.<sup>11</sup>

In addition, some adoptees may have entered on non-immigrant visas or by parole.<sup>12</sup> This would not be reflected in the U.S. Department of State adoption statistics.

### Why should adoptees be treated the same as biological children?

It is a fundamental principle of American law for children who have been adopted by U.S. citizen parents to have the same rights as biological children, a goal which is also reflected in the legal and social standards of international human rights conventions.<sup>13</sup>

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<sup>10</sup> Bureau of Consular Affairs, U.S. Department of State, “Non-Convention Adoption Cases: Form I-604 Determination and Immigrant Visa Appointment Scheduling,” Travel.State.Gov, April 30, 2019, <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/immigrant-visa-process/Non-Convention-Adoption-Cases-Form-I-604-Determination-and-Immigrant-Visa-Appointment-Scheduling.html>.

<sup>11</sup> Bureau of Consular Affairs, U.S. Department of State, “Convention Visa Process,” Travel.State.Gov, July 31, 2018, <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/immigrant-visa-process/us-hague-convention-adoption-and-visa-process.html>.

<sup>12</sup> “Private Law 107–1—July 17, 2021,” Authenticated U.S. Government Information, July 17, 2021, <https://www.congress.gov/107/plaws/pvtl1/PLAW-107pvtl1.pdf>

<sup>13</sup> D’Agostino, Joseph, “Equalizing the Treatment of Foreign-Adopted Children,” *Adoption Advocate* No. 33, March, 2011, <http://www.adoptioncouncil.org/publications/2011/03/adoption-advocate-no-33>.



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