

FOR THE RELIEF OF SO HYUN JUN

OCTOBER 8, 2002.—Referred to the Private Calendar and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 3758]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3758) for the relief of So Hyun Jun, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 3758 would allow So Hyun Jun to become a permanent resident of the United States.

BACKGROUND AND NEED FOR THE LEGISLATION

So Hyun Jun is a 17 year old from South Korea. So Hyun Jun's mother was permanently injured in a car accident in 1995 and was unable to provide care for So Hyun Jun. So Hyun Jun's father, who had a history of alcohol dependency, had also been both physically

and mentally abusive to So Hyun Jun. Due to the abuse, So Hyun Jun's social and educational development had been severely impeded. Her aunt and uncle, John and Ok Sun Thornton, and Hyun Jun's mother agreed that the best thing for the child would be for the Thorntons to adopt her. The Thorntons began their attempt to adopt the child. However, their efforts were thwarted for several years because So Hyun Jun's father disappeared and they could not proceed without his consent.

In February 2000, So Hyun Jun first came to the United States to live with her aunt and uncle. In August 2000, formal adoption proceedings began after all the necessary documents had been collected and both So Hyun Jun's natural parents had officially relinquished their parental rights. The adoption was finalized on March 6, 2001. Unfortunately, that finalization date fell almost 6 months after So Hyun Jun's 16th birthday.

In order for an adoptee to lawfully immigrate to the United States, the immigration law requires an adoption to have occurred prior to the age of 16. Because So Hyun Jun's adoption was not completed until after her 16th birthday, she would need a private bill in order to gain permanent residence.

The precedent concerning adoption cases is well-established. Precedent dictates that in order for favorable consideration of a private bill that allows an adoption to be considered legitimate for immigration purposes, the adoption must have been initiated prior to the child's turning 16 and must be finalized.

It is clear from the documentation provided to the Subcommittee on Immigration, Border Security and Claims that the Thornton's were actively proceeding with the adoption prior to So Hyun Jun's 16th birthday.

HEARINGS

There were no hearings held on H.R. 3758.

COMMITTEE CONSIDERATION

On September 25, 2001, the Subcommittee on Immigration, Border Security and Claims met in open session and ordered favorably reported the bill H.R. 3758, by voice vote a quorum being present. On October 2, 2002, the Committee on the Judiciary met in open session and ordered reported favorably the bill H.R. 3758 without amendment by voice vote, a quorum being present.

VOTES OF THE COMMITTEE

There were no recorded votes taken on H.R. 3758.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 3758 allows the beneficiary to become a permanent resident of the United States.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3758, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 3, 2002.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3758, a bill for the relief of So Hyun Jun.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 3758—A bill for the relief of So Hyun Jun.

H.R. 3758 would classify So Hyun Jun as a child for purposes of obtaining permanent resident status under the Immigration and Nationality Act. That classification would make it easier for her to obtain an immigrant visa. CBO estimates that enacting this legislation would have no significant impact on the Federal budget. H.R. 3758 could have a very small effect on fees collected by the Immigration and Naturalization Service. Such fees are classified as direct spending.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 4 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

SECTION 1. IMMEDIATE RELATIVE STATUS FOR SO HYUN JUN

Section 1(a) states that So Hyun Jun is to be classified as a child under the immigration law in reference to approval of a relative petition filed by her adoptive parent and a filing for adjustment of her status.

Section 1(b) states that if So Hyun Jun enters the United States before the 2 year deadline under the bill, she will be considered to have entered legally and be eligible to adjust her status under section 245 of the immigration law on the date of enactment.

Section 1(c) states that subsections (a) and (b) will only apply if the application for an immigrant visa or adjustment of status is filed with appropriate fees within 2 years of the date of enactment.

Section 1(d) indicates that once the beneficiary receives either an immigrant visa or permanent residence, the Secretary of State is required to reduce by 1 the number of immigrant visas that year or the next of the country of the beneficiary's birth.

Section 1(e) indicates that the natural parents, brothers, and sisters of So Hyun Jun will not have any right, privilege or status under the immigration law because of their relationship with So Hyun Jun.

SECTION 2. ELIGIBILITY FOR CITIZENSHIP

Section 2 states that for purposes of the Child Citizenship Act of 2000, So Hyun Jun shall be considered an adopted child under the immigration law.

AGENCY VIEWS

The comments of the Immigration and Naturalization Service on H.R. 3758 are as follows:



U.S. Department of Justice Immigration and Naturalization Service
A79 712 516

*701 Loyola Avenue, Room T-8011 New Orleans,
LA 70113*

MEMORANDUM FOR HEADQUARTERS, OFFICE OF OPERATIONS
DETENTION AND REMOVALS

FROM: District Director, New Orleans, LA

Attention: Private Bill Unit

SUBJECT: So Hyun JUN (H.R. 3758)

Enclosed is a full report. Enclosed is a short form report. Enclosed is a supplemental report. Enclosed is a positive response to a national agency check.

Response to national agency checks dated below are all negative unless otherwise shown.

1. CIA
2. FBI Records Branch
3. FBI Identification Division

Comments to clarify MI or noteworthy information not material enough for Committee are:

Responses to national agency checks have not been received.

No visa has been issued by an American Consulate.

Enclosures

MEMORANDUM OF INFORMATION FROM IMMIGRATION
AND NATURALIZATION SERVICE FILES RE: H.R. 3758

Information concerning this case was obtained from John Alan Thornton and Ok Sun Thornton, who are the beneficiary's adoptive parents and the interested parties in this case. Through the use of an Immigration and Naturalization Service (Service) interpreter, John Kang, additional information was obtained from the beneficiary, So Hyun Jun.

The beneficiary is a native and citizen of Korea, who was born September 16, 1984, in Seoul, Korea. She currently resides with her adoptive parents at 253 Ramona Drive, Leesville, LA. She has just completed the 9th grade at Pickering High School, Leesville, LA. The school's principal has characterized her academic performance as consistent with other foreign-born students.

The beneficiary's natural mother and brother still reside in Korea. Their address is Samwu jutach 201, Buchon City, Gyeonggi Province, Korea. Her natural father is believed to still reside in Korea, although his current address is unknown. The beneficiary reported her last address in Korea as 213-22 Samoo Complex, Buchon City, Gyeonggi Province, Korea.

There are two interested parties in this case, John and Ok Sun Thornton. Mr. Thornton, a U.S. citizen, is a retired First Sergeant who served in the U.S. Army for twenty-four years. He currently works in supply at Bayne-Jones Army Community Hospital, Ft. Polk, LA. Ok Sun Thornton, a legal permanent resident, is the beneficiary's maternal aunt. Ok Sun Thornton currently works as a housekeeper for Raytheon Technical Services, Ft. Polk, LA.

The beneficiary first entered the United States February 20, 2000, at Chicago, IL. She then departed and returned to Korea on June 3, 2000. The beneficiary then returned to the United States on July 25, 2000 at Chicago, IL. At that time she was admitted as a B-2, Visitor for Pleasure. Since her initial admission the beneficiary has resided with the interested parties at the above address in Leesville, LA. Subsequent to her admission the interested parties initiated efforts to adopt So Hyun Jun under Louisiana state law. The beneficiary's natural parents surrendered physical and legal custody to the interested parties on October 5, 2000, at Buchon City, Korea. Physical custody of So Hyun Jun was awarded to the interested parties on October 24, 2000, in the 30th Judicial District Court, Vernon Parish, Louisiana. On March 6, 2001, in the same judicial district, the interested parties adopted the beneficiary. A certified copy of the court's decree is attached for the Committee's review.

Although Mr. Thornton attempted filed an I-130 (Immigrant Petition for Relative) on the beneficiary's behalf, this family-based immigration option is unavailable for So Hyun Jun because she was adopted after the age of 16. To date, removal proceedings have not been initiated against the beneficiary.

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, OCTOBER 2, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:57 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

The first item on the agenda will be H.R. 3758, a private bill for the relief of So Hyun Jun.

[The bill, H.R. 3758, follows:]

107TH CONGRESS
2D SESSION

H. R. 3758

For the relief of So Hyun Jun.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2002

Mr. MCCREERY introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

For the relief of So Hyun Jun.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. IMMEDIATE RELATIVE STATUS FOR SO HYUN**
4 **JUN.**

5 (a) IN GENERAL.—So Hyun Jun shall be classified
6 as a child under section 101(b)(1)(F) of the Immigration
7 and Nationality Act for purposes of approval of a relative
8 visa petition filed under section 204 of such Act by her
9 adoptive parent and the filing of an application for an im-
10 migrant visa or adjustment of status.

11 (b) ADJUSTMENT OF STATUS.—If So Hyun Jun en-
12 ters the United States before the filing deadline specified

1 in subsection (c), she shall be considered to have entered
2 and remained lawfully and shall, if otherwise eligible, be
3 eligible for adjustment of status under section 245 of the
4 Immigration and Nationality Act as of the date of the en-
5 actment of this Act.

6 (c) DEADLINE FOR APPLICATION AND PAYMENT OF
7 FEES.—Subsections (a) and (b) shall apply only if the pe-
8 tition and the application for issuance of an immigrant
9 visa or the application for adjustment of status are filed
10 with appropriate fees within 2 years after the date of the
11 enactment of this Act.

12 (d) REDUCTION OF IMMIGRANT VISA NUMBER.—
13 Upon the granting of an immigrant visa or permanent res-
14 idence to So Hyun Jun, the Secretary of State shall in-
15 struct the proper officer to reduce by 1, for the current
16 or next following fiscal year, the worldwide level of family-
17 sponsored immigrants under section 201(c)(1)(A) of the
18 Immigration and Nationality Act.

19 (e) DENIAL OF PREFERENTIAL IMMIGRATION
20 TREATMENT FOR CERTAIN RELATIVES.—The natural
21 parents, brothers, and sisters of So Hyun Jun shall not,
22 by virtue of such relationship, be accorded any right, privi-
23 lege, or status under the Immigration and Nationality Act.

1 **SEC. 2. ELIGIBILITY FOR CITIZENSHIP.**

2 For purposes of section 320 of the Immigration and
3 Nationality Act, So Hyun Jun shall be considered to have
4 satisfied the requirements applicable to adopted children
5 under section 101(b)(1) of such Act.

○

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Pennsylvania, Mr. Gekas, Chairman of the Subcommittee, for a motion.

Mr. GEKAS. I thank the Chair.

Mr. Chairman, the Subcommittee on Immigration, Border Security, and Claims reports favorably the bill H.R. 3758 and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point.

Without objection, opening statements will be placed in the record.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, I support this private relief bill for So Hyun Jun a 17 year old from South Korea. So Hyun Jun's mother was permanently injured in a car accident in 1995 and was unable to provide care for So Hyun Jun. So Hyun Jun's father, who had a history of alcohol dependency, had also been both physically and mentally abusive to So Hyun Jun. Due to the abuse, So Hyun Jun's social and educational development had been severely impeded. Her aunt and uncle, John and Ok Sun Thornton, and Hyun Jun's mother agreed that the best thing for the child would be for the Thorntons to adopt her. The Thorntons began their attempt to adopt the child. However, their efforts were thwarted for several years because So Hyun Jun's father disappeared and they could not proceed without his consent.

In February 2000, So Hyun Jun first came to the United States to live with her aunt and uncle. In August 2000, formal adoption proceedings began after all the necessary documents had been collected and both So Hyun Jun's natural parents had officially relinquished their parental rights. The adoption was finalized on March 6, 2001. Unfortunately, that finalization date fell almost six months after So Hyun Jun's 16th birthday.

In order for an adoptee to lawfully immigrate to the United States, the immigration law requires an adoption to have occurred prior to the age of 16. Because So Hyun Jun's adoption was not completed until after her 16th birthday, she would need a private bill in order to gain permanent residence.

The precedent concerning adoption cases is well-established. Precedent dictates that in order for favorable consideration of a private bill that allows an adoption to be considered legitimate for immigration purposes, the adoption must have been initiated prior to the child's turning 16 and must be finalized.

It is clear from the documentation provided to the Subcommittee that the Thorntons were actively proceeding with the adoption prior to So Hyun Jun's 16th birthday. Mr. Chairman I support this legislation.

Are there amendments? If there are no amendments, a reporting quorum is not present. Without objection, the previous question is ordered on reporting the bill favorably, and that vote will be taken as soon as a reporting quorum shows up.

[Intervening business.]

The Chair notes the presence of a reporting quorum. We will go to the private bill, report that out.

The Committee now returns to the pending unfinished business on which the previous question was ordered on reporting the bill H.R. 3758 favorably. Those in favor will signify by saying aye? Opposed, no?

The ayes appear to have it. The ayes have it and the bill is reported favorably.