

## Calendar No. 523

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 682****[Report No. 106-276]**

To implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 23, 1999

Mr. HELMS (for himself, Ms. LANDRIEU, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

APRIL 27, 2000

Reported by Mr. HELMS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Intercountry Adoption Convention Implementation Act  
 4 of 1999”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of  
 6 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Findings.  
 Sec. 3. Definitions.

**TITLE I—UNITED STATES CENTRAL AUTHORITY**

Sec. 101. Performance of central authority functions.  
 Sec. 102. Authority of the Department of State.  
 Sec. 103. Responsibilities of the Secretary of State.  
 Sec. 104. Responsibilities of the Attorney General.  
 Sec. 105. Annual report on intercountry adoptions.

**TITLE II—ACCREDITATION OF PERSONS PROVIDING  
 INTERCOUNTRY ADOPTION SERVICES**

Sec. 201. Eligibility to provide intercountry adoption services.  
 Sec. 202. Accrediting entities.  
 Sec. 203. Eligibility for accreditation.  
 Sec. 204. Oversight of accreditation.

**TITLE III—RECOGNITION OF CONVENTION ADOPTIONS IN THE  
 UNITED STATES**

Sec. 301. Adoptions of children immigrating to the United States.  
 Sec. 302. Amendments of the Immigration and Nationality Act.  
 Sec. 303. Adoptions of children emigrating from the United States.  
 Sec. 304. Special rules for certain cases.  
 Sec. 305. Voiding of adoptions for cause.  
 Sec. 306. Recognition of Convention adoptions before entry into force of Con-  
 vention for the United States.

**TITLE IV—ADMINISTRATION AND ENFORCEMENT**

Sec. 401. Records; privacy provisions.  
 Sec. 402. Documents of other Convention countries.  
 Sec. 403. Authorization of appropriations; collection of fees.  
 Sec. 404. Enforcement.

**TITLE V—GENERAL PROVISIONS**

Sec. 501. Relation to other laws.  
 Sec. 502. No private right of action.  
 Sec. 503. Effective date; transition provisions.

1 **SEC. 2. FINDINGS.**

2 Congress recognizes—

3 (1) the international character of the Conven-  
4 tion; and

5 (2) the need for uniform interpretation and im-  
6 plementation of the Convention in the United States  
7 and abroad;

8 and therefore finds that enactment of a Federal law gov-  
9 erning intercountry adoptions subject to the Convention  
10 is necessary.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) ACCREDITED PERSON.—The term “accred-  
14 ited person” means a person (including an agency);  
15 not organized for profit; that has been accredited in  
16 accordance with title II to provide adoption services  
17 and to perform other functions under the Conven-  
18 tion.

19 (2) ACCREDITING ENTITY.—The term “accred-  
20 iting entity” means an entity designated under sec-  
21 tion 202(a).

22 (3) ADOPTION SERVICES.—The term “adoption  
23 services” means—

24 (A) identifying children for adoption and  
25 arranging adoptions;

1           ~~(B)~~ securing necessary documentation of  
2           consent to termination of parental rights and to  
3           adoption;

4           ~~(C)~~ performing background studies on chil-  
5           dren, home studies on prospective adoptive par-  
6           ents, and reports of such studies;

7           ~~(D)~~ making determinations of the best in-  
8           terests of the child and the appropriateness of  
9           adoptive placement;

10          ~~(E)~~ counseling children and birth and  
11          adoptive parents with respect to adoption;

12          ~~(F)~~ engaging in post-placement monitoring  
13          of cases until final adoption; and

14          ~~(G)~~ if necessary because of disruption in  
15          the adoption process, assuming custody of a  
16          child, and providing child care or other social  
17          services, pending an alternative placement of  
18          the child.

19          ~~(4)~~ AGENCY.—The term “agency” means any  
20          public entity or private corporation, partnership, or-  
21          ganization, or other association.

22          ~~(5)~~ ATTORNEY GENERAL.—The term “Attorney  
23          General” means the Attorney General, acting  
24          through the Commissioner of Immigration and Nat-  
25          uralization.

1           (6) BIRTH PARENT.—The term “birth parent”  
 2           means the biological mother and, where applicable  
 3           under the law of the place of birth of the child, the  
 4           biological father of the child who is the subject of an  
 5           adoption.

6           (7) CENTRAL AUTHORITY.—The term “central  
 7           authority” means the entity designated by any Con-  
 8           vention country under Article 6(1) of the Convention  
 9           as having primary responsibility for the discharge of  
 10          the obligations of that country under the Conven-  
 11          tion.

12          (8) CENTRAL AUTHORITY FUNCTION.—The  
 13          term “central authority function” means any duty  
 14          required to be carried out by a central authority  
 15          under chapter III or IV of the Convention.

16          (9) CONVENTION.—The term “Convention”  
 17          means the Convention on Protection of Children and  
 18          Co-operation in Respect of Intercountry Adoption,  
 19          done at The Hague on May 29, 1993.

20          (10) CONVENTION ADOPTION.—The term “Con-  
 21          vention adoption” means, upon entry into force of  
 22          the Convention in the United States—

23                  (A) an adoption (or prospective adoption)  
 24                  of a child habitually resident in a foreign coun-

try party to the Convention by a United States citizen; or

(B) an adoption (or prospective adoption) of a child habitually resident in the United States by a person or persons residing in another Convention country.

(11) CONVENTION ADOPTION RECORD.—The term “Convention adoption record” means any item, collection, or grouping of information, including any index, contained in an electronic or physical document, an electronic collection of data, a photograph, an audio or video tape, or any other information storage medium of any type whatever that contains information about a specific past, current, or prospective Convention adoption (regardless of whether a final adoption resulted) and that has been identified and retained in accordance with section 401(a) by the Secretary of State or the Attorney General.

(12) CONVENTION COUNTRY.—The term “Convention country” means a country party to the Convention.

(13) OTHER CONVENTION COUNTRY.—The term “other Convention country” means a Convention country other than the United States.

1           (14) PERSON.—The term “person” has the  
2           meaning given the term in section 1 of title 1,  
3           United States Code.

4           (15) PERSON WITH AN OWNERSHIP OR CON-  
5           TROL INTEREST.—The term “person with an owner-  
6           ship or control interest” has the meaning given such  
7           term in section 1124(a)(3) of the Social Security Act  
8           (42 U.S.C. 1320a-3).

9           (16) STATE.—The term “State” means the 50  
10          States, the District of Columbia, the Commonwealth  
11          of Puerto Rico, the Commonwealth of the Northern  
12          Mariana Islands, Guam, and the Virgin Islands.

## 13           **TITLE I—UNITED STATES** 14           **CENTRAL AUTHORITY**

### 15   **SEC. 101. PERFORMANCE OF CENTRAL AUTHORITY FUNC-** 16           **TIONS.**

17          All central authority functions of the United States  
18          shall be carried out by the Department of State and other  
19          officials of the United States specified in this Act.

### 20   **SEC. 102. AUTHORITY OF THE DEPARTMENT OF STATE.**

21          (a) IN GENERAL.—Except as otherwise provided in  
22          this Act, for purposes of the Convention—

23               (1) the Department of State shall serve as the  
24          central authority of the United States; and

1           (2) the Secretary of State shall serve as the  
2           head of the central authority of the United States.

3           (b) ~~STATE DEPARTMENT PERSONNEL PERFORMING~~  
4 ~~CENTRAL AUTHORITY FUNCTIONS.~~—All personnel of the  
5 Department of State performing central authority func-  
6 tions in a professional capacity shall have 3 to 5 years  
7 of personal or professional experience in international  
8 adoptions.

9           (c) ~~AUTHORITY TO ISSUE REGULATIONS.~~—Except as  
10 otherwise provided in this Act, the Secretary of State may  
11 prescribe such regulations as may be necessary to carry  
12 out central authority functions on behalf of the United  
13 States.

14 **SEC. 103. RESPONSIBILITIES OF THE SECRETARY OF**  
15 **STATE.**

16           (a) ~~LIAISON RESPONSIBILITIES.~~—The Secretary of  
17 State shall have primary responsibility for—

18               (1) liaison with the central authorities of other  
19           Convention countries; and

20               (2) the coordination of activities under the Con-  
21           vention by persons subject to the jurisdiction of the  
22           United States.

23           (b) ~~INFORMATION EXCHANGE.~~—The Secretary of  
24 State shall be responsible for—



1           (1) providing the central authorities of other  
2       Convention countries with information concerning—

3           (A) persons accredited under title II, per-  
4       sons whose accreditation is suspended or can-  
5       celed, and persons temporarily or permanently  
6       debarred from accreditation;

7           (B) Federal and State laws relevant to im-  
8       plementing the Convention; and

9           (C) any other matters necessary and ap-  
10      propriate for implementation of the Convention;

11          (2) providing Federal agencies, State courts,  
12      and accredited persons with an identification of Con-  
13      vention countries and persons authorized to perform  
14      functions under the Convention in each such coun-  
15      try;

16          (3) facilitating the transmittal of other appro-  
17      priate information to, and among, central authori-  
18      ties, Federal and State agencies (including State  
19      courts); and accredited persons; and

20          (4) taking other appropriate actions necessary  
21      to implement the Convention.

22      (c) **ADDITIONAL RESPONSIBILITIES.**—The Secretary  
23      of State—

24          (1) shall monitor individual Convention adop-  
25      tion cases involving United States citizens;

1           (2) may facilitate interactions between such  
 2           citizens and officials of other Convention countries  
 3           on matters relating to the Convention in any case in  
 4           which an accredited person is unwilling or unable to  
 5           provide such facilitation; and

6           (3) may provide any other appropriate assist-  
 7           ance in other cases.

8           (d) ESTABLISHMENT OF REGISTRY.—The Secretary  
 9           of State and the Attorney General shall jointly establish  
 10          a case registry on—

11           (1) all adoptions involving immigration into the  
 12           United States; regardless of whether the adoption  
 13           occurs under the Convention; and

14           (2) all adoptions involving emigration of the  
 15           child from the United States to any other Conven-  
 16           tion country.

17          Such registry shall permit tracking of pending cases and  
 18          retrieval of information on both pending and closed cases.

19          **SEC. 104. RESPONSIBILITIES OF THE ATTORNEY GENERAL.**

20          In addition to such other responsibilities as are spe-  
 21          cifically conferred upon the Attorney General by this Act,  
 22          the central authority functions specified in Article 14 of  
 23          the Convention (relating to the filing of applications by  
 24          prospective adoptive parents to the central authority of

1 their country of residence) shall be performed by the At-  
2 torney General.

3 **SEC. 105. ANNUAL REPORT ON INTERCOUNTRY ADOP-**  
4 **TIONS.**

5 (a) **REPORTS REQUIRED.**—Beginning one year after  
6 the date of enactment of this Act, and every year there-  
7 after, the Secretary of State shall submit a report to Con-  
8 gress describing the activities of the central authority of  
9 the United States under this Act during the preceding  
10 year.

11 (b) **REPORT ELEMENTS.**—Each report under sub-  
12 section (a) shall set forth with respect to the year con-  
13 cerned, the following:

14 (1) The number of adoptions involving immi-  
15 gration to the United States, regardless of whether  
16 the adoption occurred under the Convention, includ-  
17 ing the country from which each child emigrated and  
18 the State to which each child immigrated.

19 (2) The number of adoptions under the Conven-  
20 tion, including the country from which each child  
21 emigrated and the State to which each child immi-  
22 grated.

23 (3) The number of intercountry adoptions that  
24 were disrupted, including the country from which  
25 the child emigrated, the age of the child, the date of

1 the adoption of the child, the reason for the disruption,  
2 tion, and the resolution of the disruption.

3 (4) The names of the persons who possessed accreditation to perform intercountry adoptions.  
4

5 (5) The names of the persons who were  
6 debarred from performing intercountry adoptions,  
7 and the reasons for the debarment.

8 (6) The average time required for completion of  
9 an intercountry adoption.

10 (7) The number of intercountry adoptions that  
11 were completed in the United States, and the number  
12 of adoptions that were completed in each foreign  
13 country from which children subject to such adoptions  
14 emigrated.

15 (8) The number of intercountry adoptions to  
16 the United States that were found to be fraudulent.

17 (9) The average adoption fee for intercountry  
18 adoptions to the United States set forth by country.

19 (10) The average adoption fee for intercountry  
20 adoptions from the United States set forth by country.  
21 try.

22 (11) The average fee for accreditation of persons  
23 engaging in the provision of intercountry adoption  
24 services.

1 **TITLE II—ACCREDITATION OF**  
 2 **PERSONS PROVIDING INTER-**  
 3 **COUNTRY ADOPTION SERV-**  
 4 **ICES**

5 **SEC. 201. ELIGIBILITY TO PROVIDE INTERCOUNTRY ADOP-**  
 6 **TION SERVICES.**

7 (a) IN GENERAL.—Except as otherwise provided in  
 8 this title, no person may offer or provide adoption services  
 9 in connection with a Convention adoption unless that  
 10 person—

11 (1) is accredited by an accrediting entity in ac-  
 12 cordance with this title; or

13 (2) is providing such services through or under  
 14 the supervision and responsibility of an accredited  
 15 person.

16 (b) EXCEPTIONS.—Subsection (a) shall not apply to  
 17 any of the following persons:

18 (1) CERTAIN SOCIAL WORK PROFESSIONALS  
 19 AND ORGANIZATIONS.—A social work professional or  
 20 organization conducting (and reporting on) home  
 21 studies on prospective adoptive parents or back-  
 22 ground studies on children in connection with adop-  
 23 tions, but not arranging or otherwise facilitating  
 24 adoptions subject to the Convention.

1           ~~(2) ENTITIES PROVIDING CHILD WELFARE~~  
 2           ~~SERVICES.—A public or private entity intervening in~~  
 3           ~~a Convention adoption to provide child welfare serv-~~  
 4           ~~ices, but not itself arranging or facilitating the adop-~~  
 5           ~~tion.~~

6           ~~(3) ATTORNEYS PROVIDING LEGAL SERVICES.—~~  
 7           ~~An attorney providing legal services in connection~~  
 8           ~~with a Convention adoption, but not arranging, ei-~~  
 9           ~~ther directly or through agents, the adoption or oth-~~  
 10          ~~erwise providing adoption services in connection with~~  
 11          ~~the adoption.~~

12          ~~(4) PROSPECTIVE ADOPTIVE PARENTS ACTING~~  
 13          ~~ON OWN BEHALF.—Prospective adoptive parents~~  
 14          ~~when acting on their own behalf, if they are per-~~  
 15          ~~mitted to do so under the law of the State in which~~  
 16          ~~they reside.~~

17 **SEC. 202. ACCREDITING ENTITIES.**

18          ~~(a) IN GENERAL.—~~

19               ~~(1) DESIGNATIONS OF ENTITIES.—The Sec-~~  
 20               ~~retary of State shall designate as accrediting enti-~~  
 21               ~~ties, and enter into agreements with, no more than~~  
 22               ~~five nonprofit private entities that—~~

23                       ~~(A) have experience and expertise in devel-~~  
 24                       ~~oping and administering international adoption~~

1 services and standards for entities providing  
2 child welfare services; and

3 ~~(B)~~ meet such other criteria as the Sec-  
4 retary may by regulation establish.

5 ~~(2) LIMITATION.~~—An accrediting entity shall  
6 undertake an accreditation strictly for intercountry  
7 adoption, unless a person seeks additional program  
8 accreditation.

9 ~~(b) RESPONSIBILITIES OF ACCREDITING ENTI-~~  
10 ~~TIES.~~—The responsibilities of accrediting entities shall in-  
11 clude the following:

12 ~~(1) ACCREDITATION.~~—Accreditation of persons  
13 to perform functions under the Convention, subject  
14 to section 203.

15 ~~(2) OVERSIGHT.~~—Ongoing monitoring of the  
16 compliance by accredited persons with applicable re-  
17 quirements, including review of complaints against  
18 such persons in accordance with procedures estab-  
19 lished by this Act and by such accrediting entity and  
20 approved by the Secretary of State.

21 ~~(3) ENFORCEMENT.~~—Imposition of administra-  
22 tive remedies, including requirements for corrective  
23 action, and sanctions for noncompliance, including  
24 refusal to renew, or the suspension or cancellation  
25 of, accreditation.

1           (4) DATA, RECORDS, AND REPORTS.—Collecting  
 2           data, maintaining records, and making reports to  
 3           the Secretary of State, State courts, and other enti-  
 4           ties (including reports on persons granted or denied  
 5           accreditation).

6           (c) REMEDIES FOR ACCREDITING ENTITY'S AD-  
 7           VERSE ACTION.—

8           (1) IN GENERAL.—In any case where an ac-  
 9           crediting entity denies, suspends, or cancels the ac-  
 10          creditation of a person under this title, mandates  
 11          corrective action, or takes other adverse action, the  
 12          accrediting entity shall specify the deficiencies on  
 13          which the adverse action was based, and paragraphs  
 14          (2), (3), and (4) shall apply with respect to rem-  
 15          edies.

16          (2) CORRECTION OF DEFICIENCY AND RE-  
 17          APPLICATION.—The person that is the subject of the  
 18          adverse action shall be permitted to reapply for ac-  
 19          creditation (or to petition for termination of any  
 20          other sanction applied) upon demonstrating to the  
 21          satisfaction of the accrediting entity that the defi-  
 22          ciencies have been corrected.

23          (3) JUDICIAL REVIEW.—The person that is the  
 24          subject of the adverse action may petition the  
 25          United States district court in the judicial district in



1       which such person resides to set aside the action;  
2       but only upon clear and convincing proof that the  
3       action was not supported by substantial evidence or  
4       that the accrediting entity abused its discretion.

5           (4) NO FEDERAL ADMINISTRATIVE REVIEW.—

6       An adverse action by the accrediting entity shall not  
7       be reviewable by the Secretary of State or any other  
8       Federal agency or administrative entity.

9       (d) FEES.—

10           (1) AUTHORITY TO ASSESS.—Accrediting enti-  
11       ties are authorized to assess fees in amounts ap-  
12       proved by the Secretary of State against persons  
13       seeking or maintaining accreditation for the pur-  
14       poses of intercountry adoptions.

15           (2) FEE AMOUNTS.—The Secretary of State  
16       may approve fees to be assessed under paragraph  
17       (1) that do not exceed the amount estimated to be  
18       necessary to cover all direct or indirect costs of ac-  
19       creditation and ongoing oversight by the accrediting  
20       entity with regard to Convention cases. Fees estab-  
21       lished under this section shall reflect, to the max-  
22       imum extent practicable, the extent to which overall  
23       costs of accrediting persons varies in relation to the  
24       volume of Convention adoption cases a person han-  
25       dles.

1           (3) ~~LIMITATION.~~—An accrediting entity shall  
 2       not provide discounted fees for certain persons for  
 3       accreditation for purposes of intercountry adoption.

4   **SEC. 203. ELIGIBILITY FOR ACCREDITATION.**

5       (a) ~~ESTABLISHMENT OF STANDARDS.~~—

6           (1) ~~ISSUANCE OF REGULATIONS.~~—The Sec-  
 7       retary of State shall establish by regulation stand-  
 8       ards and procedures to be used by accrediting enti-  
 9       ties for the accreditation of persons for the purpose  
 10      of arranging Convention adoptions.

11          (2) ~~STANDARD-SETTING PROCESS.~~—In estab-  
 12      lishing standards and procedures under this section,  
 13      the Secretary of State—

14           (A) shall consider the views of individuals  
 15           and entities with interest and expertise in inter-  
 16           national adoptions and family social services;  
 17           including public and private entities with expe-  
 18           rience in licensing and accrediting adoption  
 19           agencies; and

20           (B) may adopt, after opportunity for pub-  
 21           lic comment, all or part of any standards or  
 22           procedures developed or proposed by such indi-  
 23           viduals or entities.

24      (b) ~~REQUIREMENTS FOR ACCREDITATION.~~—

1           (1) CONDITIONS FOR ACCREDITATION.—Except  
2           as the Secretary of State may by regulation other-  
3           wise provide, each person seeking accreditation  
4           under this title with respect to intercountry adoption  
5           services shall satisfy the following requirements:

6                   (A) SPECIFIC REQUIREMENTS.—To agree  
7           as follows:

8                   (i) To provide persons who would be  
9                   the adoptive parents of a child in a pro-  
10                  spective Convention adoption a copy in  
11                  English of the medical records of the child  
12                  not later than the earlier of 2 weeks before  
13                  the adoption or the date on which the per-  
14                  sons travel to a foreign country to finalize  
15                  the adoption.

16                  (ii) To provide the persons a training  
17                  program that includes at least 6 weeks of  
18                  counseling and guidance before the parents  
19                  travel to a foreign country to finalize the  
20                  adoption.

21                  (iii) To employ personnel providing  
22                  intercountry adoption services on a fee-for-  
23                  service basis rather than on a contingent-  
24                  arrangement basis.

1                   (iv) To have in force adequate liability  
2                   insurance for professional negligence and  
3                   any other insurance that the Secretary  
4                   considers appropriate.

5                   (v) To permit open examination of the  
6                   person's practices, including the disruption  
7                   rates of intercountry adoptions facilitated  
8                   by the person and the fees charged by the  
9                   person for intercountry adoptions.

10                  (B) CAPACITY TO PERFORM ALL ASSIGNED  
11                  FUNCTIONS.—To have, either directly or  
12                  through arrangements with other qualified per-  
13                  sons, qualified personnel, financial resources, an  
14                  organizational structure, and appropriate proce-  
15                  dures sufficient to enable it to perform, in a  
16                  manner consistent with applicable standards, all  
17                  functions under the Convention which it is seek-  
18                  ing authority to perform in accordance with this  
19                  Act (including the counseling of individuals in-  
20                  volved in intercountry adoptions and the as-  
21                  sumption of custodial and financial responsi-  
22                  bility for children in cases where a placement  
23                  disrupts before final adoption).

24                  (C) UTILIZATION OF SOCIAL SERVICE PRO-  
25                  FESSIONALS.—To have procedures designed to

1 ensure that social service functions requiring  
2 the application of clinical skills and judgment  
3 are performed only by professionals with appropriate  
4 qualifications and credentials.

5 (D) RECORDS, REPORTS, AND INFORMATION MATTERS.—To provide for the maintenance  
6 of such records and to make such reports  
7 as may be required by the Secretary of State  
8 and the designated accrediting entity; to cooperate  
9 with reviews, inspections, and audits; to  
10 safeguard sensitive individual information; and  
11 to comply with other requirements concerning  
12 information management necessary to ensure  
13 compliance with the Convention, this Act, and  
14 any other applicable laws.

16 (E) COMPLIANCE WITH CONVENTION.—To  
17 establish adequate measures to comply (and to  
18 ensure compliance of their agents and clients)  
19 with the Convention, this Act, and all other applicable  
20 laws, particularly with provisions concerning  
21 fraud, improper inducement, and similarly  
22 egregious acts.

23 (2) ADDITIONAL CONDITIONS FOR ACCREDITATION.—No person shall be accredited under this title  
24 unless such person is a private organization, not or  
25

1       ganized for profit, and licensed to provide adoption  
2       services in at least one State.

3   **SEC. 204. OVERSIGHT OF ACCREDITATION.**

4       (a) **OVERSIGHT OF ACCREDITING ENTITIES.**—The  
5   Secretary of State shall—

6           (1) monitor each accrediting entity's perform-  
7       ance of its functions under section 202 and its com-  
8       pliance with the requirements of the Convention, this  
9       Act, other applicable laws, and implementing regula-  
10      tions; and

11          (2) suspend or cancel the designation of an en-  
12      tity found to be substantially out of compliance with  
13      the Convention, this Act, other applicable laws, or  
14      implementing regulations.

15      (b) **DEBARMENT.**—

16          (1) **SECRETARY'S AUTHORITY.**—The Secretary  
17      of State may, on the Secretary's own initiative or  
18      upon request by an accrediting entity, order the tem-  
19      porary or permanent debarment of a person from ac-  
20      creditation for purposes of intercountry adoptions if  
21      there is no possibility for timely mediation and—

22           (A) there is substantial evidence that the  
23          person is out of compliance with applicable re-  
24          quirements;

1           (B) there has been a pattern of serious;  
2           willful, or grossly negligent failures to comply  
3           or other aggravating circumstances indicating  
4           that renewal of accreditation would not be in  
5           the best interests of the children and families  
6           concerned; or

7           (C) actions by a person impact adversely  
8           important national interests of the United  
9           States.

10          (2) PERIOD OF DEBARMENT.—The debarment  
11          order of the Secretary of State shall state whether  
12          the debarment is temporary or permanent. If the de-  
13          barment is temporary, the Secretary shall specify a  
14          date, not earlier than 3 years after the date of the  
15          order, on which date the person may apply to the  
16          Secretary who ordered the debarment for withdrawal  
17          of the debarment.

18          (3) EFFECT OF DEBARMENT.—In the case of a  
19          person that has been debarred pursuant to this sub-  
20          section, the accrediting entity may take the cir-  
21          cumstances of such debarment into account in con-  
22          sidering any subsequent application for accreditation  
23          of the person or of any other person in which the  
24          person has an ownership or control interest, notwith-  
25          standing that the period of debarment has elapsed.

1       (c) JUDICIAL REVIEW OF SECRETARY'S DECISIONS.—

3           (1) REVIEW BY FEDERAL DISTRICT COURT.—A  
4       person (other than a prospective adoptive parent,  
5       person, or accrediting entity adversely affected by a  
6       final determination of the Secretary of State under  
7       this title with respect to the designation of an ac-  
8       crediting entity, or the accreditation of a person)  
9       may obtain review of such determination by the  
10      United States District Court for the District of Co-  
11      lumbia, or in the United States district court in the  
12      judicial district in which such person or accrediting  
13      entity resides.

14          (2) STANDARD OF REVIEW.—A determination  
15      by the Secretary of State under paragraph (1) may  
16      be set aside only if the person adversely affected by  
17      the Secretary's final determination presents clear  
18      and convincing proof of abuse of discretion by the  
19      Secretary.

20          (3) PRECLUSION OF JUDICIAL REVIEW OF SEC-  
21      RETARY OF STATE DETERMINATIONS.—A determina-  
22      tion by the Secretary of State on foreign policy  
23      grounds is not subject to judicial review.



1 **TITLE III—RECOGNITION OF**  
 2 **CONVENTION ADOPTIONS IN**  
 3 **THE UNITED STATES**

4 **SEC. 301. ADOPTIONS OF CHILDREN IMMIGRATING TO THE**  
 5 **UNITED STATES.**

6 (a) **LEGAL EFFECT OF ADOPTIONS FINALIZED IN**  
 7 **THE UNITED STATES.—**

8 (1) **ISSUANCE OF CERTIFICATES BY THE SEC-**  
 9 **RETARY OF STATE.—**Pursuant to Article 23 of the  
 10 Convention, the Secretary of State shall, with re-  
 11 spect to each Convention adoption, issue a certificate  
 12 to the adoptive citizen parent domiciled in the  
 13 United States that the adoption has been granted  
 14 or, in the case of a prospective adoptive citizen par-  
 15 ent, that legal custody of the child has been granted  
 16 to the citizen parent for purposes of emigration and  
 17 adoption, pursuant to the Convention and this Act,  
 18 if the Secretary—

19 (A) receives appropriate notification from  
 20 the central authority of such child's country of  
 21 origin; and

22 (B) has verified that the requirements of  
 23 this Act have been met.

24 (2) **LEGAL EFFECT OF CERTIFICATES.—**If ap-  
 25 pended to an original adoption decree, the certificate

1       described in paragraph (1) shall be treated by Fed-  
2       eral and State agencies, courts, and other public and  
3       private persons and entities as conclusive evidence of  
4       the facts certified therein, except as provided in sec-  
5       tion 305, and shall constitute the certification re-  
6       quired by section 204(d)(2) of the Immigration and  
7       Nationality Act, as amended by this Act.

8       (b) ~~LEGAL EFFECT OF ADOPTIONS FINALIZED IN~~  
9 ~~OTHER CONVENTION COUNTRIES.~~—The final adoption in  
10 any other Convention country, certified by the Secretary  
11 of State pursuant to subsection (a) or section 303(d) of  
12 this Act, shall be recognized as a final, valid adoption for  
13 the purposes of all Federal, State, and local laws of the  
14 United States, and shall be accorded the same legal effect  
15 as the final adoption of a child in the State where such  
16 United States citizens reside or are domiciled.

17       (c) ~~CONDITION ON FINALIZATION OF CONVENTION~~  
18 ~~ADOPTIONS BY STATE COURTS.~~—In the case of a child  
19 who has been admitted to the United States from any  
20 other Convention country for the purpose of adoption, a  
21 State court shall not have authority to issue an order de-  
22 claring the adoption final unless the Secretary of State  
23 has issued the certificate described in subsection (b).

1 **SEC. 302. AMENDMENTS OF THE IMMIGRATION AND NA-**  
 2 **TIONALITY ACT.**

3 (a) **DEFINITION OF “CHILD”.**—Section 101(b)(1) of  
 4 the Immigration and Nationality Act (8 U.S.C.  
 5 1101(b)(1)) is amended—

6 (1) by striking “or” at the end of subparagraph  
 7 (E);

8 (2) by striking the period at the end of sub-  
 9 paragraph (F) and inserting “; or”;

10 (3) in subparagraphs (E) and (F), by inserting  
 11 “except as provided in subparagraph (G),” before “a  
 12 child” each place it appears; and

13 (4) by adding after subparagraph (F) the fol-  
 14 lowing new subparagraph:

15 “(G) a child, under the age of sixteen at  
 16 the time a petition is filed on the child’s behalf  
 17 to accord a classification as an immediate rel-  
 18 ative under section 201(b), who has been adopt-  
 19 ed in a foreign country that is a party to the  
 20 Convention on Protection of Children and Co-  
 21 operation in Respect of Intercountry Adoption;  
 22 or who is emigrating from such a foreign coun-  
 23 try to be adopted in the United States by at  
 24 least one United States citizen and the citizen’s  
 25 spouse jointly, or by an unmarried United  
 26 States citizen at least 25 years of age, if—

1           “(i) the Attorney General is satisfied  
2           that proper care will be furnished the child  
3           if admitted to the United States;

4           “(ii) in a case in which required by  
5           the country of the child’s habitual resi-  
6           dence; the child’s birth parents; or other  
7           persons or institutions that retain legal  
8           custody of the child; have freely given their  
9           written irrevocable consent to the termi-  
10          nation of their relationship with the child;

11          “(iii) in the case of a child who has  
12          not been adopted; the competent authority  
13          of the foreign State has approved the  
14          child’s emigration to the United States for  
15          the purpose of adoption by the prospective  
16          adoptive parents;

17          “(iv) the child is not the grandchild;  
18          niece; nephew; brother; sister; aunt; uncle;  
19          or first cousin of any of the adopting par-  
20          ents; unless—

21               “(I) the child has no living moth-  
22               er because of the death or disappear-  
23               ance of; abandonment or desertion by;  
24               or separation from or loss of the  
25               child’s mother; or

1                   “(H) the father is unknown, or  
 2                   was not married to the child’s mother  
 3                   on the date of the child’s birth, or is  
 4                   incapable of providing the proper care  
 5                   for the child and has in writing irrev-  
 6                   ocably released the child for emigra-  
 7                   tion and adoption, and

8                   “(v) the prospective adoptive parent  
 9                   or married husband and wife have com-  
 10                  plied with any adoption requirements of  
 11                  the child’s proposed State of residence,  
 12                  except, that no birth parent or former adoptive par-  
 13                  ent of any such adopted child shall thereafter, by  
 14                  virtue of such parentage, be accorded any right,  
 15                  privilege, or status under this Act.”.

16           (b) APPROVAL OF PETITIONS.—Section 204(d) of the  
 17   Immigration and Nationality Act (8 U.S.C. 1154(d)) is  
 18   amended—

19                   (1) by striking “(d)” and inserting “(d)(1)”;  
 20                   and

21                   (2) by adding at the end the following new  
 22                   paragraph:

23                   “(2) No petition may be approved under subsection  
 24   (a) on behalf of an alien child who seeks to be accorded  
 25   immediate relative status as a child defined under section

1 101(b)(1)(G), unless the Secretary of State has certified  
 2 to the Attorney General that the central authority of the  
 3 child's country of origin has notified the United States  
 4 Central Authority under the Convention on Protection of  
 5 Children and Co-operation in Respect of Intercountry  
 6 Adoption done at The Hague on May 29, 1993, that a  
 7 United States citizen domiciled in the United States has  
 8 effected final adoption of the child, or has been granted  
 9 custody of the child for the purpose of emigration and  
 10 adoption, in accordance with the Convention and the  
 11 Intercountry Adoption Act.”.

12 (c) CONFORMING AMENDMENT.—Section 101(b)(2)  
 13 of that Act (8 U.S.C. 1101(b)(2)) is amended by inserting  
 14 “and paragraph (1)(G) (other than for purposes of the  
 15 exception therein)” after “second proviso therein”.

16 (d) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply with respect to petitions for classi-  
 18 fication under section 204 of the Immigration and Nation-  
 19 ality Act filed on or after the date of enactment of this  
 20 Act.

21 **SEC. 303. ADOPTIONS OF CHILDREN EMIGRATING FROM**  
 22 **THE UNITED STATES.**

23 (a) COVERED CASES.—This section shall apply in any  
 24 case in which a child residing in the United States is  
 25 sought for adoption in any other Convention country.

1       ~~(b) RESPONSIBILITIES OF ACCREDITED PERSONS.—~~

2   In any case described in subsection (a), the accredited per-  
 3   son that is providing adoption services in such a case, or  
 4   the prospective adoptive parents acting on their own be-  
 5   half, if permitted by the laws of the Convention country  
 6   in which they reside and the laws of the State in which  
 7   the child resides, shall have the following responsibilities:

8           ~~(1) Provide a written documentation of the fol-~~  
 9       ~~lowing:~~

10           ~~(A) A background study on the child that~~  
 11           ~~meets the standards of the State court with ju-~~  
 12           ~~risdiction over the child has been completed.~~

13           ~~(B) The child will be adopted by a married~~  
 14           ~~man and woman.~~

15           ~~(C) Twelve months have elapsed since the~~  
 16           ~~person made efforts to place the child in the~~  
 17           ~~United States.~~

18           ~~(D) A determination has been made, in ac-~~  
 19           ~~cordance with section 107 of Public Law 105-~~  
 20           ~~89 that the child cannot be placed in the~~  
 21           ~~United States.~~

22           ~~(E) A determination has been made that~~  
 23           ~~placement with the prospective parents is in the~~  
 24           ~~best interests of the child.~~

1           (2) Furnish to State courts with the jurisdic-  
2           tion over adoption cases described in subsection (a)  
3           the following information and documents:

4                   (A) Documentation of the matters de-  
5                   scribed in paragraph (1):

6                   (B) The background report (home study)  
7                   on the prospective adoptive parent or parents  
8                   prepared in accordance with the laws of the re-  
9                   ceiving country.

10                  (C) A background report compatible with  
11                  the laws of the State with jurisdiction:

12                  (D) A declaration by the central authority  
13                  (or other competent authority) of the receiving  
14                  country—

15                   (i) that the child will be permitted to  
16                   enter and reside permanently, or on the  
17                   same basis as the adopting parent, in the  
18                   receiving country; and

19                   (ii) that the central authority or other  
20                   competent authority of the receiving coun-  
21                   try consents to the adoption, if such con-  
22                   sent is necessary under its laws.

23           (3) Furnish to the Secretary of State—



1           (A) official copies of State court orders  
 2           certifying the final adoption or grant of custody  
 3           for the purpose of adoption;

4           (B) the information and documents de-  
 5           scribed in paragraph (2); and

6           (C) any other information concerning the  
 7           case required by the Secretary of State to per-  
 8           form the functions specified in subsection (d) or  
 9           otherwise to carry out its responsibilities under  
 10          the Convention.

11       (e) CONDITIONS ON STATE COURT ORDERS.—An  
 12       order by a State court certifying an adoption as final or  
 13       granting custody for the purpose of adoption in a case de-  
 14       scribed in subsection (a) shall not be recognized by the  
 15       Secretary of State or the Attorney General for purposes  
 16       of intercountry adoption unless the court—

17           (1) has received and verified to the extent it  
 18       may find necessary—

19           (A) the information and documentation  
 20           specified in section (b)(2); and

21           (B) satisfactory evidence that the require-  
 22           ments of Article 4 and Articles 15 through 21  
 23           of the Convention have been satisfied; and

24           (2) has determined that the adoptive placement  
 25       is in the child's best interests.

1       (d) RESPONSIBILITY OF THE SECRETARY OF  
 2 STATE.—In each case described in subsection (a), the Sec-  
 3 retary of State, upon receipt and verification as necessary  
 4 of the information and documents described in subsection  
 5 (b)(3), shall issue, as applicable, an official certification  
 6 that the child has been adopted or a declaration that cus-  
 7 tody for purposes of adoption has been granted, in accord-  
 8 ance with the Convention and this Act.

9       (e) REQUIREMENTS UNDER STATE LAW.—In cases  
 10 described in subsection (a), States may impose additional  
 11 responsibilities and requirements, not inconsistent with  
 12 the provisions of this section, upon accredited persons and  
 13 prospective adoptive parents acting on their own behalf.

14 **SEC. 304. SPECIAL RULES FOR CERTAIN CASES.**

15       To the extent consistent with the Convention, the  
 16 Secretary of State shall establish by regulation—

17           (1) alternative procedures for the adoption of  
 18 children by individuals related to them by blood or  
 19 marriage; and

20           (2) procedures permitting exceptions to applica-  
 21 ble requirements, and waiving penalties for non-  
 22 compliance, in the case of unintentional or harmless  
 23 failures to comply with the requirements of the Con-  
 24 vention, this Act, or implementing regulations issued  
 25 under this Act.

1 **SEC. 305. VOIDING OF ADOPTIONS FOR CAUSE.**

2       ~~(a) VOIDING ADOPTIONS BY STATE COURTS.—~~In ad-  
3 dition to any remedies available under State law, a final  
4 decree entered with respect to a Convention adoption may  
5 be vacated by a State court if—

6           ~~(1) the decree was granted by a State court;~~  
7           ~~(2) the court finds clear and convincing evi-~~  
8       ~~dence that—~~

9           ~~(A) the consent of a birth parent or, in the~~  
10       ~~absence thereof, the consent of a biological rel-~~  
11       ~~ative if required by State law, to termination of~~  
12       ~~parental rights or to the adoption was not ob-~~  
13       ~~tained; or was obtained as a result of fraud, du-~~  
14       ~~ress, or improper inducement; or~~

15       ~~(B) consent of an adoptive parent to the~~  
16       ~~adoption was obtained by fraud which such par-~~  
17       ~~ent did not and could not reasonably have been~~  
18       ~~expected to discover;~~

19       ~~(3) voiding the adoption is in the best interests~~  
20       ~~of the child, taking into consideration the wishes of~~  
21       ~~the child as appropriate given his or her age;~~

22       ~~(4) less than two years have passed since the~~  
23       ~~adoptive parents obtained custody of the child; and~~

24       ~~(5) the adoptive parents are afforded an oppor-~~  
25       ~~tunity to be heard in the proceeding.~~

1       (b) ~~RECOGNITION OF ANY OTHER CONVENTION~~  
 2 ~~COUNTRY'S PROCEEDING VACATING ADOPTIONS COV-~~  
 3 ~~ERED BY THE CONVENTION.~~—Whenever the competent  
 4 authorities of any other Convention country notify the  
 5 Secretary of State that—

6           (1) the authorities have vacated an adoption de-  
 7 cree originally made in that country pursuant to the  
 8 Convention; and

9           (2) the decree has been vacated in accordance  
 10 with the standards established in paragraphs (2)  
 11 through (5) of subsection (a);

12 the decision to void such a decree shall be recognized as  
 13 valid and given full effect in the United States.

14       (c) ~~VOIDING OF ADOPTION NOT VOIDING CHILD'S~~  
 15 ~~NATURALIZATION.~~—If a court of competent jurisdiction  
 16 voids an adoption decree in accordance with subsection (a)  
 17 or (b), such action does not void or prohibit the naturaliza-  
 18 tion of the child as a citizen of the United States. Nothing  
 19 in this subsection limits the Attorney General's authority  
 20 under title III of the Immigration and Nationality Act to  
 21 revoke the naturalization of such a child or to limit the  
 22 Attorney General's discretion to consider a finding of fact  
 23 by a State court that is relevant to such a determination.

1 **SEC. 306. RECOGNITION OF CONVENTION ADOPTIONS BE-**  
 2 **FORE ENTRY INTO FORCE OF CONVENTION**  
 3 **FOR THE UNITED STATES.**

4 Subject to Article 24 of the Convention, any adoption  
 5 concluded between two Convention countries that satisfies  
 6 the requirements of Article 23 of the Convention and that  
 7 became final before the date of entry into force of the Con-  
 8 vention for the United States shall be recognized there-  
 9 after in the United States and given full effect. Such rec-  
 10 ognition shall include the specific effects described in Arti-  
 11 cle 26 of the Convention.

12 **TITLE IV—ADMINISTRATION**  
 13 **AND ENFORCEMENT**

14 **SEC. 401. RECORDS; PRIVACY PROVISIONS.**

15 (a) MAINTENANCE OF CONVENTION ADOPTION  
 16 RECORDS.—The Secretary of State and the Attorney Gen-  
 17 eral shall establish procedures consistent with the require-  
 18 ments of Articles 30 and 31 of the Convention for the  
 19 retention and identification of Convention adoption  
 20 records.

21 (b) DISCLOSURE OF AND ACCESS TO IDENTIFYING  
 22 INFORMATION.—

23 (1) CONSENT REQUIRED.—Except as provided  
 24 in subsection (d), identifying information contained  
 25 in Convention adoption records shall not be dis-  
 26 closed.

1           ~~(2) APPLICATION OF PRIVACY ACT.—~~

2                   ~~(A) An individual, or an individual's parent~~  
 3                   ~~or guardian, who would otherwise have a right~~  
 4                   ~~to access any Convention adoption record pur-~~  
 5                   ~~suant to section 552a of title 5, United States~~  
 6                   ~~Code, shall have such right with respect to iden-~~  
 7                   ~~tifying information in such a record only to the~~  
 8                   ~~extent that such right is not restricted by this~~  
 9                   ~~section.~~

10                   ~~(B) Disclosure of identifying information~~  
 11                   ~~in any Convention adoption record shall be sub-~~  
 12                   ~~ject to any restrictions that may be imposed by~~  
 13                   ~~section 552a of title 5, United States Code, and~~  
 14                   ~~shall also be subject to any restrictions imposed~~  
 15                   ~~by this section.~~

16                   ~~(3) NO DISCLOSURE TO CHILD UNDER 18.—A~~  
 17                   ~~child who is the subject of a Convention adoption~~  
 18                   ~~record shall not be afforded access to identifying in-~~  
 19                   ~~formation in such record, and such information shall~~  
 20                   ~~not be disclosed to such child, unless the child has~~  
 21                   ~~reached the age of 18 years.~~

22                   ~~(c) FREEDOM OF INFORMATION ACT EXEMPTION.—~~  
 23                   ~~Information contained in records of the Department of~~  
 24                   ~~State and the Immigration and Naturalization Service re-~~  
 25                   ~~lating to adoption cases subject to the Convention shall~~

1 not be disclosed to any person pursuant to section 552  
 2 of title 5, United States Code.

3 (d) ~~DISCLOSURE FOR PURPOSES OF ADMINISTRATION~~  
 4 ~~OF THE CONVENTION.~~—Information in Convention  
 5 adoption records may be disclosed by the Department of  
 6 State, any official of the United States exercising central  
 7 authority functions, any accredited person if necessary to  
 8 administer the Convention or this Act.

9 (e) ~~IDENTIFYING INFORMATION DEFINED.~~—In this  
 10 section, the term “identifying information” means any in-  
 11 formation contained in an adoption record other than in-  
 12 formation relating to the health, social, or genetic back-  
 13 ground of the child, and which does not specifically iden-  
 14 tify the child, as prescribed by regulation by the Secretary  
 15 of Health and Human Services, in consultation with the  
 16 Secretary of State and the Attorney General.

17 **SEC. 402. DOCUMENTS OF OTHER CONVENTION COUN-**  
 18 **TRIES.**

19 Documents originating in any other Convention coun-  
 20 try and related to a Convention adoption case shall require  
 21 no authentication or legalization in order to be admissible  
 22 in any Federal, State, or local court in the United States,  
 23 unless a specific and supported claim is made that the doc-  
 24 uments are false, have been altered, or are otherwise unre-  
 25 liable.

1 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS; COLLEC-**  
2 **TION OF FEES.**

3 ~~(a) AUTHORIZATION OF APPROPRIATIONS.—~~

4 ~~(1) IN GENERAL.—~~There are authorized to be  
5 appropriated such sums as may be necessary to  
6 agencies of the Federal Government implementing  
7 the Convention and the provisions of this Act.

8 ~~(2) AVAILABILITY OF FUNDS.—~~Amounts appro-  
9 priated pursuant to paragraph (1) are authorized to  
10 remain available until expended.

11 ~~(b) ASSESSMENT OF FEES.—~~

12 ~~(1) The Secretary of State may charge a fee~~  
13 ~~prescribed by regulation to cover the costs of new or~~  
14 ~~enhanced services that will be undertaken by the De-~~  
15 ~~partment of State to meet the requirements of this~~  
16 ~~Act.~~

17 ~~(2) Fees collected under paragraph (1) shall be~~  
18 ~~deposited as an offsetting collection to any Depart-~~  
19 ~~ment of State appropriation to recover the costs of~~  
20 ~~providing such services.~~

21 ~~(3) The provisions of the Act of August 18,~~  
22 ~~1856 (Revised Statutes §§ 1726–28; 22 U.S.C.~~  
23 ~~§§ 4212–14), concerning accounting for consular~~  
24 ~~fees, shall not apply to fees collected under this sub-~~  
25 ~~section.~~



1           (4) Fees authorized under this section shall be  
2       collected and available for obligation only to the ex-  
3       tent and in the amount provided in advance in ap-  
4       propriations Acts.

5       (c) RESTRICTION.—No funds may be made available  
6       to an accrediting entity to carry out the purposes of this  
7       Act.

8       **SEC. 404. ENFORCEMENT.**

9       (a) CIVIL PENALTIES.—Any person that—

10           (1) provides adoption services in the United  
11       States to facilitate a Convention adoption without  
12       appropriate accreditation in accordance with title II,

13           (2) makes a false or fraudulent statement or  
14       misrepresentation of material fact, or offers, gives,  
15       solicits or accepts improper inducement intended to  
16       influence or affect—

17           (A) decisions concerning the accreditation  
18       of persons to perform adoption services and  
19       central authority functions under this Act,

20           (B) the relinquishment of parental rights  
21       or parental consent relating to the adoption of  
22       a child within the scope of this Act, or

23           (C) the decisions or actions of persons and  
24       entities performing central authority functions  
25       pursuant to the Convention and this Act,

1           ~~(3)~~ makes a disclosure of information not au-  
 2           thorized by section 401(d) or to a person not author-  
 3           ized to receive the information under that section, or  
 4           ~~(4)~~ engages in coercive action to gain consent  
 5           to termination of parental rights or to adoption,  
 6 shall be subject, in addition to any other penalties that  
 7 may be prescribed by law, to a civil money penalty of not  
 8 more than \$5,000 for a first violation, and not more than  
 9 \$10,000 for each succeeding violation.

10       ~~(b) ENFORCEMENT.—~~

11           ~~(1) COORDINATION WITH ATTORNEY GEN-~~  
 12           ~~ERAL.—~~The Secretary of State may impose a civil  
 13           money penalty under subsection (a) pursuant to  
 14           such procedures as may be agreed upon by the Sec-  
 15           retary and the Attorney General.

16           ~~(2) NOTICE AND HEARING.—~~No penalty shall  
 17           be assessed under this section until the person  
 18           charged has been given written notice and an oppor-  
 19           tunity to respond.

20           ~~(3) FACTORS CONSIDERED IN IMPOSING PEN-~~  
 21           ~~ALTY.—~~In determining the amount of the penalty,  
 22           the gravity of the violation, the degree of culpability,  
 23           and the history of prior violations, if any, shall be  
 24           considered.

1       (c) ~~CRIMINAL PENALTIES.—Whoever knowingly and~~  
 2 ~~willfully commits a violation specified in subsection (a)(2)~~  
 3 ~~shall be subject to a fine of not more than \$10,000, or~~  
 4 ~~imprisonment for not more than one year, or both.~~

## 5   **TITLE V—GENERAL PROVISIONS**

### 6   **SEC. 501. RELATION TO OTHER LAWS.**

7       (a) ~~LIMITED PREEMPTION.—No provision of Fed-~~  
 8 ~~eral, State, or local law shall be considered preempted by~~  
 9 ~~the Convention, this Act, or implementing regulations un-~~  
 10 ~~less specified in this Act.~~

11       (b) ~~INDIAN CHILD WELFARE ACT.—Nothing in this~~  
 12 ~~Act or in the Convention is inconsistent with or modifies~~  
 13 ~~the provisions of the Indian Child Welfare Act (25 U.S.C.~~  
 14 ~~1901 et seq.) concerning custody and placement of chil-~~  
 15 ~~dren subject to that Act.~~

16       (c) ~~STATE LICENSING LAWS.—Nothing in the Con-~~  
 17 ~~vention or this Act precludes any State from requiring~~  
 18 ~~that a person or entity be licensed by the State as a condi-~~  
 19 ~~tion of providing adoption-related services.~~

### 20   **SEC. 502. NO PRIVATE RIGHT OF ACTION.**

21       ~~Nothing in the Convention or this Act creates a pri-~~  
 22 ~~vate right of action to seek administrative or judicial relief,~~  
 23 ~~except to the extent specifically provided.~~

### 24   **SEC. 503. EFFECTIVE DATE; TRANSITION PROVISIONS.**

25       (a) ~~EFFECTIVE DATE.—~~

1           (1) PROVISIONS EFFECTIVE UPON ENACT-  
2           MENT.—Except as provided in paragraph (2), this  
3           Act shall take effect upon its date of enactment.

4           (2) PROVISIONS EFFECTIVE UPON THE CON-  
5           VENTION'S ENTRY INTO FORCE.—Subject to the pro-  
6           visions of subsection (b), sections 104, 202, 402,  
7           and 404 and titles III and IV shall take effect upon  
8           the date of entry into force of the Convention for the  
9           United States pursuant to Article 46(2)(a) of the  
10          Convention, and shall govern Convention adoptions  
11          made final thereafter.

12         (b) TRANSITION PROVISIONS.—

13           (1) ADOPTIONS IN PROCESS ON EFFECTIVE  
14           DATE.—The Convention and this Act shall not  
15           apply—

16                 (A) in the case of a child immigrating to  
17                 the United States, if the application for advance  
18                 processing of an orphan petition or petition to  
19                 classify an orphan as an immediate relative for  
20                 such child is filed before the effective date spec-  
21                 ified in subsection (a); or

22                 (B) in the case of a child emigrating from  
23                 the United States, if the prospective adoptive  
24                 parents initiated the adoption process in their  
25                 country of residence with the filing of an appro-

1            ~~priate application before the effective date of~~  
 2            ~~this Act.~~

3    **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4            (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5    *“Intercountry Adoption Act of 2000”.*

6            (b) *TABLE OF CONTENTS.*—*The table of contents of this*  
 7    *Act is as follows:*

*Sec. 1. Short title; table of contents.*

*Sec. 2. Findings and purposes.*

*Sec. 3. Definitions.*

**TITLE I—UNITED STATES CENTRAL AUTHORITY**

*Sec. 101. Designation of central authority.*

*Sec. 102. Responsibilities of the Secretary of State.*

*Sec. 103. Responsibilities of the Attorney General.*

*Sec. 104. Annual report on intercountry adoptions.*

**TITLE II—PROVISIONS RELATING TO ACCREDITATION AND  
APPROVAL**

*Sec. 201. Accreditation or approval required in order to provide adoption services  
in cases subject to the Convention.*

*Sec. 202. Process for accreditation and approval; role of accrediting entities.*

*Sec. 203. Standards and procedures for providing accreditation or approval.*

*Sec. 204. Secretarial oversight of accreditation and approval.*

*Sec. 205. State plan requirement.*

**TITLE III—RECOGNITION OF CONVENTION ADOPTIONS IN THE  
UNITED STATES**

*Sec. 301. Adoptions of children immigrating to the United States.*

*Sec. 302. Immigration and Nationality Act amendments relating to children  
adopted from Convention countries.*

*Sec. 303. Adoptions of children emigrating from the United States.*

**TITLE IV—ADMINISTRATION AND ENFORCEMENT**

*Sec. 401. Access to Convention records.*

*Sec. 402. Documents of other Convention countries.*

*Sec. 403. Authorization of appropriations; collection of fees.*

*Sec. 404. Enforcement.*

**TITLE V—GENERAL PROVISIONS**

*Sec. 501. Recognition of Convention adoptions.*

*Sec. 502. Special rules for certain cases.*

*Sec. 503. Relationship to other laws.*

*Sec. 504. No private right of action.*

*Sec. 505. Effective dates; transition rule.*

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) *FINDINGS.*—Congress recognizes—

3 (1) *the international character of the Convention*  
 4 *on Protection of Children and Co-operation in Re-*  
 5 *spect of Intercountry Adoption (done at The Hague*  
 6 *on May 29, 1993), and*

7 (2) *the need for uniform interpretation and im-*  
 8 *plementation of the Convention in the United States*  
 9 *and abroad,*

10 *and therefore finds that enactment of a Federal law gov-*  
 11 *erning adoptions and prospective adoptions subject to the*  
 12 *Convention involving United States residents is essential.*

13 (b) *PURPOSES.*—The purposes of this Act are—

14 (1) *to provide for implementation by the United*  
 15 *States of the Convention;*

16 (2) *to protect the rights of, and prevent abuses*  
 17 *against, children, birth families, and adoptive parents*  
 18 *involved in adoptions (or prospective adoptions) sub-*  
 19 *ject to the Convention, and to ensure that such adop-*  
 20 *tions are in the children's best interests; and*

21 (3) *to improve the ability of the Federal Govern-*  
 22 *ment to assist United States citizens seeking to adopt*  
 23 *children from abroad and residents of other countries*

1        *party to the Convention seeking to adopt children*  
 2        *from the United States.*

3    **SEC. 3. DEFINITIONS.**

4        *As used in this Act:*

5            (1) *ACCREDITED AGENCY.*—*The term “accredited*  
 6        *agency” means an agency accredited under title II to*  
 7        *provide adoption services in the United States in*  
 8        *cases subject to the Convention.*

9            (2) *ACCREDITING ENTITY.*—*The term “accred-*  
 10        *iting entity” means an entity designated under sec-*  
 11        *tion 202(a) to accredit agencies and approve persons*  
 12        *under title II.*

13            (3) *ADOPTION SERVICE.*—*The term “adoption*  
 14        *service” means—*

15            (A) *identifying a child for adoption and ar-*  
 16        *ranging an adoption;*

17            (B) *securing necessary consent to termi-*  
 18        *nation of parental rights and to adoption;*

19            (C) *performing a background study on a*  
 20        *child or a home study on a prospective adoptive*  
 21        *parent, and reporting on such a study;*

22            (D) *making determinations of the best in-*  
 23        *terests of a child and the appropriateness of*  
 24        *adoptive placement for the child;*

1           (E) *post-placement monitoring of a case*  
 2           *until final adoption; and*

3           (F) *where made necessary by disruption be-*  
 4           *fore final adoption, assuming custody and pro-*  
 5           *viding child care or any other social service*  
 6           *pending an alternative placement.*

7           *The term “providing”, with respect to an adoption*  
 8           *service, includes facilitating the provision of the serv-*  
 9           *ice.*

10          (4) *AGENCY.—The term “agency” means any*  
 11          *person other than an individual.*

12          (5) *APPROVED PERSON.—The term “approved*  
 13          *person” means a person approved under title II to*  
 14          *provide adoption services in the United States in*  
 15          *cases subject to the Convention.*

16          (6) *ATTORNEY GENERAL.—Except as used in sec-*  
 17          *tion 404, the term “Attorney General” means the At-*  
 18          *torney General, acting through the Commissioner of*  
 19          *Immigration and Naturalization.*

20          (7) *CENTRAL AUTHORITY.—The term “central*  
 21          *authority” means the entity designated as such by*  
 22          *any Convention country under Article 6(1) of the*  
 23          *Convention.*

24          (8) *CENTRAL AUTHORITY FUNCTION.—The term*  
 25          *“central authority function” means any duty re-*



1        *quired to be carried out by a central authority under*  
 2        *the Convention.*

3            (9) CONVENTION.—*The term “Convention”*  
 4        *means the Convention on Protection of Children and*  
 5        *Co-operation in Respect of Intercountry Adoption,*  
 6        *done at The Hague on May 29, 1993.*

7            (10) CONVENTION ADOPTION.—*The term “Con-*  
 8        *vention adoption” means an adoption of a child resi-*  
 9        *dent in a foreign country party to the Convention by*  
 10       *a United States citizen, or an adoption of a child*  
 11       *resident in the United States by an individual resid-*  
 12       *ing in another Convention country.*

13           (11) CONVENTION RECORD.—*The term “Conven-*  
 14        *tion record” means any item, collection, or grouping*  
 15        *of information contained in an electronic or physical*  
 16        *document, an electronic collection of data, a photo-*  
 17        *graph, an audio or video tape, or any other informa-*  
 18        *tion storage medium of any type whatever that con-*  
 19        *tains information about a specific past, current, or*  
 20        *prospective Convention adoption (regardless of wheth-*  
 21        *er the adoption was made final) that has been pre-*  
 22        *served in accordance with section 401(a) by the Sec-*  
 23        *retary of State or the Attorney General.*

1           (12) *CONVENTION COUNTRY.*—*The term “Con-*  
2           *vention country” means a country party to the Con-*  
3           *vention.*

4           (13) *OTHER CONVENTION COUNTRY.*—*The term*  
5           *“other Convention country” means a Convention*  
6           *country other than the United States.*

7           (14) *PERSON.*—*The term “person” shall have the*  
8           *meaning provided in section 1 of title 1, United*  
9           *States Code, and shall not include any agency of gov-*  
10          *ernment or tribal government entity.*

11          (15) *PERSON WITH AN OWNERSHIP OR CONTROL*  
12          *INTEREST.*—*The term “person with an ownership or*  
13          *control interest” has the meaning given such term in*  
14          *section 1124(a)(3) of the Social Security Act (42*  
15          *U.S.C. 1320a–3).*

16          (16) *SECRETARY.*—*The term “Secretary” means*  
17          *the Secretary of State.*

18          (17) *STATE.*—*The term “State” means the 50*  
19          *States, the District of Columbia, the Commonwealth*  
20          *of Puerto Rico, the Commonwealth of the Northern*  
21          *Mariana Islands, Guam, and the Virgin Islands.*

# **TITLE I—UNITED STATES CENTRAL AUTHORITY**

## **SEC. 101. DESIGNATION OF CENTRAL AUTHORITY.**

(a) *IN GENERAL.*—For purposes of the Convention and this Act—

(1) *the Department of State shall serve as the central authority of the United States; and*

(2) *the Secretary shall serve as the head of the central authority of the United States.*

(b) *PERFORMANCE OF CENTRAL AUTHORITY FUNCTIONS.*—

(1) *Except as otherwise provided in this Act, the Secretary shall be responsible for the performance of all central authority functions for the United States under the Convention and this Act.*

(2) *All personnel of the Department of State performing core central authority functions in a professional capacity in the Office of Children’s Issues shall have a strong background in consular affairs, personal experience in international adoptions, or professional experience in international adoptions or child services.*

(c) *AUTHORITY TO ISSUE REGULATIONS.*—*Except as otherwise provided in this Act, the Secretary may prescribe*

1 *such regulations as may be necessary to carry out central*  
2 *authority functions on behalf of the United States.*

3 **SEC. 102. RESPONSIBILITIES OF THE SECRETARY OF STATE.**

4 *(a) LIAISON RESPONSIBILITIES.—The Secretary shall*  
5 *have responsibility for—*

6 *(1) liaison with the central authorities of other*  
7 *Convention countries; and*

8 *(2) the coordination of activities under the Con-*  
9 *vention by persons subject to the jurisdiction of the*  
10 *United States.*

11 *(b) INFORMATION EXCHANGE.—The Secretary shall be*  
12 *responsible for—*

13 *(1) providing the central authorities of other*  
14 *Convention countries with information concerning—*

15 *(A) accredited agencies and approved per-*  
16 *sons, agencies and persons whose accreditation or*  
17 *approval has been suspended or canceled, and*  
18 *agencies and persons who have been temporarily*  
19 *or permanently debarred from accreditation or*  
20 *approval;*

21 *(B) Federal and State laws relevant to im-*  
22 *plementing the Convention; and*

23 *(C) any other matters necessary and appro-*  
24 *priate for implementation of the Convention;*

1           (2) *providing Federal agencies, State courts, and*  
 2           *accredited agencies and approved persons with an*  
 3           *identification of Convention countries and persons*  
 4           *authorized to perform functions under the Convention*  
 5           *in each such country; and*

6           (3) *facilitating the transmittal of other appro-*  
 7           *priate information to, and among, central authorities,*  
 8           *Federal and State agencies (including State courts),*  
 9           *and accredited agencies and approved persons.*

10          (c) *ACCREDITATION AND APPROVAL RESPONSIBIL-*  
 11          *ITIES.—The Secretary shall carry out the functions pre-*  
 12          *scribed by the Convention with respect to the accreditation*  
 13          *of agencies and the approval of persons to provide adoption*  
 14          *services in the United States in cases subject to the Conven-*  
 15          *tion as provided in title II. Such functions may not be dele-*  
 16          *gated to any other Federal agency.*

17          (d)           *ADDITIONAL           RESPONSIBILITIES.—The*  
 18          *Secretary—*

19               (1) *shall monitor individual Convention adop-*  
 20               *tion cases involving United States citizens; and*

21               (2) *may facilitate interactions between such citi-*  
 22               *zens and officials of other Convention countries on*  
 23               *matters relating to the Convention in any case in*  
 24               *which an accredited agency or approved person is un-*  
 25               *willing or unable to provide such facilitation.*

1       (e) *ESTABLISHMENT OF REGISTRY.*—*The Secretary*  
 2       *and the Attorney General shall jointly establish a case reg-*  
 3       *istry of all adoptions involving immigration of children*  
 4       *into the United States and emigration of children from the*  
 5       *United States, regardless of whether the adoption occurs*  
 6       *under the Convention. Such registry shall permit tracking*  
 7       *of pending cases and retrieval of information on both pend-*  
 8       *ing and closed cases.*

9       (f) *METHODS OF PERFORMING RESPONSIBILITIES.*—  
 10      *The Secretary may—*

11               (1) *authorize public or private entities to per-*  
 12               *form appropriate central authority functions for*  
 13               *which the Secretary is responsible, pursuant to regu-*  
 14               *lations or under agreements published in the Federal*  
 15               *Register; and*

16               (2) *carry out central authority functions through*  
 17               *grants to, or contracts with, any individual or public*  
 18               *or private entity, except as may be otherwise specifi-*  
 19               *cally provided in this Act.*

20      **SEC. 103. RESPONSIBILITIES OF THE ATTORNEY GENERAL.**

21       *In addition to such other responsibilities as are specifi-*  
 22       *cally conferred upon the Attorney General by this Act, the*  
 23       *central authority functions specified in Article 14 of the*  
 24       *Convention (relating to the filing of applications by pro-*  
 25       *spective adoptive parents to the central authority of their*

1 country of residence) shall be performed by the Attorney  
2 General.

3 **SEC. 104. ANNUAL REPORT ON INTERCOUNTRY ADOPTIONS.**

4 (a) *REPORTS REQUIRED.*—Beginning one year after  
5 the date of the entry into force of the Convention for the  
6 United States and each year thereafter, the Secretary, in  
7 consultation with the Attorney General and other appro-  
8 priate agencies, shall submit a report describing the activi-  
9 ties of the central authority of the United States under this  
10 Act during the preceding year to the Committee on Inter-  
11 national Relations, the Committee on Ways and Means,  
12 and the Committee on the Judiciary of the House of Rep-  
13 resentatives and the Committee on Foreign Relations, the  
14 Committee on Finance, and the Committee on Judiciary  
15 of the Senate.

16 (b) *REPORT ELEMENTS.*—Each report under sub-  
17 section (a) shall set forth with respect to the year concerned,  
18 the following:

19 (1) *The number of intercountry adoptions in-*  
20 *volving immigration to the United States, regardless*  
21 *of whether the adoption occurred under the Conven-*  
22 *tion, including the country from which each child*  
23 *emigrated, the State to which each child immigrated,*  
24 *and the country in which the adoption was finalized.*

1           (2) *The number of intercountry adoptions in-*  
2           *volving emigration from the United States, regardless*  
3           *of whether the adoption occurred under the Conven-*  
4           *tion, including the country to which each child immi-*  
5           *grated and the State from which each child emi-*  
6           *grated.*

7           (3) *The number of Convention placements for*  
8           *adoption in the United States that were disrupted,*  
9           *including the country from which the child emigrated,*  
10          *the age of the child, the date of the placement for*  
11          *adoption, the reasons for the disruption, the resolu-*  
12          *tion of the disruption, the agencies that handled the*  
13          *placement for adoption, and the plans for the child,*  
14          *and in addition, any information regarding disrup-*  
15          *tion or dissolution of adoptions of children from other*  
16          *countries received pursuant to section 422(b)(14) of*  
17          *the Social Security Act, as amended by section 205*  
18          *of this Act.*

19          (4) *The average time required for completion of*  
20          *a Convention adoption, set forth by country from*  
21          *which the child emigrated.*

22          (5) *The current list of agencies accredited and*  
23          *persons approved under this Act to provide adoption*  
24          *services.*



1           (6) *The names of the agencies and persons tem-*  
 2           *porarily or permanently debarred under this Act, and*  
 3           *the reasons for the debarment.*

4           (7) *The range of adoption fees charged in connec-*  
 5           *tion with Convention adoptions involving immigra-*  
 6           *tion to the United States and the median of such fees*  
 7           *set forth by the country of origin.*

8           (8) *The range of fees charged for accreditation of*  
 9           *agencies and the approval of persons in the United*  
 10          *States engaged in providing adoption services under*  
 11          *the Convention.*

12   **TITLE II—PROVISIONS RELAT-**  
 13   **ING TO ACCREDITATION AND**  
 14   **APPROVAL**

15   **SEC. 201. ACCREDITATION OR APPROVAL REQUIRED IN**  
 16                   **ORDER TO PROVIDE ADOPTION SERVICES IN**  
 17                   **CASES SUBJECT TO THE CONVENTION.**

18          (a) *IN GENERAL.—Except as otherwise provided in*  
 19          *this title, no person may offer or provide adoption services*  
 20          *in connection with a Convention adoption in the United*  
 21          *States unless that person—*

22               (1) *is accredited or approved in accordance with*  
 23               *this title; or*

1           (2) *is providing such services through or under*  
 2           *the supervision and responsibility of an accredited*  
 3           *agency or approved person.*

4           (b) *EXCEPTIONS.—Subsection (a) shall not apply to*  
 5           *the following:*

6           (1) *BACKGROUND STUDIES AND HOME STUD-*  
 7           *IES.—The performance of a background study on a*  
 8           *child or a home study on a prospective adoptive par-*  
 9           *ent, or any report on any such study by a social work*  
 10           *professional or organization who is not providing any*  
 11           *other adoption service in the case, if the background*  
 12           *or home study is approved by an accredited agency.*

13           (2) *CHILD WELFARE SERVICES.—The provision*  
 14           *of a child welfare service by a person who is not pro-*  
 15           *viding any other adoption service in the case.*

16           (3) *LEGAL SERVICES.—The provision of legal*  
 17           *services by a person who is not providing any adop-*  
 18           *tion service in the case.*

19           (4) *PROSPECTIVE ADOPTIVE PARENTS ACTING ON*  
 20           *OWN BEHALF.—The conduct of a prospective adoptive*  
 21           *parent on his or her own behalf in the case, to the ex-*  
 22           *tent not prohibited by the law of the State in which*  
 23           *the prospective adoptive parent resides.*

1 **SEC. 202. PROCESS FOR ACCREDITATION AND APPROVAL;**

2 **ROLE OF ACCREDITING ENTITIES.**

3 *(a) DESIGNATION OF ACCREDITING ENTITIES.—*

4 *(1) IN GENERAL.—The Secretary shall enter into*  
 5 *agreements with one or more qualified entities under*  
 6 *which such entities will perform the duties described*  
 7 *in subsection (b) in accordance with the Convention,*  
 8 *this title, and the regulations prescribed under section*  
 9 *203, and upon entering into each such agreement*  
 10 *shall designate the qualified entity as an accrediting*  
 11 *entity.*

12 *(2) QUALIFIED ENTITY.—In paragraph (1), the*  
 13 *term “qualified entity” means a nonprofit private en-*  
 14 *tity that has expertise in developing and admin-*  
 15 *istering standards for entities providing child welfare*  
 16 *services and that meets such other criteria as the Sec-*  
 17 *retary may by regulation establish.*

18 *(b) DUTIES OF ACCREDITING ENTITIES.—The duties*  
 19 *described in this subsection are the following:*

20 *(1) ACCREDITATION AND APPROVAL.—Accredita-*  
 21 *tion of agencies, and approval of persons, to provide*  
 22 *adoption services in the United States in cases subject*  
 23 *to the Convention.*

24 *(2) OVERSIGHT.—Ongoing monitoring of the*  
 25 *compliance of accredited agencies and approved per-*  
 26 *sons with applicable requirements, including review*

1        *of complaints against such agencies and persons in*  
 2        *accordance with procedures established by the accred-*  
 3        *iting entity and approved by the Secretary.*

4            (3) *ENFORCEMENT.—Taking of adverse actions*  
 5        *(including requiring corrective action, imposing sanc-*  
 6        *tions, and refusing to renew, suspending, or canceling*  
 7        *accreditation or approval) for noncompliance with*  
 8        *applicable requirements, and notifying the agency or*  
 9        *person against whom adverse actions are taken of the*  
 10       *deficiencies necessitating the adverse action.*

11           (4) *DATA, RECORDS, AND REPORTS.—Collection*  
 12        *of data, maintenance of records, and reporting to the*  
 13        *Secretary, the United States central authority, State*  
 14        *courts, and other entities (including on persons and*  
 15        *agencies granted or denied approval or accreditation),*  
 16        *to the extent and in the manner that the Secretary re-*  
 17        *quires.*

18           (c) *REMEDIES FOR ADVERSE ACTION BY ACCREDITING*  
 19        *ENTITY.—*

20           (1) *CORRECTION OF DEFICIENCY.—An agency or*  
 21        *person who is the subject of an adverse action by an*  
 22        *accrediting entity may re-apply for accreditation or*  
 23        *approval (or petition for termination of the adverse*  
 24        *action) on demonstrating to the satisfaction of the ac-*

1        *crediting entity that the deficiencies necessitating the*  
2        *adverse action have been corrected.*

3            (2) *NO OTHER ADMINISTRATIVE REVIEW.—An*  
4        *adverse action by an accrediting entity shall not be*  
5        *subject to administrative review.*

6            (3) *JUDICIAL REVIEW.—An agency or person*  
7        *who is the subject of an adverse action by an accred-*  
8        *iting entity may petition the United States district*  
9        *court in the judicial district in which the agency is*  
10       *located or the person resides to set aside the adverse*  
11       *action. The court shall review the adverse action in*  
12       *accordance with section 706 of title 5, United States*  
13       *Code, and for purposes of such review the accrediting*  
14       *entity shall be considered an agency within the mean-*  
15       *ing of section 701 of such title.*

16          (d) *FEEES.—The amount of fees assessed by accrediting*  
17       *entities for the costs of accreditation shall be subject to ap-*  
18       *proval by the Secretary. Such fees may not exceed the costs*  
19       *of accreditation. In reviewing the level of such fees, the Sec-*  
20       *retary shall consider the relative size of, the geographic loca-*  
21       *tion of, and the number of Convention adoption cases man-*  
22       *aged by the agencies or persons subject to accreditation or*  
23       *approval by the accrediting entity.*

1 **SEC. 203. STANDARDS AND PROCEDURES FOR PROVIDING**  
2 **ACCREDITATION OR APPROVAL.**

3 (a) *IN GENERAL.*—

4 (1) *PROMULGATION OF REGULATIONS.*—*The Sec-*  
5 *retary, shall, by regulation, prescribe the standards*  
6 *and procedures to be used by accrediting entities for*  
7 *the accreditation of agencies and the approval of per-*  
8 *sons to provide adoption services in the United States*  
9 *in cases subject to the Convention.*

10 (2) *CONSIDERATION OF VIEWS.*—*In developing*  
11 *such regulations, the Secretary shall consider any*  
12 *standards or procedures developed or proposed by,*  
13 *and the views of, individuals and entities with inter-*  
14 *est and expertise in international adoptions and fam-*  
15 *ily social services, including public and private enti-*  
16 *ties with experience in licensing and accrediting*  
17 *adoption agencies.*

18 (3) *APPLICABILITY OF NOTICE AND COMMENT*  
19 *RULES.*—*Subsections (b), (c), and (d) of section 553*  
20 *of title 5, United States Code, shall apply in the de-*  
21 *velopment and issuance of regulations under this sec-*  
22 *tion.*

23 (b) *MINIMUM REQUIREMENTS.*—

24 (1) *ACCREDITATION.*—*The standards prescribed*  
25 *under subsection (a) shall include the requirement*  
26 *that accreditation of an agency may not be provided*

1        *or continued under this title unless the agency meets*  
2        *the following requirements:*

3                    *(A) SPECIFIC REQUIREMENTS.—*

4                    *(i) The agency provides prospective*  
5                    *adoptive parents of a child in a prospective*  
6                    *Convention adoption a copy of the medical*  
7                    *records of the child (which, to the fullest ex-*  
8                    *tent practicable, shall include an English-*  
9                    *language translation of such records) on a*  
10                   *date which is not later than the earlier of*  
11                   *the date that is 2 weeks before (I) the adop-*  
12                   *tion, or (II) the date on which the prospec-*  
13                   *tive parents travel to a foreign country to*  
14                   *complete all procedures in such country re-*  
15                   *lating to the adoption.*

16                   *(ii) The agency provides prospective*  
17                   *adoptive parents with a training program*  
18                   *that includes counseling and guidance for*  
19                   *the purpose of promoting a successful inter-*  
20                   *country adoption before such parents travel*  
21                   *to adopt the child or the child is placed*  
22                   *with such parents for adoption.*

23                   *(iii) The agency employs personnel*  
24                   *providing intercountry adoption services on*

1           *a fee for service basis rather than on a con-*  
 2           *tingent fee basis.*

3           *(iv) The agency discloses fully its poli-*  
 4           *cies and practices, the disruption rates of*  
 5           *its placements for intercountry adoption,*  
 6           *and all fees charged by such agency for*  
 7           *intercountry adoption.*

8           *(B) CAPACITY TO PROVIDE ADOPTION SERV-*  
 9           *ICES.—The agency has, directly or through ar-*  
 10          *rangements with other persons, a sufficient num-*  
 11          *ber of appropriately trained and qualified per-*  
 12          *sonnel, sufficient financial resources, appropriate*  
 13          *organizational structure, and appropriate proce-*  
 14          *dures to enable the agency to provide, in accord-*  
 15          *ance with this Act, all adoption services in cases*  
 16          *subject to the Convention.*

17          *(C) USE OF SOCIAL SERVICE PROFES-*  
 18          *SIONALS.—The agency has established procedures*  
 19          *designed to ensure that social service functions*  
 20          *requiring the application of clinical skills and*  
 21          *judgment are performed only by professionals*  
 22          *with appropriate qualifications and credentials.*

23          *(D) RECORDS, REPORTS, AND INFORMATION*  
 24          *MATTERS.—The agency is capable of—*



1                   (i) maintaining such records and mak-  
2                   ing such reports as may be required by the  
3                   Secretary, the United States central author-  
4                   ity, and the accrediting entity that accred-  
5                   its the agency;

6                   (ii) cooperating with reviews, inspec-  
7                   tions, and audits;

8                   (iii) safeguarding sensitive individual  
9                   information; and

10                  (iv) complying with other requirements  
11                  concerning information management nec-  
12                  essary to ensure compliance with the Con-  
13                  vention, this Act, and any other applicable  
14                  law.

15                  (E) *LIABILITY INSURANCE.*—The agency  
16                  agrees to have in force adequate liability insur-  
17                  ance for professional negligence and any other  
18                  insurance that the Secretary considers appro-  
19                  priate.

20                  (F) *COMPLIANCE WITH APPLICABLE*  
21                  *RULES.*—The agency has established adequate  
22                  measures to comply (and to ensure compliance of  
23                  their agents and clients) with the Convention,  
24                  this Act, and any other applicable law.

1                   (G) *NONPROFIT ORGANIZATION WITH STATE*  
 2                   *LICENSE TO PROVIDE ADOPTION SERVICES.—The*  
 3                   *agency is a private nonprofit organization li-*  
 4                   *censed to provide adoption services in at least*  
 5                   *one State.*

6                   (2) *APPROVAL.—The standards prescribed under*  
 7                   *subsection (a) shall include the requirement that a*  
 8                   *person shall not be approved under this title unless*  
 9                   *the person is a private for-profit entity that meets the*  
 10                   *requirements of subparagraphs (A) through (F) of*  
 11                   *paragraph (1) of this subsection.*

12                   (3) *RENEWAL OF ACCREDITATION OR AP-*  
 13                   *PROVAL.—The standards prescribed under subsection*  
 14                   *(a) shall provide that the accreditation of an agency*  
 15                   *or approval of a person under this title shall be for*  
 16                   *a period of not less than 3 years and not more than*  
 17                   *5 years, and may be renewed on a showing that the*  
 18                   *agency or person meets the requirements applicable to*  
 19                   *original accreditation or approval under this title.*

20                   (c) *TEMPORARY REGISTRATION OF SMALL COMMUNITY*  
 21                   *BASED AGENCIES.—For a 2-year period after the entry*  
 22                   *into force of the Convention and notwithstanding subsection*  
 23                   *(b), the Secretary may provide, in regulations issued pursu-*  
 24                   *ant to subsection (a), that an agency may register with the*  
 25                   *Secretary and be accredited to provide adoption services in*

1 *the United States in cases subject to the Convention during*  
 2 *such period if the agency—*

3 *(1) is licensed in the State in which it is located*  
 4 *and is a non-profit agency;*

5 *(2) has been providing adoption services in con-*  
 6 *nection with intercountry adoptions for at least 5*  
 7 *years;*

8 *(3) has provided adoption services in fewer than*  
 9 *20 intercountry adoptions in the preceding calendar*  
 10 *year;*

11 *(4) has demonstrated that it will be able to pro-*  
 12 *vide the United States Government with all informa-*  
 13 *tion related to the elements described in section 104(b)*  
 14 *and provides such information;*

15 *(5) has initiated the process of becoming accred-*  
 16 *ited under the provisions of this Act and is actively*  
 17 *taking steps to become an accredited agency; and*

18 *(6) has not been found to be involved in any im-*  
 19 *proper conduct relating to intercountry adoptions.*

20 **SEC. 204. SECRETARIAL OVERSIGHT OF ACCREDITATION**  
 21 **AND APPROVAL.**

22 *(a) OVERSIGHT OF ACCREDITING ENTITIES.—The Sec-*  
 23 *retary shall—*

24 *(1) monitor the performance by each accrediting*  
 25 *entity of its duties under section 202 and its compli-*

1        *ance with the requirements of the Convention, this*  
 2        *Act, other applicable laws, and implementing regula-*  
 3        *tions under this Act; and*

4            *(2) suspend or cancel the designation of an ac-*  
 5        *crediting entity found to be substantially out of com-*  
 6        *pliance with the Convention, this Act, other applica-*  
 7        *ble laws, or implementing regulations under this Act.*

8        *(b) SUSPENSION OR CANCELLATION OF ACCREDITA-*  
 9        *TION OR APPROVAL.—*

10            *(1) SECRETARY'S AUTHORITY.—The Secretary*  
 11        *shall suspend or cancel the accreditation or approval*  
 12        *granted by an accrediting entity to an agency or per-*  
 13        *son pursuant to section 202 when the Secretary finds*  
 14        *that—*

15            *(A) the agency or person is substantially*  
 16        *out of compliance with applicable requirements;*  
 17        *and*

18            *(B) the accrediting entity has failed or re-*  
 19        *fused, after consultation with the Secretary, to*  
 20        *take appropriate enforcement action.*

21            *(2) CORRECTION OF DEFICIENCY.—At any time*  
 22        *when the Secretary is satisfied that the deficiencies on*  
 23        *the basis of which an adverse action is taken under*  
 24        *paragraph (1) have been corrected, the Secretary*  
 25        *shall—*

1           (A) *notify the accrediting entity that the de-*  
 2           *ficiencies have been corrected; and*

3           (B)(i) *in the case of a suspension, terminate*  
 4           *the suspension; or*

5           (ii) *in the case of a cancellation, notify the*  
 6           *agency or person that the agency or person may*  
 7           *re-apply to the accrediting entity for accredita-*  
 8           *tion or approval.*

9       (c) *DEBARMENT.—*

10           (1) *SECRETARY’S AUTHORITY.—On the initiative*  
 11           *of the Secretary, or on request of an accrediting enti-*  
 12           *ty, the Secretary may temporarily or permanently*  
 13           *debar an agency from accreditation or a person from*  
 14           *approval under this title, but only if—*

15           (A) *there is substantial evidence that the*  
 16           *agency or person is out of compliance with ap-*  
 17           *plicable requirements; and*

18           (B) *there has been a pattern of serious, will-*  
 19           *ful, or grossly negligent failures to comply or*  
 20           *other aggravating circumstances indicating that*  
 21           *continued accreditation or approval would not*  
 22           *be in the best interests of the children and fami-*  
 23           *lies concerned.*

24           (2) *PERIOD OF DEBARMENT.—The Secretary’s*  
 25           *debarment order shall state whether the debarment is*

1        *temporary or permanent. If the debarment is tem-*  
 2        *porary, the Secretary shall specify a date, not earlier*  
 3        *than 3 years after the date of the order, on or after*  
 4        *which the agency or person may apply to the Sec-*  
 5        *retary for withdrawal of the debarment.*

6            (3) *EFFECT OF DEBARMENT.*—*An accrediting*  
 7        *entity may take into account the circumstances of the*  
 8        *debarment of an agency or person that has been*  
 9        *debarred pursuant to this subsection in considering*  
 10       *any subsequent application of the agency or person,*  
 11       *or of any other entity in which the agency or person*  
 12       *has an ownership or control interest, for accreditation*  
 13       *or approval under this title.*

14          (d) *JUDICIAL REVIEW.*—*A person (other than a pro-*  
 15       *spective adoptive parent), an agency, or an accrediting en-*  
 16       *tity who is the subject of a final action of suspension, can-*  
 17       *cellation, or debarment by the Secretary under this title*  
 18       *may petition the United States District Court for the Dis-*  
 19       *trict of Columbia or the United States district court in the*  
 20       *judicial district in which the person resides or the agency*  
 21       *or accrediting entity is located. The court shall review the*  
 22       *action in accordance with section 706 of title 5, United*  
 23       *States Code.*

1 **SEC. 205. STATE PLAN REQUIREMENT.**

2 *Section 422(b) of the Social Security Act (42 U.S.C.*  
3 *622(b)) is amended—*

4 *(1) in paragraph (11), by striking “and” at the*  
5 *end;*

6 *(2) in paragraph (12), by striking “children.”*  
7 *and inserting “children;”; and*

8 *(3) by adding at the end the following new para-*  
9 *graphs:*

10 *“(13) contain a description of the activities that*  
11 *the State has undertaken for children adopted from*  
12 *other countries, including the provision of adoption*  
13 *and post-adoption services; and*

14 *“(14) provide that the State shall collect and re-*  
15 *port information on children who are adopted from*  
16 *other countries and who enter into State custody as*  
17 *a result of the disruption of a placement for adoption*  
18 *or the dissolution of an adoption, including the num-*  
19 *ber of children, the agencies who handled the place-*  
20 *ment or adoption, the plans for the child, and the rea-*  
21 *sons for the disruption or dissolution.”.*

1 **TITLE III—RECOGNITION OF**  
 2 **CONVENTION ADOPTIONS IN**  
 3 **THE UNITED STATES**

4 **SEC. 301. ADOPTIONS OF CHILDREN IMMIGRATING TO THE**  
 5 **UNITED STATES.**

6 (a) *LEGAL EFFECT OF CERTIFICATES ISSUED BY THE*  
 7 *SECRETARY OF STATE.—*

8 (1) *ISSUANCE OF CERTIFICATES BY THE SEC-*  
 9 *RETARY OF STATE.—The Secretary of State shall,*  
 10 *with respect to each Convention adoption, issue a cer-*  
 11 *tificate to the adoptive citizen parent domiciled in the*  
 12 *United States that the adoption has been granted or,*  
 13 *in the case of a prospective adoptive citizen parent,*  
 14 *that legal custody of the child has been granted to the*  
 15 *citizen parent for purposes of emigration and adop-*  
 16 *tion, pursuant to the Convention and this Act, if the*  
 17 *Secretary of State—*

18 (A) *receives appropriate notification from*  
 19 *the central authority of such child's country of*  
 20 *origin; and*

21 (B) *has verified that the requirements of*  
 22 *this Act have been met with respect to the adop-*  
 23 *tion.*

24 (2) *LEGAL EFFECT OF CERTIFICATES.—If ap-*  
 25 *pende**d to an original adoption decree, the certificate*



1        *described in paragraph (1) shall be treated by Federal*  
 2        *and State agencies, courts, and other public and pri-*  
 3        *vate persons and entities as conclusive evidence of the*  
 4        *facts certified therein and shall constitute the certifi-*  
 5        *cation required by section 204(d)(2) of the Immigra-*  
 6        *tion and Nationality Act, as amended by this Act.*

7        *(b) LEGAL EFFECT OF CONVENTION ADOPTION FINAL-*  
 8        *IZED IN ANOTHER CONVENTION COUNTRY.—A final adop-*  
 9        *tion in another Convention country, certified by the Sec-*  
 10       *retary of State pursuant to subsection (a) of this section*  
 11       *or section 303(c), shall be recognized as a final valid adop-*  
 12       *tion for purposes of all Federal, State, and local laws of*  
 13       *the United States.*

14       *(c) CONDITION ON FINALIZATION OF CONVENTION*  
 15       *ADOPTION BY STATE COURT.—In the case of a child who*  
 16       *has entered the United States from another Convention*  
 17       *country for the purpose of adoption, an order declaring the*  
 18       *adoption final shall not be entered unless the Secretary of*  
 19       *State has issued the certificate provided for in subsection*  
 20       *(a) with respect to the adoption.*

1 **SEC. 302. IMMIGRATION AND NATIONALITY ACT AMEND-**  
 2 **MENTS RELATING TO CHILDREN ADOPTED**  
 3 **FROM CONVENTION COUNTRIES.**

4 (a) *DEFINITION OF CHILD.*—Section 101(b)(1) of the  
 5 *Immigration and Nationality Act* (8 U.S.C. 1101(b)(1)) is  
 6 amended—

7 (1) by striking “or” at the end of subparagraph  
 8 (E);

9 (2) by striking the period at the end of subpara-  
 10 graph (F) and inserting “; or”; and

11 (3) by adding after subparagraph (F) the fol-  
 12 lowing new subparagraph:

13 “(G) a child, under the age of sixteen at the time  
 14 a petition is filed on the child’s behalf to accord a  
 15 classification as an immediate relative under section  
 16 201(b), who has been adopted in a foreign state that  
 17 is a party to the *Convention on Protection of Chil-*  
 18 *dren and Co-operation in Respect of Intercountry*  
 19 *Adoption done at The Hague on May 29, 1993*, or  
 20 *who is emigrating from such a foreign state to be*  
 21 *adopted in the United States, by a United States cit-*  
 22 *izen and spouse jointly, or by an unmarried United*  
 23 *States citizen at least twenty-five years of age—*

24 “(i) if—

1           “(I) the Attorney General is satisfied  
2           that proper care will be furnished the child  
3           if admitted to the United States;

4           “(II) the child’s natural parents (or  
5           parent, in the case of a child who has one  
6           sole or surviving parent because of the death  
7           or disappearance of, abandonment or deser-  
8           tion by, the other parent), or other persons  
9           or institutions that retain legal custody of  
10          the child, have freely given their written ir-  
11          revocable consent to the termination of their  
12          legal relationship with the child, and to the  
13          child’s emigration and adoption;

14          “(III) the child is not the grandchild,  
15          niece, nephew, brother, sister, aunt, uncle,  
16          or first cousin of one or both of the adopting  
17          parents, unless—

18                 “(aa) the child has no living par-  
19                 ents because of the death or disappear-  
20                 ance of, abandonment or desertion by,  
21                 separation from, or loss of, both par-  
22                 ents; or

23                 “(bb) the sole or surviving parent  
24                 is incapable of providing the proper  
25                 care for the child and has in writing

1                    *irrevocably released the child for emi-*  
 2                    *gration and adoption; and*

3                    *“(IV) in the case of a child who has*  
 4                    *not been adopted—*

5                    *“(aa) the competent authority of*  
 6                    *the foreign state has approved the*  
 7                    *child’s emigration to the United States*  
 8                    *for the purpose of adoption by the pro-*  
 9                    *spective adoptive parent or parents;*  
 10                   *and*

11                   *“(bb) the prospective adoptive*  
 12                   *parent or parents has or have complied*  
 13                   *with any pre-adoption requirements of*  
 14                   *the child’s proposed residence; and*

15                   *“(ii) except that no natural parent or prior*  
 16                   *adoptive parent of any such child shall there-*  
 17                   *after, by virtue of such parentage, be accorded*  
 18                   *any right, privilege, or status under this Act.”.*

19                   *(b) APPROVAL OF PETITIONS.—Section 204(d) of the*  
 20                   *Immigration and Nationality Act (8 U.S.C. 1154(d)) is*  
 21                   *amended—*

22                   *(1) by striking “(d)” and inserting “(d)(1)”;*

23                   *(2) by striking “section 101(b)(1)(F)” and in-*  
 24                   *serting “subparagraph (F) or (G) of section*  
 25                   *101(b)(1)”;* and

1           (3) *by adding at the end the following new para-*  
 2       *graph:*

3       “(2) *Notwithstanding the provisions of subsections (a)*  
 4       *and (b), no petition may be approved on behalf of a child*  
 5       *defined in section 101(b)(1)(G) unless the Secretary of State*  
 6       *has certified that the central authority of the child’s country*  
 7       *of origin has notified the United States central authority*  
 8       *under the convention referred to in such section*  
 9       *101(b)(1)(G) that a United States citizen habitually resi-*  
 10       *dent in the United States has effected final adoption of the*  
 11       *child, or has been granted custody of the child for the pur-*  
 12       *pose of emigration and adoption, in accordance with such*  
 13       *convention and the Intercountry Adoption Act of 2000.”.*

14       (c) *DEFINITION OF PARENT.*—*Section 101(b)(2) of the*  
 15       *Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is*  
 16       *amended by inserting “and paragraph (1)(G)(i)” after*  
 17       *“second proviso therein”).*

18       **SEC. 303. ADOPTIONS OF CHILDREN EMIGRATING FROM**  
 19               **THE UNITED STATES.**

20       (a) *DUTIES OF ACCREDITED AGENCY OR APPROVED*  
 21       *PERSON.*—*In the case of a Convention adoption involving*  
 22       *the emigration of a child residing in the United States to*  
 23       *a foreign country, the accredited agency or approved person*  
 24       *providing adoption services, or the prospective adoptive*  
 25       *parent or parents acting on their own behalf (if permitted*

1 *by the laws of such other Convention country in which they*  
 2 *reside and the laws of the State in which the child resides),*  
 3 *shall do the following:*

4           (1) *Ensure that, in accordance with the*  
 5 *Convention—*

6                   (A) *a background study on the child is com-*  
 7 *pleted;*

8                   (B) *the accredited agency or approved*  
 9 *person—*

10                           (i) *has made reasonable efforts to ac-*  
 11 *tively recruit and make a diligent search for*  
 12 *prospective adoptive parents to adopt the*  
 13 *child in the United States; and*

14                           (ii) *despite such efforts, has not been*  
 15 *able to place the child for adoption in the*  
 16 *United States in a timely manner; and*

17                   (C) *a determination is made that placement*  
 18 *with the prospective adoptive parent or parents*  
 19 *is in the best interests of the child.*

20           (2) *Furnish to the State court with jurisdiction*  
 21 *over the case—*

22                   (A) *documentation of the matters described*  
 23 *in paragraph (1);*

24                   (B) *a background report (home study) on*  
 25 *the prospective adoptive parent or parents (in-*

1       cluding a criminal background check) prepared  
 2       in accordance with the laws of the receiving  
 3       country; and

4               (C) a declaration by the central authority  
 5       (or other competent authority) of such other Con-  
 6       vention country—

7                   (i) that the child will be permitted to  
 8       enter and reside permanently, or on the  
 9       same basis as the adopting parent, in the  
 10      receiving country; and

11                  (ii) that the central authority (or other  
 12      competent authority) of such other Conven-  
 13      tion country consents to the adoption, if  
 14      such consent is necessary under the laws of  
 15      such country for the adoption to become  
 16      final.

17           (3) Furnish to the United States central  
 18      authority—

19                  (A) official copies of State court orders cer-  
 20      tifying the final adoption or grant of custody for  
 21      the purpose of adoption;

22                  (B) the information and documents de-  
 23      scribed in paragraph (2), to the extent required  
 24      by the United States central authority; and

1                   (C) any other information concerning the  
 2                   case required by the United States central au-  
 3                   thority to perform the functions specified in sub-  
 4                   section (c) or otherwise to carry out the duties of  
 5                   the United States central authority under the  
 6                   Convention.

7           (b) *CONDITIONS ON STATE COURT ORDERS.*—An order  
 8           declaring an adoption to be final or granting custody for  
 9           the purpose of adoption in a case described in subsection  
 10          (a) shall not be entered unless the court—

11                   (1) has received and verified to the extent the  
 12                   court may find necessary—

13                           (A) the material described in subsection  
 14                   (a)(2); and

15                           (B) satisfactory evidence that the require-  
 16                   ments of Articles 4 and 15 through 21 of the  
 17                   Convention have been met; and

18                   (2) has determined that the adoptive placement  
 19                   is in the best interests of the child.

20          (c) *DUTIES OF THE SECRETARY OF STATE.*—In a case  
 21          described in subsection (a), the Secretary, on receipt and  
 22          verification as necessary of the material and information  
 23          described in subsection (a)(3), shall issue, as applicable, an  
 24          official certification that the child has been adopted or a



1 *declaration that custody for purposes of adoption has been*  
 2 *granted, in accordance with the Convention and this Act.*

3       (d) *FILING WITH REGISTRY REGARDING NONCONVEN-*  
 4 *TION ADOPTIONS.*—Accredited agencies, approved persons,  
 5 and other persons, including governmental authorities, pro-  
 6 viding adoption services in an intercountry adoption not  
 7 subject to the Convention that involves the emigration of  
 8 a child from the United States shall file information re-  
 9 quired by regulations jointly issued by the Attorney General  
 10 and the Secretary of State for purposes of implementing  
 11 section 102(e).

## 12 ***TITLE IV—ADMINISTRATION AND*** 13 ***ENFORCEMENT***

### 14 ***SEC. 401. ACCESS TO CONVENTION RECORDS.***

15       (a) *PRESERVATION OF CONVENTION RECORDS.*—

16           (1) *IN GENERAL.*—Not later than 180 days after  
 17 the date of the enactment of this Act, the Secretary,  
 18 in consultation with the Attorney General, shall issue  
 19 regulations that establish procedures and require-  
 20 ments in accordance with the Convention and this  
 21 section for the preservation of Convention records.

22           (2) *APPLICABILITY OF NOTICE AND COMMENT*  
 23 *RULES.*—Subsections (b), (c), and (d) of section 553  
 24 of title 5, United States Code, shall apply in the de-

1        *velopment and issuance of regulations under this sec-*  
2        *tion.*

3        *(b) ACCESS TO CONVENTION RECORDS.—*

4                *(1) PROHIBITION.—Except as provided in para-*  
5        *graph (2), the Secretary or the Attorney General may*  
6        *disclose a Convention record, and access to such a*  
7        *record may be provided in whole or in part, only if*  
8        *such record is maintained under the authority of the*  
9        *Immigration and Nationality Act and disclosure of,*  
10       *or access to, such record is permitted or required by*  
11       *applicable Federal law.*

12               *(2) EXCEPTION FOR ADMINISTRATION OF THE*  
13       *CONVENTION.—A Convention record may be disclosed,*  
14       *and access to such a record may be provided, in whole*  
15       *or in part, among the Secretary, the Attorney Gen-*  
16       *eral, central authorities, accredited agencies, and ap-*  
17       *proved persons, only to the extent necessary to admin-*  
18       *ister the Convention or this Act.*

19               *(3) PENALTIES FOR UNLAWFUL DISCLOSURE.—*  
20       *Unlawful disclosure of all or part of a Convention*  
21       *record shall be punishable in accordance with appli-*  
22       *cable Federal law.*

23        *(c) ACCESS TO NON-CONVENTION RECORDS.—Disclo-*  
24       *sure of, access to, and penalties for unlawful disclosure of,*  
25       *adoption records that are not Convention records, including*

1 *records of adoption proceedings conducted in the United*  
 2 *States, shall be governed by applicable State law.*

3 **SEC. 402. DOCUMENTS OF OTHER CONVENTION COUN-**  
 4 **TRIES.**

5 *Documents originating in any other Convention coun-*  
 6 *try and related to a Convention adoption case shall require*  
 7 *no authentication in order to be admissible in any Federal,*  
 8 *State, or local court in the United States, unless a specific*  
 9 *and supported claim is made that the documents are false,*  
 10 *have been altered, or are otherwise unreliable.*

11 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS; COLLEC-**  
 12 **TION OF FEES.**

13 *(a) AUTHORIZATION OF APPROPRIATIONS.—*

14 *(1) IN GENERAL.—There are authorized to be ap-*  
 15 *propriated such sums as may be necessary to agencies*  
 16 *of the Federal Government implementing the Conven-*  
 17 *tion and the provisions of this Act.*

18 *(2) AVAILABILITY OF FUNDS.—Amounts appro-*  
 19 *priated pursuant to paragraph (1) are authorized to*  
 20 *remain available until expended.*

21 *(b) ASSESSMENT OF FEES.—*

22 *(1) The Secretary may charge a fee for new or*  
 23 *enhanced services that will be undertaken by the De-*  
 24 *partment of State to meet the requirements of this Act*  
 25 *with respect to intercountry adoptions under the Con-*

1        *vention and comparable services with respect to other*  
 2        *intercountry adoptions. Such fee shall be prescribed*  
 3        *by regulation and shall not exceed the cost of such*  
 4        *services.*

5            *(2) Fees collected under paragraph (1) shall be*  
 6        *retained and deposited as an offsetting collection to*  
 7        *any Department of State appropriation to recover the*  
 8        *costs of providing such services.*

9            *(3) Fees authorized under this section shall be*  
 10       *available for obligation only to the extent and in the*  
 11       *amount provided in advance in appropriations Acts.*

12        *(c) RESTRICTION.—No funds collected under the au-*  
 13       *thority of this section may be made available to an accred-*  
 14       *iting entity to carry out the purposes of this Act.*

15    **SEC. 404. ENFORCEMENT.**

16        *(a) CIVIL PENALTIES.—Any person who—*

17            *(1) violates section 201;*

18            *(2) makes a false or fraudulent statement or mis-*  
 19       *representation of material fact, or offers, gives, solici-*  
 20       *its, or accepts inducement by way of compensation*  
 21       *intended to influence or affect in the United States or*  
 22       *a foreign country—*

23            *(A) a decision by an accrediting entity with*  
 24       *respect to the accreditation of an agency or ap-*  
 25       *proval of a person under title II;*

1                   (B) the relinquishment of parental rights or  
 2                   the giving of parental consent relating to the  
 3                   adoption of a child in a case subject to the Con-  
 4                   vention; or

5                   (C) a decision or action of any entity per-  
 6                   forming a central authority function; or

7                   (3) engages another person as an agent, whether  
 8                   in the United States or in a foreign country, who in  
 9                   the course of that agency takes any of the actions de-  
 10                  scribed in paragraph (1) or (2),

11 shall be subject, in addition to any other penalty that may  
 12 be prescribed by law, to a civil money penalty of not more  
 13 than \$50,000 for a first violation, and not more than  
 14 \$100,000 for each succeeding violation.

15               (b) CIVIL ENFORCEMENT.—

16               (1) AUTHORITY OF ATTORNEY GENERAL.—The  
 17               Attorney General may bring a civil action to enforce  
 18               subsection (a) against any person in any United  
 19               States district court.

20               (2) FACTORS TO BE CONSIDERED IN IMPOSING  
 21               PENALTIES.—In imposing penalties the court shall  
 22               consider the gravity of the violation, the degree of cul-  
 23               pability of the defendant, and any history of prior  
 24               violations by the defendant.

1       (c) *CRIMINAL PENALTIES.*—Whoever knowingly and  
 2 willfully violates paragraph (1) or (2) of subsection (a)  
 3 shall be subject to a fine of not more than \$250,000, impris-  
 4 onment for not more than 5 years, or both.

## 5   ***TITLE V—GENERAL PROVISIONS***

### 6   ***SEC. 501. RECOGNITION OF CONVENTION ADOPTIONS.***

7       Subject to Article 24 of the Convention, adoptions con-  
 8 cluded between two other Convention countries that meet  
 9 the requirements of Article 23 of the Convention and that  
 10 became final before the date of entry into force of the Con-  
 11 vention for the United States shall be recognized thereafter  
 12 in the United States and given full effect. Such recognition  
 13 shall include the specific effects described in Article 26 of  
 14 the Convention.

### 15   ***SEC. 502. SPECIAL RULES FOR CERTAIN CASES.***

16       (a) *AUTHORITY TO ESTABLISH ALTERNATIVE PROCE-*  
 17 *DURES FOR ADOPTION OF CHILDREN BY RELATIVES.*—To  
 18 the extent consistent with the Convention, the Secretary  
 19 may establish by regulation alternative procedures for the  
 20 adoption of children by individuals related to them by  
 21 blood, marriage, or adoption, in cases subject to the Conven-  
 22 tion.

23       (b) *WAIVER AUTHORITY.*—

24               (1) *IN GENERAL.*—Notwithstanding any other  
 25 provision of this Act, to the extent consistent with the

1       *Convention, the Secretary may, on a case-by-case*  
 2       *basis, waive applicable requirements of this Act or*  
 3       *regulations issued under this Act, in the interests of*  
 4       *justice or to prevent grave physical harm to the child.*

5               (2) *NONDELEGATION.—The authority provided*  
 6       *by paragraph (1) may not be delegated.*

7       **SEC. 503. RELATIONSHIP TO OTHER LAWS.**

8               (a) *PREEMPTION OF INCONSISTENT STATE LAW.—The*  
 9       *Convention and this Act shall not be construed to preempt*  
 10       *any provision of the law of any State or political subdivi-*  
 11       *sion thereof, or prevent a State or political subdivision*  
 12       *thereof from enacting any provision of law with respect to*  
 13       *the subject matter of the Convention or this Act, except to*  
 14       *the extent that such provision of State law is inconsistent*  
 15       *with the Convention or this Act, and then only to the extent*  
 16       *of the inconsistency.*

17              (b) *APPLICABILITY OF THE INDIAN CHILD WELFARE*  
 18       *ACT.—The Convention and this Act shall not be construed*  
 19       *to affect the application of the Indian Child Welfare Act*  
 20       *of 1978 (25 U.S.C. 1901 et seq.).*

21              (c) *RELATIONSHIP TO OTHER LAWS.—Sections*  
 22       *3506(c), 3507, and 3512 of title 44, United States Code,*  
 23       *shall not apply to information collection for purposes of sec-*  
 24       *tions 104, 202(b)(4), and 303(d) of this Act or for use as*  
 25       *a Convention record as defined in this Act.*

1 **SEC. 504. NO PRIVATE RIGHT OF ACTION.**

2       *The Convention and this Act shall not be construed*  
 3 *to create a private right of action to seek administrative*  
 4 *or judicial relief, except to the extent expressly provided in*  
 5 *this Act.*

6 **SEC. 505. EFFECTIVE DATES; TRANSITION RULE.**

7       *(a) EFFECTIVE DATES.—*

8           *(1) PROVISIONS EFFECTIVE UPON ENACTMENT.—*

9       *Sections 2, 3, 101 through 103, 202 through 205,*  
 10 *401(a), 403, 503, and 505(a) shall take effect on the*  
 11 *date of the enactment of this Act.*

12           *(2) PROVISIONS EFFECTIVE UPON THE ENTRY*  
 13 *INTO FORCE OF THE CONVENTION.—Subject to sub-*  
 14 *section (b), the provisions of this Act not specified in*  
 15 *paragraph (1) shall take effect upon the entry into*  
 16 *force of the Convention for the United States pursu-*  
 17 *ant to Article 46(2)(a) of the Convention.*

18       *(b) TRANSITION RULE.—The Convention and this Act*  
 19 *shall not apply—*

20           *(1) in the case of a child immigrating to the*  
 21 *United States, if the application for advance proc-*  
 22 *essing of an orphan petition or petition to classify an*  
 23 *orphan as an immediate relative for the child is filed*  
 24 *before the effective date described in subsection (a)(2);*  
 25 *or*



1           (2) *in the case of a child emigrating from the*  
2           *United States, if the prospective adoptive parents of*  
3           *the child initiated the adoption process in their coun-*  
4           *try of residence with the filing of an appropriate ap-*  
5           *plication before the effective date described in sub-*  
6           *section (a)(2).*

**Calendar No. 523**

106TH CONGRESS  
2D SESSION

**S. 682**

**[Report No. 106-276]**

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**A BILL**

To implement the Hague Convention on Protection  
of Children and Co-operation in Respect of Inter-  
country Adoption, and for other purposes.

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APRIL 27, 2000

Reported with an amendment