

108TH CONGRESS
2D SESSION

S. 3031

To provide for the reform of intercountry adoption, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2004

Mr. NICKLES (for himself, Ms. LANDRIEU, Mr. CRAIG, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the reform 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intercountry Adoption
5 Reform Act of 2004” or the “ICARE Act”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) That a child, for the full and harmonious
9 development of his or her personality, should grow

1 up in a family environment, in an atmosphere of
2 happiness, love, and understanding.

3 (2) That intercountry adoption may offer the
4 advantage of a permanent family to a child for
5 whom a suitable family cannot be found in his or her
6 country of origin.

7 (3) There has been a significant growth in
8 intercountry adoptions. In 1990, Americans adopted
9 7,093 children from abroad. In 2001, they adopted
10 19,237 children from abroad.

11 (4) Americans increasingly seek to create or en-
12 large their families through intercountry adoptions.

13 (5) There are many children worldwide that are
14 without permanent homes.

15 (6) In the interest of children without a perma-
16 nent family and the United States citizens who are
17 waiting to bring them into their families, reforms
18 are needed in the intercountry adoption process used
19 by United States citizens.

20 (7) Before adoption, each child should have the
21 benefit of measures taken to ensure that inter-
22 country adoption is in his or her best interests and
23 prevents the abduction, selling, or trafficking of chil-
24 dren.

1 (8) In addition, Congress recognizes that for-
2 eign born adopted children do not make the decision
3 whether to immigrate to the United States. They are
4 being chosen by Americans to become part of their
5 immediate families.

6 (9) As such these children should not be classi-
7 fied as immigrants in the traditional sense. Once
8 fully and finally adopted, they should be treated as
9 children of United States citizens.

10 (10) Since a child who is fully and finally
11 adopted is entitled to the same rights, duties, and
12 responsibilities as a biological child, the law should
13 reflect such equality.

14 (11) Therefore, foreign born adopted children
15 of United States citizens should be accorded the
16 same procedural treatment as biological children
17 born abroad to a United States citizen.

18 (12) If a United States citizen can confer citi-
19 zenship to a biological child born abroad, then the
20 same citizen is entitled to confer such citizenship to
21 their legally and fully adopted foreign born child im-
22 mediately upon final adoption.

23 (13) If a United States citizen cannot confer
24 citizenship to a biological child born abroad, then
25 such citizen cannot confer citizenship to their legally

1 and fully adopted foreign born child, except through
2 the naturalization process.

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

4 (1) to ensure that intercountry adoptions take
5 place in the best interests of the child;

6 (2) to ensure that foreign born children adopted
7 by United States citizens will be treated identically
8 to a biological child born abroad to the same citizen
9 parent; and

10 (3) to improve the intercountry adoption proc-
11 ess by making it more citizen friendly and focused
12 on the protection of the child.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) ADOPTABLE CHILD.—The term “adoptable
16 child” has the same meaning given such term in sec-
17 tion 101(c)(3) of the Immigration and Nationality
18 Act (8 U.S.C. 1101(c)(3)), as added by section
19 204(a) of this Act.

20 (2) AMBASSADOR AT LARGE.—The term “Am-
21 bassador at Large” means the Ambassador at Large
22 for Intercountry Adoptions appointed to head the
23 Office pursuant to section 101(b).

24 (3) COMPETENT AUTHORITY.—The term “com-
25 petent authority” means the entity or entities au-

1 thorized by the law of the child's country of resi-
2 dence to engage in permanent placement of children
3 who are no longer in the legal or physical custody
4 of their biological parents.

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

9 (5) FULL AND FINAL ADOPTION.—The term
10 “full and final adoption” means an adoption—

11 (A) that is completed according to the laws
12 of the child's country of residence or the State
13 law of the parent's residence;

14 (B) under which a person is granted full
15 and legal custody of the adopted child;

16 (C) that has the force and effect of sev-
17 ering the child's legal ties to the child's biologi-
18 cal parents;

19 (D) under which the adoptive parents meet
20 the requirements of section 205; and

21 (E) under which the child has been adju-
22 dicated to be an adoptable child in accordance
23 with section 206.

1 (6) OFFICE.—The term “Office” means the Of-
 2 fice of Intercountry Adoptions established under sec-
 3 tion 101(a).

4 (7) READILY APPROVABLE.—A petition or cer-
 5 tification is considered “readily approvable” if the
 6 documentary support provided demonstrates that the
 7 petitioner satisfies the eligibility requirements and
 8 no additional information or investigation is nec-
 9 essary.

10 **TITLE I—ADMINISTRATION OF**
 11 **INTERCOUNTRY ADOPTIONS**
 12 **Subtitle A—In General**

13 **SEC. 101. OFFICE OF INTERCOUNTRY ADOPTIONS.**

14 (a) ESTABLISHMENT.—Not later than 180 days after
 15 the date of enactment of this Act, there is to be established
 16 within the Department of State, an Office of Intercountry
 17 Adoptions which shall be headed by the Ambassador at
 18 Large for Intercountry Adoptions who shall be appointed
 19 pursuant to subsection (b).

20 (b) AMBASSADOR AT LARGE.—

21 (1) APPOINTMENT.—The Ambassador at Large
 22 shall be appointed by the President, by and with the
 23 advice and consent of the Senate, from among indi-
 24 viduals who have background, experience, and train-
 25 ing in intercountry adoptions, taking care to ensure

1 that the individual who serves as Ambassador is free
2 from any conflicts of interest that might inhibit such
3 individual's ability to serve as Ambassador.

4 (2) AUTHORITY.—The Ambassador at Large
5 shall report directly to the Secretary of State, in
6 consultation with the Assistant Secretary for Con-
7 sular Affairs. The Ambassador at Large has no
8 independent regulatory authority.

9 (3) DUTIES OF THE AMBASSADOR AT LARGE.—
10 In carrying out the functions of the Office, the Am-
11 bassador at Large shall have the following respon-
12 sibilities:

13 (A) IN GENERAL.—The primary respon-
14 sibilities of the Ambassador at Large shall be—

15 (i) to ensure that intercountry adop-
16 tions take place in the best interests of the
17 child; and

18 (ii) to assist the Secretary of State in
19 fulfilling the responsibilities designated to
20 the central authority under title I of the
21 Intercountry Adoption Act of 2000 (42
22 U.S.C. 14911 et seq.).

23 (B) ADVISORY ROLE.—The Ambassador at
24 Large shall be a principal advisor to the Presi-
25 dent and the Secretary of State regarding mat-

1 ters affecting intercountry adoption and the
2 general welfare of children abroad and shall
3 make recommendations regarding—

4 (i) the policies of the United States
5 with respect to the establishment of a sys-
6 tem of cooperation among the parties to
7 the Convention;

8 (ii) the policies to prevent abandon-
9 ment, strengthen families, and to advance
10 the placement of children in permanent
11 families; and

12 (iii) policies that promote the protec-
13 tion and well-being of children.

14 (C) DIPLOMATIC REPRESENTATION.—Sub-
15 ject to the direction of the President and the
16 Secretary of State, the Ambassador at Large
17 may represent the United States in matters and
18 cases relevant to international adoption in—

19 (i) fulfillment of the responsibilities
20 designated to the central authority under
21 title I of the Intercountry Adoption Act of
22 2000 (42 U.S.C. 14911 et seq.);

23 (ii) contacts with foreign governments,
24 intergovernmental organizations, and spe-
25 cialized agencies of the United Nations and

1 other international organizations of which
2 the United States is a member; and

3 (iii) multilateral conferences and
4 meetings relevant to international adop-
5 tion.

6 (D) INTERNATIONAL POLICY DEVELOP-
7 MENT.—The Ambassador at Large shall advise
8 and support the Secretary of State and other
9 relevant Bureaus of the Department of State in
10 the development of sound policy regarding child
11 protection and intercountry adoption.

12 (E) REPORTING RESPONSIBILITIES.—The
13 Ambassador at Large shall have the following
14 reporting responsibilities:

15 (i) IN GENERAL.—The Ambassador at
16 Large shall assist the Secretary of State
17 and other relevant Bureaus in preparing
18 those portions of the Human Rights Re-
19 ports that relate to the abduction, sale,
20 and trafficking of children.

21 (ii) ANNUAL REPORT ON INTER-
22 COUNTRY ADOPTION.—On September 1 of
23 each year, the Secretary of State, with the
24 assistance of the Ambassador at Large,
25 shall prepare and transmit to Congress an

1 annual report on intercountry adoption.

2 Each annual report shall include—

3 (I) a description of the status of
4 child protection and adoption in each
5 foreign country, including—

6 (aa) trends toward improve-
7 ment in the welfare and protec-
8 tion of children and families;

9 (bb) trends in family reunifi-
10 cation, domestic adoption, and
11 intercountry adoption;

12 (cc) movement toward ratifi-
13 cation and implementation of the
14 Convention; and

15 (dd) census information on
16 the number of children in or-
17 phanages, foster homes, and
18 other types of nonpermanent res-
19 idential care as reported by the
20 foreign country;

21 (II) the number of intercountry
22 adoptions by United States citizens,
23 including the country from which each
24 child emigrated, the State in which

1 each child resides, and the country in
2 which the adoption was finalized;

3 (III) the number of intercountry
4 adoptions involving emigration from
5 the United States, including the coun-
6 try where each child now resides and
7 the State from which each child emi-
8 grated;

9 (IV) the number of placements
10 for adoption in the United States that
11 were disrupted, including the country
12 from which the child emigrated, the
13 age of the child, the date of the place-
14 ment for adoption, the reasons for the
15 disruption, the resolution of the dis-
16 ruption, the agencies that handled the
17 placement for adoption, and the plans
18 for the child, and in addition, any in-
19 formation regarding disruption or dis-
20 solution of adoptions of children from
21 other countries received pursuant to
22 section 422(b)(14) of the Social Secu-
23 rity Act (42 U.S.C. 622(b)(14));

24 (V) the average time required for
25 completion of an adoption, set forth

1 by the country from which the child
2 emigrated;

3 (VI) the current list of agencies
4 accredited and persons approved
5 under the Intercountry Adoption Act
6 of 2000 (42 U.S.C. 14901 et seq.) to
7 provide adoption services;

8 (VII) the names of the agencies
9 and persons temporarily or perma-
10 nently debarred under the Inter-
11 country Adoption Act of 2000 (42
12 U.S.C. 14901 et seq.), and the rea-
13 sons for the debarment;

14 (VIII) the range of adoption fees
15 involving adoptions by United States
16 citizens and the median of such fees
17 set forth by the country of origin;

18 (IX) the range of fees charged
19 for accreditation of agencies and the
20 approval of persons in the United
21 States engaged in providing adoption
22 services under the Convention; and

23 (X) recommendations of ways the
24 United States might act to improve

1 the welfare and protection of children
2 and families in each foreign country.

3 (c) FUNCTIONS OF OFFICE.—The Office shall have
4 the following 7 functions:

5 (1) APPROVAL OF A FAMILY TO ADOPT.—To
6 approve or disapprove the eligibility of United States
7 citizens to adopt foreign born children.

8 (2) CHILD ADJUDICATION.—To investigate and
9 adjudicate the status of a child born abroad to de-
10 termine their eligibility as an adoptable child.

11 (3) FAMILY SERVICES.—To provide assistance
12 to United States citizens engaged in the intercountry
13 adoption process in resolving problems with respect
14 to that process and to track intercountry adoption
15 cases so as to ensure that all such adoptions are
16 processed in a timely manner.

17 (4) INTERNATIONAL POLICY DEVELOPMENT.—
18 To advise and support the Ambassador at Large and
19 other relevant Bureaus in the development of sound
20 policy regarding child protection and intercountry
21 adoption.

22 (5) CENTRAL AUTHORITY.—To assist the Sec-
23 retary of State in carrying out duties of the central
24 authority as defined in section 3 of the Intercountry
25 Adoption Act of 2000 (42 U.S.C. 14902).

1 (6) ENFORCEMENT.—To investigate, either di-
2 rectly or in cooperation with other appropriate inter-
3 national, Federal, State, or local entities, impropri-
4 eties relating to adoption, including issues of child
5 protection, birth family protection, and consumer
6 fraud.

7 (7) ADMINISTRATION.—To perform administra-
8 tive functions related to the functions performed
9 under paragraphs (1) through (6), including legal
10 functions and congressional liaison and public affairs
11 functions.

12 (d) ORGANIZATION.—

13 (1) IN GENERAL.—All functions of the Office
14 shall be performed by officers housed in a central-
15 ized office located in Washington, D.C. Within the
16 Washington, D.C. office, there shall be 7 divisions
17 corresponding to the 7 functions of the Office. All 7
18 divisions and their respective directors shall report
19 directly to the Ambassador at Large.

20 (2) APPROVAL TO ADOPT.—The division re-
21 sponsible for approving parents to adopt shall be di-
22 vided into regions of the United States as follows:

23 (A) Northwest.

24 (B) Northeast.

25 (C) Southwest.

1 (D) Southeast.

2 (E) Midwest.

3 (F) West.

4 (3) CHILD ADJUDICATION.—To the extent prac-
5 ticable, the division responsible for the adjudication
6 of foreign born children as adoptable shall be divided
7 by world regions which correspond to those currently
8 used by other divisions within the Department of
9 State.

10 (4) USE OF INTERNATIONAL FIELD OFFI-
11 CERS.—Nothing in this section shall be construed to
12 prohibit the use of international field officers posted
13 abroad, as necessary, to fulfill the requirements of
14 this Act.

15 (5) USE OF EXISTING SYSTEMS.—Whenever
16 possible, the Office shall utilize systems currently in
17 place that ensure protections against child traf-
18 ficking.

19 (e) QUALIFICATIONS AND TRAINING.—In addition to
20 meeting the employment requirements of the Department
21 of State, officers employed in any of the 7 divisions of
22 the Office shall undergo extensive and specialized training
23 in the laws and processes of intercountry adoption as well
24 as understanding the cultural, medical, emotional, and so-
25 cial issues surrounding intercountry adoption and adoptive

1 families. The Ambassador at Large shall, whenever pos-
 2 sible, recruit and hire individuals with background and ex-
 3 perience in intercountry adoptions, taking care to ensure
 4 that such individuals do not have any conflicts of interest
 5 that might inhibit their ability to serve.

6 (f) USE OF ELECTRONIC DATABASES AND FILING.—
 7 To the extent possible, the Office shall make use of cen-
 8 tralized, electronic databases and electronic form filing.

9 **SEC. 102. RECOGNITION OF CONVENTION ADOPTIONS IN**
 10 **THE UNITED STATES.**

11 Section 505(a)(1) of the Intercountry Adoption Act
 12 of 2000 (42 U.S.C. 14901 note) is amended by inserting
 13 “301, 302,” after “205,”.

14 **SEC. 103. TECHNICAL AND CONFORMING AMENDMENT.**

15 Section 104 of the Intercountry Adoption Act of 2000
 16 (42 U.S.C. 14914) is repealed.

17 **Subtitle B—Transition Provisions**

18 **SEC. 111. TRANSFER OF FUNCTIONS.**

19 (a) IN GENERAL.—Subject to subsection (c), all func-
 20 tions under the immigration laws of the United States
 21 with respect to the adoption of foreign born children by
 22 United States citizens and their admission to the United
 23 States that have been vested by statute in, or exercised
 24 by, the Commissioner of Immigration and Naturalization,
 25 the Immigration and Naturalization Service (or any offi-

cer, employee, or component thereof), of the Department of Homeland Security (or any officer, employee, or component thereof) immediately prior to the effective date of this title, are transferred to the Office on the effective date of this title for exercise by the Ambassador at Large in accordance with applicable laws and title II of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Ambassador at Large may, for purposes of performing any function transferred to the Ambassador at Large under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function pursuant to this title.

(c) LIMITATION ON TRANSFER OF PENDING ADOPTIONS.—If an individual has filed a petition with the Immigration and Naturalization Service or the Department of Homeland Security with respect to the adoption of a foreign born child prior to the date of enactment of this title, the Secretary of Homeland Security shall have the authority to make the final determination on such petition and such petition shall not be transferred to the Office.

1 **SEC. 112. TRANSFER OF RESOURCES.**

2 Subject to section 1531 of title 31, United States
3 Code, upon the effective date of this title, there are trans-
4 ferred to the Ambassador at Large for appropriate alloca-
5 tion in accordance with section 115, the assets, liabilities,
6 contracts, property, records, and unexpended balance of
7 appropriations, authorizations, allocations, and other
8 funds employed, held, used, arising from, available to, or
9 to be made available to the Immigration and Naturaliza-
10 tion Service or the Department of Homeland Security in
11 connection with the functions transferred pursuant to this
12 title.

13 **SEC. 113. INCIDENTAL TRANSFERS.**

14 The Ambassador at Large may make such additional
15 incidental dispositions of personnel, assets, liabilities,
16 grants, contracts, property, records, and unexpended bal-
17 ances of appropriations, authorizations, allocations, and
18 other funds held, used, arising from, available to, or to
19 be made available in connection with such functions, as
20 may be necessary to carry out this title. The Ambassador
21 at Large shall provide for such further measures and dis-
22 positions as may be necessary to effectuate the purposes
23 of this title.

24 **SEC. 114. SAVINGS PROVISIONS.**

25 (a) **LEGAL DOCUMENTS.**—All orders, determinations,
26 rules, regulations, permits, grants, loans, contracts, agree-

1 ments, including collective bargaining agreements, certifi-
2 cates, licenses, and privileges—

3 (1) that have been issued, made, granted, or al-
4 lowed to become effective by the President, the Am-
5 bassador at Large, the former Commissioner of the
6 Immigration and Naturalization Service, their dele-
7 gates, or any other Government official, or by a
8 court of competent jurisdiction, in the performance
9 of any function that is transferred pursuant to this
10 title; and

11 (2) that are in effect on the effective date of
12 such transfer (or become effective after such date
13 pursuant to their terms as in effect on such effective
14 date);

15 shall continue in effect according to their terms until
16 modified, terminated, superseded, set aside, or revoked in
17 accordance with law by the President, any other author-
18 ized official, a court of competent jurisdiction, or operation
19 of law, except that any collective bargaining agreement
20 shall remain in effect until the date of termination speci-
21 fied in the agreement.

22 (b) PROCEEDINGS.—

23 (1) PENDING.—The transfer of functions under
24 section 111 shall not affect any proceeding or any
25 application for any benefit, service, license, permit,

1 certificate, or financial assistance pending on the ef-
2 fective date of this title before an office whose func-
3 tions are transferred pursuant to this title, but such
4 proceedings and applications shall be continued.

5 (2) ORDERS.—Orders shall be issued in such
6 proceedings, appeals shall be taken therefrom, and
7 payments shall be made pursuant to such orders, as
8 if this Act had not been enacted, and orders issued
9 in any such proceeding shall continue in effect until
10 modified, terminated, superseded, or revoked by a
11 duly authorized official, by a court of competent ju-
12 risdiction, or by operation of law.

13 (3) DISCONTINUANCE OR MODIFICATION.—
14 Nothing in this section shall be considered to pro-
15 hibit the discontinuance or modification of any such
16 proceeding under the same terms and conditions and
17 to the same extent that such proceeding could have
18 been discontinued or modified if this section had not
19 been enacted.

20 (c) SUITS.—This title shall not affect suits com-
21 menced before the effective date of this title, and in all
22 such suits, proceeding shall be had, appeals taken, and
23 judgments rendered in the same manner and with the
24 same effect as if this title had not been enacted.

1 (d) NONABATEMENT OF ACTIONS.—No suit, action,
2 or other proceeding commenced by or against the Depart-
3 ment of State, the Immigration and Naturalization Serv-
4 ice, or the Department of Homeland Security, or by or
5 against any individual in the official capacity of such indi-
6 vidual as an officer or employee in connection with a func-
7 tion transferred pursuant to this section, shall abate by
8 reason of the enactment of this Act.

9 (e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF
10 PARTIES.—If any Government officer in the official capac-
11 ity of such officer is party to a suit with respect to a func-
12 tion of the officer, and pursuant to this title such function
13 is transferred to any other officer or office, then such suit
14 shall be continued with the other officer or the head of
15 such other office, as applicable, substituted or added as
16 a party.

17 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
18 VIEW.—Except as otherwise provided by this title, any
19 statutory requirements relating to notice, hearings, action
20 upon the record, or administrative or judicial review that
21 apply to any function transferred pursuant to any provi-
22 sion of this title shall apply to the exercise of such function
23 by the head of the office, and other officers of the office,
24 to which such function is transferred pursuant to such
25 provision.

1 **Subtitle C—Effective Date**

2 **SEC. 121. EFFECTIVE DATE.**

3 This title shall take effect 180 days after the date
4 of enactment of this Act.

5 **TITLE II—REFORM OF UNITED**
6 **STATES LAWS GOVERNING**
7 **INTERCOUNTRY ADOPTIONS**

8 **SEC. 201. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR**
9 **ADOPTED CHILDREN BORN OUTSIDE THE**
10 **UNITED STATES.**

11 (a) AMENDMENTS OF AUTOMATIC CITIZENSHIP PRO-
12 VISIONS.—Section 320 of the Immigration and Nationality
13 Act (8 U.S.C. 1431) is amended—

14 (1) by amending the section heading to read as
15 follows: “CHILDREN BORN OUTSIDE THE UNITED
16 STATES; CONDITIONS UNDER WHICH CITIZENSHIP
17 AUTOMATICALLY ACQUIRED”; and

18 (2) in subsection (a), by striking paragraphs
19 (1) through (3) and inserting the following:

20 “(1) Upon the date the adoption becomes full
21 and final, at least 1 parent of the child is a citizen
22 of the United States, whether by birth or naturaliza-
23 tion, who has been physically present in the United
24 States or its outlying possessions for a period or pe-
25 riods totaling not less than 5 years, at least 2 of

1 which were after attaining the age of 14 years. Any
 2 periods of honorable service in the Armed Forces of
 3 the United States, or periods of employment with the
 4 United States Government or with an international
 5 organization as that term is defined in section 1 of
 6 the International Organizations Immunities Act (22
 7 U.S.C. 288) by such citizen parent, or any periods
 8 during which such citizen parent is physically present
 9 abroad as the dependent unmarried son or daughter
 10 and a member of the household of a person—

11 “(A) honorably serving with the Armed
 12 Forces of the United States; or

13 “(B) employed by the United States Gov-
 14 ernment or an international organization as de-
 15 fined in section 1 of the International Organiza-
 16 tions Immunities Act (22 U.S.C. 288);

17 may be included in order to satisfy the physical pres-
 18 ence requirement of this paragraph.

19 “(2) The child is an adoptable child described
 20 in section 101(c)(3).

21 “(3) The child is the beneficiary of a full and
 22 final adoption decree entered by a foreign govern-
 23 ment or a court in the United States.

24 “(4) For purposes of this subsection, the term
 25 ‘full and final adoption’ means an adoption—

1 “(A) that is completed under the laws of
2 the child’s country of residence or the State law
3 of the parent’s residence;

4 “(B) under which a person is granted full
5 and legal custody of the adopted child;

6 “(C) that has the force and effect of sev-
7 ering the child’s legal ties to the child’s biologi-
8 cal parents;

9 “(D) under which the adoptive parents
10 meet the requirements of section 205 of the
11 Intercountry Adoption Reform Act of 2004; and

12 “(E) under which the child has been adju-
13 dicated to be an adoptable child in accordance
14 with section 206 of the Intercountry Adoption
15 Reform Act of 2004.”.

16 (b) EFFECTIVE DATE.—This section shall take effect
17 as if enacted on January 1, 1950.

18 **SEC. 202. REVISED PROCEDURES.**

19 Notwithstanding any other provision of law, the fol-
20 lowing requirements shall apply with respect to the adop-
21 tion of foreign born children by United States citizens:

22 (1) Upon completion of a full and final adop-
23 tion, the Secretary of State shall issue a United
24 States passport and a Consular Report of Birth for
25 a child who satisfies the requirements of section 320

1 of the Immigration and Nationality Act (8 U.S.C.
2 1431), as amended by section 201 of this Act, upon
3 application by a United States citizen parent.

4 (2) An adopted child described in paragraph (1)
5 shall not require the issuance of a visa for travel and
6 admission to the United States but shall be admitted
7 to the United States upon presentation of a valid,
8 unexpired United States passport.

9 (3) No affidavit of support under section 213A
10 of the Immigration and Nationality Act (8 U.S.C.
11 1183a) shall be required in the case of any adopt-
12 able child.

13 (4)(A) The Secretary of State shall require that
14 agencies provide prospective adoptive parents an op-
15 portunity to conduct an independent medical exam
16 and a copy of any medical records of the child
17 known to exist (to the greatest extent practicable,
18 these documents shall include an English trans-
19 lation) on a date that is not later than the earlier
20 of the date that is 2 weeks before the adoption, or
21 the date on which prospective adoptive parents trav-
22 el to such a foreign country to complete all proce-
23 dures in such country relating to adoption.

24 (B) The Secretary of State shall not require an
25 adopted child described in paragraph (1) to undergo

1 a medical exam for the purpose of excluding the
2 child's immigration to the United States.

3 (5) The Secretary of State shall take necessary
4 measures to ensure that all prospective adoptive par-
5 ents adopting internationally are provided with
6 training that includes counseling and guidance for
7 the purpose of promoting a successful intercountry
8 adoption before such parents travel to adopt the
9 child or the child is placed with such parents for
10 adoption.

11 (6) The Secretary of State shall take necessary
12 measures to ensure that—

13 (A) prospective adoptive parents are given
14 full disclosure of all direct and indirect costs of
15 intercountry adoption before they are matched
16 with child for adoption;

17 (B) fees charged in relation to the inter-
18 country adoption be on a fee for service basis
19 not on a contingent fee basis; and

20 (C) that the transmission of fees between
21 the adoption agency, the country of origin, and
22 the prospective adoptive parents is carried out
23 in a transparent and efficient manner.

24 (7) The Secretary of State shall take all meas-
25 ures necessary to ensure that all documents provided

1 to a country of origin on behalf of a prospective
 2 adoptive parent are truthful and accurate.

3 **SEC. 203. NONIMMIGRANT VISAS FOR CHILDREN TRAV-**
 4 **ELING TO THE UNITED STATES TO BE ADOPT-**
 5 **ED BY A UNITED STATES CITIZEN.**

6 (a) IN GENERAL.—Section 101(a)(15) of the Immi-
 7 gration and Nationality Act (8 U.S.C. 1101(a)(15)) is
 8 amended—

9 (1) by striking “or” at the end of subparagraph
 10 (U);

11 (2) by striking the period at the end of sub-
 12 paragraph (V) and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(W) an adoptable child who is coming into the
 15 United States for adoption by a United States cit-
 16 izen and a spouse jointly or by an unmarried United
 17 States citizen at least 25 years of age, who has been
 18 approved to adopt.”.

19 (b) TERMINATION OF PERIOD OF AUTHORIZED AD-
 20 MISSION.—Section 214 of the Immigration and Nation-
 21 ality Act (8 U.S.C. 1184) is amended by adding at the
 22 end the following:

23 “(s) In the case of a nonimmigrant described in sec-
 24 tion 101(a)(15)(W), the period of authorized admission
 25 shall terminate on the earlier of—

1 “(1) the date on which the adoption of the non-
 2 immigrant is completed by the courts of the State
 3 where the parents reside; or

4 “(2) the date that is 4 years after the date of
 5 admission of the nonimmigrant into the United
 6 States, unless a petitioner is able to show cause as
 7 to why the adoption could not be completed prior to
 8 such date and the Secretary extends such period for
 9 the period necessary to complete the adoption.”.

10 (c) TEMPORARY TREATMENT AS LEGAL PERMANENT
 11 RESIDENT.—Notwithstanding any other law, all benefits
 12 and protections that apply to a legal permanent resident
 13 shall apply to a nonimmigrant described in section
 14 101(a)(15)(W) of the Immigration and Nationality Act,
 15 as added by subsection (a), pending a full and final adop-
 16 tion.

17 (d) EXCEPTION FROM IMMUNIZATION REQUIREMENT
 18 FOR CERTAIN ADOPTED CHILDREN.—Section
 19 212(a)(1)(C) of the Immigration and Nationality Act (8
 20 U.S.C. 1182(a)(1)(C)) is amended—

21 (1) in the heading by striking “10 YEARS” and
 22 inserting “18 YEARS”; and

23 (2) in clause (i), by striking “10 years” and in-
 24 serting “18 years”.

1 (e) REGULATIONS.—Not later than 90 days after the
2 date of enactment of this Act, the Secretary of State shall
3 prescribe such regulations as may be necessary to carry
4 out this section.

5 **SEC. 204. DEFINITION OF ADOPTABLE CHILD.**

6 (a) IN GENERAL.—Section 101(c) of the Immigration
7 and Nationality Act (8 U.S.C. 1101(c)) is amended by
8 adding at the end the following:

9 “(3) The term ‘adoptable child’ means an unmarried
10 person under the age of 18—

11 “(A)(i) whose biological parents (or parent, in
12 the case of a child who has one sole or surviving
13 parent) or other persons or institutions that retain
14 legal custody of the child—

15 “(I) have freely given their written irrev-
16 ocable consent to the termination of their legal
17 relationship with the child, and to the child’s
18 emigration and adoption and that such consent
19 has not been induced by payment or compensa-
20 tion of any kind and has not been given prior
21 to the birth of the child;

22 “(II) are unable to provide proper care for
23 the child, as determined by the competent au-
24 thority of the child’s residence; or

1 “(III) have voluntarily relinquished the
2 child to the competent authorities pursuant to
3 the law of the child’s residence; or

4 “(ii) who, as determined by the competent au-
5 thority of the child’s residence—

6 “(I) has been abandoned or deserted by
7 their biological parent, parents, or legal guard-
8 ians; or

9 “(II) has been orphaned due to the death
10 or disappearance of their biological parent, par-
11 ents, or legal guardians;

12 “(B) with respect to whom the Secretary of
13 State is satisfied that the proper care will be fur-
14 nished the child if admitted to the United States;

15 “(C) with respect to whom the Secretary of
16 State is satisfied that the purpose of the adoption is
17 to form a bona fide parent-child relationship and
18 that the parent-child relationship of the child and
19 the biological parents has been terminated (and in
20 carrying out both obligations under this subpara-
21 graph the Secretary of State, in consultation with
22 the Secretary of Homeland Security, may consider
23 whether there is a petition pending to confer immi-
24 grant status on one or both of the biological par-
25 ents);

1 “(D) with respect to whom the Secretary of
 2 State is satisfied that there has been no inducement,
 3 financial or otherwise, offered to obtain the consent
 4 nor was it given before the birth of the child;

5 “(E) with respect to whom the Secretary of
 6 State, in consultation with the Secretary of Home-
 7 land Security, is satisfied that the person is not a
 8 security risk; and

9 “(F) whose eligibility for adoption and emigra-
 10 tion to the United States has been certified by the
 11 competent authority of the country of the child’s
 12 place of birth or residence.”.

13 (b) CONFORMING AMENDMENT.—Section 204(d) of
 14 the Immigration and Nationality Act (8 U.S.C. 1154(d))
 15 is amended by inserting “and an adoptable child as de-
 16 fined in section 101(c)(3)” before “unless a valid home-
 17 study”.

18 **SEC. 205. APPROVAL TO ADOPT.**

19 (a) IN GENERAL.—Prior to the issuance of a visa
 20 under section 101(a)(15)(W) of the Immigration and Na-
 21 tionality Act, as added by section 203(a) of this Act, or
 22 the issuance of a full and final adoption decree, the United
 23 States citizen adoptive parent shall have approved by the
 24 Office a petition to adopt. Such petition shall be subject
 25 to the same terms and conditions as are applicable to peti-

1 tions for classification under section 204.3 of title 8 of
2 the Code of Federal Regulations, as in effect on the day
3 before the date of enactment of this Act.

4 (b) EXPIRATION OF APPROVAL.—Approval to adopt
5 under this Act is valid for 24 months from the date of
6 approval. Nothing in this section may prevent the Sec-
7 retary of Homeland Security from periodically updating
8 the fingerprints of an individual who has filed a petition
9 for adoption.

10 (c) EXPEDITED REAPPROVAL PROCESS OF FAMILIES
11 PREVIOUSLY APPROVED TO ADOPT.—The Secretary of
12 State shall prescribe such regulations as may be necessary
13 to provide for an expedited and streamlined process for
14 families who have been previously approved to adopt and
15 whose approval has expired, so long as not more than 3
16 years have lapsed since the original application.

17 (d) DENIAL OF PETITION.—

18 (1) NOTICE OF INTENT.—If the officer adjudi-
19 cating the petition to adopt finds that it is not read-
20 ily approvable, the officer shall notify the petitioner,
21 in writing, of the officer's intent to deny the peti-
22 tion. Such notice shall include the specific reasons
23 why the petition is not readily approvable.

1 (2) PETITIONERS RIGHT TO RESPOND.—Upon
 2 receiving a notice of intent to deny, the petitioner
 3 has 30 days to respond to such notice.

4 (3) DECISION.—Within 30 days of receipt of
 5 the petitioner’s response the Office must reach a
 6 final decision regarding the eligibility of the peti-
 7 tioner to adopt. Notice of a formal decision must be
 8 delivered in writing.

9 (4) RIGHT TO AN APPEAL.—Unfavorable deci-
 10 sions may be appealed to the Department of State
 11 and, after the exhaustion of the appropriate appeals
 12 process of the Department, to a United States dis-
 13 trict court.

14 (5) REGULATIONS REGARDING APPEALS.—Not
 15 later than 6 months after the date of enactment of
 16 this Act, the Secretary of State shall promulgate for-
 17 mal regulations regarding the process for appealing
 18 the denial of a petition.

19 **SEC. 206. ADJUDICATION OF CHILD STATUS.**

20 (a) IN GENERAL.—Prior to the issuance of a full and
 21 final adoption decree or a visa under section
 22 101(a)(15)(W) of the Immigration and Nationality Act,
 23 as added by section 203(a) of this Act—

24 (1) the Office shall obtain from the competent
 25 authority of the country of the child’s residence a

1 certification, together with documentary support,
2 that the child sought to be adopted meets the de-
3 scription of an adoptable child; and

4 (2) not later than 15 days after the date of the
5 receipt of the certification referred to in paragraph
6 (1), the Office shall make a final determination on
7 whether the certification and the documentary sup-
8 port are sufficient to meet the requirements of this
9 section or whether additional investigation or infor-
10 mation is required.

11 (b) PROCESS FOR DETERMINATION.—

12 (1) IN GENERAL.—The Ambassador at Large
13 shall work with the competent authorities of the
14 child's country of residence to establish a uniform,
15 transparent, and efficient process for the exchange
16 and approval of the certification and documentary
17 support required under subsection (a).

18 (2) NOTICE OF INTENT.—If the Office finds
19 that the certification submitted by the competent au-
20 thority of the child's country of origin is not readily
21 approvable, the Office shall—

22 (A) notify the competent authority and the
23 prospective adoptive parents, in writing, of the
24 specific reasons why the certification is not suf-
25 ficient; and

1 (B) provide the competent authority and
 2 the prospective adoptive parents the oppor-
 3 tunity to address the stated insufficiencies.

4 (3) PETITIONERS RIGHT TO RESPOND.—Upon
 5 receiving a notice of intent to find that a certifi-
 6 cation is not readily approvable, the prospective
 7 adoptive parents shall have 30 days to respond to
 8 such notice.

9 (4) DECISION.—Not later than 30 days after
 10 the date of receipt of a response submitted under
 11 paragraph (3), the Office must reach a final decision
 12 regarding the child’s eligibility as an adoptable child.
 13 Notice of such decision must be in writing.

14 (5) RIGHT TO AN APPEAL.—Unfavorable deci-
 15 sions on a certification may be appealed to the De-
 16 partment of State and, after the exhaustion of the
 17 appropriate appeals process of the Department, to a
 18 United States district court.

19 **TITLE III—FUNDING**

20 **SEC. 301. FUNDS.**

21 The Secretary of State shall provide the Ambassador
 22 at Large with such funds as may be necessary for—

- 23 (1) the hiring of staff for the Office;
- 24 (2) investigations conducted by the Office; and

1 (3) travel and other expenses necessary to carry
 2 out this Act.

3 **TITLE IV—ENFORCEMENT**

4 **SEC. 401. ENFORCEMENT.**

5 (a) CIVIL PENALTIES.—A person shall be subject, in
 6 addition to any other penalty that may be prescribed by
 7 law, to a civil money penalty of not more than \$50,000
 8 for a first violation, and not more than \$100,000 for each
 9 succeeding violation if such person—

10 (1) violates a provision of this Act or an amend-
 11 ment made by this Act;

12 (2) makes a false or fraudulent statement, or
 13 misrepresentation, with respect to a material fact, or
 14 offers, gives, solicits, or accepts inducement by way
 15 of compensation, intended to influence or affect in
 16 the United States or a foreign country—

17 (A) a decision for an approval under title
 18 II;

19 (B) the relinquishment of parental rights
 20 or the giving of parental consent relating to the
 21 adoption of a child; or

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

24 (3) engages another person as an agent, wheth-
 25 er in the United States or in a foreign country, who

1 in the course of that agency takes any of the actions
2 described in paragraph (1) or (2).

3 (b) CIVIL ENFORCEMENT.—

4 (1) AUTHORITY OF ATTORNEY GENERAL.—The
5 Attorney General may bring a civil action to enforce
6 subsection (a) against any person in any United
7 States district court.

8 (2) FACTORS TO BE CONSIDERED IN IMPOSING
9 PENALTIES.—In imposing penalties the court shall
10 consider the gravity of the violation, the degree of
11 culpability of the defendant, and any history of prior
12 violations by the defendant.

13 (c) CRIMINAL PENALTIES.—Whoever knowingly and
14 willfully commits a violation described in paragraph (1)
15 or (2) of subsection (a) shall be subject to a fine of not
16 more than \$250,000, imprisonment for not more than 5
17 years, or both.

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