

(c) Public availability of report

The Secretary shall make the information contained in the report required under subsection (a) available to the public on the website of the Department of State.

(Pub. L. 106-279, title I, § 104, Oct. 6, 2000, 114 Stat. 829; Pub. L. 109-288, § 6(f)(9), Sept. 28, 2006, 120 Stat. 1248; Pub. L. 116-184, § 2(a), (b), (d), Oct. 30, 2020, 134 Stat. 897, 898.)

Editorial Notes**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a) and (b)(5), (6), was in the original “this Act”, meaning Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116-184, § 2(d), substituted “Foreign Affairs” for “International Relations”.

Subsec. (b)(9) to (14). Pub. L. 116-184, § 2(a), added pars. (9) to (14).

Subsec. (c). Pub. L. 116-184, § 2(b), added subsec. (c).

2006—Subsec. (b)(3). Pub. L. 109-288 substituted “622(b)(12)” for “622(b)(14)”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2020 AMENDMENT**

Pub. L. 116-184, § 2(e), Oct. 30, 2020, 134 Stat. 898, provided that: “The amendments made by this section [amending this section] shall apply with respect to reports required to be submitted under section 104 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914) beginning on the date that is 180 days after the date of enactment of this Act [Oct. 30, 2020].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under parts B and E of subchapter IV of chapter 7 of this title for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106-279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

PRIVACY CONCERNs

Pub. L. 116-184, § 2(c), Oct. 30, 2020, 134 Stat. 898, provided that: “In complying with the amendments made by subsections (a) and (b) [amending this section], the Secretary shall avoid, to the maximum extent practicable, disclosing any personally identifiable information relating to United States citizens or the adoptees of such citizens.”

SUBCHAPTER II—PROVISIONS RELATING TO ACCREDITATION AND APPROVAL**§ 14921. Accreditation or approval required in order to provide adoption services in cases subject to the Convention****(a) In general**

Except as otherwise provided in this subchapter, no person may offer or provide adoption services in connection with a Convention adoption in the United States unless that person—

(1) is accredited or approved in accordance with this subchapter; or

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

(b) Exceptions

Subsection (a) shall not apply to the following:

(1) Background studies and home studies

The performance of a background study on a child or a home study on a prospective adoptive parent, or any report on any such study by a social work professional or organization who is not providing any other adoption service in the case, if the background or home study is approved by an accredited agency.

(2) Child welfare services

The provision of a child welfare service by a person who is not providing any other adoption service in the case.

(3) Legal services

The provision of legal services by a person who is not providing any adoption service in the case.

(4) Prospective adoptive parents acting on own behalf

The conduct of a prospective adoptive parent on his or her own behalf in the case, to the extent not prohibited by the law of the State in which the prospective adoptive parent resides.

(Pub. L. 106-279, title II, § 201, Oct. 6, 2000, 114 Stat. 830.)

Editorial Notes**REFERENCES IN TEXT**

This subchapter, referred to in subsec. (a), was in the original “this title”, meaning title II of Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106-279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§ 14922. Process for accreditation and approval; role of accrediting entities**(a) Designation of accrediting entities****(1) In general**

The Secretary shall enter into agreements with one or more qualified entities under

which such entities will perform the duties described in subsection (b) in accordance with the Convention, this subchapter, and the regulations prescribed under section 14923 of this title, and upon entering into each such agreement shall designate the qualified entity as an accrediting entity.

(2) Qualified entities

In paragraph (1), the term “qualified entity” means—

(A) a nonprofit private entity that has expertise in developing and administering standards for entities providing child welfare services and that meets such other criteria as the Secretary may by regulation establish; or

(B) a public entity (other than a Federal entity), including an agency or instrumentality of State government having responsibility for licensing adoption agencies, that—

(i) has expertise in developing and administering standards for entities providing child welfare services;

(ii) accredits only agencies located in the State in which the public entity is located; and

(iii) meets such other criteria as the Secretary may by regulation establish.

(b) Duties of accrediting entities

The duties described in this subsection are the following:

(1) Accreditation and approval

Accreditation of agencies, and approval of persons, to provide adoption services in the United States in cases subject to the Convention.

(2) Oversight

Ongoing monitoring of the compliance of accredited agencies and approved persons with applicable requirements, including review of complaints against such agencies and persons in accordance with procedures established by the accrediting entity and approved by the Secretary.

(3) Enforcement

Taking of adverse actions (including requiring corrective action, imposing sanctions, and refusing to renew, suspending, or canceling accreditation or approval) for noncompliance with applicable requirements, and notifying the agency or person against whom adverse actions are taken of the deficiencies necessitating the adverse action.

(4) Data, records, and reports

Collection of data, maintenance of records, and reporting to the Secretary, the United States central authority, State courts, and other entities (including on persons and agencies granted or denied approval or accreditation), to the extent and in the manner that the Secretary requires.

(5) Report on use of Federal funding

Not later than 90 days after an accrediting entity receives Federal funding authorized by section 14943 of this title, the entity shall submit a report to the Committee on Foreign Re-

lations of the Senate and the Committee on Foreign Affairs of the House of Representatives that describes—

(A) the amount of such funding the entity received; and

(B) how such funding was, or will be, used by the entity.

(c) Remedies for adverse action by accrediting entity

(1) Correction of deficiency

An agency or person who is the subject of an adverse action by an accrediting entity may re-apply for accreditation or approval (or petition for termination of the adverse action) on demonstrating to the satisfaction of the accrediting entity that the deficiencies necessitating the adverse action have been corrected.

(2) No other administrative review

An adverse action by an accrediting entity shall not be subject to administrative review.

(3) Judicial review

An agency or person who is the subject of an adverse action by an accrediting entity may petition the United States district court in the judicial district in which the agency is located or the person resides to set aside the adverse action. The court shall review the adverse action in accordance with section 706 of title 5, and for purposes of such review the accrediting entity shall be considered an agency within the meaning of section 701 of such title.

(d) Fees

The amount of fees assessed by accrediting entities for the costs of accreditation shall be subject to approval by the Secretary. Such fees may not exceed the costs of accreditation. In reviewing the level of such fees, the Secretary shall consider the relative size of, the geographic location of, and the number of Convention adoption cases managed by the agencies or persons subject to accreditation or approval by the accrediting entity.

(Pub. L. 106-279, title II, § 202, Oct. 6, 2000, 114 Stat. 831; Pub. L. 112-276, § 3(b), Jan. 14, 2013, 126 Stat. 2467.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(1), was in the original “this title”, meaning title II of Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2013—Subsec. (b)(5). Pub. L. 112-276 added par. (5).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106-279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§ 14923. Standards and procedures for providing accreditation or approval

(a) In general

(1) Promulgation of regulations

The Secretary, shall, by regulation, prescribe the standards and procedures to be used by accrediting entities for the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention.

(2) Consideration of views

In developing such regulations, the Secretary shall consider any standards or procedures developed or proposed by, and the views of, individuals and entities with interest and expertise in international adoptions and family social services, including public and private entities with experience in licensing and accrediting adoption agencies.

(3) Applicability of notice and comment rules

Subsections (b), (c), and (d) of section 553 of title 5 shall apply in the development and issuance of regulations under this section.

(b) Minimum requirements

(1) Accreditation

The standards prescribed under subsection (a) shall include the requirement that accreditation of an agency may not be provided or continued under this subchapter unless the agency meets the following requirements:

(A) Specific requirements

(i) The agency provides prospective adoptive parents of a child in a prospective Convention adoption a copy of the medical records of the child (which, to the fullest extent practicable, shall include an English-language translation of such records) on a date which is not later than the earlier of the date that is 2 weeks before: (I) the adoption; or (II) the date on which the prospective parents travel to a foreign country to complete all procedures in such country relating to the adoption.

(ii) The agency ensures that a thorough background report (home study) on the prospective adoptive parent or parents has been completed in accordance with the Convention and with applicable Federal and State requirements and transmitted to the Attorney General with respect to each Convention adoption. Each such report shall include a criminal background check and a full and complete statement of all facts relevant to the eligibility of the prospective adopting parent or parents to adopt a child under any requirements specified by the central authority of the child's country of origin under section 14912(b)(3) of this title, including, in the case of a child emigrating to the United States for the purpose of adoption, the requirements of the child's country of origin applicable to adoptions taking place in such country. For purposes of this clause, the term "background report (home study)" includes any supplemental statement submitted by the agency to the Attorney General for the purpose of providing information

relevant to any requirements specified by the child's country of origin.

(iii) The agency provides prospective adoptive parents with a training program that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(iv) The agency employs personnel providing intercountry adoption services on a fee for service basis rather than on a contingent fee basis.

(v) The agency discloses fully its policies and practices, the disruption rates of its placements for intercountry adoption, and all fees charged by such agency for intercountry adoption.

(B) Capacity to provide adoption services

The agency has, directly or through arrangements with other persons, a sufficient number of appropriately trained and qualified personnel, sufficient financial resources, appropriate organizational structure, and appropriate procedures to enable the agency to provide, in accordance with this chapter, all adoption services in cases subject to the Convention.

(C) Use of social service professionals

The agency has established procedures designed to ensure that social service functions requiring the application of clinical skills and judgment are performed only by professionals with appropriate qualifications and credentials.

(D) Records, reports, and information matters

The agency is capable of—

(i) maintaining such records and making such reports as may be required by the Secretary, the United States central authority, and the accrediting entity that accredits the agency;

(ii) cooperating with reviews, inspections, and audits;

(iii) safeguarding sensitive individual information; and

(iv) complying with other requirements concerning information management necessary to ensure compliance with the Convention, this chapter, and any other applicable law.

(E) Liability insurance

The agency agrees to have in force adequate liability insurance for professional negligence and any other insurance that the Secretary considers appropriate.

(F) Compliance with applicable rules

The agency has established adequate measures to comply (and to ensure compliance of their agents and clients) with the Convention, this chapter, and any other applicable law.

(G) Nonprofit organization with state license to provide adoption services

The agency is a private nonprofit organization licensed to provide adoption services in at least one State.