

(Pub. L. 106-279, title II, §203, Oct. 6, 2000, 114 Stat. 832.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), 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.

This chapter, referred to in subsecs. (b)(1)(B), (D)(iv), (F) and (c)(3)(D), 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.

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.

§ 14924. Secretarial oversight of accreditation and approval

(a) Oversight of accrediting entities

The Secretary shall—

(1) monitor the performance by each accrediting entity of its duties under section 14922 of this title and its compliance with the requirements of the Convention, this chapter, other applicable laws, and implementing regulations under this chapter; and

(2) suspend or cancel the designation of an accrediting entity found to be substantially out of compliance with the Convention, this chapter, other applicable laws, or implementing regulations under this chapter.

(b) Suspension or cancellation of accreditation or approval

(1) Secretary’s authority

The Secretary shall suspend or cancel the accreditation or approval granted by an accrediting entity to an agency or person pursuant to section 14922 of this title when the Secretary finds that—

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

(B) the accrediting entity has failed or refused, after consultation with the Secretary, to take appropriate enforcement action.

(2) Correction of deficiency

At any time when the Secretary is satisfied that the deficiencies on the basis of which an adverse action is taken under paragraph (1) have been corrected, the Secretary shall—

(A) notify the accrediting entity that the deficiencies have been corrected; and

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

(ii) in the case of a cancellation, notify the agency or person that the agency or person may re-apply to the accrediting entity for accreditation or approval.

(c) Debarment

(1) Secretary’s authority

On the initiative of the Secretary, or on request of an accrediting entity, the Secretary

may temporarily or permanently debar an agency from accreditation or a person from approval under this subchapter, but only if—

(A) there is substantial evidence that the agency or person is out of compliance with applicable requirements; and

(B) there has been a pattern of serious, willful, or grossly negligent failures to comply or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.

(2) Period of debarment

The Secretary’s debarment order shall state whether the debarment is temporary or permanent. If the debarment is temporary, the Secretary shall specify a date, not earlier than 3 years after the date of the order, on or after which the agency or person may apply to the Secretary for withdrawal of the debarment.

(3) Effect of debarment

An accrediting entity may take into account the circumstances of the debarment of an agency or person that has been debarred pursuant to this subsection in considering any subsequent application of the agency or person, or of any other entity in which the agency or person has an ownership or control interest, for accreditation or approval under this subchapter.

(d) Judicial review

A person (other than a prospective adoptive parent), an agency, or an accrediting entity who is the subject of a final action of suspension, cancellation, or debarment by the Secretary under this subchapter may petition the United States District Court for the District of Columbia or the United States district court in the judicial district in which the person resides or the agency or accrediting entity is located to set aside the action. The court shall review the action in accordance with section 706 of title 5.

(e) Failure to ensure a full and complete home study

(1) In general

Willful, grossly negligent, or repeated failure to ensure the completion and transmission of a background report (home study) that fully complies with the requirements of section 14923(b)(1)(A)(ii) of this title shall constitute substantial noncompliance with applicable requirements.

(2) Regulations

Regulations promulgated under section 14923 of this title shall provide for—

(A) frequent and careful monitoring of compliance by agencies and approved persons with the requirements of section 14923(b)(A)(ii)¹ of this title; and

(B) consultation between the Secretary and the accrediting entity where an agency or person has engaged in substantial non-compliance with the requirements of section 14923(b)(A)(ii)¹ of this title, unless the accrediting entity has taken appropriate cor-

¹ So in original. Probably should be section “14923(b)(1)(A)(ii)”.

rective action and the noncompliance has not recurred.

(3) Repeated failures to comply

Repeated serious, willful, or grossly negligent failures to comply with the requirements of section 14923(b)(1)(A)(ii) of this title by an agency or person after consultation between Secretary and the accrediting entity with respect to previous noncompliance by such agency or person shall constitute a pattern of serious, willful, or grossly negligent failures to comply under subsection (c)(1)(B).

(4) Failure to comply with certain requirements

A failure to comply with the requirements of section 14923(b)(1)(A)(ii) of this title shall constitute a serious failure to comply under subsection (c)(1)(B) unless it is shown by clear and convincing evidence that such noncompliance had neither the purpose nor the effect of determining the outcome of a decision or proceeding by a court or other competent authority in the United States or the child's country of origin.

(Pub. L. 106-279, title II, §204, Oct. 6, 2000, 114 Stat. 835.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

This subchapter, referred to in subsecs. (c)(1), (3) and (d), 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 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.

§ 14925. Universal accreditation requirements

(a) In general

The provisions of title II and section 404 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.[, 42 U.S.C. 14944]), and related implementing regulations, shall apply to any person offering or providing adoption services in connection with a child described in section 1101(b)(1)(F) of title 8, to the same extent as they apply to the offering or provision of adoption services in connection with a Convention adoption. The Secretary of State, the Secretary of Homeland Security, the Attorney General (with respect to section 404(b) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14944[(b)])), and the accrediting entities shall have the duties, responsibilities, and authorities under title II and title IV of the Intercountry Adoption Act of 2000 [42 U.S.C. 14921 et seq., 14941

et seq.] and related implementing regulations with respect to a person offering or providing such adoption services, irrespective of whether such services are offered or provided in connection with a Convention adoption.

(b) Effective date

The provisions of this section shall take effect 18 months after January 14, 2013.

(c) Transition rule

This Act shall not apply to a person offering or providing adoption services as described in subsection (a) in the case of a prospective adoption in which—

(1) an application for advance processing of an orphan petition or petition to classify an orphan as an immediate relative for a child is filed before the date that is 180 days after January 14, 2013; or

(2) the prospective adoptive parents of a child have initiated the adoption process with the filing of an appropriate application in a foreign country sufficient such that the Secretary of State is satisfied before the date that is 180 days after January 14, 2013.

(Pub. L. 112-276, §2, Jan. 14, 2013, 126 Stat. 2466.)

Editorial Notes

REFERENCES IN TEXT

The Intercountry Adoption Act of 2000, referred to in subsec. (a), is Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 825. Title II of the Act is classified principally to this subchapter, and title IV of the Act is classified generally to subchapter IV (§14941 et seq.) of 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.

This Act, referred to in subsec. (c), is Pub. L. 112-276, Jan. 14, 2013, 126 Stat. 2466, known as the Intercountry Adoption Universal Accreditation Act of 2012. For complete classification of this Act to the Code, see Short Title of 2013 Amendment note set out under section 14901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Intercountry Adoption Universal Accreditation Act of 2012, and not as part of the Intercountry Adoption Act of 2000 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

Pub. L. 112-276, §4, Jan. 14, 2013, 126 Stat. 2467, provided that: "In this Act [see Short Title of 2013 Amendment note set out under section 14901 of this title], the terms 'accrediting entity', 'adoption service', 'Convention adoption', and 'person' have the meanings given those terms in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902)."

SUBCHAPTER III—RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES

§ 14931. Adoptions of children immigrating to the United States

(a) Legal effect of certificates issued by the Secretary of State

(1) Issuance of certificates by the Secretary of State

The Secretary of State shall, with respect to each Convention adoption, issue a certificate