



**Executive Office of the President of the United States
Office of Management and Budget**

*Office of Information and Regulatory Affairs
Human Resources and Housing Branch
New Executive Office Building
Room 10235
Washington, DC 20503*

FAX TRANSMITTAL

FAX: 202-395-6974

DATE: _____

TO: _____

Nicole

FROM: _____

Laura

Total number of pages (Including Transmittal Sheet): _____

Recipient's Fax Number: _____

Recipient's Telephone Number: _____

Comments: _____

*Final
INS fees
rule*

\$95 - \$4105

Form N-643, Application for Certification of Citizenship-Adopted Child.

*CHILD
WELFARE*

Seven hundred and seventeen comments were received from prior or prospective adopting parents expressing dissatisfaction with the fee increases associated with Forms I-600 and I-600A, Petition to Classify an Orphan as an Immediate Relative, and the Application for Advance Processing of Orphan Petition, respectively, and Form N-643, Application for Certification of Citizenship-Adopted Child. All 717 comments received were similar in nature. The commenters felt that these fees discriminated against American citizens who wished to adopt abandoned children living in orphanages around the world.

The Commissioner has always placed a very high priority in expediting international adoption applications. Each office must have at least one designated adjudicator to process international adoption applications. At most offices, the adjudicator receives the application directly. The international adoption process is labor intensive and generates a considerable amount of direct case interaction and correspondence.

The Fee Study Team documented the process and performed cycle time analysis for Forms I-600 and N-643, to accurately identify the costs associated with the processing of these specific petitions. The observations show that the processing of these petitions were particularly labor intensive and required the constant attention of adjudicators and others assigned to these cases.

Eighty percent of the applicants have numerous questions and contact the adjudicator with inquiries and requests for information before the initial submission of their application. Ninety percent of the applications are delivered in person, which leads to an extensive question and answer period between the applicant and the adjudicator. For instance, the average time needed for receipt of the other applications and petitions is slightly less than 5 minutes each. However, for the Form

I-600/I-600A, the receipt cycle time is greater than 49 minutes because of the questions and concerns of the applicant.

Since the Service does not receive any appropriated funding (tax dollars) to cover the cost of processing applications and petitions for any naturalization or immigration benefit, the increase in fees is necessary to recover the full costs associated with processing international adoption applications.

B. Form N-400, Application for Naturalization.

Twelve hundred and ninety-eight comments were received opposing the increase in the fee for the Form N-400, Application for Naturalization. Most of the comments began by stating that the proposed fee increase from \$95 to \$225 would create a hardship for most immigrant families because their family income is relatively low.

The Service recognizes the concerns surrounding these comments. However, the Service has committed significant resources to improving the naturalization process to reduce the waiting time for processing applications while still ensuring the integrity of the process. Part C explains why the increase in fees is necessary to recover the full cost of processing naturalization applications.

C. The Commissioner's Pledge on Fee Increases.

One hundred and twenty-one of the commenters referenced the Commissioner's remarks that no fee increases would be implemented until the Service made progress in four internal milestone areas. Those four milestones are: (1) the case backlogs begin to subside and applicant waiting time is reduced, (2) the new Application Support Centers have been opened, (3) submission of applications/petitions through direct mail is in uniform use, and (4) the new automated system called the Computer Linked Application Information Management System (CLAIMS 4.0) naturalization

tel
12/1/98
Approved

Immigration Examinations Fee Account/Fee Schedule		
Application Number	Description	Fee
I-17	Petition for Approval of School for Attendance by Nonimmigrant Student	\$ 200.00
I-90	Application to Replace Permanent Resident Card	\$ 110.00
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	\$ 85.00
I-129/I-129H/ I-129L	Petitions for Nonimmigrant Worker	\$ 110.00
I-129F	Petition for Alien Fiancé(e)	\$ 95.00
I-130	Petition for Alien Relative	\$ 110.00
I-131	Application for Travel Document	\$ 95.00
I-140	Petition for Alien Worker	\$ 115.00
I-485	Application to Register Permanent Residence or Adjust Status	\$ 220.00
I-526	Immigrant Petition by Alien Entrepreneur	\$ 350.00
I-539	Application to Extend/Change Nonimmigrant Status	\$ 120.00
I-600/ I-600A	Petition to Classify Orphan as an Immediate Relative/Application Advance Processing of Orphan Petition	\$ 405.00
I-601	Application for Waiver of Ground of Inadmissability	\$ 170.00
I-612	Application for Waiver of the Foreign-Residence Requirement	\$ 170.00
I-751	Petition to Remove the Conditions of Residence	\$ 125.00
I-765	Application for Employment Authorization	\$ 100.00
I-817	Application for Voluntary Departure under the Family Unity Act	\$ 120.00
I-824	Application for Action on an Approved Application or Petition	\$ 120.00
I-191	Application for Advance Permission to Return to Unrelinquished Domicile	\$ 170.00
I-192	Application for Advance Permission to Enter as a Nonimmigrant	\$ 170.00
I-193	Application for Waiver of passport and/or visa	\$ 170.00
I-212	Application to Reapply for Admission into the US After Deportation	\$ 170.00
I-829	Petition by Entrepreneur to Remove Conditions	\$ 345.00
N-400	Application for Naturalization	\$ 225.00
N-565	Application for Replacement Naturalization/Citizenship Document	\$ 135.00
N-600	Application for Certification of Citizenship	\$ 160.00
N-643	Application for Certificate of Citizenship on Behalf of an Adopted Child	\$ 125.00

Cong



CHIEF OF STAFF TO THE PRESIDENT

EBB asks appropriate WH staff
to follow up.

The Honorable William
President
The White House
Washington, D.C. 205

cc: Nicole Rabner
Mava Rudman

Dear Mr. President:

As strong supporters of international adoptions, we write to express our concern with the delay in sending the Hague Convention on Intercountry Adoptions to the U.S. Senate, and we encourage you to submit this treaty for consideration as soon as possible.

For over 40 years, international adoptions have been a viable and positive alternative for orphaned children worldwide in need of loving homes and families. We believe adoptive parents represent the best America has to offer to the world. Their generosity and willingness to adopt children into their homes typifies the American spirit.

In Fiscal Year 1997, American parents adopted 13,621 children from overseas, including 3,816 children from Russia. As Members of Congress, we recognize the increasing importance some countries (including Russia) place on dealing with a federal authority in the United States on the matter of international adoptions.

As you know, adoption is primarily a State matter and as such, the United States does not have a federal authority to govern our involvement with the international community regarding intercountry adoptions. By submitting the Hague Convention to the United States Senate without delay, you will be sending a strong signal to governments around the world that the United States Federal Government continues to value international adoptions. As a signatory to the Hague Convention, we know the U.S. is committed to the multilateral Hague Convention and not to several bilateral adoption treaties.

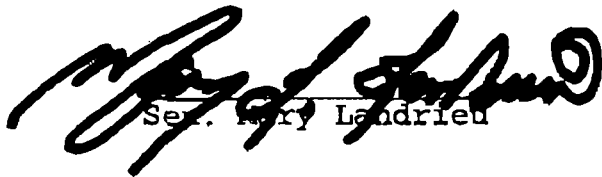
We recognize your Administration has reached out to all interested parties while drafting the Hague Convention and implementation legislation. However, we feel it is time for you to submit the Hague Convention to the United States Senate for ratification. Only when the Hague Convention is submitted to the Senate can your administration engage the American people and the Congress about the merits of the Hague Convention.

The Honorable William Clinton
Page 2

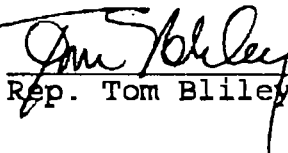
During your Presidency, we have worked with you in a bipartisan spirit to enact important adoption legislation into law including: adoption tax credits, the Adoption and Safe Families Act, and adoption immunization requirements. As supporters of international adoptions, we look forward to working with you in a positive manner on this very important subject.

We want to thank you in advance for your prompt consideration of our concerns.

Sincerely,



Sen. Mary Landrieu



Rep. Tom Bliley



Rep. James Oberstar

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**

Route Slip

To: See Distribution Below	Take necessary action	☐
	Approval or signature	☐
	Comment	☐
	Prepare reply	☐
	Discuss with me	☐
	For your information	☒
	See remarks below	☒

From: Melissa Benton

Date: July 7, 1998

Remarks: To follow is a final copy of the Intercountry Adoption Act, which the State Department transmitted to Congress on June 19, 1998.

To: Bruce Sasser
Joseph Pipan
Matthew McKearn
Steven Mertens
Nicole Rabner

cc:



United States Department of State

Washington, D.C. 20520

JUN 19 1998

Dear Mr. Speaker:

Enclosed for the consideration of the Congress is a draft bill entitled the "Intercountry Adoption Act." This bill is intended to implement the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption ("the Convention"), which was signed in 1994 and recently transmitted to the Senate for its advice and consent. The provisions of the legislation are detailed in the enclosed section-by-section analysis.

The United States and 65 other countries came together to negotiate the Convention in response to abuses in the intercountry adoption process, including illegal child trafficking. By setting uniform standards and procedures, the Convention better protects the rights and interests of children, birth parents and adoptive parents involved in intercountry adoptions.

The time is ripe for ratification and implementation of the Convention. The number of children adopted from abroad by U.S. citizens is increasing yearly; in fact, U.S. citizens probably adopt more children from abroad than the citizens of all other countries combined. As more countries of origin -- i.e., the countries in which such children reside -- become party to the Convention, it is highly likely that they will favor the adoption of their children by parents in countries that are similarly party to the Convention. Consent of the Senate to U.S. ratification of the Convention, and enactment of implementing legislation by the Congress, will ensure that U.S. citizens are not disadvantaged in their efforts to establish families by adopting children from

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

abroad. At the same time, the enactment of Convention standards and procedures by countries of origin will diminish in those countries the fraud and abuse that has affected children and families alike in the intercountry adoption process.

The Convention provides that each signatory country establish a national Central Authority to oversee the Convention's implementation in that country. The draft bill envisions that the Department of State will fulfill this function in the United States. Among other things, the Department of State will monitor intercountry adoption cases in its role as Central Authority -- both cases involving foreign children immigrating to the United States, and cases involving children resident in the United States emigrating abroad. Notably, procedures do not now exist to allow for the monitoring of children leaving the U.S. for adoption abroad; the Convention and this legislation will provide for such tracking and other safeguards to help ensure the well-being of these children.

Under the draft bill, the Department of Health and Human Services will have principal responsibility for overseeing the accreditation of adoption service providers to ensure that every provider meets minimal standards and is well-placed to serve the interests, and respect the rights of, children, birth parents, and adoptive parents. The Federal Government will not, however, administer the accreditation process -- this will be accomplished by a private, non-profit accrediting body.

The bill does not propose significant changes to the procedures under which U.S. citizens seek to adopt children from abroad. Decisions concerning whether parents may adopt, and whether children are eligible for admission to the United States, will remain under the jurisdiction of the Immigration and Naturalization Service and Department of State consular officers.

Finally, to cover the costs of implementing the Convention -- for example, establishing a Central Authority function within the Department of State, and tracking all adoption cases -- the draft legislation provides for the assessment of a fee upon U.S. citizen parents who adopt children from abroad.

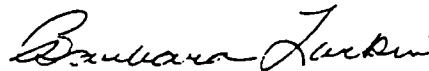
An adoption is an emotional event. When the complexities of international law and procedures are added to the mix, these cases are often overwhelming for the families involved. The Hague Convention and the proposed implementing legislation will provide new protections for the children and parents engaged in intercountry adoption, and will help ensure a standard of services that all families deserve.

This bill would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget and Reconciliation Act of 1990. The Office of Management and Budget estimates that the net effect of the bill would be negligible savings during Fiscal Years 1998-2002.

OMB has advised that there is no objection to the presentation of this legislation to the Congress from the standpoint of the Administration's program.

We urge that the Congress give this draft bill its prompt and favorable consideration.

Sincerely,



Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosures:

As stated.



United States Department of State

Washington, D.C. 20520

JUN 19 1998

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The Honorable
Albert Gore, Jr.,
President of the Senate.

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Sincerely,



Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

INTERCOUNTRY ADOPTION ACT
SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

This section provides the bill's short title and table of contents. When enacted, the bill would be cited as the "Intercountry Adoption Act."

SEC. 2. DEFINITIONS.

This section defines various terms used in the Act. It specifies that the Convention and the Act apply to adoptions of children resident in foreign countries party to the Convention by U.S. citizens, and adoptions of children resident in the U.S. by persons residing in foreign countries party to the Convention.

SEC. 3. FINDINGS AND PURPOSES.

This section describes the purposes of this legislation: to implement the Convention; protect the rights and interests of, and prevent abuses against the children, birth families, and adoptive parents involved in intercountry adoptions; and provide assistance to U.S. citizens who seek to adopt children from abroad, and to residents of other Hague Convention countries seeking to adopt children from the United States.

The Convention and the Act do not only cover U.S. citizens residing in the United States; both also extend to U.S. citizens residing abroad who seek to adopt children, either in the United States or in another Hague Convention country, so long as they maintain a legal domicile in the United States while living abroad. U.S. citizens who do not maintain a legal domicile in the United States while living abroad must adopt children under the laws and procedures of the countries in which they reside.

The section is consistent with the objectives described in the preamble of the Convention, and also with the explicit language of Article 1.

**TITLE I--UNITED STATES CENTRAL AUTHORITY (USCA)
FUNCTIONS AND PROCEDURES**

SEC. 101. DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.

Article 6 of the Convention requires that a party designate a "central authority" to perform certain functions under the Convention. This section mandates designation of an office within the Department of State as the U.S. Central Authority (USCA) for these purposes, which is to exercise responsibilities delegated by the Secretary of State.

SEC. 102. PERFORMANCE OF CENTRAL AUTHORITY FUNCTIONS AND RESPONSIBILITIES.

Under this section, the Secretary of State will be responsible for performing all Convention central authority functions for the United States except as otherwise specified (e.g. in Title II, in which certain key functions are delegated to the Department of Health and Human Services (HHS)).

This section implements and is consistent with Articles 9, 10, 11, and 22 of the Convention.

SEC. 103. LIAISON AND INFORMATION EXCHANGE.

This section gives the Secretary of State primary responsibility for liaison with other Hague Convention country central authorities and coordination of activities in the United States under the Convention. It also sets forth general responsibilities for disseminating information concerning implementation of the Convention to Hague central authorities, Federal and State agencies and courts, and adoption service providers. This section implements and is consistent with Articles 7, 8, 13, 20 and 22(3) of the Convention.

SEC. 104. METHODS OF PERFORMING RESPONSIBILITIES.

This section allows the Secretary of State to authorize public or private entities to perform central authority functions pursuant to regulations or agreements. It also authorizes the Secretary of State and other Federal authorities to carry out such functions through grants to or contracts with individuals or public or private entities, and to issue necessary regulations.

SEC. 105. MONITORING OF INDIVIDUAL ADOPTIONS.

This section gives the Secretary of State responsibility for monitoring individual adoption cases involving U.S. citizens,

including by means of establishing, in cooperation with the Immigration and Naturalization Service (INS) and the Secretary of Health and Human Services, a case tracking registry for all adoptions involving immigration into the United States and all adoptions involving emigration from the United States covered by the Hague Convention. The Secretary is also authorized to provide assistance in such cases on Convention-related matters, as necessary. This provision is consistent with Articles 15 through 22, 30 and 31 of the Convention.

TITLE II--PROVISIONS RELATING TO ACCREDITATION AND APPROVAL

SEC. 201. LEAD RESPONSIBILITY OF SECRETARY OF HEALTH AND HUMAN SERVICES.

This section gives the Secretary of Health and Human Services (HHS) responsibility, in coordination with the Secretary of State, to carry out USCA responsibilities relating to accreditation of agencies and approval of other persons to provide adoption services and perform certain other functions under the Convention. This provision is an elaboration of, and is consistent with, Articles 10, 11, 22, and 32 of the Convention.

SEC. 202. PERSONS REQUIRING ACCREDITATION OR APPROVAL.

This section provides that no person may offer or provide adoption services in the United States in a case covered by the Convention unless that person is accredited or approved in accordance with this title, or is providing adoption services through or under the supervision and responsibility of such an accredited or approved person. This requirement does not apply to (1) a social work professional or organization that only performs the home study on prospective adoptive parents or the background study on a child; (2) a public or private entity that intervenes in a case to provide child welfare services; (3) an attorney who provides only legal services in connection with an adoption covered by the Hague Convention; or (4) U.S. prospective adoptive parents acting on their own behalf, without the assistance of an accredited or approved provider of adoption services, if the law of the U.S. State in which they reside so permits.

This section is an elaboration of, and is consistent with, Articles 10, 11 and 22 of the Convention.

SEC. 203. ESTABLISHMENT OF STANDARDS.

Subsection (a) requires the Secretary of HHS to establish by regulation standards and procedures for accreditation of adoption agencies, and approval of other persons, to provide adoption services and perform other functions with respect to individual adoptions subject to the Convention. In developing standards, the Secretary must consider the views of individuals and entities with interest and expertise in international adoptions, family social services, and licensing and accrediting of adoption agencies, and may, after opportunity for public comment, adopt all or part of standards and procedures developed or proposed by such individuals or entities.

Subsection (b) specifies certain elements to be included in approval and accreditation standards.

The standards, both for accreditation and approval, must include (1) the capacity (either directly or through arrangements with others) to perform all assigned functions under the Convention and the Act; (2) procedures to ensure that sufficient qualified professionals perform the social service functions requiring the application of clinical skills and judgment; (3) provision for information management, including requirements concerning maintenance of records, making of reports, cooperation with audits, and procedures for safeguarding sensitive personal information; and (4) adequate measures to ensure compliance with the Convention, the Act and other applicable law, in particular those provisions concerning fraud, improper inducement to relinquish a child for intercountry adoption and other egregious acts.

To be approved to perform Hague adoptions services, a provider must meet the standards noted above. To be accredited (a higher standard), this section establishes that a provider must also be a nonprofit private organization, and licensed to provide adoption services in at least one State.

This subsection also provides for standards and procedures under which State, local, and tribal government agencies may qualify to provide adoption services under the Convention.

This section implements Articles 10, 11 and 22 of the Convention.

SEC. 204. PROCESS FOR ACCREDITATION AND APPROVAL: ROLE OF DESIGNATED ACCREDITING ENTITIES.

Subsection (a) requires the Secretary of HHS to designate one or more qualified nonprofit private entities as accrediting entities responsible for accreditation of agencies and approval of other persons providing adoption services under the Convention.

Subsection (b) sets forth the responsibilities of accrediting entities, including accreditation, approval, and oversight of adoption service providers; imposition on accredited and approved entities of administrative sanctions for noncompliance; and record keeping and reporting requirements.

Subsection (c) provides remedies for adverse action by an accrediting entity. The subject of the action is entitled to re-apply for accreditation or approval (or for termination of any other sanction) at any time upon demonstrating that the cited deficiencies have been corrected. The action is reviewable by the U.S. District Court, but only upon clear and convincing proof of abuse of discretion. Federal administrative review is not available.

Subsection (d) authorizes accrediting entities to assess fees, subject to the Secretary's approval, for costs of accreditation, approval, and oversight (including the estimated costs of Federal oversight). Fees may be set on a sliding scale to reflect relevant factors, such as an entity's volume of cases.

This provision is consistent with Articles 6 through 13 of the Convention.

SEC. 205. SECRETARIAL OVERSIGHT OF ACCREDITATION AND APPROVAL.

This section requires the Secretary of HHS to monitor the performance of designated accrediting entities; the Secretary may suspend or cancel the designation of an accrediting entity found substantially noncompliant with applicable laws and regulations.

The Secretary is authorized to "look behind" accreditations or approvals granted by the accrediting entity, and may suspend or cancel accreditation or approval where (1) there exists convincing evidence of that an adoption provider is substantially out of compliance with relevant standards, and (2) the accrediting entity has failed to take appropriate corrective action.

The Secretary may temporarily or permanently debar an adoption agency or other person from accreditation or approval to

provide adoption services for Hague adoptions if there is substantial evidence of serious non-compliance with applicable requirements and there has been a pattern of serious, willful, or grossly negligent failures to comply or other aggravating circumstances.

Adverse actions by the Secretary with regard to an accrediting entity, an accredited agency or an approved person are subject to judicial review by the U.S. District Court for the District of Columbia or for the district in which the agency/person resides, but may be vacated only when the affected party presents clear and convincing proof of abuse of discretion.

This section is consistent with Articles 10 and 33 of the Convention.

Section 206. Monitoring and Study of Adoption Disruptions

This section provides that the Secretary of Health and Human Services, in consultation with the Secretary of State, shall gather data regarding the disruption rate of intercountry adoptions.

TITLE III--HAGUE ADOPTIONS

SEC. 301. ADOPTIONS OF CHILDREN IMMIGRATING TO THE UNITED STATES.

Subsection (a) provides that the INS will perform the role of the USCA for purposes of accepting the applications of U.S. prospective adoptive parents under Article 14 of the Convention.

Subsection (b) directs the Secretary of State to issue a certification of final adoption or a declaration that legal custody has been granted for the purpose of emigration and adoption, in accordance with the Convention. Such certificate, together with the original adoption decree, is to be treated in the United States as conclusive evidence that a final adoption has taken place.

Subsection (c) provides that a final adoption in accordance with the Convention in another Hague Convention country shall be recognized as a final, valid adoption for the purposes of all U.S. Federal, State, and local laws, with the same legal effect as a final adoption in the adoptive parents' State of residence.

Subsection (d) provides that a U.S. State court shall not have the authority to finalize adoption of a child from a Hague

Convention country unless it has received the certificate issued under subsection (b).

This section implements and is consistent with Articles 14 through 28 of the Convention.

SEC. 302. IMMIGRATION AND NATIONALITY ACT: AMENDMENTS RELATING TO CHILDREN BEING ADOPTED FROM HAGUE CONVENTION COUNTRIES.

Subsection (a) amends section 101(b) of the INA to add children adopted in Hague Convention countries, or emigrating from such countries for purposes of their adoption in the United States, as new categories of children who may be classified as immediate relatives of U.S. citizens for immigration purposes. These children would not need to meet the "orphan" definition under the INA, but other requirements of current law would continue to apply, including those relating to age and U.S. citizenship of adopting parents.

This amendment also ensures that the former birth or adoptive parents of the child are not accorded any right, privilege or status under the amendments made to the INA by this Act, and also makes a conforming amendment reflecting the transfer from INS to HHS of responsibility for promulgating the regulations concerning standards for home studies of U.S. prospective adoptive parents.

Subsection (b) amends section 204(d) of the Immigration and Nationality Act (INA) to provide that, in a Hague adoption case, an immigrant visa shall not be issued to a child as an immediate relative of the U.S. citizen prospective adoptive parent domiciled in the United States unless the central authority of the child's country of origin has given notice that the child has been adopted (or custody for purposes of adoption has been granted) in accordance with the Convention.

SEC. 303. ADOPTIONS OF CHILDREN EMIGRATING FROM THE UNITED STATES.

This section sets forth the responsibilities of an accredited agency or approved person that is providing adoption services in the case of adoption of a U.S. resident child by parents residing in another Hague Convention country (the "receiving country"). These include providing specified adoption services, and furnishing necessary documents to the State court and the USCA.

A State court may not finalize an adoption or grant custody in such a case until it has received the documents required under the Convention and made the determinations required of the country of origin by the Convention. The court must also determine that the adoption is in the child's best interests.

This section also requires the Secretary of State to issue a certification of adoption (or declaration of custody for purposes of adoption) in each case where the requirements of this section are met.

Subsection (e) permits States to impose or maintain additional responsibilities and requirements upon Convention-accredited or -approved providers of adoption services and prospective adoptive parents acting on their own behalf (and without the assistance of adoption service providers) so long as those additional responsibilities and requirements are not inconsistent with those set out in this section of the Act.

This section implements Articles 4, 15 through 21, 23 and 26 of the Convention.

SEC. 304. SPECIAL RULES FOR CERTAIN CASES.

This section requires the USCA's implementing regulations to provide, to the extent consistent with the Convention, for alternative procedures for adoptions by relatives, and procedures permitting exceptions to requirements and waiving penalties for unintentional or harmless failures to comply with the Convention, the Act or implementing regulations.

With respect to the rare situation when prospective adoptive parents resident in another Hague Convention country wish to adopt a child resident in the United States without help of a U.S. or foreign adoption agency or other adoption service provider, the Act does not set federal restrictions or conditions on direct contacts in the United States between such prospective adoptive parents and the birth parents of the child they may wish to adopt, or any other person having care of the child. Article 29 of the Convention bars such direct custody unless the contacts comply with any conditions set by competent authorities in the country of origin of the child. Whether to impose any conditions on direct contacts remains subject to U.S. State law, either current or future.

This provision is consistent with Chapter IV of the Convention.

SEC. 305. VOIDING OF ADOPTIONS FOR CAUSE.

Subsection (a) permits a U.S. State court, in addition to any remedies under State law, to vacate a final adoption decree in a case subject to the Convention only if the decree was granted by a U.S. State court; there is clear and convincing evidence that consent was obtained by fraud or other specified egregious act; voiding the adoption is in the child's best interests; less than 2 years have passed since custody was granted; and the adoptive parents have an opportunity to participate in the proceeding.

Subsection (b) requires recognition in the United States of the action of another Hague Convention country vacating a final Hague adoption, provided the adoption was made in that country and the decision to vacate is made for the reasons enumerated in subsection (a) (2)-(5) for voiding a Hague adoption made in the United States.

Subsection (c) provides that a child that is the subject of a Hague adoption would not necessarily lose his or her U.S. naturalization if the adoption is subsequently voided pursuant to subsection (a). Decisions regarding the citizenship status of a child whose Hague adoption is voided will be made on a case-by-case basis in the discretion of the Attorney General.

This section is not required by the Convention, which is silent with regard to the voiding of Convention adoptions. It is included in the Act to set uniform minimum standards for the invalidation in the United States of Convention adoptions made in the United States, and for the recognition in the United States of invalidations decreed in other countries party to the Convention.

TITLE IV--ADMINISTRATION AND ENFORCEMENT**SEC. 401. RECORDS.**

This section establishes requirements for maintenance by the State Department and INS of Hague adoption records.

This section also restricts disclosure of information in records that are likely to identify individuals involved in the adoption process or their relatives. Identifying information generally is not subject to disclosure pursuant to the Freedom of Information Act. Identifying information may be disclosed only pursuant to the terms of the Privacy Act, and only if consistent with the additional terms contained in this section. Those additional restrictions are: (1) an individual specified in

section 2(k) who is involved in an adoption and would be identified by the disclosure of information must consent to such disclosure; (3) a child who is the subject of a Hague adoption record (defined in section 2(i)) may not access such records until reaching the age of 18 years; and (4) the decision to disclose identifying information to persons other than a child who is the subject of a Hague adoption record is vested in the sole and unreviewable discretion of the Secretary of State or the Commissioner of the INS.

This section implements and is consistent with Articles 30 and 31 of the Convention.

SEC. 402. DOCUMENTS OF OTHER HAGUE CONVENTION COUNTRIES.

This section provides that Convention-related documents originating in another Hague Convention country require no authentication or legalization to be admissible in U.S. Federal and State courts, unless a specific and supported claim is made that the documents are false, have been altered, or are otherwise unreliable.

This provision is consistent with Articles 7, 9 and 34 of the Convention, and is consistent with the principles of the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents to which the United States has been a party since 1981.

SEC. 403. AUTHORIZATION OF APPROPRIATION AND COLLECTION OF FEES.

Paragraph (a) of this section authorizes appropriations to agencies of the Federal Government implementing the Convention and the provisions of this Act.

Paragraph (b) of this section allows the Secretary of State, subject to appropriation, to collect and retain a fee to recover the costs of new intercountry adoption services -- e.g., computerized tracking and monitoring of adoption cases -- that will be provided to prospective adoptive parents under this Act. Paragraph (b)(3) dispenses with anachronistic accounting requirements (pending legislation may repeal such requirements altogether, but its status is uncertain).

This provision is consistent with Article 32 of the Convention.

SEC. 404. PENALTIES AND ENFORCEMENT.

This section provides for civil money penalties of up to \$5,000 per first violation and \$10,000 per subsequent violation

for (1) provision of adoption services in the United States in Hague cases without proper approval or accreditation; and (2) false statements or improper inducement to obtain consent to adoption or the relinquishment of parental rights or to influence accreditation-related or approval-related decisions. This section also provides for a fine of up to \$10,000 or imprisonment up to one year, or both, for certain knowing and willful violations.

TITLE V -- GENERAL PROVISIONS

SEC. 501. RECOGNITION OF PREVIOUS HAGUE CONVENTION ADOPTIONS.

This section provides for the recognition in the United States of Hague adoptions made abroad, and involving two other Hague Convention countries, before the date of entry into force of the Convention in the United States.

This section is not required by the Convention, which is silent with regard to this issue. However, it is desirable to provide for the recognition of these adoptions as they will have met the safeguards and requirements of the Convention, and may involve U.S.-citizen adoptive parents. Moreover, predictability and uniformity of practice concerning their recognition in the United States is desirable and in the interest of the children and adoptive parents involved in such adoptions.

SEC. 502. RELATIONSHIP TO OTHER LAWS.

This states that the Convention and this Act do not preempt other Federal, State, or local law unless such laws are clearly inconsistent with either the Convention or this Act. The guiding philosophy of this Act is that, to the maximum extent possible, adoption laws and procedures should remain the province of state and local governments. State laws with respect to international adoption, however, will likely be modified at least in part by the Act.

Subsection (b) states that nothing in the Convention or this Act shall be construed as inconsistent with or modifying the Indian Child Welfare Act, which gives tribal authorities significant rights of consultation with respect to adoptions of children with tribal affiliations.

Subsection (c) clarifies that nothing in the Convention or this Act precludes a State from requiring licensing as a condition of providing adoption-related services.

This provision is consistent with Articles 28, 36 and 37 of the Convention.

SEC. 503. NO PRIVATE RIGHT OF ACTION.

This section provides that nothing in the Convention or this legislation shall be construed to create a private right of action except as specifically provided.

This section is consistent with Chapters I and VII of the Convention.

SEC. 504. EFFECTIVE DATE; APPLICABILITY; TRANSITION PROVISIONS.

This section provides that specified provisions of the Act are to become effective immediately upon enactment and approval to permit various preparatory steps to be taken before the Convention's entry into force for the United States, including the establishment of the USCA and a case-tracking system, designation by HHS of entities to accredit or approve adoption service providers, and issuance by HHS of regulations to establish standards and procedures for accreditation/approval. These preparations will permit the State Department, the USCA, HHS and INS, as well as the U.S. adoption community, to be ready to implement the Convention as of the day it enters into force for the United States.

Subsection (a)(2) specifies that the substantive provisions of the Act will govern Hague adoptions that are made final after entry into force of the Convention for the United States. Thus, it is clear that the Act will govern all cases in which an application for pre-clearance of prospective adoptive parents (I-600A) has been filed with the INS after entry into force of the Convention. The Act and the Convention will not, however, govern adoption cases that are initiated by the filing of an I-600A application before the Convention's entry into force. Nor will the Act and the Convention govern adoption cases involving foreign nationals seeking to adopt children resident in the United States, where foreign prospective adoptive parents initiated an adoption application in their home country (i.e., in the receiving country) before entry into force of the Convention for the United States.

This section also provides that the current INS home study regulations will remain in effect until the effective date of superseding HHS regulations.

This provision is consistent with Chapter VII of the Convention.

A BILL

To provide for implementation by the United States of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.--This Act may be cited as the "Intercountry Adoption Act".

(b) TABLE OF CONTENTS.--The Table of Contents of this Act is as follows:

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

TITLE I--UNITED STATES CENTRAL AUTHORITY (U.S.C.A.) FUNCTIONS AND PROCEDURES

Sec. 101. Designation of United States Central Authority.
Sec. 102. Performance of central authority functions and responsibilities.
Sec. 103. Liaison and information exchange.
Sec. 104. Methods of performing responsibilities.
Sec. 105. Monitoring of individual adoptions.

TITLE II--PROVISIONS RELATING TO ACCREDITATION AND APPROVAL

Sec. 201. Lead responsibility of Secretary of Health and Human Services.

- 1 Sec. 202. Persons requiring accreditation or approval.
- 2 Sec. 203. Establishment of standards.
- 3 Sec. 204. Process for accreditation and approval: role of
- 4 designated accrediting entities.
- 5 Sec. 205. Secretarial oversight of accreditation and
- 6 approval.
- 7 Sec. 206 Monitoring and study of adoption disruptions.

8 TITLE III--HAGUE ADOPTIONS

- 10
- 11 Sec. 301. Adoptions of children immigrating to the United
- 12 States.
- 13 Sec. 302. Immigration and Nationality Act: amendments
- 14 relating to children being adopted from Hague
- 15 Convention countries.
- 16 Sec. 303. Adoptions of children emigrating from the United
- 17 States.
- 18 Sec. 304. Special rules for certain cases.
- 19 Sec. 305. Voiding of adoptions for cause.
- 20

21 TITLE IV--ADMINISTRATION AND ENFORCEMENT

- 22
- 23 Sec. 401. Records.
- 24 Sec. 402. Documents of other Hague Convention countries.
- 25 Sec. 403. Authorization of Appropriations and Collection of
- 26 Fees.
- 27 Sec. 404. Enforcement.
- 28

29 TITLE V--GENERAL PROVISIONS

- 30
- 31 Sec. 501. Recognition of Hague Convention adoptions.
- 32 Sec. 502. Relationship to other laws.
- 33 Sec. 503. No private right of action.
- 34 Sec. 504. Effective date; applicability; transition
- 35 provisions.
- 36
- 37

38 SEC. 2. DEFINITIONS.

39 As used in this Act:

- 40
- 41 (a) ACCREDITED AGENCY.--The term "accredited
- 42 agency" means an agency, not organized for profit, that
- 43 has been accredited in accordance with title II to

1 provide adoption services and to perform other
2 functions under the Convention.

3 (b) ACCREDITING ENTITY.--The term "accrediting
4 entity" means an entity designated by the Secretary of
5 Health and Human Services pursuant to section 204(a) of
6 this Act to accredit agencies and approve other persons
7 to provide adoption services and perform other
8 functions under the Convention.

9 (c) ADOPTION SERVICES.--The term "adoption
10 services" means--

11 (1) identifying children for adoption and
12 arranging adoptions;

13 (2) securing necessary consent to termination
14 of parental rights and to adoption;

15 (3) performing background studies on
16 children, home studies on prospective adoptive
17 parents, and reports of such studies; and making
18 determinations of the best interests of the child
19 and the appropriateness of adoptive placement;

20 (4) counseling children and birth and
21 adoptive parents with respect to adoption;
22 engaging in post-placement monitoring of cases
23 until final adoption;

24 (5) where made necessary by disruption before
25 final adoption, assuming custody and providing
26 child care and other social services pending an
27 alternative placement; and

1 (6) performing such other services related to
2 adoption as the Secretary of Health and Human
3 Services may by regulation provide.

4 (d) APPROVED PERSON.--The term "approved person"
5 means an adoption agency or other person that has been
6 approved in accordance with title II to provide
7 adoption services and perform other functions under the
8 Convention.

9 (e) CENTRAL AUTHORITY.--The term "Central
10 Authority" means the entity designated by the United
11 States or another Hague Convention country pursuant to
12 article 6.1. of the Convention to have primary
13 responsibility for discharge of the obligations of that
14 country under the Convention.

15 (f) CENTRAL AUTHORITY FUNCTION.--The term "central
16 authority function" means the duties imposed upon
17 central authorities by Chapters III and IV of the
18 Convention.

19 (g) CONVENTION.--The term "Convention" means the
20 Convention on Protection of Children and Co-operation
21 in Respect of Intercountry Adoption, done at The Hague
22 on May 29, 1993.

23 (h) HAGUE ADOPTION.--The term "Hague adoption"
24 means, upon entry into force of the Convention in the
25 United States, an adoption of a child resident in a
26 foreign country party to the Convention by a United
27 States citizen, or an adoption of a child resident in

1 the United States by a person or persons residing in
2 another Hague Convention country.

3 (i) HAGUE ADOPTION RECORD.--The term "Hague
4 adoption record" means any item, collection, or
5 grouping of information contained in an electronic or
6 physical document, an electronic collection of data, a
7 photograph, an audio or video tape, or any other
8 information storage medium of any type whatever that
9 contains information about a specific past, current, or
10 prospective Hague adoption (regardless of whether a
11 final adoption resulted) and that has been identified
12 and retained in accordance with section 401(a) by the
13 Secretary of State or the Commissioner of the
14 Immigration and Naturalization Service.

15 (j) HAGUE CONVENTION COUNTRY.--The term "Hague
16 Convention country" means a country party to the
17 Convention. The term "another Hague Convention
18 country" means a Hague Convention country other than
19 the United States.

20 (k) IDENTIFYING INFORMATION.--The term
21 "identifying information" means any information
22 contained in a Hague adoption record that identifies,
23 or is likely to lead to the identification of, any
24 prospective adoptive parent, adoptive parent, birth
25 parent or grandparent, or sibling related by blood of a
26 child who is or has been the subject of a Hague
27 adoption.

1 (1) PERSON.--The term "person" has the meaning
2 given such term in 1 U.S.C. 1.

3 (m) PERSON WITH OWNERSHIP OR CONTROL INTEREST.--
4 The term "person with an ownership or control interest"
5 has the meaning given such term in section 1124(a)(3)
6 of the Social Security Act (42 U.S.C. 1320a-3).

7 (n) SECRETARY.--The term "Secretary", when used in
8 title II, means the Secretary of Health and Human
9 Services.

10 (o) STATE.--The term "State" includes the fifty
11 States, the District of Columbia, Puerto Rico, Guam,
12 and the Virgin Islands. For purposes of cases subject
13 to the Indian Child Welfare Act (25 U.S.C. 1901 et
14 seq.), the terms "State" and "State court" include
15 Indian tribes and tribal courts.

16 (p) U.S.C.A.--The term "U.S.C.A." means the United
17 States Central Authority within the Department of
18 State, designated by the Secretary of State pursuant to
19 section 101.
20

21
22 **SEC. 3. FINDINGS AND PURPOSES.**

23 (a) FINDINGS.--The Congress recognizes--

24 (1) the international character of the Convention;

1 (2) the need for uniform interpretation and
2 implementation of the Convention in the United States
3 and abroad;
4 and therefore finds that enactment of a Federal law
5 governing adoptions and prospective adoptions subject to the
6 Convention involving United States residents is essential.

7 (b) PURPOSES.--The purposes of this Act are--

8 (1) to provide for implementation by the United
9 States of the Convention;

10 (2) to protect the rights of, and prevent abuses
11 against, children, birth families, and adoptive parents
12 involved in adoptions (or prospective adoptions)
13 subject to the Convention, and to ensure that such
14 adoptions are in the children's best interests; and

15 (3) to improve the ability of the Federal
16 government to assist United States citizens seeking to
17 adopt children from abroad and residents of other
18 countries party to the Convention seeking to adopt
19 children from the United States.

20
21 **TITLE I--UNITED STATES CENTRAL AUTHORITY**
22 **(U.S.C.A.) FUNCTIONS AND PROCEDURES**

23
24 **SEC. 101. DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.**

25 The Secretary of State shall establish or designate an
26 office within the Department of State as the United States

1 Central Authority, which shall perform such central
2 authority functions as the Secretary of State may delegate
3 to it.

4
5 **SEC. 102. PERFORMANCE OF CENTRAL AUTHORITY FUNCTIONS AND**
6 **RESPONSIBILITIES.**

7 The Secretary of State shall be responsible for the
8 performance for the United States of all central authority
9 functions under the Convention, except as otherwise
10 specified in this Act or in regulations, and shall be
11 responsible for certifications as provided in Sections 301
12 and 303 of this Act.

13
14 **SEC. 103. LIAISON AND INFORMATION EXCHANGE.**

15 (a) LIAISON.--The Secretary of State shall have primary
16 responsibility for liaison with the central authorities of
17 other Hague Convention Countries, and for coordinating
18 activities under the Convention by persons subject to the
19 jurisdiction of the United States, except as specified in
20 Title II.

21 (b) INFORMATION EXCHANGE.--The Secretary of State shall
22 be responsible for--

23 (1) providing the central authorities of other
24 -Hague Convention Countries with information
25 concerning--

1 (A) persons accredited or approved under
2 title II, persons whose accreditation or approval
3 is suspended or canceled, and persons temporarily
4 or permanently debarred from accreditation or
5 approval;

6 (B) Federal and state laws relevant to
7 implementing the Convention; and

8 (C) any other matters necessary and
9 appropriate for implementation of the Convention;

10 (2) providing Federal agencies, State courts,
11 accredited agencies, and other persons performing
12 functions under the Convention for the United States
13 with listings of Hague Convention Countries and persons
14 authorized to perform functions under the Convention in
15 each such country;

16 (3) facilitating the transmittal of other
17 appropriate information to, and among, central
18 authorities, Federal and State agencies (including
19 State courts), and accredited agencies and approved
20 persons; and

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

23
24 **SEC. 104. METHODS OF PERFORMING RESPONSIBILITIES.**

25 The Secretary of State may--

1 (1) authorize public or private entities to
2 perform appropriate central authority functions for
3 which the Secretary is responsible, pursuant to
4 regulations or under agreements published in the
5 Federal Register;

6 (2) notwithstanding any other provision of law,
7 carry out central authority functions through grants
8 to, or contracts with, any individual or public or
9 private entity, except as may be otherwise specifically
10 provided in this Act; and

11 (3) promulgate such regulations as may be
12 necessary to carry out central authority functions.

13
14 **SEC. 105. MONITORING OF INDIVIDUAL ADOPTIONS.**

15 (a) IN GENERAL.--In cases subject to the Convention,
16 the Secretary of State--

17 (1) shall monitor individual adoption cases involving
18 United States citizens;

19 (2) may provide assistance in dealing with
20 officials of other Hague Convention countries on
21 matters relating to the Convention, where a person
22 providing adoption services is unwilling or unable to
23 provide such assistance; and

24 (3) may provide any other appropriate assistance
25 in other cases.

1 (b) ESTABLISHMENT OF REGISTRY.--The Secretary of State,
2 in coordination with the Secretary of Health and Human
3 Services and the Commissioner of the Immigration and
4 Naturalization Service, shall cooperate in establishing a
5 case registry on--

6 (1) all adoptions involving immigration into the
7 United States, regardless of whether the adoption
8 occurs under the Convention; and

9 (2) all adoptions involving emigration from the
10 United States to another Hague Convention country.

11 Such registry shall permit tracking of pending cases and
12 retrieval of information on both pending and closed cases.
13

14 TITLE II--PROVISIONS RELATING TO 15 ACCREDITATION AND APPROVAL 16

17 SEC. 201. LEAD RESPONSIBILITY OF SECRETARY OF HEALTH AND 18 HUMAN SERVICES.

19 The Secretary of Health and Human Services (hereinafter
20 in this title, the ``Secretary''), in coordination with the
21 Secretary of State, shall carry out the functions prescribed
22 by the Convention with respect to the accreditation of
23 agencies and approval of other persons to provide adoption
24 services, and such other functions under the Convention as
25 may be provided for in this Act or in implementing
26 regulations.

1 **SEC. 202. PERSONS REQUIRING ACCREDITATION OR APPROVAL.**

2 (a) IN GENERAL.--Except as otherwise provided in this
3 title, no person may offer or provide adoption services in
4 the United States in a case subject to the Convention unless
5 that person is accredited or approved in accordance with
6 this title, or is providing such services through or under
7 the supervision and responsibility of a person accredited or
8 approved in accordance with this title.

9 (b) EXCEPTIONS.--Paragraph (a) shall not be read to
10 require accreditation or approval of the following persons:

11 (1) BACKGROUND STUDIES (HOME STUDIES).--A social
12 work professional or organization conducting (and
13 reporting on) home studies on prospective adoptive
14 parents or background studies on children in connection
15 with adoptions, but not arranging or otherwise
16 facilitating adoptions subject to the Convention.

17 (2) CHILD WELFARE SERVICES.--A public or private
18 entity intervening in an adoption case to provide child
19 welfare services, but not itself arranging or
20 facilitating the adoption.

21 (3) LEGAL SERVICES.--An attorney providing legal
22 services in connection with an adoption, but not
23 arranging, either directly or through agents, the
24 adoption or otherwise providing adoption services in
25 connection with the adoption.

1 (4) PROSPECTIVE ADOPTIVE PARENTS ACTING ON OWN
2 BEHALF.- Prospective adoptive parents when acting on
3 their own behalf, if they are permitted to do so under
4 the law of the U.S. state in which they reside.

5
6 **SEC. 203. ESTABLISHMENT OF STANDARDS.**

7 (a) IN GENERAL.--

8 (1) PROMULGATION OF REGULATIONS.--The Secretary,
9 with the concurrence of the Secretary of State, shall
10 establish by regulation standards and procedures for
11 accreditation of agencies, and approval of other
12 persons, to perform functions under the Convention with
13 respect to individual adoption cases subject to the
14 Convention.

15 (2) STANDARD-SETTING PROCESS.--In establishing
16 standards and procedures under this section, the
17 Secretary--

18 (A) shall consider the views of individuals
19 and entities with interest and expertise in
20 international adoptions and family social
21 services, including public and private entities
22 with experience in licensing and accrediting
23 adoption agencies; and

24 (B) may adopt all or part of any standards or
25 procedures developed or proposed by such

1 individuals or entities, after opportunity for
2 public comment.

3 (b) ELEMENTS OF STANDARDS.--

4 (1) CONDITIONS FOR ACCREDITATION OR APPROVAL.--

5 Unless otherwise provided by such regulations as the
6 Secretary may prescribe, each agency or other person
7 seeking accreditation or approval under this title with
8 respect to adoption services in the United States shall
9 be required:

10 (A) CAPACITY TO PERFORM ALL ASSIGNED

11 FUNCTIONS.--To have, either directly or through
12 arrangements with other qualified persons,
13 qualified personnel, financial resources, an
14 organizational structure, and appropriate
15 procedures sufficient to enable it to perform, in
16 a manner consistent with applicable standards, all
17 functions under the Convention which it is seeking
18 authority to perform in accordance with this Act
19 (including counseling of individuals involved in
20 intercountry adoptions, and assumption of
21 custodial and financial responsibility for
22 children in cases where a placement disrupts
23 before final adoption).

24 (B) UTILIZATION OF SOCIAL SERVICE

25 PROFESSIONALS.--To have procedures designed to
26 ensure that social service functions requiring the
27 application of clinical skills and judgment are

1 performed only by professionals with appropriate
2 qualifications and credentials.

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

14 (D) COMPLIANCE WITH CONVENTION.--To establish
15 adequate measures to comply (and to ensure
16 compliance of their agents and clients) with the
17 Convention, this Act, and any other applicable
18 laws, and in particular with provisions concerning
19 fraud, improper inducement, and other egregious
20 acts.

21 (2) ADDITIONAL CONDITIONS FOR ACCREDITATION.--
22 Except as provided in subparagraph (3), no agency shall
23 be accredited under this title unless such agency is a
24 private organization, not organized for profit, and
25 licensed to provide adoption services in at least one
26 State.

1 (3) AUTHORIZATION OF GOVERNMENTAL ENTITIES TO
2 PROVIDE ADOPTION SERVICES UNDER THE CONVENTION.--The
3 Secretary may establish standards and procedures for
4 authorizing State, local, and tribal government
5 agencies to provide adoption services under the
6 Convention. For purposes of this title, a governmental
7 entity so authorized shall be considered an approved
8 person.
9

10 **SEC. 204. PROCESS FOR ACCREDITATION AND APPROVAL: ROLE OF**
11 **DESIGNATED ACCREDITING ENTITIES.**

12 (a) DESIGNATION OF ACCREDITING ENTITIES.-- The
13 Secretary, with the concurrence of the Secretary of State,
14 shall designate as accrediting entities, and enter into
15 agreements with, one or more nonprofit private entities with
16 experience and expertise in developing and administering
17 standards for entities providing child welfare services and
18 meeting such other criteria as the Secretary may by
19 regulation establish. Such entities shall be responsible
20 for accrediting and approving adoption service providers in
21 accordance with the Convention and regulations issued by the
22 Secretary pursuant to section 203.

23 (b) RESPONSIBILITIES OF ACCREDITING ENTITIES.--The
24 responsibilities of entities designated pursuant to
25 paragraph (a) shall include the following:

1 (1) ACCREDITATION AND APPROVAL.--Accreditation of
2 agencies, and approval of other persons, to perform
3 functions under the Convention.

4 (2) OVERSIGHT.--Ongoing monitoring of the
5 compliance of accredited agencies and approved persons
6 with applicable requirements, including review of
7 complaints against such agencies and persons pursuant
8 to procedures established by such accrediting entity
9 and approved by the Secretary.

10 (3) ENFORCEMENT.--Imposition of administrative
11 remedies, including requirements for corrective action,
12 and sanctions for noncompliance, including refusal to
13 renew, suspension or cancellation of accreditation or
14 approval.

15 (4) DATA, RECORDS, AND REPORTS.--Collecting data,
16 maintaining records, and making reports to the
17 Secretary, the U.S.C.A., State courts, and other
18 entities (including reports on persons and agencies
19 granted or denied approval or accreditation) to the
20 extent and in the manner that the Secretary requires.

21 (c) REMEDIES FOR ACCREDITING ENTITY'S ADVERSE ACTION.--

22 In any case where an accrediting entity denies, suspends, or
23 cancels the accreditation of an agency or approval of a
24 person under this title, mandates corrective action, or
25 takes other adverse action, the accrediting entity shall
26 specify the deficiencies on which the adverse action was

1 based, and the following provisions respecting remedies
2 shall apply:

3 (1) CORRECTION OF DEFICIENCY AND RE-APPLICATION.--

4 The agency or person that is the subject of the adverse
5 action shall be permitted to re-apply for accreditation
6 or approval (or to petition for termination of any
7 other sanction applied) upon demonstrating to the
8 satisfaction of the accrediting entity that the
9 deficiencies have been corrected.

10 (2) JUDICIAL REVIEW.--The agency or person that is

11 the subject of the adverse action may petition the
12 United States district court in the judicial district
13 in which such agency or person resides to set aside the
14 action, but only upon clear and convincing proof that
15 the action was not supported by substantial evidence or
16 that the accrediting entity abused its discretion.

17 (3) NO FEDERAL ADMINISTRATIVE REVIEW.--The adverse

18 action shall not be reviewable at the behest of the
19 adversely affected agency or person by the Secretary,
20 the U.S.C.A., or any other Federal agency or
21 administrative entity.

22 (d) FEES.--

23 (1) AUTHORITY TO ASSESS.--Accrediting entities are

24 authorized to assess fees against agencies and persons
25 seeking or maintaining accreditation or approval, in
26 amounts approved by the Secretary.

1 (2) FEE AMOUNTS.--The Secretary may approve fees
2 to be assessed under subparagraph (1) that do not
3 exceed the amount estimated to be necessary to cover
4 all direct or indirect costs of accreditation or
5 approval and ongoing oversight by the accrediting
6 entity, and of Federal oversight, and may retain such
7 portions of these fees as represent reimbursement for
8 the costs of accreditation and oversight they incur.
9 The amounts necessary to cover the federal cost of
10 oversight shall be collected by the accrediting entity
11 in an amount determined by the Secretary and shall be
12 remitted to the Secretary. Fees established under this
13 section shall reflect, as fully as may be practicable,
14 the extent to which overall costs of accrediting
15 agencies and approving persons varies in relation to
16 the volume of Hague adoption cases an agency or person
17 handles and other relevant factors.

18 (3) AVAILABILITY.--Fees remitted to the Secretary
19 in accordance with subparagraph (2) shall be credited
20 to the appropriate current account of the Secretary and
21 be available only for activities under this title.
22 Such amounts shall remain available until expended.
23

1 **SEC. 205. SECRETARIAL OVERSIGHT OF ACCREDITATION AND**
2 **APPROVAL.**

3 (a) OVERSIGHT OF ACCREDITING ENTITIES.--The Secretary
4 shall monitor each accrediting entity's performance of its
5 functions under section 204 and its compliance with
6 requirements of the Convention, this Act, other applicable
7 laws, and implementing regulations, and shall suspend or
8 cancel the designation of an entity found to be
9 substantially out of compliance with the Convention, this
10 Act, other applicable laws, or implementing regulations.

11 (b) OVERSIGHT OF ACCREDITATION OR APPROVAL BY
12 ACCREDITING ENTITIES.--

13 (1) SECRETARY'S AUTHORITY.--The Secretary shall
14 suspend or cancel the accreditation or approval granted
15 by an accrediting entity to an agency or person
16 pursuant to section 204 when the Secretary finds that--

17 (A) there is convincing evidence that the
18 agency or person is substantially out of
19 compliance with applicable requirements, and

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

23 (2) CORRECTION OF DEFICIENCY AND RE-APPLICATION.--

24 At any time when the Secretary is satisfied that the
25 deficiencies causing an adverse action under
26 subparagraph (1) have been corrected, the Secretary

1 shall notify the accrediting entity, and the agency or
2 person that is the subject of an adverse action under
3 subparagraph (1) and is not debarred under paragraph
4 (c) may thereafter re-apply to the accrediting entity
5 for accreditation or approval.

6 (c) DEBARMENT.--

7 (1) SECRETARY'S AUTHORITY.--The Secretary may, on
8 the Secretary's own initiative, or upon request by an
9 accrediting entity, temporarily or permanently debar an
10 agency or person from accreditation or approval, but
11 only if--

12 (A) there is substantial evidence that the
13 agency or person is out of compliance with
14 applicable requirements, and

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

21 (2) PERIOD OF DEBARMENT.--The Secretary's
22 debarment order shall state whether the debarment
23 is temporary or permanent. If the debarment is
24 temporary, the Secretary shall specify a date not
25 earlier than 3 years from the date of the order,
26 on which date the agency or person may apply to
27 the Secretary for withdrawal of the debarment.

1 (3) EFFECT OF DEBARMENT.--In the case of any
2 agency or person that has been debarred pursuant to
3 this paragraph, the accrediting entity may take the
4 circumstances of such debarment into account in
5 considering any subsequent application for
6 accreditation or approval of any such agency or person
7 or of any other entity in which such agency or person
8 has an ownership or control interest, notwithstanding
9 that the period of debarment has elapsed.

10 (d) JUDICIAL REVIEW OF SECRETARY'S DECISIONS.--

11 (1) REVIEW BY FEDERAL DISTRICT COURT.--A person,
12 other than a prospective adoptive parent, agency, or
13 accrediting entity adversely affected by a final
14 determination of the Secretary under this title with
15 respect to the designation of an accrediting or
16 approving entity, or the accreditation of an agency or
17 approval of another person, may obtain review of such
18 determination by the United States District Court for
19 the District of Columbia, or in the United States
20 district court in the judicial district in which such
21 person, agency or accrediting entity resides.

22 (2) STANDARD OF REVIEW.--A determination by the
23 Secretary specified in subparagraph (1) may be set aside
24 only if the person adversely affected by the Secretary's
25 final determination presents clear and convincing proof of
26 abuse of discretion by the Secretary.

1 **SEC. 206. MONITORING AND STUDY OF ADOPTION DISRUPTIONS**

2 In cooperation with the Secretary of State, the
3 Secretary shall, to the extent practicable, determine, for
4 the five-year period beginning on the effective date of this
5 Act, the rate of disruption of all intercountry adoptions
6 involving U.S. citizens, the rate of disruption of such
7 adoptions in cases where adoption services were not provided
8 by an accredited agency or approved person, and the possible
9 causes of such disruptions.

10
11
12 **TITLE III--HAGUE ADOPTIONS**

13 **SEC. 301. ADOPTIONS OF CHILDREN IMMIGRATING TO THE UNITED**
14 **STATES.**

15 (a) PROSPECTIVE ADOPTIVE PARENTS' APPLICATION.--The
16 central authority functions specified in Article 14 of the
17 Convention, concerning application by prospective adoptive
18 parents to the central authority of their country of
19 residence, shall be performed by the Immigration and
20 Naturalization Service of the Department of Justice.

21 (b) CERTIFICATION BY THE SECRETARY OF STATE.

22 (1) The Secretary of State shall certify that
23 adoption of an alien child by a United States citizen
24 domiciled in the United States has been granted, or
25 that legal custody of such child has been granted to

1 such a citizen for purposes of emigration and adoption,
2 pursuant to and in compliance with the Convention and
3 this Act when the Secretary receives appropriate
4 notification from the central authority of such child's
5 country of origin and has verified that the
6 requirements of this Act have been met.

7 (2) When appended to an original adoption decree,
8 the certificate specified in subparagraph (1) shall be
9 treated by Federal and State agencies, courts, and
10 other public and private persons and entities as
11 conclusive evidence of the facts certified therein,
12 except as provided in Section 305 of this Act, and
13 shall constitute the certification required by Section
14 204(d)(2) of the Immigration and Nationality Act, as
15 amended by this Act.

16 (c) LEGAL EFFECT OF HAGUE ADOPTION FINALIZED IN ANOTHER
17 HAGUE CONVENTION COUNTRY.--The final adoption in another
18 Hague Convention country, certified by the Secretary of
19 State pursuant to paragraph (b) above or Section 303(d) of
20 this Act, shall be recognized as a final, valid adoption for
21 the purposes of all Federal, State, and local laws of the
22 United States, and shall be accorded the same legal effect
23 as the final adoption of a child in the State where such
24 United States citizens reside or are domiciled.

25 (d) CONDITION ON FINALIZATION OF HAGUE ADOPTION BY
26 STATE COURT.--In the case of a child who has entered the
27 United States from another Hague Convention country for the

1 purpose of adoption, a State court shall not have authority
2 to issue an order declaring the adoption final unless the
3 Secretary of State has issued the certificate specified in
4 paragraph (b).

5
6 **SEC. 302. IMMIGRATION AND NATIONALITY ACT: AMENDMENTS**
7 **RELATING TO CHILDREN BEING ADOPTED FROM HAGUE CONVENTION**
8 **COUNTRIES.**

9 (a) DEFINITION OF ``CHILD''.--Section 101(b)(1) of the
10 Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) is
11 amended--

12 (1) by striking "or" at the end of subparagraph
13 (E);

14 (2) by striking the period at the end of
15 subparagraph (F) and inserting "; or"; and

16 (3) by adding after subparagraph (F) the following
17 new subparagraph:

18 "(G) a child, under the age of sixteen at the time
19 a petition is filed on the child's behalf to accord a
20 classification as an immediate relative under section
21 201(b), who has been adopted in a foreign State party
22 to the Convention on Protection of Children and Co-
23 operation in Respect of Intercountry Adoption done at
24 The Hague on May 29, 1993, or who is emigrating from
25 such a foreign State to be adopted in the United States
26 by a United States citizen and spouse jointly, or by an

1 unmarried United States citizen at least twenty-five
2 years of age, if--

3 "(i) the Attorney General is satisfied, in
4 accordance with standards established by the
5 Secretary of Health and Human Services, that
6 proper care will be furnished the child if
7 admitted to the United States;

8 "(ii) the child's birth parents, or other
9 persons or institutions that retain legal custody
10 of the child, have freely given their written
11 irrevocable consent to the termination of their
12 relationship with the child, and to the child's
13 emigration and adoption;

14 "(iii) if the child has not been adopted, the
15 competent authority of the foreign State has
16 approved the child's emigration to the United
17 States for the purpose of adoption by the
18 prospective adoptive parents; and

19 "(iv) the child is not the grandchild, niece,
20 nephew, brother, sister, aunt, uncle, or first
21 cousin of one or both of the adopting parents,
22 unless--

23 "(I) the child has no living parents
24 because of the death or disappearance of,
25 abandonment or desertion by, or separation
26 from or loss of both parents; or

1 "(II) the sole or surviving parent is
2 incapable of providing the proper care for
3 the child and has in writing irrevocably
4 released the child for emigration and
5 adoption;

6 (v) the prospective adoptive parents have
7 complied with any pre-adoption requirements of the
8 child's proposed state of residence;

9 *Provided, That no birth parent, or former adoptive*
10 parent of any such adopted child shall thereafter, by
11 virtue of such parentage, be accorded any right,
12 privilege, or status under this Act."

13 (b) APPROVAL OF PETITIONS.--Section 204(d) of the
14 Immigration and Nationality Act (8 U.S.C. 1154(d)) is
15 amended--

16 (1) by striking "(d)" and inserting "(d)(1)"; and

17 (2) by adding at the end the following new
18 subparagraph:

19 "(2) No petition may be approved for any applicant who
20 is an alien child adopted pursuant to the Convention on
21 Protection of Children and Co-operation in Respect of
22 Intercountry Adoption done at The Hague on May 29, 1993, and
23 who is (or seeks to be) accorded immediate relative status
24 as a child defined under paragraph (b)(1), (g), or (h) of
25 section 101, unless the Secretary of State has certified
26 that the central authority of the child's country of origin

1 has notified the United States Central Authority under the
2 Convention that a United States citizen domiciled in the
3 United States has effected final adoption of the child, or
4 has been granted custody of the child for the purpose of
5 emigration and adoption, in accordance with the Convention
6 and the Intercountry Adoption Act."

7 (c) CONFORMING AMENDMENTS.--Section 101(b) of that Act
8 (8 U.S.C. 1101(b)(1)) is amended--

9 (1) in paragraph (1)(F), by inserting ", based on
10 standards established by the Secretary of Health and
11 Human Services," after "the Attorney General is
12 satisfied that"; and

13 (2) in subparagraph (2), by inserting "and
14 paragraph (1)(G) (other than for purposes of the
15 proviso therein)" after "second proviso therein)".
16

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

19 (a) IN GENERAL.--This section shall apply in any case
20 in which an individual residing in another Hague Convention
21 country seeks to adopt a child residing in the United
22 States.

23 (b) RESPONSIBILITIES OF ACCREDITED AGENCY OR APPROVED
24 PERSON.--In a case described in paragraph (a), the agency
25 accredited or person approved under title II that is
26 providing adoption services in such a case, or the

1 prospective adoptive parent or parents acting on their own
2 behalf, if permitted by the laws of the Hague Convention
3 country in which they reside and the laws of the U.S. state
4 in which the child resides, shall:

5 (1) Ensure that the following adoption services
6 are accomplished in accordance with the Convention:

7 (A) the completion of a background study on
8 the child;

9 (B) a determination that the child cannot
10 expeditiously be placed for adoption in the United
11 States; and

12 (C) a determination that placement with the
13 prospective adoptive parent or parents is in the
14 child's best interests.

15 (2) Furnish to the State court with jurisdiction
16 over the case the following information and documents:

17 (A) documentation of the matters described in
18 subparagraph (1);

19 (B) the background report (home study) on the
20 prospective adoptive parent or parents prepared in
21 accordance with the laws of the receiving country;
22 and

23 (C) a declaration by the Central Authority
24 (or other competent authority) of the receiving
25 country--

26 (i) that the child will be permitted to
27 enter and reside permanently, or on the same

1 basis as the adopting parent, in the
2 receiving country; and

3 (ii) that the central authority or other
4 competent authority of the receiving country
5 consents to the adoption, if such consent is
6 necessary under its laws.

7 (3) Furnish to the U.S.C.A.—

8 (A) official copies of State court orders
9 certifying the final adoption or grant of custody
10 for the purpose of adoption;

11 (B) the information and documents described
12 in subparagraph (2), to the extent required by the
13 U.S.C.A.; and

14 (C) any other information concerning the case
15 required by the U.S.C.A. to perform the functions
16 specified in paragraph (d) or otherwise to carry
17 out its responsibilities under the Convention.

18 (c) CONDITIONS ON STATE COURT ORDERS.—A State court
19 shall not enter an order certifying an adoption as final or
20 granting custody for the purpose of adoption in a case
21 described in paragraph (a) unless the court—

22 (1) has received and verified to the extent it may
23 find necessary—

24 (A) the information and documentation
25 — specified in subparagraph (b)(2); and

1 (B) satisfactory evidence that the
2 requirements of articles 4 and 15 through 21 of
3 the Convention have been met; and

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

6 (d) RESPONSIBILITY OF THE SECRETARY OF STATE.--In each
7 case described in paragraph (a), the Secretary of State,
8 upon receipt and verification as necessary of the
9 information and documents specified in subparagraph (b)(3),
10 shall issue, as applicable, an official certification that
11 the child has been adopted or a declaration that custody for
12 purposes of adoption has been granted, in accordance with
13 the Convention and this Act.

14 (e) REQUIREMENTS UNDER STATE LAW.--In cases described
15 in paragraph (a), States may impose additional
16 responsibilities and requirements, not inconsistent with the
17 provisions of this section, upon accredited or approved
18 providers of Hague adoption services and prospective
19 adoptive parents acting on their own behalf.
20

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

22 Regulations issued pursuant to this Act shall provide,
23 to the extent consistent with the Convention as determined
24 by the Secretary of State, for--

1 (1) alternative procedures, as appropriate, for
2 the adoption of children by individuals related to them
3 by blood or marriage; and

4 (2) procedures permitting exceptions to applicable
5 requirements, and waiving penalties for noncompliance,
6 in the case of unintentional or harmless failures to
7 comply with the requirements of the Convention, this
8 Act, or implementing regulations promulgated hereunder.
9

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

11 (a) VOIDING OF ADOPTION BY U.S. STATE COURT.--In
12 addition to any remedies available under state law, a final
13 adoption decree entered pursuant to the Convention may be
14 vacated by a U.S. State court if--

15 (1) the decree was granted by a U.S. State court;

16 (2) the court finds clear and convincing evidence
17 that either--

18 (A) the consent of a birth parent or, in the
19 absence thereof, the consent of a biological
20 relative if required by state law, to termination
21 of parental rights or to the adoption was not
22 obtained, or was obtained as a result of fraud,
23 duress, or improper inducement; or

24 (B) consent of an adoptive parent to the
25 adoption was obtained by fraud which such parent

1 did not and could not reasonably have been
2 expected to discover;

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

6 (4) less than two years have passed since the
7 adoptive parents obtained custody of the child; and

8 (5) the adoptive parents are afforded an
9 opportunity to be heard in the proceeding.

10 (b) RECOGNITION OF ANOTHER COUNTRY'S PROCEEDING

11 VACATING ADOPTION UNDER CONVENTION.--Whenever the competent
12 authorities of another Hague Convention country notify the
13 Secretary of State that they have vacated an adoption decree
14 originally made in that country pursuant to the Convention,
15 and that the decree has been vacated in accordance with the
16 standards established in paragraphs (a)(2)-(a)(5) of this
17 section, the decision to void such a decree shall be
18 recognized as valid and given full effect in the United
19 States.

20 (c) VOIDING OF ADOPTION NOT VOIDING CHILD'S

21 NATURALIZATION.-If a court of competent jurisdiction voids
22 an adoption decree in accordance with paragraph (a) or (b),
23 such action shall not be construed to void or prohibit the
24 naturalization of the child as a citizen of the United
25 States. Nothing in this provision shall be construed to
26 limit the Attorney General's authority under Title III of
27 the Immigration and Nationality Act to revoke the

1 naturalization of such a child, or to limit the Attorney
2 General's discretion to consider a finding of fact by a
3 State court that is relevant to such a determination.
4

5 **TITLE IV--ADMINISTRATION AND ENFORCEMENT**

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

7 (a) MAINTENANCE OF HAGUE ADOPTION RECORDS.--The
8 Secretary of State and the Commissioner of the Immigration
9 and Naturalization Service shall establish procedures
10 consistent with the requirements of Articles 30 and 31 of
11 the Convention for the retention and identification of Hague
12 adoption records.

13 (b) DISCLOSURE OF AND ACCESS TO IDENTIFYING
14 INFORMATION--

15 (1) CONSENT REQUIRED.-- Except as provided in
16 subsection (d), identifying information contained in
17 Hague adoption records shall not be disclosed, and no
18 access to it shall be afforded, unless each person
19 specified in section 2(k) to whom the information
20 pertains has consented in writing to such disclosure or
21 access with respect to himself or herself, or is
22 deceased.

23 — (2) APPLICATION OF PRIVACY ACT.--

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

8 (B) Disclosure of identifying information in
9 any Hague adoption record shall be subject to any
10 restrictions that may be imposed by section 552a
11 of title 5, United States Code, and shall also be
12 subject to any restrictions imposed by this
13 section.

14 (3) OTHER LIMITATIONS ON ACCESS AND DISCLOSURE.-
15 Disclosure of identifying information to, and access to
16 identifying information by, the persons specified
17 below, to the extent otherwise required or permitted
18 under paragraphs (1) and (2), shall also be subject to
19 the following limitations:

20 (A) NO DISCLOSURE TO CHILD UNDER 18.- A child
21 who is the subject of a Hague adoption record
22 shall not be afforded access to identifying
23 information in such record, and such information
24 shall not be disclosed to such child, unless the
25 child reached the age of 18 years.

1
2 (B) DISCLOSURE TO OTHER PERSONS SUBJECT TO
3 DISCRETION.- In the case of a request by any
4 person other than the child who is the subject of
5 a Hague adoption record (including a request by an
6 adoptive parent or legal guardian of such child),
7 for disclosure of or access to identifying
8 information in such record, where such access or
9 disclosure would be required or permitted but for
10 the provisions of this section, the decision
11 whether to disclose or afford access shall be in
12 the sole and reviewable discretion of the
13 Secretary of State or the Commissioner of the
14 Immigration and Naturalization Service.

15 (c) FREEDOM OF INFORMATION ACT EXEMPTION.- Information
16 contained in records of the Department of State and the
17 Immigration and Naturalization Service pertaining to Hague
18 adoptions that is likely to lead to the identification of
19 any child who has been or is in the process of being adopted
20 pursuant to this Act, or of any prospective adoptive parent,
21 adoptive parent, birth parent or grandparent, or sibling
22 related by blood, of a child who has been or is in the
23 process of being adopted pursuant to the Convention, shall
24 not be disclosed to any person pursuant to Section 552 of
25 Title 5, United States Code.

1 (d) DISCLOSURE FOR PURPOSES OF ADMINISTRATION OF THE
2 CONVENTION. - Disclosure of information in Hague adoption
3 records is permitted among U.S. government agencies, Central
4 Authorities under the Convention, accrediting bodies,
5 accredited agencies or approved persons when necessary to
6 administer the Convention or this Act.

7
8 **SEC. 402. DOCUMENTS OF OTHER HAGUE CONVENTION COUNTRIES.**

9 Documents originating in another Hague Convention
10 country and related to an adoption subject to the Convention
11 shall require no authentication or legalization in order to
12 be accepted in the United States and to be admissible in any
13 Federal, State or local courts in the United States, unless
14 a specific and supported claim is made that the documents
15 are false, have been altered, or are otherwise unreliable.

16
17 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS AND COLLECTION OF**
18 **FEES.**

19 (a) AUTHORIZATION.--There are authorized to be
20 appropriated such sums as may be necessary to agencies of
21 the Federal Government implementing the Convention and the
22 provisions of this Act. Such sums are authorized to remain
23 available until expended.

24 (b) ASSESSMENT OF FEES --
25

1 (1) The Secretary of State is authorized to charge
2 a fee prescribed by regulation for new or enhanced
3 services that will be undertaken by the Department of
4 State to meet the requirements of this Act.

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

9 (3) The provisions of the Act of August 18, 1856
10 (Revised Statutes §§ 1726-28; 22 U.S.C. §§ 4212-14),
11 concerning accounting for consular fees, shall not
12 apply to fees collected under this subsection.

13 (4) Fees authorized under this section shall be
14 collected and available for obligation only to the
15 extent and in the amount provided in advance in
16 appropriations acts. Such fees are authorized to be
17 appropriated to remain available for obligation until
18 expended.

19
20 **SEC. 404. ENFORCEMENT.**

21 (a) CIVIL PENALTIES.--Any person that--

22 (1) provides adoption services in the United
23 ~~States~~ to facilitate a Hague adoption without
24 appropriate accreditation or approval in accordance
25 with title II;

1 (2) makes a false or fraudulent statement or
2 misrepresentation of material fact, or offers, gives,
3 solicits or accepts improper inducement intended to
4 influence or affect--

5 (A) decisions concerning the accreditation of
6 agencies and approval of persons to perform
7 adoption services and central authority functions
8 under this Act;

9 (B) the relinquishment of parental rights or
10 parental consent relating to the adoption of a
11 child within the scope of this Act;

12 (C) the decisions or actions of persons and
13 entities performing central authority functions
14 pursuant to the Convention and this Act;
15 shall be subject, in addition to any other penalties that
16 may be prescribed by law, to a civil money penalty of not
17 more than \$5,000 for a first violation, and not more than
18 \$10,000 for each succeeding violation.

19 (b) ENFORCEMENT.--

20 (1) COORDINATION WITH ATTORNEY GENERAL.--The
21 Secretary of Health and Human Services, with respect to
22 violations of subparagraphs (1) and (2)(A) of paragraph
23 (a), and the Secretary of State, with respect to
24 violations of subparagraphs (2)(B) and (C) of paragraph
25 (a), may impose a civil money penalty under paragraph
26 (a) pursuant to such procedures as may be agreed upon
27 by such Secretaries and the Attorney General.

1 (2) NOTICE AND HEARING.--No penalty shall be
2 assessed under this section until the person charged
3 has been given written notice and an opportunity to
4 respond.

5 (3) FACTORS CONSIDERED IN IMPOSING PENALTY.--In
6 determining the amount of the penalty, the gravity of
7 the violation, the degree of culpability, and the
8 history of prior violations, if any, shall be
9 considered.

10 (c) CRIMINAL PENALTIES.--Whoever knowingly and
11 willfully commits a violation specified in subparagraph
12 (a)(2) shall be subject to a fine of not more than \$10,000,
13 or imprisonment for not more than one year.

14 15 **TITLE V--GENERAL PROVISIONS**

16 **SEC. 501. RECOGNITION OF HAGUE CONVENTION ADOPTIONS.**

17 Subject to Article 24 of the Convention, adoptions
18 concluded between two other Hague Convention countries that
19 meet the requirements of Article 23 of the Convention and
20 that became final before the date of entry into force of the
21 Convention for the United States shall be recognized
22 thereafter in the United States and given full effect. Such
23 recognition shall include the specific effects described in
24 Article 26 of the Convention.

1 **SEC. 502. RELATIONSHIP TO OTHER LAWS.**

2 (a) LIMITED PREEMPTION.--No provision of Federal,
3 State, or local law shall be considered preempted by the
4 Convention, this Act, or implementing regulations unless
5 clearly inconsistent therewith.

6 (b) INDIAN CHILD WELFARE ACT.--Nothing in this Act or
7 in the Convention shall be construed as inconsistent with or
8 as modifying the provisions of the Indian Child Welfare Act
9 (25 U.S.C. 1901 et seq.) concerning custody and placement of
10 children subject to that Act.

11 (c) STATE LICENSING LAWS.--Nothing in the Convention or
12 this Act shall be construed to preclude any State from
13 requiring that a person or entity be licensed by the State
14 as a condition of providing adoption-related services.

15
16 **SEC. 503. NO PRIVATE RIGHT OF ACTION.**

17 Nothing in the Convention or this Act shall be
18 construed to create a private right of action to seek
19 administrative or judicial relief, except to the extent
20 specifically provided.

21
22 **SEC. 504. EFFECTIVE DATE; APPLICABILITY; TRANSITION**
23 **PROVISIONS.**

24 (a) EFFECTIVE DATE.

1 (1) PROVISIONS EFFECTIVE UPON ENACTMENT.--

2 Sections 101-104, 201, 203-205 and 403 shall take
3 effect immediately upon enactment of this Act.

4 (2) PROVISIONS EFFECTIVE UPON THE CONVENTION'S
5 ENTRY INTO FORCE.--Subject to the provisions of
6 paragraph (b), the Convention and those provisions of
7 this Act not specified in subparagraph (1) shall take
8 effect upon the entry into force of the Convention for
9 the United States pursuant to Article 46(2)(a) of the
10 Convention, and shall govern Hague adoptions made final
11 thereafter.

12 (b) TRANSITION PROVISIONS.--

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

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

21 (B) in the case of a child emigrating from
22 the United States, if the prospective adoptive
23 parents initiated the adoption process in their
24 country of residence with the filing of an
25 appropriate application before the effective date.

26 (2) HOME STUDY REGULATIONS.--Regulations of the
27 Attorney General establishing requirements for home

1 studies of United States citizens who are prospective
2 adoptive parents, currently located at 8 CFR 204.3(e),
3 shall remain in effect until the effective date of
4 final regulations of the Secretary of Health and Human
5 Services pursuant to this Act.

6