

108TH CONGRESS
2D SESSION

H. R. 3896

To establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2004

Mr. DEMINT (for himself, Mr. AKIN, Mr. BLUNT, Mr. OBERSTAR, Mr. PAUL, Mr. PENCE, Mr. POMEROY, Mr. SHIMKUS, Mr. STEARNS, Mr. WEXLER, and Mr. VAN HOLLEN) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

1 (1) That a child, for the full and harmonious
2 development of his or her personality, should grow
3 up in a family environment, in an atmosphere of
4 happiness, love, and understanding.

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

9 (3) There has been a significant growth in
10 intercountry adoptions. In 1990, Americans adopted
11 7,093 children from abroad. In 2001, they adopted
12 19,237 children from abroad.

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

15 (5) There are many children worldwide that are
16 without permanent homes.

17 (6) In the interest of United States citizens and
18 homeless children, reforms are needed in the inter-
19 country adoption process used by United States citi-
20 zens.

21 (7) In addition, Congress recognizes that for-
22 eign born adopted children do not make the decision
23 whether to immigrate to the United States. They are
24 being chosen by Americans to become part of their
25 immediate families.

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

5 (9) Since a child who is fully and finally adopt-
6 ed is entitled to the same rights, duties, and respon-
7 sibilities as a biological child, the law should reflect
8 such equality.

9 (10) Therefore, foreign born adopted children
10 of United States citizens should be accorded the
11 same procedural treatment as biological children
12 born abroad to a United States citizen.

13 (11) If a United States citizen can confer citi-
14 zenship to a biological child born abroad, then the
15 same citizen is entitled to confer such citizenship to
16 their legally and fully adopted foreign born children
17 immediately upon final adoption.

18 (12) If a United States citizen cannot confer
19 citizenship to a biological child born abroad, then
20 such citizen cannot confer citizenship to their legally
21 and fully adopted foreign born child, except through
22 the naturalization process.

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

24 (1) to ensure that foreign born children adopted
25 by United States citizens will be treated identically

1 to a biological child born abroad to the same citizen
2 parent;

3 (2) to improve the intercountry adoption proc-
4 ess to make it more citizen friendly and child ori-
5 ented; and

6 (3) to foster best practices.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) **ADOPTABLE CHILD.**—The term “adoptable
10 child” has the same meaning given such term in sec-
11 tion 101(c)(3) of the Immigration and Nationality
12 Act (8 U.S.C. 1101(c)(3)), as added by section
13 204(a) of this Act.

14 (2) **AMBASSADOR AT LARGE.**—The term “Am-
15 bassador at Large” means the Ambassador at Large
16 for Intercountry Adoptions appointed to head the
17 Office pursuant to section 101(b).

18 (3) **FULL AND FINAL ADOPTION.**—The term
19 “full and final adoption” means an adoption—

20 (A) that is completed according to the laws
21 of the child’s country of origin or the State law
22 of the parent’s residence;

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

1 (C) that has the force and effect of sev-
2 ering the child’s legal ties to the child’s biologi-
3 cal parents;

4 (D) under which the adoptive parents meet
5 the requirements of section 205; and

6 (E) under which the child has been adju-
7 dicated to be an adoptable child in accordance
8 with section 206.

9 (4) OFFICE.—The term “Office” means the Of-
10 fice of Intercountry Adoptions established under sec-
11 tion 101(a).

12 (5) READILY APPROVABLE.—A petition or cer-
13 tification is considered “readily approvable” if the
14 documentary support provided demonstrates that the
15 petitioner satisfies the eligibility requirements and
16 no additional information or investigation is nec-
17 essary.

18 **TITLE I—ADMINISTRATION OF**
19 **INTERCOUNTRY ADOPTIONS**
20 **Subtitle A—In General**

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

22 (a) ESTABLISHMENT.—There is established within
23 the Department of State, an Office of Intercountry Adop-
24 tions which shall be headed by the Ambassador at Large

1 for Intercountry Adoptions who shall be appointed pursu-
2 ant to subsection (b).

3 (b) AMBASSADOR AT LARGE.—

4 (1) APPOINTMENT.—The Ambassador at Large
5 shall be appointed by the President, by and with the
6 advice and consent of the Senate, from among indi-
7 viduals who have background, experience, and train-
8 ing in intercountry adoptions.

9 (2) AUTHORITY.—The Ambassador at Large
10 shall report directly to the Secretary of State, in
11 consultation with the Assistant Secretary for Con-
12 sular Affairs.

13 (3) DUTIES OF THE AMBASSADOR AT LARGE.—
14 In carrying out the functions of the Office, the Am-
15 bassador at Large shall have the following respon-
16 sibilities:

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

19 (i) to ensure that intercountry adop-
20 tions take place in the best interests of the
21 child; and

22 (ii) to assist the Secretary of State in
23 fulfilling the responsibilities designated to
24 the central authority under title I of the

1 Intercountry Adoption Act of 2000 (42
2 U.S.C. 14911 et seq.).

3 (B) ADVISORY ROLE.—The Ambassador at
4 Large shall be a principal advisor to the Presi-
5 dent and the Secretary of State regarding mat-
6 ters affecting intercountry adoption and the
7 general welfare of children abroad and shall
8 make recommendations regarding—

9 (i) the policies of the United States
10 with respect to the establishment of a sys-
11 tem of cooperation among the parties to
12 The Hague Convention;

13 (ii) the policies to prevent abandon-
14 ment, strengthen families, and to advance
15 the placement of children in permanent
16 families; and

17 (iii) policies that promote the well-
18 being of children.

19 (C) DIPLOMATIC REPRESENTATION.—Sub-
20 ject to the direction of the President and the
21 Secretary of State, the Ambassador at Large
22 may represent the United States in matters and
23 cases relevant to international adoption in—

24 (i) fulfillment of the responsibilities
25 designated to the central authority under

1 title I of the Intercountry Adoption Act of
2 2000 (42 U.S.C. 14911 et seq.);

3 (ii) contacts with foreign governments,
4 intergovernmental organizations, and spe-
5 cialized agencies of the United Nations and
6 other international organizations of which
7 the United States is a member; and

8 (iii) multilateral conferences and
9 meetings relevant to international adop-
10 tion.

11 (D) INTERNATIONAL POLICY DEVELOP-
12 MENT.—To advise and support the Secretary of
13 State and other relevant Bureaus in the devel-
14 opment of sound policy regarding child protec-
15 tion and intercountry adoption.

16 (E) REPORTING RESPONSIBILITIES.—The
17 Ambassador at Large shall have the following
18 reporting responsibilities:

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

1 (ii) ANNUAL REPORT ON INTER-
2 COUNTRY ADOPTION.—On September 1 of
3 each year, the Secretary of State, with the
4 assistance of the Ambassador at Large,
5 shall prepare and transmit to Congress an
6 annual report on intercountry adoption.
7 Each annual report shall include—

8 (I) a description of the status of
9 child protection and adoption in each
10 foreign country, including—

11 (aa) trends toward improve-
12 ment in the welfare and protec-
13 tion of children and families;

14 (bb) trends in family reunifi-
15 cation, domestic adoption, and
16 intercountry adoption;

17 (cc) movement toward ratifi-
18 cation and implementation of
19 The Hague Convention; and

20 (dd) census information on
21 the number of children in or-
22 phanages, foster homes, and
23 other types of nonpermanent res-
24 idential care;

1 (II) the number of intercountry
2 adoptions by United States citizens,
3 regardless of whether the adoption oc-
4 curred under The Hague Convention,
5 including the country from which each
6 child emigrated, the State in which
7 each child resides, and the country in
8 which the adoption was finalized;

9 (III) the number of intercountry
10 adoptions involving emigration from
11 the United States, regardless of
12 whether the adoption occurred under
13 The Hague Convention, including the
14 country where each child now resides
15 and the State from which each child
16 emigrated;

17 (IV) the number of Hague Con-
18 vention placements for adoption in the
19 United States that were disrupted, in-
20 cluding the country from which the
21 child emigrated, the age of the child,
22 the date of the placement for adop-
23 tion, the reasons for the disruption,
24 the resolution of the disruption, the
25 agencies that handled the placement

1 for adoption, and the plans for the
2 child, and in addition, any informa-
3 tion regarding disruption or dissolu-
4 tion of adoptions of children from
5 other countries received pursuant to
6 section 422(b)(4) of the Social Secu-
7 rity Act;

8 (V) the average time required for
9 completion of an adoption, set forth
10 by the country from which the child
11 emigrated;

12 (VI) the current list of agencies
13 accredited and persons approved
14 under the Intercountry Adoption Act
15 of 2000 (42 U.S.C. 14901 et seq.) to
16 provide adoption services;

17 (VII) the names of the agencies
18 and persons temporarily or perma-
19 nently debarred under the Inter-
20 country Adoption Act of 2000 (42
21 U.S.C. 14901 et seq.), and the rea-
22 sons for the debarment;

23 (VIII) the range of adoption fees
24 charged in connection with Hague
25 Convention adoptions involving adop-

1 tions by United States citizens and
2 the median of such fees set forth by
3 the country of origin;

4 (IX) the range of fees charged
5 for accreditation of agencies and the
6 approval of persons in the United
7 States engaged in providing adoption
8 services under The Hague Convention;
9 and

10 (X) recommendations of ways the
11 United States might act to improve
12 the welfare and protection of children
13 and families in each foreign country.

14 (c) FUNCTIONS OF OFFICE.—The Office shall have
15 the following 6 functions:

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

19 (2) CHILD ADJUDICATION.—To adjudicate the
20 status of a child born abroad as an adoptable child.

21 (3) FAMILY SERVICES.—To provide assistance
22 to United States citizens engaged in the intercountry
23 adoption process in resolving problems with respect
24 to that process and to track intercountry adoption

1 cases so as to ensure that all such adoptions are
2 processed in a timely manner.

3 (4) INTERNATIONAL POLICY DEVELOPMENT.—

4 To advise and support the Ambassador at Large and
5 other relevant Bureaus in the development of sound
6 policy regarding child protection and intercountry
7 adoption.

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

12 (6) ADMINISTRATION.—To perform administra-
13 tive functions related to the functions performed
14 under paragraphs (1) through (5), including legal
15 functions and congressional liaison and public affairs
16 functions.

17 (d) ORGANIZATION.—

18 (1) IN GENERAL.—All functions of the Office
19 shall be performed by officers housed in a central-
20 ized office located in Washington, DC. Within the
21 Washington, DC, office, there shall be 6 divisions
22 corresponding to the 6 functions of the Office. All 6
23 divisions and their respective directors shall report
24 directly to the Ambassador at Large.

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

4 (A) Northwest.

5 (B) Northeast.

6 (C) Southwest.

7 (D) Southeast.

8 (E) Midwest.

9 (F) West.

10 (3) CHILD ADJUDICATION.—To the extent prac-
11 ticable, the division responsible for the adjudication
12 of foreign born children as adoptable shall be divided
13 by world regions which correspond to those currently
14 used by other divisions within the Department of
15 State.

16 (4) USE OF INTERNATIONAL FIELD OFFI-
17 CERS.—Nothing in this section shall be construed to
18 prohibit the use of international field officers posted
19 abroad, as necessary, to fulfill the requirements of
20 this Act.

21 (e) QUALIFICATIONS AND TRAINING.—In addition to
22 meeting the employment requirements of the Department
23 of State, officers employed in any of the 6 divisions of
24 the Office shall undergo extensive and specialized training
25 in the laws and processes of intercountry adoption as well

1 as understanding the cultural, medical, emotional, and so-
2 cial issues surrounding intercountry adoption and adoptive
3 families. The Ambassador at Large shall, whenever pos-
4 sible, recruit and hire individuals with background and ex-
5 perience in intercountry adoptions.

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

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

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

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

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

17 **Subtitle B—Transition Provisions**

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

19 (a) IN GENERAL.—All functions under the immigra-
20 tion laws of the United States with respect to the adoption
21 of foreign born children by United States citizens and
22 their admission to the United States that have been vested
23 by statute in, or exercised by, the Commissioner of Immi-
24 gration and Naturalization, the Immigration and Natu-
25 ralization Service (or any officer, employee, or component

1 thereof), of the Department of Homeland Security (or any
2 officer, employee, or component thereof) immediately prior
3 to the effective date of this title, are transferred to the
4 Office on such effective date for exercise by the Amba-
5 sador at Large in accordance with applicable laws and title
6 II of this Act.

7 (b) EXERCISE OF AUTHORITIES.—Except as other-
8 wise provided by law, the Ambassador at Large may, for
9 purposes of performing any function transferred to the
10 Ambassador at Large under subsection (a), exercise all
11 authorities under any other provision of law that were
12 available with respect to the performance of that function
13 to the official responsible for the performance of the func-
14 tion immediately before the effective date of the transfer
15 of the function pursuant to this title.

16 **SEC. 112. TRANSFER OF RESOURCES.**

17 Subject to section 1531 of title 31, United States
18 Code, upon the effective date of this title, there are trans-
19 ferred to the Ambassador at Large for appropriate alloca-
20 tion in accordance with section 115, the assets, liabilities,
21 contracts, property, records, and unexpended balance of
22 appropriations, authorizations, allocations, and other
23 funds employed, held, used, arising from, available to, or
24 to be made available to the Immigration and Naturaliza-
25 tion Service or the Department of Homeland Security in

1 connection with the functions transferred pursuant to this
2 title.

3 **SEC. 113. INCIDENTAL TRANSFERS.**

4 The Ambassador at Large may make such additional
5 incidental dispositions of personnel, assets, liabilities,
6 grants, contracts, property, records, and unexpended bal-
7 ances of appropriations, authorizations, allocations, and
8 other funds held, used, arising from, available to, or to
9 be made available in connection with such functions, as
10 may be necessary to carry out this title. The Ambassador
11 at Large shall provide for such further measures and dis-
12 positions as may be necessary to effectuate the purposes
13 of this title.

14 **SEC. 114. SAVINGS PROVISIONS.**

15 (a) LEGAL DOCUMENTS.—All orders, determinations,
16 rules, regulations, permits, grants, loans, contracts, agree-
17 ments, including collective bargaining agreements, certifi-
18 cates, licenses, and privileges—

19 (1) that have been issued, made, granted, or al-
20 lowed to become effective by the President, the Am-
21 bassador at Large, the former Commissioner of the
22 Immigration and Naturalization Service, their dele-
23 gates, or any other Government official, or by a
24 court of competent jurisdiction, in the performance

1 of any function that is transferred pursuant to this
2 title; and

3 (2) that are in effect on the effective date of
4 such transfer (or become effective after such date
5 pursuant to their terms as in effect on such effective
6 date);

7 shall continue in effect according to their terms until
8 modified, terminated, superseded, set aside, or revoked in
9 accordance with law by the President, any other author-
10 ized official, a court of competent jurisdiction, or operation
11 of law, except that any collective bargaining agreement
12 shall remain in effect until the date of termination speci-
13 fied in the agreement.

14 (b) PROCEEDINGS.—

15 (1) PENDING.—The transfer of functions under
16 section 111 shall not affect any proceeding or any
17 application for any benefit, service, license, permit,
18 certificate, or financial assistance pending on the ef-
19 fective date of this title before an office whose func-
20 tions are transferred pursuant to this title, but such
21 proceedings and applications shall be continued.

22 (2) ORDERS.—Orders shall be issued in such
23 proceedings, appeals shall be taken therefrom, and
24 payments shall be made pursuant to such orders, as
25 if this Act had not been enacted, and orders issued

1 in any such proceeding shall continue in effect until
2 modified, terminated, superseded, or revoked by a
3 duly authorized official, by a court of competent ju-
4 risdiction, or by operation of law.

5 (3) DISCONTINUANCE OR MODIFICATION.—
6 Nothing in this section shall be considered to pro-
7 hibit the discontinuance or modification of any such
8 proceeding under the same terms and conditions and
9 to the same extent that such proceeding could have
10 been discontinued or modified if this section had not
11 been enacted.

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

17 (d) NONABATEMENT OF ACTIONS.—No suit, action,
18 or other proceeding commenced by or against the Depart-
19 ment of State, the Immigration and Naturalization Serv-
20 ice, or the Department of Homeland Security, or by or
21 against any individual in the official capacity of such indi-
22 vidual as an officer or employee in connection with a func-
23 tion transferred pursuant to this section, shall abate by
24 reason of the enactment of this Act.

1 (e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF
2 PARTIES.—If any Government officer in the official capac-
3 ity of such officer is party to a suit with respect to a func-
4 tion of the officer, and pursuant to this title such function
5 is transferred to any other officer or office, then such suit
6 shall be continued with the other officer or the head of
7 such other office, as applicable, substituted or added as
8 a party.

9 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
10 VIEW.—Except as otherwise provided by this title, any
11 statutory requirements relating to notice, hearings, action
12 upon the record, or administrative or judicial review that
13 apply to any function transferred pursuant to any provi-
14 sion of this title shall apply to the exercise of such function
15 by the head of the office, and other officers of the office,
16 to which such function is transferred pursuant to such
17 provision.

18 **Subtitle C—Effective Date**

19 **SEC. 121. EFFECTIVE DATE.**

20 This title shall take effect 180 days after the date
21 of enactment of this Act.

1 **TITLE II—REFORM OF UNITED**
2 **STATES LAWS GOVERNING**
3 **INTERCOUNTRY ADOPTIONS**

4 **SEC. 201. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR**
5 **ADOPTED CHILDREN BORN OUTSIDE THE**
6 **UNITED STATES.**

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

10 (1) by amending the section heading to read as
11 follows: “Children Born Outside the United States;
12 Conditions Under Which Citizenship Automatically
13 Acquired”; and

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

16 “(1) Upon the date the adoption becomes full
17 and final, at least 1 parent of the child is a citizen
18 of the United States, whether by birth or naturaliza-
19 tion, who has been physically present in the United
20 States or its outlying possessions for a period or pe-
21 riods totaling not less than 5 years, at least 2 of
22 which were after attaining the age of 14 years. Any
23 periods of honorable service in the Armed Forces of
24 the United States, or periods of employment with
25 the United States Government or with an inter-

1 national organization as that term is defined in sec-
2 tion 1 of the International Organizations Immunities
3 Act (22 U.S.C. 288) by such citizen parent, or any
4 periods during which such citizen parent is phys-
5 ically present abroad as the dependent unmarried
6 son or daughter and a member of the household of
7 a person—

8 “(A) honorably serving with the Armed
9 Forces of the United States; or

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

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

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

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

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

23 “(A) that is completed under the laws of
24 the child’s country of origin or the State law of
25 the parent’s residence;

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

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

6 “(D) under which the adoptive parents
7 meet the requirements of section 205 of the
8 Intercountry Adoption Reform Act; and

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

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

15 **SEC. 202. REVISED PROCEDURES.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
17 sion of law, the following requirements shall apply with
18 respect to the adoption of foreign born children by United
19 States citizens:

20 (1) Upon completion of a full and final adop-
21 tion, the Secretary of State shall issue a United
22 States passport and a Consular Report of Birth for
23 a child who satisfies the requirements of section 320
24 of the Immigration and Nationality Act (8 U.S.C.

1 1431), as amended by section 201 of this Act, upon
2 application by a United States citizen parent.

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

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

12 (4) The Secretary of State shall not require an
13 adopted child described in paragraph (1) to undergo
14 a medical exam.

15 (b) REGULATIONS.—Not later than 90 days after the
16 date of enactment of this Act, the Secretary of State shall
17 prescribe such regulations as may be necessary to carry
18 out this section.

19 **SEC. 203. NONIMMIGRANT VISAS FOR CHILDREN TRAV-**
20 **ELING TO THE UNITED STATES TO BE ADOPT-**
21 **ED BY A UNITED STATES CITIZEN.**

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

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

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

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

6 “(W) an adoptable child who is coming into the
7 United States for adoption by a United States cit-
8 izen and a spouse jointly or by an unmarried United
9 States citizen at least 25 years of age, who has been
10 approved to adopt by the Ambassador at Large, act-
11 ing through the Office of Intercountry Adoptions es-
12 tablished under section 101(a) of the Intercountry
13 Adoption Reform Act.”.

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

18 “(q) In the case of a nonimmigrant described in sec-
19 tion 101(a)(15)(W), the period of authorized admission
20 shall terminate on the earlier of—

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

1 “(2) the date that is 2 years after the date of
2 admission of the nonimmigrant into the United
3 States.”.

4 (c) TEMPORARY TREATMENT AS LEGAL PERMANENT
5 RESIDENT.—Notwithstanding any other law, all benefits
6 and protections that apply to a legal permanent resident
7 shall apply to a nonimmigrant described in section
8 101(a)(15)(W) of the Immigration and Nationality Act,
9 as added by subsection (a), pending a full and final adop-
10 tion.

11 (d) EXCEPTION FROM IMMUNIZATION REQUIREMENT
12 FOR CERTAIN ADOPTED CHILDREN.—Section
13 212(a)(1)(C) of the Immigration and Nationality Act (8
14 U.S.C. 1182(a)(1)(C)) is amended—

15 (1) in the heading by striking “10 years” and
16 inserting “18 years”; and

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

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

1 **SEC. 204. DEFINITION OF “ADOPTABLE CHILD”.**

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

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

7 “(A) whose biological parents (or parent, in the
8 case of a child who has one sole or surviving parent)
9 or other persons or institutions that retain legal cus-
10 tody of the child—

11 “(i) have freely given their written irrev-
12 ovable consent to the termination of their legal
13 relationship with the child, and to the child’s
14 emigration and adoption;

15 “(ii) are unable to provide proper care for
16 the child, as determined by the appropriate gov-
17 ernmental authority of the child’s residence; or

18 “(iii) have voluntarily relinquished the
19 child to governmental authorities pursuant to
20 the law of the child’s residence;

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

24 “(C) with respect to whom the Secretary of
25 State is satisfied that the purpose of the adoption is
26 to form a bona fide parent-child relationship and

1 that the parent-child relationship of the child and
2 the biological parents has been terminated (and in
3 carrying out both obligations under this subpara-
4 graph the Secretary of State, in consultation with
5 the Secretary of Homeland Security, may consider
6 whether there is a petition pending to confer immi-
7 grant status on one or both of the biological par-
8 ents);

9 “(D) with respect to whom the Secretary of
10 State, in consultation with the Secretary of Home-
11 land Security, is satisfied that the person is not a
12 security risk; and

13 “(E) whose adoption and emigration to the
14 United States has been approved by the competent
15 authority of the country of the child’s place of birth
16 or residence.”.

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

22 **SEC. 205. APPROVAL TO ADOPT.**

23 (a) IN GENERAL.—Prior to the issuance of a visa
24 under section 101(a)(15)(W) of the Immigration and Na-
25 tionality Act, as added by section 203(a) of this Act, or

1 the issuance of a full and final adoption decree, the United
2 States citizen adoptive parent shall have approved by the
3 Office a petition to adopt. Such petition shall be subject
4 to the same terms and conditions as are applicable to peti-
5 tions for classification under section 204.3 of title 8 of
6 the Code of Federal Regulations, as in effect on the day
7 before the date of enactment of this Act.

8 (b) EXPIRATION OF APPROVAL.—Approval to adopt
9 under this Act is valid for 24 months from the date of
10 approval.

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

18 (d) DENIAL OF PETITION.—

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

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

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

9 (4) RIGHT TO AN APPEAL.—Unfavorable deci-
10 sions may be appealed to the appropriate appellate
11 jurisdiction of the Department of State, and if nec-
12 essary, Federal court.

13 (5) REGULATIONS REGARDING APPEALS.—Not
14 later than 6 months after the date of enactment of
15 this Act, the Ambassador at Large shall promulgate
16 formal regulations regarding the process for appeal-
17 ing the denial of a petition.

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

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

23 (1) the Office shall obtain from the competent
24 authority of the country of the child’s residence a
25 certification, together with documentary support,

1 that the child sought to be adopted meets the de-
2 scription of an adoptable child; and

3 (2) within 30 days of receipt of the certification
4 referred to in paragraph (1), the Office shall make
5 a final determination on whether the certification
6 and the documentary support are sufficient to meet
7 the requirements of this section.

8 (b) PROCESS FOR DETERMINATION.—

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

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

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

23 (B) provide the competent authority and
24 the prospective adoptive parents the oppor-
25 tunity to address the stated insufficiencies.

1 **TITLE III—FUNDING**

2 **SEC. 301. FUNDS.**

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

5 (1) the hiring of staff for the Office;

6 (2) investigations conducted by the Office; and

7 (3) travel and other expenses necessary to carry

8 out this Act.

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