

108TH CONGRESS  
1ST SESSION

# S. 1934

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

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 23, 2003

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

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## 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 2003” or the “ICARE Act”.

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

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

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

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

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

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

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

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

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

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

24 (8) As such these children should not be classi-  
25 fied as immigrants in the traditional sense. Once

1 fully and finally adopted, they should be treated as  
2 children of United States citizens.

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

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

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

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

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

22 (1) to ensure that foreign born children adopted  
23 by United States citizens will be treated identically  
24 to a biological child born abroad to the same citizen  
25 parent;

1           (2) to improve the intercountry adoption pro-  
2           cess to make it more citizen friendly and child ori-  
3           ented; and

4           (3) to foster best practices.

5 **SEC. 3. DEFINITIONS.**

6           In this Act:

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

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

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

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

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

23                (C) that has the force and effect of sev-  
24                ering the child’s legal ties to the child’s biologi-  
25                cal parents;

1 (D) under which the adoptive parents meet  
 2 the requirements of section 205; and

3 (E) under which the child has been adju-  
 4 dicated to be an adoptable child in accordance  
 5 with section 206.

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

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

15 **TITLE I—ADMINISTRATION OF**  
 16 **INTERCOUNTRY ADOPTIONS**  
 17 **Subtitle A—In General**

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

19 (a) ESTABLISHMENT.—There is established within  
 20 the Department of State, an Office of Intercountry Adop-  
 21 tions which shall be headed by the Ambassador at Large  
 22 for Intercountry Adoptions who shall be appointed pursu-  
 23 ant to subsection (b).

24 (b) AMBASSADOR AT LARGE.—

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

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

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

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

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

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

24           (B) ADVISORY ROLE.—The Ambassador at  
25 Large shall be a principal advisor to the Presi-

1           dent and the Secretary of State regarding mat-  
2           ters affecting intercountry adoption and the  
3           general welfare of children abroad and shall  
4           make recommendations regarding—

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

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

13                  (iii) policies that promote the well-  
14                  being of children.

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

20                   (i) fulfillment of the responsibilities  
21                   designated to the central authority under  
22                   title I of the Intercountry Adoption Act of  
23                   2000 (42 U.S.C. 14911 et seq.);

24                   (ii) contacts with foreign governments,  
25                   intergovernmental organizations, and spe-

1 cialized agencies of the United Nations and  
2 other international organizations of which  
3 the United States is a member; and

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

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

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

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

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



1 annual report on intercountry adoption.

2 Each annual report shall include—

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

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

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

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

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

20 (II) the number of intercountry  
21 adoptions by United States citizens,  
22 regardless of whether the adoption oc-  
23 curred under The Hague Convention,  
24 including the country from which each  
25 child emigrated, the State in which

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

3 (III) the number of intercountry  
4 adoptions involving emigration from  
5 the United States, regardless of  
6 whether the adoption occurred under  
7 The Hague Convention, including the  
8 country where each child now resides  
9 and the State from which each child  
10 emigrated;

11 (IV) the number of Hague Con-  
12 vention placements for adoption in the  
13 United States that were disrupted, in-  
14 cluding the country from which the  
15 child emigrated, the age of the child,  
16 the date of the placement for adop-  
17 tion, the reasons for the disruption,  
18 the resolution of the disruption, the  
19 agencies that handled the placement  
20 for adoption, and the plans for the  
21 child, and in addition, any informa-  
22 tion regarding disruption or dissolu-  
23 tion of adoptions of children from  
24 other countries received pursuant to

1 section 422(b)(4) of the Social Secu-  
2 rity Act;

3 (V) the average time required for  
4 completion of an adoption, set forth  
5 by the country from which the child  
6 emigrated;

7 (VI) the current list of agencies  
8 accredited and persons approved  
9 under the Intercountry Adoption Act  
10 of 2000 (42 U.S.C. 14901 et seq.) to  
11 provide adoption services;

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

18 (VIII) the range of adoption fees  
19 charged in connection with Hague  
20 Convention adoptions involving adop-  
21 tions by United States citizens and  
22 the median of such fees set forth by  
23 the country of origin;

24 (IX) the range of fees charged  
25 for accreditation of agencies and the

1 approval of persons in the United  
2 States engaged in providing adoption  
3 services under The Hague Convention;  
4 and

5 (X) recommendations of ways the  
6 United States might act to improve  
7 the welfare and protection of children  
8 and families in each foreign country.

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

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

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

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

22 (4) INTERNATIONAL POLICY DEVELOPMENT.—  
23 To advise and support the Ambassador at Large and  
24 other relevant Bureaus in the development of sound

1 policy regarding child protection and intercountry  
2 adoption.

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

7 (6) ADMINISTRATION.—To perform administra-  
8 tive functions related to the functions performed  
9 under paragraphs (1) through (5), including legal  
10 functions and congressional liaison and public affairs  
11 functions.

12 (d) ORGANIZATION.—

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

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

23 (A) Northwest.

24 (B) Northeast.

25 (C) Southwest.

1 (D) Southeast.

2 (E) Midwest.

3 (F) West.

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

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

15 (e) QUALIFICATIONS AND TRAINING.—In addition to  
16 meeting the employment requirements of the Department  
17 of State, officers employed in any of the 6 divisions of  
18 the Office shall undergo extensive and specialized training  
19 in the laws and processes of intercountry adoption as well  
20 as understanding the cultural, medical, emotional, and so-  
21 cial issues surrounding intercountry adoption and adoptive  
22 families. The Ambassador at Large shall, whenever pos-  
23 sible, recruit and hire individuals with background and ex-  
24 perience in intercountry adoptions.

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

4 **SEC. 102. RECOGNITION OF CONVENTION ADOPTIONS IN**  
 5 **THE UNITED STATES.**

6 Section 505(a)(1) of the Intercountry Adoption Act  
 7 of 2000 (42 U.S.C. 14901 note) is amended by inserting  
 8 “301, 302,” after “205,”.

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

10 Section 104 of the Intercountry Adoption Act of 2000  
 11 (42 U.S.C. 14914) is repealed.

12 **Subtitle B—Transition Provisions**

13 **SEC. 111. TRANSFER OF FUNCTIONS.**

14 (a) IN GENERAL.—All functions under the immigra-  
 15 tion laws of the United States with respect to the adoption  
 16 of foreign born children by United States citizens and  
 17 their admission to the United States that have been vested  
 18 by statute in, or exercised by, the Commissioner of Immi-  
 19 gration and Naturalization, the Immigration and Natu-  
 20 ralization Service (or any officer, employee, or component  
 21 thereof), of the Department of Homeland Security (or any  
 22 officer, employee, or component thereof) immediately prior  
 23 to the effective date of this title, are transferred to the  
 24 Office on such effective date for exercise by the Amba-

1 sador at Large in accordance with applicable laws and title  
2 II of this Act.

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

12 **SEC. 112. TRANSFER OF RESOURCES.**

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



1 **SEC. 113. INCIDENTAL TRANSFERS.**

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

12 **SEC. 114. SAVINGS PROVISIONS.**

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

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

25           (2) that are in effect on the effective date of  
26 such transfer (or become effective after such date

1       pursuant to their terms as in effect on such effective  
2       date);  
3 shall continue in effect according to their terms until  
4 modified, terminated, superseded, set aside, or revoked in  
5 accordance with law by the President, any other author-  
6 ized official, a court of competent jurisdiction, or operation  
7 of law, except that any collective bargaining agreement  
8 shall remain in effect until the date of termination speci-  
9 fied in the agreement.

10       (b) PROCEEDINGS.—

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

18           (2) ORDERS.—Orders shall be issued in such  
19 proceedings, appeals shall be taken therefrom, and  
20 payments shall be made pursuant to such orders, as  
21 if this Act had not been enacted, and orders issued  
22 in any such proceeding shall continue in effect until  
23 modified, terminated, superseded, or revoked by a  
24 duly authorized official, by a court of competent ju-  
25 risdiction, or by operation of law.

1           (3) DISCONTINUANCE OR MODIFICATION.—

2           Nothing in this section shall be considered to pro-  
3           hibit the discontinuance or modification of any such  
4           proceeding under the same terms and conditions and  
5           to the same extent that such proceeding could have  
6           been discontinued or modified if this section had not  
7           been enacted.

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

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

21          (e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF  
22          PARTIES.—If any Government officer in the official capac-  
23          ity of such officer is party to a suit with respect to a func-  
24          tion of the officer, and pursuant to this title such function  
25          is transferred to any other officer or office, then such suit

1 shall be continued with the other officer or the head of  
 2 such other office, as applicable, substituted or added as  
 3 a party.

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

### 13 **Subtitle C—Effective Date**

#### 14 **SEC. 121. EFFECTIVE DATE.**

15 This title shall take effect 180 days after the date  
 16 of enactment of this Act.

## 17 **TITLE II—REFORM OF UNITED** 18 **STATES LAWS GOVERNING** 19 **INTERCOUNTRY ADOPTIONS**

#### 20 **SEC. 201. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR** 21 **ADOPTED CHILDREN BORN OUTSIDE THE** 22 **UNITED STATES.**

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

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

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

7           “(1) Upon the date the adoption becomes full  
8 and final, at least 1 parent of the child is a citizen  
9 of the United States, whether by birth or naturaliza-  
10 tion, who has been physically present in the United  
11 States or its outlying possessions for a period or pe-  
12 riods totaling not less than 5 years, at least 2 of  
13 which were after attaining the age of 14 years. Any  
14 periods of honorable service in the Armed Forces of  
15 the United States, or periods of employment with  
16 the United States Government or with an inter-  
17 national organization as that term is defined in sec-  
18 tion 1 of the International Organizations Immunities  
19 Act (22 U.S.C. 288) by such citizen parent, or any  
20 periods during which such citizen parent is phys-  
21 ically present abroad as the dependent unmarried  
22 son or daughter and a member of the household of  
23 a person—

24                   “(A) honorably serving with the Armed  
25 Forces of the United States; or

1           “(B) employed by the United States Gov-  
2           ernment or an international organization as de-  
3           fined in section 1 of the International Organiza-  
4           tions Immunities Act (22 U.S.C. 288);  
5           may be included in order to satisfy the physical pres-  
6           ence requirement of this paragraph.

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

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

12          “(4) For purposes of this subsection, the term  
13          “full and final adoption” means an adoption—

14                 “(A) that is completed under the laws of  
15                 the child’s country of origin or the State law of  
16                 the parent’s residence;

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

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

22                 “(D) under which the adoptive parents  
23                 meet the requirements of section 205 of the  
24                 Intercountry Adoption Reform Act; and

1           “(E) under which the child has been adju-  
2           dicated to be an adoptable child in accordance  
3           with section 206 of the Intercountry Adoption  
4           Reform Act.”.

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

7 **SEC. 202. REVISED PROCEDURES.**

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

12           (1) Upon completion of a full and final adop-  
13          tion, the Secretary of State shall issue a United  
14          States passport and a Consular Report of Birth for  
15          a child who satisfies the requirements of section 320  
16          of the Immigration and Nationality Act (8 U.S.C.  
17          1431), as amended by section 201 of this Act, upon  
18          application by a United States citizen parent.

19           (2) An adopted child described in paragraph (1)  
20          shall not require the issuance of a visa for travel and  
21          admission to the United States but shall be admitted  
22          to the United States upon presentation of a valid,  
23          unexpired United States passport.

24           (3) No affidavit of support under section 213A  
25          of the Immigration and Nationality Act (8 U.S.C.

1 1183a) shall be required in the case of any adopt-  
2 able child.

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

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

10 **SEC. 203. NONIMMIGRANT VISAS FOR CHILDREN TRAV-**  
11 **ELING TO THE UNITED STATES TO BE ADOPT-**  
12 **ED BY A UNITED STATES CITIZEN.**

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

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

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

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

21 “(W) an adoptable child who is coming into the  
22 United States for adoption by a United States cit-  
23 izen and a spouse jointly or by an unmarried United  
24 States citizen at least 25 years of age, who has been  
25 approved to adopt by the Ambassador at Large, act-



1 ing through the Office of Intercountry Adoptions es-  
2 tablished under section 101(a) of the Intercountry  
3 Adoption Reform Act.”.

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

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

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

14 “(2) the date that is 2 years after the date of  
15 admission of the nonimmigrant into the United  
16 States.”.

17 (c) TEMPORARY TREATMENT AS LEGAL PERMANENT  
18 RESIDENT.—Notwithstanding any other law, all benefits  
19 and protections that apply to a legal permanent resident  
20 shall apply to a nonimmigrant described in section  
21 101(a)(15)(W) of the Immigration and Nationality Act,  
22 as added by subsection (a), pending a full and final adop-  
23 tion.

24 (d) EXCEPTION FROM IMMUNIZATION REQUIREMENT  
25 FOR CERTAIN ADOPTED CHILDREN.—Section

1 212(a)(1)(C) of the Immigration and Nationality Act (8  
2 U.S.C. 1182(a)(1)(C)) is amended—

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

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

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

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

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

15 “(3) The term “adoptable child” means an unmarried  
16 person under the age of 18—

17 “(A) whose biological parents (or parent, in the  
18 case of a child who has one sole or surviving parent)  
19 or other persons or institutions that retain legal cus-  
20 tody of the child—

21 “(i) have freely given their written irrev-  
22 ovable consent to the termination of their legal  
23 relationship with the child, and to the child’s  
24 emigration and adoption;

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

4           “(iii) have voluntarily relinquished the  
5           child to governmental authorities pursuant to  
6           the law of the child’s residence;

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

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

21          “(D) with respect to whom the Secretary of  
22          State, in consultation with the Secretary of Home-  
23          land Security, is satisfied that the person is not a  
24          security risk; and

1           “(E) whose adoption and emigration to the  
2           United States has been approved by the competent  
3           authority of the country of the child’s place of birth  
4           or residence.”.

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

10   **SEC. 205. APPROVAL TO ADOPT.**

11           (a) IN GENERAL.—Prior to the issuance of a visa  
12           under section 101(a)(15)(W) of the Immigration and Na-  
13           tionality Act, as added by section 203(a) of this Act, or  
14           the issuance of a full and final adoption decree, the United  
15           States citizen adoptive parent shall have approved by the  
16           Office a petition to adopt. Such petition shall be subject  
17           to the same terms and conditions as are applicable to peti-  
18           tions for classification under section 204.3 of title 8 of  
19           the Code of Federal Regulations, as in effect on the day  
20           before the date of enactment of this Act.

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

24           (c) EXPEDITED REAPPROVAL PROCESS OF FAMILIES  
25           PREVIOUSLY APPROVED TO ADOPT.—The Ambassador at

1 Large shall prescribe such regulations as may be necessary  
2 to provide for an expedited and streamlined process for  
3 families who have been previously approved to adopt and  
4 whose approval has expired, so long as not more than 3  
5 years have lapsed since the original application.

6 (d) DENIAL OF PETITION.—

7 (1) NOTICE OF INTENT.—If the officer adjudi-  
8 cating the petition to adopt finds that it is not read-  
9 ily approvable, the officer shall notify the petitioner,  
10 in writing, of the officer’s intent to deny the peti-  
11 tion. Such notice shall include the specific reasons  
12 why the petition is not readily approvable.

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

16 (3) DECISION.—Within 30 days of receipt of  
17 the petitioner’s response the Office must reach a  
18 final decision regarding the eligibility of the peti-  
19 tioner to adopt. Notice of a formal decision must be  
20 delivered in writing.

21 (4) RIGHT TO AN APPEAL.—Unfavorable deci-  
22 sions may be appealed to the appropriate appellate  
23 jurisdiction of the Department of State, and if nec-  
24 essary, Federal court.

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

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

7           (a) IN GENERAL.—Prior to the issuance of a full and  
8 final adoption decree or a visa under section  
9 101(a)(15)(W) of the Immigration and Nationality Act,  
10 as added by section 203(a) of this Act—

11           (1) the Office shall obtain from the competent  
12 authority of the country of the child’s residence a  
13 certification, together with documentary support,  
14 that the child sought to be adopted meets the de-  
15 scription of an adoptable child; and

16           (2) within 30 days of receipt of the certification  
17 referred to in paragraph (1), the Office shall make  
18 a final determination on whether the certification  
19 and the documentary support are sufficient to meet  
20 the requirements of this section.

21           (b) PROCESS FOR DETERMINATION.—

22           (1) IN GENERAL.—The Ambassador at Large  
23 shall work with the competent authorities of the  
24 child’s country of residence to establish a uniform,  
25 transparent, and efficient process for the exchange

1 and approval of the certification and documentary  
2 support required under subsection (a).

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

7 (A) notify the competent authority and the  
8 prospective adoptive parents, in writing, of the  
9 specific reasons why the certification is not suf-  
10 ficient; and

11 (B) provide the competent authority and  
12 the prospective adoptive parents the oppor-  
13 tunity to address the stated insufficiencies.

## 14 **TITLE III—FUNDING**

### 15 **SEC. 301. FUNDS.**

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

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

19 (2) investigations conducted by the Office; and

20 (3) travel and other expenses necessary to carry  
21 out this Act.

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