

109TH CONGRESS
2^D SESSION

H. R. 5726

To reform Federal procedures relating to intercountry adoption.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2006

Mrs. JO ANN DAVIS of Virginia (for herself, Mr. WEXLER, Mr. PAUL, and Mr. PITTS) 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 reform Federal procedures relating to intercountry adoption.

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 2006” or the “ICARE Act”.

6 **TITLE I—INTERCOUNTRY**
7 **ADOPTION REFORM**

8 **SEC. 101. FINDINGS; PURPOSES.**

9 (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 2004, they adopted
12 23,460 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 children without a perma-
18 nent family and the United States citizens who are
19 waiting to bring them into their families, reforms
20 are needed in the intercountry adoption process used
21 by United States citizens.

22 (7) Before adoption, each child should have the
23 benefit of measures taken to ensure that inter-
24 country adoption is in his or her best interest and

1 that prevents the abduction, selling, or trafficking of
2 children.

3 (8) In addition, Congress recognizes that for-
4 eign-born adopted children do not make the decision
5 whether to immigrate to the United States. They are
6 being chosen by Americans to become part of their
7 immediate families.

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

12 (10) Since a child who is fully and finally
13 adopted is entitled to the same rights, duties, and
14 responsibilities as a biological child, the law should
15 reflect such equality.

16 (11) Therefore, foreign-born adopted children of
17 United States citizens should be accorded the same
18 procedural treatment as biological children born
19 abroad to a United States citizen.

20 (12) If a United States citizen can confer citi-
21 zenship to a biological child born abroad, then the
22 same citizen is entitled to confer such citizenship to
23 their legally and fully adopted foreign-born child im-
24 mediately upon final adoption.

1 (13) If a United States citizen cannot confer
2 citizenship to a biological child born abroad, then
3 such citizen cannot confer citizenship to their legally
4 and fully adopted foreign-born child, except through
5 the naturalization process.

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

7 (1) to ensure the any adoption of a foreign-born
8 child by parents in the United States is carried out
9 in the manner that is in the best interest of the
10 child;

11 (2) to ensure that foreign-born children adopted
12 by United States citizens will be treated identically
13 to a biological child born abroad to the same citizen
14 parent; and

15 (3) to improve the intercountry adoption proc-
16 ess to make it more citizen friendly and focused on
17 the protection of the child.

18 **SEC. 102. DEFINITIONS.**

19 In this Act:

20 (1) ADOPTABLE CHILD.—The term “adoptable
21 child” has the same meaning given such term in sec-
22 tion 101(c)(3) of the Immigration and Nationality
23 Act (8 U.S.C. 1101(c)(3)), as added by section
24 304(a) of this Act.

1 (2) AMBASSADOR AT LARGE.—The term “Am-
2 bassador at Large” means the Ambassador at Large
3 for Intercountry Adoptions appointed to head the
4 Office pursuant to section 201(b).

5 (3) COMPETENT AUTHORITY.—The term “com-
6 petent authority” means the entity or entities au-
7 thorized by the law of the child’s country of resi-
8 dence to engage in permanent placement of children
9 who are no longer in the legal or physical custody
10 of their biological parents.

11 (4) CONVENTION.—The term “Convention”
12 means the Convention on Protection of Children and
13 Co-operation in Respect of Intercountry Adoption,
14 done at The Hague on May 29, 1993.

15 (5) FULL AND FINAL ADOPTION.—The term
16 “full and final adoption” means an adoption—

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

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

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

1 (D) under which the adoptive parents meet
2 the requirements of section 305; and

3 (E) under which the child has been adju-
4 dicated to be an adoptable child in accordance
5 with section 306.

6 (6) OFFICE.—The term “Office” means the Of-
7 fice of Intercountry Adoptions established under sec-
8 tion 201(a).

9 (7) READILY APPROVABLE.—A petition or cer-
10 tification is “readily approvable” if the documentary
11 support provided along with such petition or certifi-
12 cation demonstrates that the petitioner satisfies the
13 eligibility requirements and no additional informa-
14 tion or investigation is necessary.

15 **TITLE II—ADMINISTRATION OF** 16 **INTERCOUNTRY ADOPTIONS**

17 **SEC. 201. OFFICE OF INTERCOUNTRY ADOPTIONS.**

18 (a) ESTABLISHMENT.—Not later than 180 days after
19 the date of enactment of this Act, there shall be estab-
20 lished within the Department of State, an Office of Inter-
21 country Adoptions which shall be headed by the Ambas-
22 sador at Large for Intercountry Adoptions.

23 (b) AMBASSADOR AT LARGE.—

24 (1) APPOINTMENT.—The Ambassador at Large
25 shall be appointed by the President, by and with the

1 advice and consent of the Senate, from among indi-
2 viduals who have background, experience, and train-
3 ing in intercountry adoptions.

4 (2) CONFLICTS OF INTEREST.—The individual
5 appointed to be the Ambassador at Large shall be
6 free from any conflict of interest that could impede
7 such individual’s ability to serve as the Ambassador.

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

12 (4) REGULATIONS.—The Ambassador at Large
13 may not issue rules or regulations unless such rules
14 or regulations have been approved by the Secretary
15 of State.

16 (5) DUTIES OF THE AMBASSADOR AT LARGE.—
17 The Ambassador at Large shall have the following
18 responsibilities:

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

21 (i) to ensure that any adoption of a
22 foreign-born child by parents in the United
23 States is carried out in the manner that is
24 in the best interest of the child; and

1 (ii) to assist the Secretary of State in
2 fulfilling the responsibilities designated to
3 the central authority under title I of the
4 Intercountry Adoption Act of 2000 (42
5 U.S.C. 14911 et seq.).

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

12 (i) the policies of the United States
13 with respect to the establishment of a sys-
14 tem of cooperation among the parties to
15 the Convention;

16 (ii) the policies to prevent abandon-
17 ment, to strengthen families, and to ad-
18 vance the placement of children in perma-
19 nent families; and

20 (iii) policies that promote the protec-
21 tion and well-being of children.

22 (C) DIPLOMATIC REPRESENTATION.—Sub-
23 ject to the direction of the President and the
24 Secretary of State, the Ambassador at Large

1 may represent the United States in matters and
2 cases relevant to international adoption in—

3 (i) fulfillment of the responsibilities
4 designated to the central authority under
5 title I of the Intercountry Adoption Act of
6 2000 (42 U.S.C. 14911 et seq.);

7 (ii) contacts with foreign governments,
8 intergovernmental organizations, and spe-
9 cialized agencies of the United Nations and
10 other international organizations of which
11 the United States is a member; and

12 (iii) multilateral conferences and
13 meetings relevant to international adop-
14 tion.

15 (D) INTERNATIONAL POLICY DEVELOP-
16 MENT.—The Ambassador at Large shall advise
17 and support the Secretary of State and other
18 relevant Bureaus of the Department of State in
19 the development of sound policy regarding child
20 protection and intercountry adoption.

21 (E) REPORTING RESPONSIBILITIES.—The
22 Ambassador at Large shall have the following
23 reporting responsibilities:

24 (i) IN GENERAL.—The Ambassador at
25 Large shall assist the Secretary of State

1 and other relevant Bureaus in preparing
2 those portions of the Human Rights Re-
3 ports that relate to the abduction, sale,
4 and trafficking of children.

5 (ii) ANNUAL REPORT ON INTER-
6 COUNTRY ADOPTION.—Not later than Sep-
7 tember 1 of each year, the Secretary of
8 State shall prepare and submit to Congress
9 an annual report on intercountry adoption.
10 Each annual report shall include—

11 (I) a description of the status of
12 child protection and adoption in each
13 foreign country, including—

14 (aa) trends toward improve-
15 ment in the welfare and protec-
16 tion of children and families;

17 (bb) trends in family reunifi-
18 cation, domestic adoption, and
19 intercountry adoption;

20 (cc) movement toward ratifi-
21 cation and implementation of the
22 Convention; and

23 (dd) census information on
24 the number of children in or-
25 phanages, foster homes, and

1 other types of nonpermanent res-
2 idential care as reported by the
3 foreign country;

4 (II) the number of intercountry
5 adoptions by United States citizens,
6 including the country from which each
7 child emigrated, the State in which
8 each child resides, and the country in
9 which the adoption was finalized;

10 (III) the number of intercountry
11 adoptions involving emigration from
12 the United States, including the coun-
13 try where each child now resides and
14 the State from which each child emi-
15 grated;

16 (IV) the number of placements
17 for adoption in the United States that
18 were disrupted, including the country
19 from which the child emigrated, the
20 age of the child, the date of the place-
21 ment for adoption, the reasons for the
22 disruption, the resolution of the dis-
23 ruption, the agencies that handled the
24 placement for adoption, and the plans
25 for the child, and in addition, any in-

1 formation regarding disruption or dis-
2 solution of adoptions of children from
3 other countries received pursuant to
4 section 422(b)(14) of the Social Secu-
5 rity Act (42 U.S.C. 622(b)(14));

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

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

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

21 (VIII) the range of adoption fees
22 involving adoptions by United States
23 citizens and the median of such fees
24 set forth by the country of origin;

1 (IX) the range of fees charged
2 for accreditation of agencies and the
3 approval of persons in the United
4 States engaged in providing adoption
5 services under the Convention; and

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

10 (c) FUNCTIONS OF OFFICE.—The Office shall have
11 the following 7 functions:

12 (1) APPROVAL OF A FAMILY TO ADOPT.—To
13 approve or disapprove the eligibility of a United
14 States citizen to adopt a child born in a foreign
15 country.

16 (2) CHILD ADJUDICATION.—To investigate and
17 adjudicate the status of a child born in a foreign
18 country to determine whether that child is an adopt-
19 able child.

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

1 (4) INTERNATIONAL POLICY DEVELOPMENT.—

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

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

10 (6) ENFORCEMENT.—To investigate, either di-
11 rectly or in cooperation with other appropriate inter-
12 national, Federal, State, or local entities, impropri-
13 eties relating to intercountry adoption, including
14 issues of child protection, birth family protection,
15 and consumer fraud.

16 (7) ADMINISTRATION.—To perform administra-
17 tive functions related to the functions performed
18 under paragraphs (1) through (6), including legal
19 functions and congressional liaison and public affairs
20 functions.

21 (d) ORGANIZATION.—

22 (1) IN GENERAL.—All functions of the Office
23 shall be performed by officers employed in a central
24 office located in Washington, D.C. Within that of-
25 fice, there shall be 7 divisions corresponding to the

1 7 functions of the Office. The director of each such
2 division shall report directly to the Ambassador at
3 Large.

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

7 (A) Northwest.

8 (B) Northeast.

9 (C) Southwest.

10 (D) Southeast.

11 (E) Midwest.

12 (F) West.

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

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

24 (5) COORDINATION.—The Ambassador at
25 Large shall coordinate with appropriate employees of

1 other agencies and departments of the United
2 States, whenever appropriate, in carrying out the
3 duties of the Ambassador.

4 (e) **QUALIFICATIONS AND TRAINING.**—In addition to
5 meeting the employment requirements of the Department
6 of State, officers employed in any of the 7 divisions of
7 the Office shall undergo extensive and specialized training
8 in the laws and processes of intercountry adoption as well
9 as understanding the cultural, medical, emotional, and so-
10 cial issues surrounding intercountry adoption and adoptive
11 families. The Ambassador at Large shall, whenever pos-
12 sible, recruit and hire individuals with background and ex-
13 perience in intercountry adoptions, taking care to ensure
14 that such individuals do not have any conflicts of interest
15 that might inhibit their ability to serve.

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

19 **SEC. 202. RECOGNITION OF CONVENTION ADOPTIONS IN**
20 **THE UNITED STATES.**

21 Section 505(a)(1) of the Intercountry Adoption Act
22 of 2000 (42 U.S.C. 14901 note) is amended by inserting
23 “301, 302,” after “205,”.

1 **SEC. 203. TECHNICAL AND CONFORMING AMENDMENT.**

2 Section 104 of the Intercountry Adoption Act of 2000
3 (42 U.S.C. 14914) is repealed.

4 **SEC. 204. TRANSFER OF FUNCTIONS.**

5 (a) IN GENERAL.—Subject to subsection (c), all func-
6 tions under the immigration laws of the United States
7 with respect to the adoption of foreign-born children by
8 United States citizens and their admission to the United
9 States that have been vested by statute in, or exercised
10 by, the Secretary of Homeland Security immediately prior
11 to the effective date of this Act, are transferred to the
12 Secretary of State on the effective date of this Act and
13 shall be carried out by the Ambassador at Large, under
14 the supervision of the Secretary of State, in accordance
15 with applicable laws and this Act.

16 (b) EXERCISE OF AUTHORITIES.—Except as other-
17 wise provided by law, the Ambassador at Large may, for
18 purposes of performing any function transferred to the
19 Ambassador at Large under subsection (a), exercise all
20 authorities under any other provision of law that were
21 available with respect to the performance of that function
22 to the official responsible for the performance of the func-
23 tion immediately before the effective date of the transfer
24 of the function pursuant to this subtitle.

25 (c) LIMITATION ON TRANSFER OF PENDING ADOP-
26 TIONS.—If an individual has filed a petition with the Im-

1 migration and Naturalization Service or the Department
2 of Homeland Security with respect to the adoption of a
3 foreign-born child prior to the date of enactment of this
4 Act, the Secretary of Homeland Security shall have the
5 authority to make the final determination on such petition
6 and such petition shall not be transferred to the Office.

7 **SEC. 205. TRANSFER OF RESOURCES.**

8 Subject to section 1531 of title 31, United States
9 Code, upon the effective date of this Act, there are trans-
10 ferred to the Ambassador at Large for appropriate alloca-
11 tion in accordance with this Act, the assets, liabilities, con-
12 tracts, property, records, and unexpended balance of ap-
13 propriations, authorizations, allocations, and other funds
14 employed, held, used, arising from, available to, or to be
15 made available to the Department of Homeland Security
16 in connection with the functions transferred pursuant to
17 this subtitle.

18 **SEC. 206. INCIDENTAL TRANSFERS.**

19 The Ambassador at Large may make such additional
20 incidental dispositions of personnel, assets, liabilities,
21 grants, contracts, property, records, and unexpended bal-
22 ances of appropriations, authorizations, allocations, and
23 other funds held, used, arising from, available to, or to
24 be made available in connection with such functions, as
25 may be necessary to carry out this subtitle. The Amba-

1 sador at Large shall provide for such further measures
2 and dispositions as may be necessary to effectuate the pur-
3 poses of this subtitle.

4 **SEC. 207. SAVINGS PROVISIONS.**

5 (a) LEGAL DOCUMENTS.—All orders, determinations,
6 rules, regulations, permits, grants, loans, contracts, agree-
7 ments, including collective bargaining agreements, certifi-
8 cates, licenses, and privileges—

9 (1) that have been issued, made, granted, or al-
10 lowed to become effective by the President, the Am-
11 bassador at Large, the former Commissioner of the
12 Immigration and Naturalization Service, or the Sec-
13 retary of Homeland Security, or their delegates, or
14 any other Government official, or by a court of com-
15 petent jurisdiction, in the performance of any func-
16 tion that is transferred pursuant to this subtitle; and

17 (2) that are in effect on the effective date of
18 such transfer (or become effective after such date
19 pursuant to their terms as in effect on such effective
20 date);

21 shall continue in effect according to their terms until
22 modified, terminated, superseded, set aside, or revoked in
23 accordance with law by the President, any other author-
24 ized official, a court of competent jurisdiction, or operation
25 of law, except that any collective bargaining agreement

1 shall remain in effect until the date of termination speci-
2 fied in the agreement.

3 (b) PROCEEDINGS.—

4 (1) PENDING.—The transfer of functions under
5 section 204 shall not affect any proceeding or any
6 application for any benefit, service, license, permit,
7 certificate, or financial assistance pending on the ef-
8 fective date of this subtitle before an office whose
9 functions are transferred pursuant to this subtitle,
10 but such proceedings and applications shall be con-
11 tinued.

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

20 (3) DISCONTINUANCE OR MODIFICATION.—
21 Nothing in this section shall be considered to pro-
22 hibit the discontinuance or modification of any such
23 proceeding under the same terms and conditions and
24 to the same extent that such proceeding could have

1 been discontinued or modified if this section had not
2 been enacted.

3 (c) SUITS.—This subtitle shall not affect suits com-
4 menced before the effective date of this subtitle, and in
5 all such suits, proceeding shall be had, appeals taken, and
6 judgments rendered in the same manner and with the
7 same effect as if this Act had not been enacted.

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

16 (e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF
17 PARTIES.—If any Government officer in the official capac-
18 ity of such officer is party to a suit with respect to a func-
19 tion of the officer, and pursuant to this subtitle such func-
20 tion is transferred to any other officer or office, then such
21 suit shall be continued with the other officer or the head
22 of such other office, as applicable, substituted or added
23 as a party.

24 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
25 VIEW.—Except as otherwise provided by this subtitle, any

1 statutory requirements relating to notice, hearings, action
 2 upon the record, or administrative or judicial review that
 3 apply to any function transferred pursuant to any provi-
 4 sion of this subtitle shall apply to the exercise of such
 5 function by the head of the office, and other officers of
 6 the office, to which such function is transferred pursuant
 7 to such provision.

8 **TITLE III—REFORM OF UNITED**
 9 **STATES LAWS GOVERNING**
 10 **INTERCOUNTRY ADOPTIONS**

11 **SEC. 301. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR**
 12 **ADOPTED CHILDREN BORN OUTSIDE THE**
 13 **UNITED STATES.**

14 (a) AUTOMATIC CITIZENSHIP PROVISIONS.—

15 (1) AMENDMENT OF THE INA.—Section 320 of
 16 the Immigration and Nationality Act (8 U.S.C.
 17 1431) is amended to read as follows:

18 **“SEC. 320. CONDITIONS FOR AUTOMATIC CITIZENSHIP FOR**
 19 **CHILDREN BORN OUTSIDE THE UNITED**
 20 **STATES.**

21 “(a) IN GENERAL.—A child born outside of the
 22 United States automatically becomes a citizen of the
 23 United States—

24 “(1) if the child is not an adopted child—

1 “(A) at least 1 parent of the child is a cit-
2 izen of the United States, whether by birth or
3 naturalization, who has been physically present
4 (as determined under subsection (b)) in the
5 United States or its outlying possessions for a
6 period or periods totaling not less than 5 years,
7 at least 2 of which were after attaining the age
8 of 14 years; and

9 “(B) the child is under the age of 18
10 years; or

11 “(2) if the child is an adopted child, on the date
12 of the full and final adoption of the child—

13 “(A) at least 1 parent of the child is a cit-
14 izen of the United States, whether by birth or
15 naturalization, who has been physically present
16 (as determined under subsection (b)) in the
17 United States or its outlying possessions for a
18 period or periods totaling not less than 5 years,
19 at least 2 of which were after attaining the age
20 of 14 years;

21 “(B) the child is an adoptable child;

22 “(C) the child is the beneficiary of a full
23 and final adoption decree entered by a foreign
24 government or a court in the United States;
25 and

1 “(D) the child is under the age of 16
2 years.

3 “(b) PHYSICAL PRESENCE.—For the purposes of
4 subsection (a)(2)(A), the requirement for physical pres-
5 ence in the United States or its outlying possessions may
6 be satisfied by the following:

7 “(1) Any periods of honorable service in the
8 Armed Forces of the United States.

9 “(2) Any periods of employment with the
10 United States Government or with an international
11 organization as that term is defined in section 1 of
12 the International Organizations Immunities Act (22
13 U.S.C. 288) by such citizen parent.

14 “(3) Any periods during which such citizen par-
15 ent is physically present outside the United States or
16 its outlying possessions as the dependent unmarried
17 son or daughter and a member of the household of
18 a person—

19 “(A) honorably serving with the Armed
20 Forces of the United States; or

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

1 “(c) FULL AND FINAL ADOPTION.—In this section,
2 the term ‘full and final adoption’ means an adoption—

3 “(1) that is completed under the laws of the
4 child’s country of residence or the State law of the
5 parent’s residence;

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

8 “(3) that has the force and effect of severing
9 the child’s legal ties to the child’s biological parents;

10 “(4) under which the adoptive parents meet the
11 requirements of section 305 of the Intercountry
12 Adoption Reform Act of 2006; and

13 “(5) under which the child has been adjudicated
14 to be an adoptable child in accordance with section
15 306 of the Intercountry Adoption Reform Act of
16 2006.”.

17 (b) CONFORMING AMENDMENT.—The table of con-
18 tents in the first section of the Immigration and Nation-
19 ality Act (66 Stat. 163) is amended by striking the item
20 relating to section 320 and inserting the following:

“Sec. 320. Conditions for automatic citizenship for children born outside the
United States.”.

21 (c) EFFECTIVE DATE.—This section shall take effect
22 as if enacted on June 27, 1952.

1 **SEC. 302. REVISED PROCEDURES.**

2 Notwithstanding any other provision of law, the fol-
3 lowing requirements shall apply with respect to the adop-
4 tion of foreign born children by United States citizens:

5 (1) Upon completion of a full and final adop-
6 tion, the Secretary shall issue a United States pass-
7 port and a Consular Report of Birth for a child who
8 satisfies the requirements of section 320(a)(2) of the
9 Immigration and Nationality Act (8 U.S.C.
10 1431(a)(2)), as amended by section 301 of this Act,
11 upon application by a United States citizen parent.

12 (2) An adopted child described in paragraph (1)
13 shall not require the issuance of a visa for travel and
14 admission to the United States but shall be admitted
15 to the United States upon presentation of a valid,
16 unexpired United States passport.

17 (3) No affidavit of support under section 213A
18 of the Immigration and Nationality Act (8 U.S.C.
19 1183a) shall be required in the case of any adopt-
20 able child.

21 (4) The Secretary of State, acting through the
22 Ambassador at Large, shall require that agencies
23 provide prospective adoptive parents an opportunity
24 to conduct an independent medical exam and a copy
25 of any medical records of the child known to exist
26 (to the greatest extent practicable, these documents

1 shall include an English translation) on a date that
2 is not later than the earlier of the date that is 2
3 weeks before the adoption, or the date on which pro-
4 spective adoptive parents travel to such a foreign
5 country to complete all procedures in such country
6 relating to adoption.

7 (5) The Secretary of State, acting through the
8 Ambassador at Large, shall take necessary measures
9 to ensure that all prospective adoptive parents
10 adopting internationally are provided with training
11 that includes counseling and guidance for the pur-
12 pose of promoting a successful intercountry adoption
13 before such parents travel to adopt the child or the
14 child is placed with such parents for adoption.

15 (6) The Secretary of State, acting through the
16 Ambassador at Large, shall take necessary measures
17 to ensure that—

18 (A) prospective adoptive parents are given
19 full disclosure of all direct and indirect costs of
20 intercountry adoption before the parents are
21 matched with a child for adoption;

22 (B) fees charged in relation to the inter-
23 country adoption be on a fee-for-service basis
24 not on a contingent fee basis; and

1 (C) that the transmission of fees between
2 the adoption agency, the country of origin, and
3 the prospective adoptive parents is carried out
4 in a transparent and efficient manner.

5 (7) The Secretary of State, acting through the
6 Ambassador at Large, shall take all measures nec-
7 essary to ensure that all documents provided to a
8 country of origin on behalf of a prospective adoptive
9 parent are truthful and accurate.

10 **SEC. 303. NONIMMIGRANT VISAS FOR CHILDREN TRAV-**
11 **ELING TO THE UNITED STATES TO BE ADOPT-**
12 **ED BY A UNITED STATES CITIZEN.**

13 (a) NONIMMIGRANT CLASSIFICATION.—

14 (1) IN GENERAL.—Section 101(a)(15) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1101(a)(15)) is amended by adding at the end the
17 following:

18 “(W) an adoptable child who is coming into the
19 United States for adoption by a United States cit-
20 izen and a spouse jointly or by an unmarried United
21 States citizen at least 25 years of age, who has been
22 approved to adopt by the Office of International
23 Adoption of the Department of State.”.

1 (2) TECHNICAL AND CONFORMING AMEND-
2 MENTS.—Such section 101(a)(15) is further amend-
3 ed—

4 (A) by striking “or” at the end of subpara-
5 graph (U); and

6 (B) by striking the period at the end of
7 subparagraph (V) and inserting “; or”.

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

12 “(s) In the case of a nonimmigrant described in sec-
13 tion 101(a)(15)(W), the period of authorized admission
14 shall terminate on the earlier of—

15 “(1) the date on which the adoption of the non-
16 immigrant is completed by the courts of the State
17 where the parents reside; or

18 “(2) the date that is 4 years after the date of
19 admission of the nonimmigrant into the United
20 States, unless a petitioner is able to show cause as
21 to why the adoption could not be completed prior to
22 such date and the Secretary of State extends such
23 period for the period necessary to complete the adop-
24 tion.”.

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

8 (d) EXCEPTION FROM IMMUNIZATION REQUIREMENT
9 FOR CERTAIN ADOPTED CHILDREN.—Section
10 212(a)(1)(C) of the Immigration and Nationality Act (8
11 U.S.C. 1182(a)(1)(C)) is amended—

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

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

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

20 **SEC. 304. DEFINITION OF ADOPTABLE CHILD.**

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

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

1 “(A)(i) whose biological parents (or parent, in
2 the case of a child who has one sole or surviving
3 parent) or other persons or institutions that retain
4 legal custody of the child—

5 “(I) have freely given their written irrev-
6 ocable consent to the termination of their legal
7 relationship with the child, and to the child’s
8 emigration and adoption and that such consent
9 has not been induced by payment or compensa-
10 tion of any kind and has not been given prior
11 to the birth of the child;

12 “(II) are unable to provide proper care for
13 the child, as determined by the competent au-
14 thority of the child’s residence; or

15 “(III) have voluntarily relinquished the
16 child to the competent authorities pursuant to
17 the law of the child’s residence; or

18 “(ii) who, as determined by the competent au-
19 thority of the child’s residence—

20 “(I) has been abandoned or deserted by
21 their biological parent, parents, or legal guard-
22 ians; or

23 “(II) has been orphaned due to the death
24 or disappearance of their biological parent, par-
25 ents, or legal guardians;

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

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

15 “(D) with respect to whom the Secretary of
16 State, is satisfied that there has been no induce-
17 ment, financial or otherwise, offered to obtain the
18 consent nor was it given before the birth of the
19 child;

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

24 “(F) whose eligibility for adoption and emigra-
25 tion to the United States has been certified by the

1 competent authority of the country of the child’s
2 place of birth or residence.”.

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

8 **SEC. 305. APPROVAL TO ADOPT.**

9 (a) IN GENERAL.—Prior to the issuance of a visa
10 under section 101(a)(15)(W) of the Immigration and Na-
11 tionality Act, as added by section 303(a) of this Act, or
12 the issuance of a full and final adoption decree, the United
13 States citizen adoptive parent shall have approved by the
14 Office a petition to adopt. Such petition shall be subject
15 to the same terms and conditions as are applicable to peti-
16 tions for classification under section 204.3 of title 8 of
17 the Code of Federal Regulations, as in effect on the day
18 before the date of enactment of this Act.

19 (b) EXPIRATION OF APPROVAL.—Approval to adopt
20 under this Act is valid for 24 months from the date of
21 approval. Nothing in this section may prevent the Sec-
22 retary of Homeland Security from periodically updating
23 the fingerprints of an individual who has filed a petition
24 for adoption.

1 (c) EXPEDITED REAPPROVAL PROCESS OF FAMILIES
2 PREVIOUSLY APPROVED TO ADOPT.—The Secretary of
3 State shall prescribe such regulations as may be necessary
4 to provide for an expedited and streamlined process for
5 families who have been previously approved to adopt and
6 whose approval has expired, so long as not more than 4
7 years have lapsed since the original application.

8 (d) DENIAL OF PETITION.—

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

15 (2) PETITIONER’S RIGHT TO RESPOND.—Upon
16 receiving a notice of intent to deny, the petitioner
17 has 30 days to respond to such notice.

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

23 (4) RIGHT TO AN APPEAL.—Unfavorable deci-
24 sions may be appealed to the Department of State
25 and, after the exhaustion of the appropriate appeals

1 process of the Department, to a United States dis-
2 trict court.

3 (5) REGULATIONS REGARDING APPEALS.—Not
4 later than 6 months after the date of enactment of
5 this Act, the Secretary of State shall promulgate for-
6 mal regulations regarding the process for appealing
7 the denial of a petition.

8 **SEC. 306. ADJUDICATION OF CHILD STATUS.**

9 (a) IN GENERAL.—Prior to the issuance of a full and
10 final adoption decree or a visa under section
11 101(a)(15)(W) of the Immigration and Nationality Act,
12 as added by section 303(a) of this Act—

13 (1) the Ambassador at Large shall obtain from
14 the competent authority of the country of the child's
15 residence a certification, together with documentary
16 support, that the child sought to be adopted meets
17 the definition of an adoptable child; and

18 (2) not later than 15 days after the date of the
19 receipt of the certification referred to in paragraph
20 (1), the Secretary of State shall make a final deter-
21 mination on whether the certification and the docu-
22 mentary support are sufficient to meet the require-
23 ments of this section or whether additional investiga-
24 tion or information is required.

25 (b) PROCESS FOR DETERMINATION.—

1 (1) IN GENERAL.—The Ambassador at Large
2 shall work with the competent authorities of the
3 child’s country of residence to establish a uniform,
4 transparent, and efficient process for the exchange
5 and approval of the certification and documentary
6 support required under subsection (a).

7 (2) NOTICE OF INTENT.—If the Secretary of
8 State determines that a certification submitted by
9 the competent authority of the child’s country of ori-
10 gin is not readily approvable, the Ambassador at
11 Large shall—

12 (A) notify the competent authority and the
13 prospective adoptive parents, in writing, of the
14 specific reasons why the certification is not suf-
15 ficient; and

16 (B) provide the competent authority and
17 the prospective adoptive parents the oppor-
18 tunity to address the stated insufficiencies.

19 (3) PETITIONERS RIGHT TO RESPOND.—Upon
20 receiving a notice of intent to find that a certifi-
21 cation is not readily approvable, the prospective
22 adoptive parents shall have 30 days to respond to
23 such notice.

24 (4) DECISION.—Not later than 30 days after
25 the date of receipt of a response submitted under

1 paragraph (3), the Secretary of State shall reach a
2 final decision regarding the child's eligibility as an
3 adoptable child. Notice of such decision must be in
4 writing.

5 (5) RIGHT TO AN APPEAL.—Unfavorable deci-
6 sions on a certification may be appealed through the
7 appropriate process of the Department of State and,
8 after the exhaustion of such process, to a United
9 States district court.

10 **SEC. 307. FUNDS.**

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

- 13 (1) the hiring of staff for the Office;
14 (2) investigations conducted by such staff; and
15 (3) travel and other expenses necessary to carry
16 out this Act.

17 **TITLE IV—ENFORCEMENT**

18 **SEC. 401. CIVIL PENALTIES AND ENFORCEMENT.**

19 (a) CIVIL PENALTIES.—A person shall be subject, in
20 addition to any other penalty that may be prescribed by
21 law, to a civil money penalty of not more than \$50,000
22 for a first violation, and not more than \$100,000 for each
23 succeeding violation if such person—

- 24 (1) violates a provision of this Act or an amend-
25 ment made by this Act;

1 (2) makes a false or fraudulent statement, or
2 misrepresentation, with respect to a material fact, or
3 offers, gives, solicits, or accepts inducement by way
4 of compensation, intended to influence or affect in
5 the United States or a foreign country—

6 (A) a decision for an approval under title
7 II;

8 (B) the relinquishment of parental rights
9 or the giving of parental consent relating to the
10 adoption of a child; or

11 (C) a decision or action of any entity per-
12 forming a central authority function; or

13 (3) engages another person as an agent, wheth-
14 er in the United States or in a foreign country, who
15 in the course of that agency takes any of the actions
16 described in paragraph (1) or (2).

17 (b) CIVIL ENFORCEMENT.—

18 (1) AUTHORITY OF ATTORNEY GENERAL.—The
19 Attorney General may bring a civil action to enforce
20 subsection (a) against any person in any United
21 States district court.

22 (2) FACTORS TO BE CONSIDERED IN IMPOSING
23 PENALTIES.—In imposing penalties the court shall
24 consider the gravity of the violation, the degree of

1 culpability of the defendant, and any history of prior
2 violations by the defendant.

3 **SEC. 402. CRIMINAL PENALTIES.**

4 Whoever knowingly and willfully commits a violation
5 described in paragraph (1) or (2) of section 401(a) shall
6 be subject to a fine of not more than \$250,000, imprison-
7 ment for not more than 5 years, or both.

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