

TO EXEMPT INTERNATIONALLY ADOPTED CHILDREN 10
YEARS OF AGE OR YOUNGER FROM THE IMMUNIZATION
REQUIREMENT

OCTOBER 1, 1997.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2464]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2464) to amend the Immigration and Nationality Act to exempt internationally adopted children under age 10 from the immunization requirement, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXEMPTION FOR INTERNATIONALLY ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER FROM THE IMMUNIZATION REQUIREMENT.

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

(1) in subparagraph (A)(ii), by inserting “except as provided in subparagraph (C),” after “(i)”; and

(2) by adding at the end the following:

“(C) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER.—Clause (ii) of subparagraph (A) shall not apply to a child who—

“(i) is 10 years of age or younger,

“(ii) is described in section 101(b)(1)(F), and

“(iii) is seeking an immigrant visa as an immediate relative under section 201(b),

if, prior to the admission of the child, a parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the provisions of subparagraph (A)(ii) and will ensure that, within 30 days of the child’s admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in such subparagraph.”.

Amend the title so as to read:

A bill to amend the Immigration and Nationality Act to exempt internationally adopted children 10 years of age or younger from the immunization requirement.

PURPOSE AND SUMMARY

This legislation will exempt children age 10 years and under who are admitted to the United States as orphans being adopted (or having been adopted) by a United States citizen from the requirement adopted in section 341 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Div. C) (IIRIRA) that immigrants, prior to lawful admission, have received vaccinations against specified communicable diseases.

BACKGROUND AND NEED FOR THE LEGISLATION

The intent of section 341 of the IIRIRA was to protect the public health by ensuring that immigrants entering the United States receive standard vaccinations against at least the following communicable diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices.

The case of orphan children being adopted by a United States citizen parent and sponsored for admission to the United States presents special circumstances that justify a waiver from this vaccination requirement. Adoptive parents of international orphans, who have often endured great financial cost and other sacrifice to become parents, can be presumed to be solicitous of the health needs

of their children, including ensuring that appropriate vaccines are administered. The Committee also is aware that requiring vaccines to be administered prior to departure for the United States could impose genuine hardship, especially in cases where parents (or prospective parents in cases where the adoption is to take place after arrival in the United States) meet their new children a few days or less prior to departure. Since adoptive parents may be concerned regarding the quality of vaccines administered in certain foreign countries, these parents are likely to have the vaccines repeated once the child arrives in the United States. Finally, for very young children, existing vaccination requirements under State law (especially those connected with admission to school) will help ensure that these children are vaccinated.

COMMITTEE CONSIDERATION

On September 17, 1997, the Committee met in open session and ordered reported favorably the bill H.R. 2464 with an amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

ROLLCALL NO. 1

Amendment in the nature of a substitute by Mr. Delahunt to the amendment by Mr. McCollum to modify the requirement in the underlying amendment that adoptive parents verify that they will ensure that the immigrant child receives appropriate vaccinations within 30 days of admission or at the earliest time that is medically appropriate. The amendment was defeated by a vote of 9–19.

AYES

Mr. Conyers
Mr. Frank
Mr. Nadler
Mr. Scott
Mr. Watt
Ms. Lofgren
Ms. Jackson Lee
Mr. Meehan
Mr. Delahunt

NAYS

Mr. Sensenbrenner
Mr. McCollum
Mr. Gekas
Mr. Coble
Mr. Smith
Mr. Canady
Mr. Inglis
Mr. Goodlatte
Mr. Buyer
Mr. Bono
Mr. Bryant
Mr. Chabot
Mr. Barr
Mr. Jenkins
Mr. Hutchinson
Mr. Pease
Mr. Cannon
Mr. Rothman
Mr. Hyde

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2464, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 24, 1997.

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2464, a bill to amend the Immigration and Nationality Act to exempt internationally adopted children under age 10 from the immunization requirement.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 2464—Immigration and Nationality Act to exempt internationally adopted children under age 10 from the immunization requirement

CBO estimates that enacting H.R. 2464 would have no significant impact on the federal budget. The legislation would make it easier for a small number of adopted children under age 10 to obtain immigrant visas. Therefore, enacting H.R. 2464 could affect the amount of fees collected by the Immigration and Naturalization Service, and pay-as-you-go procedures would apply. Because the number of children affected would be very small, however, CBO es-

timates that any effects on direct spending would not be significant.

This legislation contains no new intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no cost on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8, clause 4 of the Constitution.

SECTION-BY-SECTION ANALYSIS

This legislation exempts a child age 10 years and under who is being sponsored for admission to the United States as an orphan being adopted (or having been adopted) by a United States citizen from the requirement adopted in section 341 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Div. C) (IIRIRA) that immigrants, prior to lawful admission, have received vaccinations against specified communicable diseases.

The legislation amends section 212(a)(1) of the Immigration and Nationality Act (INA) by adding a new subparagraph (C) exempting children age 10 years and under who are described in section 101(b)(1)(F) of the INA from the vaccination requirement set forth in section 212(a)(1)(A)(ii) of the INA.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SECTION 212 OF THE IMMIGRATION AND NATIONALITY ACT

* * * * *

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. (a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) HEALTH-RELATED GROUNDS.—

(A) IN GENERAL.—Any alien—

(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and

Human Services) to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome,

(ii) *except as provided in subparagraph (C)*, who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices,

* * * * *

(C) *EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER.—*Clause (ii) of subparagraph (A) shall not apply to a child who—

(i) *is 10 years of age or younger,*

(ii) *is described in section 101(b)(1)(F), and*

(iii) *is seeking an immigrant visa as an immediate relative under section 201(b),*

if, prior to the admission of the child, a parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the provisions of subparagraph (A)(ii) and will ensure that, within 30 days of the child's admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in such subparagraph.

* * * * *

ADDITIONAL VIEWS

We strongly support this corrective legislation. However, we wish to express our concern regarding the amendment adopted in committee to impose a new requirement on adoptive parents that is both gratuitous and unenforceable.

Every year, American families provide loving homes to some 12,000 orphaned and abandoned children living in countries that cannot care for them. These adoptive families endure innumerable bureaucratic obstacles and delays that frequently take many months or even years to overcome.

Last year, Congress enacted a new vaccination requirement that had the unintended consequence of making the international adoption process even more expensive, cumbersome and time-consuming for these families, while posing serious potential health risks to the children themselves.¹

Prior to the enactment of this requirement, internationally adopted children were routinely given the necessary immunizations once they had arrived in the United States. The bill would allow a return to this practice by exempting from the requirement foreign-born children aged 10 and younger who are adopted by American families.

We wish to emphasize that everyone wants these children to get the immunizations they need. The only question addressed by the bill is whether we will allow the adoptive parents to see that these medical procedures are conducted safely and in an orderly way.

Like most other parents, adoptive parents want to see that their child receives the best possible medical care—including the proper immunizations—from a physician they know and trust. Not from a stranger in a poor, war-torn nation, where their child is at risk from adverse reactions, vaccines that are unsafe or ineffective, and unsterile needles and syringes.

There is no evidence whatsoever that allowing the parents to have their children vaccinated in the United States has ever caused a public health problem, and there is no reason that this bill would do so either.

The bill is strongly supported by the adoption community, parent groups and physicians with expertise in the medical aspects of international adoption. These groups include the Joint Council on International Children's Services, Adoptive Families of America, the National Council for Adoption, the American Academy of Pedi-

¹ Section 212 of the Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1182) provides that immigrant aliens are ineligible for admission if they fail to present documentation of having received, prior to their admission, a series of vaccinations against vaccine-preventable diseases. This provision applies to all immigrants, including young children adopted by U.S. citizens. While current law allows adoptive parents to seek a medical waiver of the requirement, this waiver must be granted on a case-by-case basis and is entirely within the discretion of the Attorney General.

atrics, and the Child Welfare League. We strongly agree with them, and enthusiastically support the bill.

Our sole reservation concerns the amendment by Mr. McCollum that was adopted in committee, which adds to the bill a completely unnecessary requirement that the adoptive parents sign an affidavit that their children will be vaccinated within 30 days following their admission to the United States, or at the earliest time that is medically appropriate.

The requirement is unnecessary because that is precisely what the adoptive parents intend to do. Indeed, that is the entire purpose of the bill—to see to it that it is the parents who make the medical decisions for their newly adopted children.

When asked to justify their double standard, the proponents of the amendment could not cite a single case in which adoptive parents have failed to have them vaccinated. On the contrary, the evidence indicates that parents who have been through the rigors of the international adoption process do all they can to ensure that their adopted children receive prompt and regular medical care. Indeed, by the time that process is completed, parents who would hesitate to take their child to a physician have long since been weeded out.

Should the parents nevertheless fail in their responsibilities, the states have ample rules in place to ensure that these children—and their American-born classmates—receive the necessary immunizations before they enter licensed day care centers or enroll in school. The bill would have no effect whatsoever on these state requirements and is entirely consistent with them.

It is unnecessary to require these parents to sign an affidavit that they will do their duty by their children. We might as well tell *every* parent that they have an obligation to immunize their child against these childhood diseases. We might add that they should be sure their child is given three healthy meals a day and clean and safe surroundings.

The requirement is also unenforceable. Unless we mean to establish a massive new federal bureaucracy to track compliance with this new parental mandate, we will continue to rely on the parents themselves to do that which they would have done in the absence of the requirement.

We do agree with the majority that we should do all we can to see that parents are given the most up-to-date information regarding the immunizations their child should receive.

At the markup, Mr. Delahunt offered an amendment to the McCollum amendment, which would have ensured that adoptive parents be given information as to the immunizations their child should receive, and that they be required to acknowledge their receipt of this information. Unfortunately, the Delahunt amendment was defeated on a party-line vote.

While we take strong exception to this portion of the bill, we are very supportive of the legislation as a whole and urge its prompt enactment.

JOHN CONYERS, Jr.
ZOE LOFGREN.
MAXINE WATERS.
WILLIAM D. DELAHUNT.

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BARNEY FRANK.
JERROLD NADLER.
MELVIN L. WATT.
SHEILA JACKSON LEE.
MARTIN T. MEEHAN.

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