

In the Senate of the United States,

July 27, 2000.

Resolved, That the bill from the House of Representatives (H.R. 2909) entitled “An Act to provide for implementation by the United States of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the*

3 *“Intercountry Adoption Act of 2000”.*

1 **(b) TABLE OF CONTENTS.**—*The table of contents of this*
 2 *Act is as follows:*

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

TITLE I—UNITED STATES CENTRAL AUTHORITY

- Sec. 101. Designation of central authority.*
Sec. 102. Responsibilities of the Secretary of State.
Sec. 103. Responsibilities of the Attorney General.
Sec. 104. Annual report on intercountry adoptions.

TITLE II—PROVISIONS RELATING TO ACCREDITATION AND APPROVAL

- Sec. 201. Accreditation or approval required in order to provide adoption services in cases subject to the Convention.*
Sec. 202. Process for accreditation and approval; role of accrediting entities.
Sec. 203. Standards and procedures for providing accreditation or approval.
Sec. 204. Secretarial oversight of accreditation and approval.
Sec. 205. State plan requirement.

TITLE III—RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES

- Sec. 301. Adoptions of children immigrating to the United States.*
Sec. 302. Immigration and Nationality Act amendments relating to children adopted from Convention countries.
Sec. 303. Adoptions of children emigrating from the United States.

TITLE IV—ADMINISTRATION AND ENFORCEMENT

- Sec. 401. Access to Convention records.*
Sec. 402. Documents of other Convention countries.
Sec. 403. Authorization of appropriations; collection of fees.
Sec. 404. Enforcement.

TITLE V—GENERAL PROVISIONS

- Sec. 501. Recognition of Convention adoptions.*
Sec. 502. Special rules for certain cases.
Sec. 503. Relationship to other laws.
Sec. 504. No private right of action.
Sec. 505. Effective dates; transition rule.

3 **SEC. 2. FINDINGS AND PURPOSES.**

4 **(a) FINDINGS.**—*Congress recognizes—*

- 5 **(1) the international character of the Convention**
 6 **on Protection of Children and Co-operation in Re-**

1 *spect of Intercountry Adoption (done at The Hague*
2 *on May 29, 1993), and*

3 *(2) the need for uniform interpretation and im-*
4 *plementation of the Convention in the United States*
5 *and abroad,*

6 *and therefore finds that enactment of a Federal law gov-*
7 *erning adoptions and prospective adoptions subject to the*
8 *Convention involving United States residents is essential.*

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

10 *(1) to provide for implementation by the United*
11 *States of the Convention;*

12 *(2) to protect the rights of, and prevent abuses*
13 *against, children, birth families, and adoptive parents*
14 *involved in adoptions (or prospective adoptions) sub-*
15 *ject to the Convention, and to ensure that such adop-*
16 *tions are in the children’s best interests; and*

17 *(3) to improve the ability of the Federal Govern-*
18 *ment to assist United States citizens seeking to adopt*
19 *children from abroad and residents of other countries*
20 *party to the Convention seeking to adopt children*
21 *from the United States.*

22 **SEC. 3. DEFINITIONS.**

23 *As used in this Act:*

24 *(1) ACCREDITED AGENCY.—The term “accredited*
25 *agency” means an agency accredited under title II to*

1 *provide adoption services in the United States in*
2 *cases subject to the Convention.*

3 (2) *ACCREDITING ENTITY.*—*The term “accred-*
4 *iting entity” means an entity designated under sec-*
5 *tion 202(a) to accredit agencies and approve persons*
6 *under title II.*

7 (3) *ADOPTION SERVICE.*—*The term “adoption*
8 *service” means—*

9 (A) *identifying a child for adoption and ar-*
10 *ranging an adoption;*

11 (B) *securing necessary consent to termi-*
12 *nation of parental rights and to adoption;*

13 (C) *performing a background study on a*
14 *child or a home study on a prospective adoptive*
15 *parent, and reporting on such a study;*

16 (D) *making determinations of the best in-*
17 *terests of a child and the appropriateness of*
18 *adoptive placement for the child;*

19 (E) *post-placement monitoring of a case*
20 *until final adoption; and*

21 (F) *where made necessary by disruption be-*
22 *fore final adoption, assuming custody and pro-*
23 *viding child care or any other social service*
24 *pending an alternative placement.*

1 The term “providing”, with respect to an adoption
2 service, includes facilitating the provision of the serv-
3 ice.

4 (4) *AGENCY*.—The term “agency” means any
5 person other than an individual.

6 (5) *APPROVED PERSON*.—The term “approved
7 person” means a person approved under title II to
8 provide adoption services in the United States in
9 cases subject to the Convention.

10 (6) *ATTORNEY GENERAL*.—Except as used in sec-
11 tion 404, the term “Attorney General” means the At-
12 torney General, acting through the Commissioner of
13 Immigration and Naturalization.

14 (7) *CENTRAL AUTHORITY*.—The term “central
15 authority” means the entity designated as such by
16 any Convention country under Article 6(1) of the
17 Convention.

18 (8) *CENTRAL AUTHORITY FUNCTION*.—The term
19 “central authority function” means any duty re-
20 quired to be carried out by a central authority under
21 the Convention.

22 (9) *CONVENTION*.—The term “Convention”
23 means the Convention on Protection of Children and
24 Co-operation in Respect of Intercountry Adoption,
25 done at The Hague on May 29, 1993.

1 (10) *CONVENTION ADOPTION.*—*The term “Con-*
2 *vention adoption” means an adoption of a child resi-*
3 *dent in a foreign country party to the Convention by*
4 *a United States citizen, or an adoption of a child*
5 *resident in the United States by an individual resid-*
6 *ing in another Convention country.*

7 (11) *CONVENTION RECORD.*—*The term “Conven-*
8 *tion record” means any item, collection, or grouping*
9 *of information contained in an electronic or physical*
10 *document, an electronic collection of data, a photo-*
11 *graph, an audio or video tape, or any other informa-*
12 *tion storage medium of any type whatever that con-*
13 *tains information about a specific past, current, or*
14 *prospective Convention adoption (regardless of wheth-*
15 *er the adoption was made final) that has been pre-*
16 *served in accordance with section 401(a) by the Sec-*
17 *retary of State or the Attorney General.*

18 (12) *CONVENTION COUNTRY.*—*The term “Con-*
19 *vention country” means a country party to the Con-*
20 *vention.*

21 (13) *OTHER CONVENTION COUNTRY.*—*The term*
22 *“other Convention country” means a Convention*
23 *country other than the United States.*

24 (14) *PERSON.*—*The term “person” shall have the*
25 *meaning provided in section 1 of title 1, United*

1 *States Code, and shall not include any agency of gov-*
2 *ernment or tribal government entity.*

3 (15) *PERSON WITH AN OWNERSHIP OR CONTROL*
4 *INTEREST.—The term “person with an ownership or*
5 *control interest” has the meaning given such term in*
6 *section 1124(a)(3) of the Social Security Act (42*
7 *U.S.C. 1320a–3).*

8 (16) *SECRETARY.—The term “Secretary” means*
9 *the Secretary of State.*

10 (17) *STATE.—The term “State” means the 50*
11 *States, the District of Columbia, the Commonwealth*
12 *of Puerto Rico, the Commonwealth of the Northern*
13 *Mariana Islands, Guam, and the Virgin Islands.*

14 **TITLE I—UNITED STATES**
15 **CENTRAL AUTHORITY**

16 **SEC. 101. DESIGNATION OF CENTRAL AUTHORITY.**

17 (a) *IN GENERAL.—For purposes of the Convention and*
18 *this Act—*

19 (1) *the Department of State shall serve as the*
20 *central authority of the United States; and*

21 (2) *the Secretary shall serve as the head of the*
22 *central authority of the United States.*

23 (b) *PERFORMANCE OF CENTRAL AUTHORITY FUNC-*
24 *TIONS.—*

1 (1) *Except as otherwise provided in this Act, the*
2 *Secretary shall be responsible for the performance of*
3 *all central authority functions for the United States*
4 *under the Convention and this Act.*

5 (2) *All personnel of the Department of State per-*
6 *forming core central authority functions in a profes-*
7 *sional capacity in the Office of Children’s Issues shall*
8 *have a strong background in consular affairs, per-*
9 *sonal experience in international adoptions, or profes-*
10 *sional experience in international adoptions or child*
11 *services.*

12 (c) *AUTHORITY TO ISSUE REGULATIONS.—Except as*
13 *otherwise provided in this Act, the Secretary may prescribe*
14 *such regulations as may be necessary to carry out central*
15 *authority functions on behalf of the United States.*

16 **SEC. 102. RESPONSIBILITIES OF THE SECRETARY OF STATE.**

17 (a) *LIAISON RESPONSIBILITIES.—The Secretary shall*
18 *have responsibility for—*

19 (1) *liaison with the central authorities of other*
20 *Convention countries; and*

21 (2) *the coordination of activities under the Con-*
22 *vention by persons subject to the jurisdiction of the*
23 *United States.*

24 (b) *INFORMATION EXCHANGE.—The Secretary shall be*
25 *responsible for—*

1 (1) *providing the central authorities of other*
2 *Convention countries with information concerning—*

3 (A) *accredited agencies and approved per-*
4 *sons, agencies and persons whose accreditation or*
5 *approval has been suspended or canceled, and*
6 *agencies and persons who have been temporarily*
7 *or permanently debarred from accreditation or*
8 *approval;*

9 (B) *Federal and State laws relevant to im-*
10 *plementing the Convention; and*

11 (C) *any other matters necessary and appro-*
12 *priate for implementation of the Convention;*

13 (2) *not later than the date of the entry into force*
14 *of the Convention for the United States (pursuant to*
15 *Article 46(2)(a) of the Convention) and at least once*
16 *during each subsequent calendar year, providing to*
17 *the central authority of all other Convention countries*
18 *a notice requesting the central authority of each such*
19 *country to specify any requirements of such country*
20 *regarding adoption, including restrictions on the eli-*
21 *gibility of persons to adopt, with respect to which in-*
22 *formation on the prospective adoptive parent or par-*
23 *ents in the United States would be relevant;*

24 (3) *making responses to notices under paragraph*
25 *(2) available to—*

1 (A) accredited agencies and approved per-
2 sons; and

3 (B) other persons or entities performing
4 home studies under section 201(b)(1);

5 (4) ensuring the provision of a background re-
6 port (home study) on prospective adoptive parent or
7 parents (pursuant to the requirements of section
8 203(b)(1)(A)(ii)), through the central authority of
9 each child's country of origin, to the court having ju-
10 risdiction over the adoption (or, in the case of a child
11 emigrating to the United States for the purpose of
12 adoption, to the competent authority in the child's
13 country of origin with responsibility for approving
14 the child's emigration) in adequate time to be consid-
15 ered prior to the granting of such adoption or ap-
16 proval;

17 (5) providing Federal agencies, State courts, and
18 accredited agencies and approved persons with an
19 identification of Convention countries and persons
20 authorized to perform functions under the Convention
21 in each such country; and

22 (6) facilitating the transmittal of other appro-
23 priate information to, and among, central authorities,
24 Federal and State agencies (including State courts),
25 and accredited agencies and approved persons.

1 (c) *ACCREDITATION AND APPROVAL RESPONSIBIL-*
2 *ITIES.—The Secretary shall carry out the functions pre-*
3 *scribed by the Convention with respect to the accreditation*
4 *of agencies and the approval of persons to provide adoption*
5 *services in the United States in cases subject to the Conven-*
6 *tion as provided in title II. Such functions may not be dele-*
7 *gated to any other Federal agency.*

8 (d) *ADDITIONAL RESPONSIBILITIES.—The*
9 *Secretary—*

10 (1) *shall monitor individual Convention adop-*
11 *tion cases involving United States citizens; and*

12 (2) *may facilitate interactions between such citi-*
13 *zens and officials of other Convention countries on*
14 *matters relating to the Convention in any case in*
15 *which an accredited agency or approved person is un-*
16 *willing or unable to provide such facilitation.*

17 (e) *ESTABLISHMENT OF REGISTRY.—The Secretary*
18 *and the Attorney General shall jointly establish a case reg-*
19 *istry of all adoptions involving immigration of children*
20 *into the United States and emigration of children from the*
21 *United States, regardless of whether the adoption occurs*
22 *under the Convention. Such registry shall permit tracking*
23 *of pending cases and retrieval of information on both pend-*
24 *ing and closed cases.*

1 (f) *METHODS OF PERFORMING RESPONSIBILITIES.*—

2 *The Secretary may—*

3 (1) *authorize public or private entities to per-*
4 *form appropriate central authority functions for*
5 *which the Secretary is responsible, pursuant to regu-*
6 *lations or under agreements published in the Federal*
7 *Register; and*

8 (2) *carry out central authority functions through*
9 *grants to, or contracts with, any individual or public*
10 *or private entity, except as may be otherwise specifi-*
11 *cally provided in this Act.*

12 **SEC. 103. RESPONSIBILITIES OF THE ATTORNEY GENERAL.**

13 *In addition to such other responsibilities as are specifi-*
14 *cally conferred upon the Attorney General by this Act, the*
15 *central authority functions specified in Article 14 of the*
16 *Convention (relating to the filing of applications by pro-*
17 *spective adoptive parents to the central authority of their*
18 *country of residence) shall be performed by the Attorney*
19 *General.*

20 **SEC. 104. ANNUAL REPORT ON INTERCOUNTRY ADOPTIONS.**

21 (a) *REPORTS REQUIRED.*—*Beginning one year after*
22 *the date of the entry into force of the Convention for the*
23 *United States and each year thereafter, the Secretary, in*
24 *consultation with the Attorney General and other appro-*
25 *priate agencies, shall submit a report describing the activi-*

1 *ties of the central authority of the United States under this*
2 *Act during the preceding year to the Committee on Inter-*
3 *national Relations, the Committee on Ways and Means,*
4 *and the Committee on the Judiciary of the House of Rep-*
5 *resentatives and the Committee on Foreign Relations, the*
6 *Committee on Finance, and the Committee on the Judiciary*
7 *of the Senate.*

8 **(b) REPORT ELEMENTS.**—*Each report under sub-*
9 *section (a) shall set forth with respect to the year concerned,*
10 *the following:*

11 **(1)** *The number of intercountry adoptions in-*
12 *volving immigration to the United States, regardless*
13 *of whether the adoption occurred under the Conven-*
14 *tion, including the country from which each child*
15 *emigrated, the State to which each child immigrated,*
16 *and the country in which the adoption was finalized.*

17 **(2)** *The number of intercountry adoptions in-*
18 *volving emigration from the United States, regardless*
19 *of whether the adoption occurred under the Conven-*
20 *tion, including the country to which each child immi-*
21 *grated and the State from which each child emi-*
22 *grated.*

23 **(3)** *The number of Convention placements for*
24 *adoption in the United States that were disrupted,*
25 *including the country from which the child emigrated,*

1 *the age of the child, the date of the placement for*
2 *adoption, the reasons for the disruption, the resolu-*
3 *tion of the disruption, the agencies that handled the*
4 *placement for adoption, and the plans for the child,*
5 *and in addition, any information regarding disrup-*
6 *tion or dissolution of adoptions of children from other*
7 *countries received pursuant to section 422(b)(14) of*
8 *the Social Security Act, as amended by section 205*
9 *of this Act.*

10 *(4) The average time required for completion of*
11 *a Convention adoption, set forth by country from*
12 *which the child emigrated.*

13 *(5) The current list of agencies accredited and*
14 *persons approved under this Act to provide adoption*
15 *services.*

16 *(6) The names of the agencies and persons tem-*
17 *porarily or permanently debarred under this Act, and*
18 *the reasons for the debarment.*

19 *(7) The range of adoption fees charged in connec-*
20 *tion with Convention adoptions involving immigra-*
21 *tion to the United States and the median of such fees*
22 *set forth by the country of origin.*

23 *(8) The range of fees charged for accreditation of*
24 *agencies and the approval of persons in the United*

1 *States engaged in providing adoption services under*
2 *the Convention.*

3 **TITLE II—PROVISIONS RELAT-**
4 **ING TO ACCREDITATION AND**
5 **APPROVAL**

6 **SEC. 201. ACCREDITATION OR APPROVAL REQUIRED IN**
7 **ORDER TO PROVIDE ADOPTION SERVICES IN**
8 **CASES SUBJECT TO THE CONVENTION.**

9 (a) *IN GENERAL.*—*Except as otherwise provided in*
10 *this title, no person may offer or provide adoption services*
11 *in connection with a Convention adoption in the United*
12 *States unless that person—*

13 (1) *is accredited or approved in accordance with*
14 *this title; or*

15 (2) *is providing such services through or under*
16 *the supervision and responsibility of an accredited*
17 *agency or approved person.*

18 (b) *EXCEPTIONS.*—*Subsection (a) shall not apply to*
19 *the following:*

20 (1) *BACKGROUND STUDIES AND HOME STUD-*
21 *IES.*—*The performance of a background study on a*
22 *child or a home study on a prospective adoptive par-*
23 *ent, or any report on any such study by a social work*
24 *professional or organization who is not providing any*

1 *other adoption service in the case, if the background*
2 *or home study is approved by an accredited agency.*

3 (2) *CHILD WELFARE SERVICES.*—*The provision*
4 *of a child welfare service by a person who is not pro-*
5 *viding any other adoption service in the case.*

6 (3) *LEGAL SERVICES.*—*The provision of legal*
7 *services by a person who is not providing any adop-*
8 *tion service in the case.*

9 (4) *PROSPECTIVE ADOPTIVE PARENTS ACTING ON*
10 *OWN BEHALF.*—*The conduct of a prospective adoptive*
11 *parent on his or her own behalf in the case, to the ex-*
12 *tent not prohibited by the law of the State in which*
13 *the prospective adoptive parent resides.*

14 **SEC. 202. PROCESS FOR ACCREDITATION AND APPROVAL;**
15 **ROLE OF ACCREDITING ENTITIES.**

16 (a) *DESIGNATION OF ACCREDITING ENTITIES.*—

17 (1) *IN GENERAL.*—*The Secretary shall enter into*
18 *agreements with one or more qualified entities under*
19 *which such entities will perform the duties described*
20 *in subsection (b) in accordance with the Convention,*
21 *this title, and the regulations prescribed under section*
22 *203, and upon entering into each such agreement*
23 *shall designate the qualified entity as an accrediting*
24 *entity.*

1 (2) *QUALIFIED ENTITIES.*—*In paragraph (1),*
2 *the term “qualified entity” means—*

3 (A) *a nonprofit private entity that has ex-*
4 *pertise in developing and administering stand-*
5 *ards for entities providing child welfare services*
6 *and that meets such other criteria as the Sec-*
7 *retary may by regulation establish; or*

8 (B) *a public entity (other than a Federal*
9 *entity), including an agency or instrumentality*
10 *of State government having responsibility for li-*
11 *censing adoption agencies, that—*

12 (i) *has expertise in developing and ad-*
13 *ministering standards for entities providing*
14 *child welfare services;*

15 (ii) *accredits only agencies located in*
16 *the State in which the public entity is lo-*
17 *cated; and*

18 (iii) *meets such other criteria as the*
19 *Secretary may by regulation establish.*

20 (b) *DUTIES OF ACCREDITING ENTITIES.*—*The duties*
21 *described in this subsection are the following:*

22 (1) *ACCREDITATION AND APPROVAL.*—*Accredita-*
23 *tion of agencies, and approval of persons, to provide*
24 *adoption services in the United States in cases subject*
25 *to the Convention.*

1 (2) *OVERSIGHT.*—*Ongoing monitoring of the*
2 *compliance of accredited agencies and approved per-*
3 *sons with applicable requirements, including review*
4 *of complaints against such agencies and persons in*
5 *accordance with procedures established by the accred-*
6 *iting entity and approved by the Secretary.*

7 (3) *ENFORCEMENT.*—*Taking of adverse actions*
8 *(including requiring corrective action, imposing sanc-*
9 *tions, and refusing to renew, suspending, or canceling*
10 *accreditation or approval) for noncompliance with*
11 *applicable requirements, and notifying the agency or*
12 *person against whom adverse actions are taken of the*
13 *deficiencies necessitating the adverse action.*

14 (4) *DATA, RECORDS, AND REPORTS.*—*Collection*
15 *of data, maintenance of records, and reporting to the*
16 *Secretary, the United States central authority, State*
17 *courts, and other entities (including on persons and*
18 *agencies granted or denied approval or accreditation),*
19 *to the extent and in the manner that the Secretary re-*
20 *quires.*

21 (c) *REMEDIES FOR ADVERSE ACTION BY ACCREDITING*
22 *ENTITY.*—

23 (1) *CORRECTION OF DEFICIENCY.*—*An agency or*
24 *person who is the subject of an adverse action by an*
25 *accrediting entity may re-apply for accreditation or*

1 *approval (or petition for termination of the adverse*
2 *action) on demonstrating to the satisfaction of the ac-*
3 *crediting entity that the deficiencies necessitating the*
4 *adverse action have been corrected.*

5 (2) *NO OTHER ADMINISTRATIVE REVIEW.—An*
6 *adverse action by an accrediting entity shall not be*
7 *subject to administrative review.*

8 (3) *JUDICIAL REVIEW.—An agency or person*
9 *who is the subject of an adverse action by an accred-*
10 *iting entity may petition the United States district*
11 *court in the judicial district in which the agency is*
12 *located or the person resides to set aside the adverse*
13 *action. The court shall review the adverse action in*
14 *accordance with section 706 of title 5, United States*
15 *Code, and for purposes of such review the accrediting*
16 *entity shall be considered an agency within the mean-*
17 *ing of section 701 of such title.*

18 (d) *FEES.—The amount of fees assessed by accrediting*
19 *entities for the costs of accreditation shall be subject to ap-*
20 *proval by the Secretary. Such fees may not exceed the costs*
21 *of accreditation. In reviewing the level of such fees, the Sec-*
22 *retary shall consider the relative size of, the geographic loca-*
23 *tion of, and the number of Convention adoption cases man-*
24 *aged by the agencies or persons subject to accreditation or*
25 *approval by the accrediting entity.*

1 **SEC. 203. STANDARDS AND PROCEDURES FOR PROVIDING**
2 **ACCREDITATION OR APPROVAL.**

3 (a) *IN GENERAL.*—

4 (1) *PROMULGATION OF REGULATIONS.*—*The Sec-*
5 *retary, shall, by regulation, prescribe the standards*
6 *and procedures to be used by accrediting entities for*
7 *the accreditation of agencies and the approval of per-*
8 *sons to provide adoption services in the United States*
9 *in cases subject to the Convention.*

10 (2) *CONSIDERATION OF VIEWS.*—*In developing*
11 *such regulations, the Secretary shall consider any*
12 *standards or procedures developed or proposed by,*
13 *and the views of, individuals and entities with inter-*
14 *est and expertise in international adoptions and fam-*
15 *ily social services, including public and private enti-*
16 *ties with experience in licensing and accrediting*
17 *adoption agencies.*

18 (3) *APPLICABILITY OF NOTICE AND COMMENT*
19 *RULES.*—*Subsections (b), (c), and (d) of section 553*
20 *of title 5, United States Code, shall apply in the de-*
21 *velopment and issuance of regulations under this sec-*
22 *tion.*

23 (b) *MINIMUM REQUIREMENTS.*—

24 (1) *ACCREDITATION.*—*The standards prescribed*
25 *under subsection (a) shall include the requirement*
26 *that accreditation of an agency may not be provided*

1 *or continued under this title unless the agency meets*
2 *the following requirements:*

3 *(A) SPECIFIC REQUIREMENTS.—*

4 *(i) The agency provides prospective*
5 *adoptive parents of a child in a prospective*
6 *Convention adoption a copy of the medical*
7 *records of the child (which, to the fullest ex-*
8 *tent practicable, shall include an English-*
9 *language translation of such records) on a*
10 *date which is not later than the earlier of*
11 *the date that is 2 weeks before (I) the adop-*
12 *tion, or (II) the date on which the prospec-*
13 *tive parents travel to a foreign country to*
14 *complete all procedures in such country re-*
15 *lating to the adoption.*

16 *(ii) The agency ensures that a thorough*
17 *background report (home study) on the pro-*
18 *spective adoptive parent or parents has been*
19 *completed in accordance with the Conven-*
20 *tion and with applicable Federal and State*
21 *requirements and transmitted to the Attor-*
22 *ney General with respect to each Convention*
23 *adoption. Each such report shall include a*
24 *criminal background check and a full and*
25 *complete statement of all facts relevant to*

1 *the eligibility of the prospective adopting*
2 *parent or parents to adopt a child under*
3 *any requirements specified by the central*
4 *authority of the child’s country of origin*
5 *under section 102(b)(3), including, in the*
6 *case of a child emigrating to the United*
7 *States for the purpose of adoption, the re-*
8 *quirements of the child’s country of origin*
9 *applicable to adoptions taking place in such*
10 *country. For purposes of this clause, the*
11 *term “background report (home study)” in-*
12 *cludes any supplemental statement sub-*
13 *mitted by the agency to the Attorney Gen-*
14 *eral for the purpose of providing informa-*
15 *tion relevant to any requirements specified*
16 *by the child’s country of origin.*

17 *(iii) The agency provides prospective*
18 *adoptive parents with a training program*
19 *that includes counseling and guidance for*
20 *the purpose of promoting a successful inter-*
21 *country adoption before such parents travel*
22 *to adopt the child or the child is placed*
23 *with such parents for adoption.*

24 *(iv) The agency employs personnel pro-*
25 *viding intercountry adoption services on a*

1 *fee for service basis rather than on a contin-*
2 *gent fee basis.*

3 *(v) The agency discloses fully its poli-*
4 *cies and practices, the disruption rates of*
5 *its placements for intercountry adoption,*
6 *and all fees charged by such agency for*
7 *intercountry adoption.*

8 *(B) CAPACITY TO PROVIDE ADOPTION SERV-*
9 *ICES.—The agency has, directly or through ar-*
10 *rangements with other persons, a sufficient num-*
11 *ber of appropriately trained and qualified per-*
12 *sonnel, sufficient financial resources, appropriate*
13 *organizational structure, and appropriate proce-*
14 *dures to enable the agency to provide, in accord-*
15 *ance with this Act, all adoption services in cases*
16 *subject to the Convention.*

17 *(C) USE OF SOCIAL SERVICE PROFES-*
18 *SIONALS.—The agency has established procedures*
19 *designed to ensure that social service functions*
20 *requiring the application of clinical skills and*
21 *judgment are performed only by professionals*
22 *with appropriate qualifications and credentials.*

23 *(D) RECORDS, REPORTS, AND INFORMATION*
24 *MATTERS.—The agency is capable of—*

1 (i) maintaining such records and mak-
2 ing such reports as may be required by the
3 Secretary, the United States central author-
4 ity, and the accrediting entity that accred-
5 its the agency;

6 (ii) cooperating with reviews, inspec-
7 tions, and audits;

8 (iii) safeguarding sensitive individual
9 information; and

10 (iv) complying with other requirements
11 concerning information management nec-
12 essary to ensure compliance with the Con-
13 vention, this Act, and any other applicable
14 law.

15 (E) *LIABILITY INSURANCE.*—The agency
16 agrees to have in force adequate liability insur-
17 ance for professional negligence and any other
18 insurance that the Secretary considers appro-
19 priate.

20 (F) *COMPLIANCE WITH APPLICABLE*
21 *RULES.*—The agency has established adequate
22 measures to comply (and to ensure compliance of
23 their agents and clients) with the Convention,
24 this Act, and any other applicable law.

1 (G) *NONPROFIT ORGANIZATION WITH STATE*
2 *LICENSE TO PROVIDE ADOPTION SERVICES.—The*
3 *agency is a private nonprofit organization li-*
4 *censed to provide adoption services in at least*
5 *one State.*

6 (2) *APPROVAL.—The standards prescribed under*
7 *subsection (a) shall include the requirement that a*
8 *person shall not be approved under this title unless*
9 *the person is a private for-profit entity that meets the*
10 *requirements of subparagraphs (A) through (F) of*
11 *paragraph (1) of this subsection.*

12 (3) *RENEWAL OF ACCREDITATION OR AP-*
13 *PROVAL.—The standards prescribed under subsection*
14 *(a) shall provide that the accreditation of an agency*
15 *or approval of a person under this title shall be for*
16 *a period of not less than 3 years and not more than*
17 *5 years, and may be renewed on a showing that the*
18 *agency or person meets the requirements applicable to*
19 *original accreditation or approval under this title.*

20 (c) *TEMPORARY REGISTRATION OF COMMUNITY BASED*
21 *AGENCIES.—*

22 (1) *ONE-YEAR REGISTRATION PERIOD FOR ME-*
23 *DIUM COMMUNITY BASED AGENCIES.—For a 1-year*
24 *period after the entry into force of the Convention*
25 *and notwithstanding subsection (b), the Secretary*

1 *may provide, in regulations issued pursuant to sub-*
2 *section (a), that an agency may register with the Sec-*
3 *retary and be accredited to provide adoption services*
4 *in the United States in cases subject to the Conven-*
5 *tion during such period if the agency has provided*
6 *adoption services in fewer than 100 intercountry*
7 *adoptions in the preceding calendar year and meets*
8 *the criteria described in paragraph (3).*

9 (2) *TWO-YEAR REGISTRATION PERIOD FOR*
10 *SMALL COMMUNITY-BASED AGENCIES.—For a 2-year*
11 *period after the entry into force of the Convention*
12 *and notwithstanding subsection (b), the Secretary*
13 *may provide, in regulations issued pursuant to sub-*
14 *section (a), that an agency may register with the Sec-*
15 *retary and be accredited to provide adoption services*
16 *in the United States in cases subject to the Conven-*
17 *tion during such period if the agency has provided*
18 *adoption services in fewer than 50 intercountry adop-*
19 *tions in the preceding calendar year and meets the*
20 *criteria described in paragraph (3).*

21 (3) *CRITERIA FOR REGISTRATION.—Agencies reg-*
22 *istered under this subsection shall meet the following*
23 *criteria:*

24 (A) *The agency is licensed in the State in*
25 *which it is located and is a nonprofit agency.*

1 (B) *The agency has been providing adop-*
2 *tion services in connection with intercountry*
3 *adoptions for at least 3 years.*

4 (C) *The agency has demonstrated that it*
5 *will be able to provide the United States Govern-*
6 *ment with all information related to the elements*
7 *described in section 104(b) and provides such in-*
8 *formation.*

9 (D) *The agency has initiated the process of*
10 *becoming accredited under the provisions of this*
11 *Act and is actively taking steps to become an ac-*
12 *credited agency.*

13 (E) *The agency has not been found to be in-*
14 *volved in any improper conduct relating to*
15 *intercountry adoptions.*

16 **SEC. 204. SECRETARIAL OVERSIGHT OF ACCREDITATION**
17 **AND APPROVAL.**

18 (a) *OVERSIGHT OF ACCREDITING ENTITIES.—The Sec-*
19 *retary shall—*

20 (1) *monitor the performance by each accrediting*
21 *entity of its duties under section 202 and its compli-*
22 *ance with the requirements of the Convention, this*
23 *Act, other applicable laws, and implementing regula-*
24 *tions under this Act; and*

1 (2) *suspend or cancel the designation of an ac-*
2 *crediting entity found to be substantially out of com-*
3 *pliance with the Convention, this Act, other applica-*
4 *ble laws, or implementing regulations under this Act.*

5 (b) *SUSPENSION OR CANCELLATION OF ACCREDITA-*
6 *TION OR APPROVAL.—*

7 (1) *SECRETARY’S AUTHORITY.—The Secretary*
8 *shall suspend or cancel the accreditation or approval*
9 *granted by an accrediting entity to an agency or per-*
10 *son pursuant to section 202 when the Secretary finds*
11 *that—*

12 (A) *the agency or person is substantially*
13 *out of compliance with applicable requirements;*
14 *and*

15 (B) *the accrediting entity has failed or re-*
16 *fused, after consultation with the Secretary, to*
17 *take appropriate enforcement action.*

18 (2) *CORRECTION OF DEFICIENCY.—At any time*
19 *when the Secretary is satisfied that the deficiencies on*
20 *the basis of which an adverse action is taken under*
21 *paragraph (1) have been corrected, the Secretary*
22 *shall—*

23 (A) *notify the accrediting entity that the de-*
24 *ficiencies have been corrected; and*

1 (B)(i) in the case of a suspension, terminate
2 the suspension; or

3 (ii) in the case of a cancellation, notify the
4 agency or person that the agency or person may
5 re-apply to the accrediting entity for accredita-
6 tion or approval.

7 (c) *DEBARMENT.*—

8 (1) *SECRETARY'S AUTHORITY.*—On the initiative
9 of the Secretary, or on request of an accrediting enti-
10 ty, the Secretary may temporarily or permanently
11 debar an agency from accreditation or a person from
12 approval under this title, but only if—

13 (A) there is substantial evidence that the
14 agency or person is out of compliance with ap-
15 plicable requirements; and

16 (B) there has been a pattern of serious, will-
17 ful, or grossly negligent failures to comply or
18 other aggravating circumstances indicating that
19 continued accreditation or approval would not
20 be in the best interests of the children and fami-
21 lies concerned.

22 (2) *PERIOD OF DEBARMENT.*—The Secretary's
23 debarment order shall state whether the debarment is
24 temporary or permanent. If the debarment is tem-
25 porary, the Secretary shall specify a date, not earlier

1 *than 3 years after the date of the order, on or after*
2 *which the agency or person may apply to the Sec-*
3 *retary for withdrawal of the debarment.*

4 (3) *EFFECT OF DEBARMENT.*—*An accrediting*
5 *entity may take into account the circumstances of the*
6 *debarment of an agency or person that has been*
7 *debarred pursuant to this subsection in considering*
8 *any subsequent application of the agency or person,*
9 *or of any other entity in which the agency or person*
10 *has an ownership or control interest, for accreditation*
11 *or approval under this title.*

12 (d) *JUDICIAL REVIEW.*—*A person (other than a pro-*
13 *spective adoptive parent), an agency, or an accrediting en-*
14 *tity who is the subject of a final action of suspension, can-*
15 *cellation, or debarment by the Secretary under this title*
16 *may petition the United States District Court for the Dis-*
17 *trict of Columbia or the United States district court in the*
18 *judicial district in which the person resides or the agency*
19 *or accrediting entity is located to set aside the action. The*
20 *court shall review the action in accordance with section 706*
21 *of title 5, United States Code.*

22 (e) *FAILURE TO ENSURE A FULL AND COMPLETE*
23 *HOME STUDY.*—

24 (1) *IN GENERAL.*—*Willful, grossly negligent, or*
25 *repeated failure to ensure the completion and trans-*

1 *mission of a background report (home study) that*
2 *fully complies with the requirements of section*
3 *203(b)(1)(A)(ii) shall constitute substantial non-*
4 *compliance with applicable requirements.*

5 (2) *REGULATIONS.—Regulations promulgated*
6 *under section 203 shall provide for—*

7 (A) *frequent and careful monitoring of com-*
8 *pliance by agencies and approved persons with*
9 *the requirements of section 203(b)(A)(ii); and*

10 (B) *consultation between the Secretary and*
11 *the accrediting entity where an agency or person*
12 *has engaged in substantial noncompliance with*
13 *the requirements of section 203(b)(A)(ii), unless*
14 *the accrediting entity has taken appropriate cor-*
15 *rective action and the noncompliance has not re-*
16 *curring.*

17 (3) *REPEATED FAILURES TO COMPLY.—Repeated*
18 *serious, willful, or grossly negligent failures to comply*
19 *with the requirements of section 203(b)(1)(A)(ii) by*
20 *an agency or person after consultation between Sec-*
21 *retary and the accrediting entity with respect to pre-*
22 *vious noncompliance by such agency or person shall*
23 *constitute a pattern of serious, willful, or grossly neg-*
24 *ligent failures to comply under subsection (c)(1)(B).*

1 (4) *FAILURE TO COMPLY WITH CERTAIN RE-*
2 *QUIREMENTS.—A failure to comply with the require-*
3 *ments of section 203(b)(1)(A)(ii) shall constitute a se-*
4 *rious failure to comply under subsection (c)(1)(B) un-*
5 *less it is shown by clear and convincing evidence that*
6 *such noncompliance had neither the purpose nor the*
7 *effect of determining the outcome of a decision or pro-*
8 *ceeding by a court or other competent authority in the*
9 *United States or the child’s country of origin.*

10 **SEC. 205. STATE PLAN REQUIREMENT.**

11 *Section 422(b) of the Social Security Act (42 U.S.C.*
12 *622(b)) is amended—*

13 (1) *in paragraph (11), by striking “and” at the*
14 *end;*

15 (2) *in paragraph (12), by striking “children.”*
16 *and inserting “children;”; and*

17 (3) *by adding at the end the following new para-*
18 *graphs:*

19 “(13) *contain a description of the activities that*
20 *the State has undertaken for children adopted from*
21 *other countries, including the provision of adoption*
22 *and post-adoption services; and*

23 “(14) *provide that the State shall collect and re-*
24 *port information on children who are adopted from*
25 *other countries and who enter into State custody as*

1 *a result of the disruption of a placement for adoption*
 2 *or the dissolution of an adoption, including the num-*
 3 *ber of children, the agencies who handled the place-*
 4 *ment or adoption, the plans for the child, and the rea-*
 5 *sons for the disruption or dissolution.”.*

6 **TITLE III—RECOGNITION OF**
 7 **CONVENTION ADOPTIONS IN**
 8 **THE UNITED STATES**

9 **SEC. 301. ADOPTIONS OF CHILDREN IMMIGRATING TO THE**
 10 **UNITED STATES.**

11 *(a) LEGAL EFFECT OF CERTIFICATES ISSUED BY THE*
 12 *SECRETARY OF STATE.—*

13 *(1) ISSUANCE OF CERTIFICATES BY THE SEC-*
 14 *RETARY OF STATE.—The Secretary of State shall,*
 15 *with respect to each Convention adoption, issue a cer-*
 16 *tificate to the adoptive citizen parent domiciled in the*
 17 *United States that the adoption has been granted or,*
 18 *in the case of a prospective adoptive citizen parent,*
 19 *that legal custody of the child has been granted to the*
 20 *citizen parent for purposes of emigration and adop-*
 21 *tion, pursuant to the Convention and this Act, if the*
 22 *Secretary of State—*

23 *(A) receives appropriate notification from*
 24 *the central authority of such child’s country of*
 25 *origin; and*

1 (B) *has verified that the requirements of the*
2 *Convention and this Act have been met with re-*
3 *spect to the adoption.*

4 (2) *LEGAL EFFECT OF CERTIFICATES.—If ap-*
5 *pende*d to an original adoption decree, the certificate
6 *described in paragraph (1) shall be treated by Federal*
7 *and State agencies, courts, and other public and pri-*
8 *vate persons and entities as conclusive evidence of the*
9 *facts certified therein and shall constitute the certifi-*
10 *cation required by section 204(d)(2) of the Immigra-*
11 *tion and Nationality Act, as amended by this Act.*

12 (b) *LEGAL EFFECT OF CONVENTION ADOPTION FINAL-*
13 *IZED IN ANOTHER CONVENTION COUNTRY.—A final adop-*
14 *tion in another Convention country, certified by the Sec-*
15 *retary of State pursuant to subsection (a) of this section*
16 *or section 303(c), shall be recognized as a final valid adop-*
17 *tion for purposes of all Federal, State, and local laws of*
18 *the United States.*

19 (c) *CONDITION ON FINALIZATION OF CONVENTION*
20 *ADOPTION BY STATE COURT.—In the case of a child who*
21 *has entered the United States from another Convention*
22 *country for the purpose of adoption, an order declaring the*
23 *adoption final shall not be entered unless the Secretary of*
24 *State has issued the certificate provided for in subsection*
25 *(a) with respect to the adoption.*

1 **SEC. 302. IMMIGRATION AND NATIONALITY ACT AMEND-**
2 **MENTS RELATING TO CHILDREN ADOPTED**
3 **FROM CONVENTION COUNTRIES.**

4 (a) *DEFINITION OF CHILD.*—Section 101(b)(1) of the
5 *Immigration and Nationality Act (8 U.S.C. 1101(b)(1))* is
6 amended—

7 (1) by striking “or” at the end of subparagraph
8 (E);

9 (2) by striking the period at the end of subpara-
10 graph (F) and inserting “; or”; and

11 (3) by adding after subparagraph (F) the fol-
12 lowing new subparagraph:

13 “(G) a child, under the age of sixteen at the time
14 a petition is filed on the child’s behalf to accord a
15 classification as an immediate relative under section
16 201(b), who has been adopted in a foreign state that
17 is a party to the *Convention on Protection of Chil-*
18 *dren and Co-operation in Respect of Intercountry*
19 *Adoption done at The Hague on May 29, 1993, or*
20 *who is emigrating from such a foreign state to be*
21 *adopted in the United States, by a United States cit-*
22 *izen and spouse jointly, or by an unmarried United*
23 *States citizen at least twenty-five years of age—*

24 “(i) if—

1 “(I) the Attorney General is satisfied
2 that proper care will be furnished the child
3 if admitted to the United States;

4 “(II) the child’s natural parents (or
5 parent, in the case of a child who has one
6 sole or surviving parent because of the death
7 or disappearance of, abandonment or deser-
8 tion by, the other parent), or other persons
9 or institutions that retain legal custody of
10 the child, have freely given their written ir-
11 revocable consent to the termination of their
12 legal relationship with the child, and to the
13 child’s emigration and adoption;

14 “(III) in the case of a child having two
15 living natural parents, the natural parents
16 are incapable of providing proper care for
17 the child;

18 “(IV) the Attorney General is satisfied
19 that the purpose of the adoption is to form
20 a bona fide parent-child relationship, and
21 the parent-child relationship of the child
22 and the biological parents has been termi-
23 nated; and

24 “(V) in the case of a child who has not
25 been adopted—

1 “(aa) the competent authority of
2 the foreign state has approved the
3 child’s emigration to the United States
4 for the purpose of adoption by the pro-
5 spective adoptive parent or parents;
6 and

7 “(bb) the prospective adoptive
8 parent or parents has or have complied
9 with any pre-adoption requirements of
10 the child’s proposed residence; and

11 “(ii) except that no natural parent or prior
12 adoptive parent of any such child shall there-
13 after, by virtue of such parentage, be accorded
14 any right, privilege, or status under this Act.”.

15 (b) *APPROVAL OF PETITIONS*.—Section 204(d) of the
16 *Immigration and Nationality Act* (8 U.S.C. 1154(d)) is
17 amended—

18 (1) by striking “(d)” and inserting “(d)(1)”;

19 (2) by striking “section 101(b)(1)(F)” and in-
20 serting “subparagraph (F) or (G) of section
21 101(b)(1)”;

22 (3) by adding at the end the following new para-
23 graph:

24 “(2) Notwithstanding the provisions of subsections (a)
25 and (b), no petition may be approved on behalf of a child

1 *defined in section 101(b)(1)(G) unless the Secretary of State*
2 *has certified that the central authority of the child’s country*
3 *of origin has notified the United States central authority*
4 *under the convention referred to in such section*
5 *101(b)(1)(G) that a United States citizen habitually resi-*
6 *dent in the United States has effected final adoption of the*
7 *child, or has been granted custody of the child for the pur-*
8 *pose of emigration and adoption, in accordance with such*
9 *convention and the Intercountry Adoption Act of 2000.”.*

10 *(c) DEFINITION OF PARENT.—Section 101(b)(2) of the*
11 *Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is*
12 *amended by inserting “and paragraph (1)(G)(i)” after*
13 *“second proviso therein”).*

14 **SEC. 303. ADOPTIONS OF CHILDREN EMIGRATING FROM**
15 **THE UNITED STATES.**

16 *(a) DUTIES OF ACCREDITED AGENCY OR APPROVED*
17 *PERSON.—In the case of a Convention adoption involving*
18 *the emigration of a child residing in the United States to*
19 *a foreign country, the accredited agency or approved person*
20 *providing adoption services, or the prospective adoptive*
21 *parent or parents acting on their own behalf (if permitted*
22 *by the laws of such other Convention country in which they*
23 *reside and the laws of the State in which the child resides),*
24 *shall do the following:*

1 (1) *Ensure that, in accordance with the*
2 *Convention—*

3 (A) *a background study on the child is com-*
4 *pleted;*

5 (B) *the accredited agency or approved*
6 *person—*

7 (i) *has made reasonable efforts to ac-*
8 *tively recruit and make a diligent search for*
9 *prospective adoptive parents to adopt the*
10 *child in the United States; and*

11 (ii) *despite such efforts, has not been*
12 *able to place the child for adoption in the*
13 *United States in a timely manner; and*

14 (C) *a determination is made that placement*
15 *with the prospective adoptive parent or parents*
16 *is in the best interests of the child.*

17 (2) *Furnish to the State court with jurisdiction*
18 *over the case—*

19 (A) *documentation of the matters described*
20 *in paragraph (1);*

21 (B) *a background report (home study) on*
22 *the prospective adoptive parent or parents (in-*
23 *cluding a criminal background check) prepared*
24 *in accordance with the laws of the receiving*
25 *country; and*

1 (C) a declaration by the central authority
2 (or other competent authority) of such other Con-
3 vention country—

4 (i) that the child will be permitted to
5 enter and reside permanently, or on the
6 same basis as the adopting parent, in the
7 receiving country; and

8 (ii) that the central authority (or other
9 competent authority) of such other Conven-
10 tion country consents to the adoption, if
11 such consent is necessary under the laws of
12 such country for the adoption to become
13 final.

14 (3) Furnish to the United States central
15 authority—

16 (A) official copies of State court orders cer-
17 tifying the final adoption or grant of custody for
18 the purpose of adoption;

19 (B) the information and documents de-
20 scribed in paragraph (2), to the extent required
21 by the United States central authority; and

22 (C) any other information concerning the
23 case required by the United States central au-
24 thority to perform the functions specified in sub-
25 section (c) or otherwise to carry out the duties of

1 *the United States central authority under the*
2 *Convention.*

3 **(b) CONDITIONS ON STATE COURT ORDERS.**—*An order*
4 *declaring an adoption to be final or granting custody for*
5 *the purpose of adoption in a case described in subsection*
6 *(a) shall not be entered unless the court—*

7 *(1) has received and verified to the extent the*
8 *court may find necessary—*

9 *(A) the material described in subsection*
10 *(a)(2); and*

11 *(B) satisfactory evidence that the require-*
12 *ments of Articles 4 and 15 through 21 of the*
13 *Convention have been met; and*

14 *(2) has determined that the adoptive placement*
15 *is in the best interests of the child.*

16 **(c) DUTIES OF THE SECRETARY OF STATE.**—*In a case*
17 *described in subsection (a), the Secretary, on receipt and*
18 *verification as necessary of the material and information*
19 *described in subsection (a)(3), shall issue, as applicable, an*
20 *official certification that the child has been adopted or a*
21 *declaration that custody for purposes of adoption has been*
22 *granted, in accordance with the Convention and this Act.*

23 **(d) FILING WITH REGISTRY REGARDING NONCONVEN-**
24 **TION ADOPTIONS.**—*Accredited agencies, approved persons,*
25 *and other persons, including governmental authorities, pro-*

1 *viding adoption services in an intercountry adoption not*
2 *subject to the Convention that involves the emigration of*
3 *a child from the United States shall file information re-*
4 *quired by regulations jointly issued by the Attorney General*
5 *and the Secretary of State for purposes of implementing*
6 *section 102(e).*

7 ***TITLE IV—ADMINISTRATION AND***
8 ***ENFORCEMENT***

9 ***SEC. 401. ACCESS TO CONVENTION RECORDS.***

10 *(a) PRESERVATION OF CONVENTION RECORDS.—*

11 *(1) IN GENERAL.—Not later than 180 days after*
12 *the date of the enactment of this Act, the Secretary,*
13 *in consultation with the Attorney General, shall issue*
14 *regulations that establish procedures and require-*
15 *ments in accordance with the Convention and this*
16 *section for the preservation of Convention records.*

17 *(2) APPLICABILITY OF NOTICE AND COMMENT*
18 *RULES.—Subsections (b), (c), and (d) of section 553*
19 *of title 5, United States Code, shall apply in the de-*
20 *velopment and issuance of regulations under this sec-*
21 *tion.*

22 *(b) ACCESS TO CONVENTION RECORDS.—*

23 *(1) PROHIBITION.—Except as provided in para-*
24 *graph (2), the Secretary or the Attorney General may*
25 *disclose a Convention record, and access to such a*

1 *record may be provided in whole or in part, only if*
2 *such record is maintained under the authority of the*
3 *Immigration and Nationality Act and disclosure of,*
4 *or access to, such record is permitted or required by*
5 *applicable Federal law.*

6 (2) *EXCEPTION FOR ADMINISTRATION OF THE*
7 *CONVENTION.—A Convention record may be disclosed,*
8 *and access to such a record may be provided, in whole*
9 *or in part, among the Secretary, the Attorney Gen-*
10 *eral, central authorities, accredited agencies, and ap-*
11 *proved persons, only to the extent necessary to admin-*
12 *ister the Convention or this Act.*

13 (3) *PENALTIES FOR UNLAWFUL DISCLOSURE.—*
14 *Unlawful disclosure of all or part of a Convention*
15 *record shall be punishable in accordance with appli-*
16 *cable Federal law.*

17 (c) *ACCESS TO NON-CONVENTION RECORDS.—Disclo-*
18 *sure of, access to, and penalties for unlawful disclosure of,*
19 *adoption records that are not Convention records, including*
20 *records of adoption proceedings conducted in the United*
21 *States, shall be governed by applicable State law.*

22 **SEC. 402. DOCUMENTS OF OTHER CONVENTION COUN-**
23 **TRIES.**

24 *Documents originating in any other Convention coun-*
25 *try and related to a Convention adoption case shall require*

1 *no authentication in order to be admissible in any Federal,*
2 *State, or local court in the United States, unless a specific*
3 *and supported claim is made that the documents are false,*
4 *have been altered, or are otherwise unreliable.*

5 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS; COLLEC-**
6 **TION OF FEES.**

7 (a) *AUTHORIZATION OF APPROPRIATIONS.—*

8 (1) *IN GENERAL.—There are authorized to be ap-*
9 *propriated such sums as may be necessary to agencies*
10 *of the Federal Government implementing the Conven-*
11 *tion and the provisions of this Act.*

12 (2) *AVAILABILITY OF FUNDS.—Amounts appro-*
13 *priated pursuant to paragraph (1) are authorized to*
14 *remain available until expended.*

15 (b) *ASSESSMENT OF FEES.—*

16 (1) *The Secretary may charge a fee for new or*
17 *enhanced services that will be undertaken by the De-*
18 *partment of State to meet the requirements of this Act*
19 *with respect to intercountry adoptions under the Con-*
20 *vention and comparable services with respect to other*
21 *intercountry adoptions. Such fee shall be prescribed*
22 *by regulation and shall not exceed the cost of such*
23 *services.*

24 (2) *Fees collected under paragraph (1) shall be*
25 *retained and deposited as an offsetting collection to*

1 *any Department of State appropriation to recover the*
2 *costs of providing such services.*

3 *(3) Fees authorized under this section shall be*
4 *available for obligation only to the extent and in the*
5 *amount provided in advance in appropriations Acts.*

6 *(c) RESTRICTION.—No funds collected under the au-*
7 *thority of this section may be made available to an accred-*
8 *iting entity to carry out the purposes of this Act.*

9 **SEC. 404. ENFORCEMENT.**

10 *(a) CIVIL PENALTIES.—Any person who—*

11 *(1) violates section 201;*

12 *(2) makes a false or fraudulent statement, or*
13 *misrepresentation, with respect to a material fact, or*
14 *offers, gives, solicits, or accepts inducement by way of*
15 *compensation, intended to influence or affect in the*
16 *United States or a foreign country—*

17 *(A) a decision by an accrediting entity with*
18 *respect to the accreditation of an agency or ap-*
19 *proval of a person under title II;*

20 *(B) the relinquishment of parental rights or*
21 *the giving of parental consent relating to the*
22 *adoption of a child in a case subject to the Con-*
23 *vention; or*

24 *(C) a decision or action of any entity per-*
25 *forming a central authority function; or*

1 (3) engages another person as an agent, whether
2 in the United States or in a foreign country, who in
3 the course of that agency takes any of the actions de-
4 scribed in paragraph (1) or (2),
5 shall be subject, in addition to any other penalty that may
6 be prescribed by law, to a civil money penalty of not more
7 than \$50,000 for a first violation, and not more than
8 \$100,000 for each succeeding violation.

9 (b) *CIVIL ENFORCEMENT.*—

10 (1) *AUTHORITY OF ATTORNEY GENERAL.*—The
11 Attorney General may bring a civil action to enforce
12 subsection (a) against any person in any United
13 States district court.

14 (2) *FACTORS TO BE CONSIDERED IN IMPOSING*
15 *PENALTIES.*—In imposing penalties the court shall
16 consider the gravity of the violation, the degree of cul-
17 pability of the defendant, and any history of prior
18 violations by the defendant.

19 (c) *CRIMINAL PENALTIES.*—Whoever knowingly and
20 willfully violates paragraph (1) or (2) of subsection (a)
21 shall be subject to a fine of not more than \$250,000, impris-
22 onment for not more than 5 years, or both.

1 **TITLE V—GENERAL PROVISIONS**

2 **SEC. 501. RECOGNITION OF CONVENTION ADOPTIONS.**

3 *Subject to Article 24 of the Convention, adoptions con-*
4 *cluded between two other Convention countries that meet*
5 *the requirements of Article 23 of the Convention and that*
6 *became final before the date of entry into force of the Con-*
7 *vention for the United States shall be recognized thereafter*
8 *in the United States and given full effect. Such recognition*
9 *shall include the specific effects described in Article 26 of*
10 *the Convention.*

11 **SEC. 502. SPECIAL RULES FOR CERTAIN CASES.**

12 *(a) AUTHORITY TO ESTABLISH ALTERNATIVE PROCE-*
13 *DURES FOR ADOPTION OF CHILDREN BY RELATIVES.—To*
14 *the extent consistent with the Convention, the Secretary*
15 *may establish by regulation alternative procedures for the*
16 *adoption of children by individuals related to them by*
17 *blood, marriage, or adoption, in cases subject to the Conven-*
18 *tion.*

19 *(b) WAIVER AUTHORITY.—*

20 *(1) IN GENERAL.—Notwithstanding any other*
21 *provision of this Act, to the extent consistent with the*
22 *Convention, the Secretary may, on a case-by-case*
23 *basis, waive applicable requirements of this Act or*
24 *regulations issued under this Act, in the interests of*
25 *justice or to prevent grave physical harm to the child.*

1 (2) *NONDELEGATION.*—*The authority provided*
2 *by paragraph (1) may not be delegated.*

3 **SEC. 503. RELATIONSHIP TO OTHER LAWS.**

4 (a) *PREEMPTION OF INCONSISTENT STATE LAW.*—*The*
5 *Convention and this Act shall not be construed to preempt*
6 *any provision of the law of any State or political subdivi-*
7 *sion thereof, or prevent a State or political subdivision*
8 *thereof from enacting any provision of law with respect to*
9 *the subject matter of the Convention or this Act, except to*
10 *the extent that such provision of State law is inconsistent*
11 *with the Convention or this Act, and then only to the extent*
12 *of the inconsistency.*

13 (b) *APPLICABILITY OF THE INDIAN CHILD WELFARE*
14 *ACT.*—*The Convention and this Act shall not be construed*
15 *to affect the application of the Indian Child Welfare Act*
16 *of 1978 (25 U.S.C. 1901 et seq.).*

17 (c) *RELATIONSHIP TO OTHER LAWS.*—*Sections*
18 *3506(c), 3507, and 3512 of title 44, United States Code,*
19 *shall not apply to information collection for purposes of sec-*
20 *tions 104, 202(b)(4), and 303(d) of this Act or for use as*
21 *a Convention record as defined in this Act.*

22 **SEC. 504. NO PRIVATE RIGHT OF ACTION.**

23 *The Convention and this Act shall not be construed*
24 *to create a private right of action to seek administrative*

1 *or judicial relief, except to the extent expressly provided in*
2 *this Act.*

3 **SEC. 505. EFFECTIVE DATES; TRANSITION RULE.**

4 *(a) EFFECTIVE DATES.—*

5 *(1) PROVISIONS EFFECTIVE UPON ENACTMENT.—*

6 *Sections 2, 3, 101 through 103, 202 through 205,*
7 *401(a), 403, 503, and 505(a) shall take effect on the*
8 *date of the enactment of this Act.*

9 *(2) PROVISIONS EFFECTIVE UPON THE ENTRY*
10 *INTO FORCE OF THE CONVENTION.—Subject to sub-*
11 *section (b), the provisions of this Act not specified in*
12 *paragraph (1) shall take effect upon the entry into*
13 *force of the Convention for the United States pursu-*
14 *ant to Article 46(2)(a) of the Convention.*

15 *(b) TRANSITION RULE.—The Convention and this Act*
16 *shall not apply—*

17 *(1) in the case of a child immigrating to the*
18 *United States, if the application for advance proc-*
19 *essing of an orphan petition or petition to classify an*
20 *orphan as an immediate relative for the child is filed*
21 *before the effective date described in subsection (a)(2);*
22 *or*

23 *(2) in the case of a child emigrating from the*
24 *United States, if the prospective adoptive parents of*
25 *the child initiated the adoption process in their coun-*

1 *try of residence with the filing of an appropriate ap-*
2 *plication before the effective date described in sub-*
3 *section (a)(2).*

Attest:

Secretary.

106TH CONGRESS
2D SESSION

H. R. 2909

AMENDMENT

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