

106TH CONGRESS
2D SESSION

H. R. 2909

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.

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To provide for implementation by the United States of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and for other purposes.

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

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”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of
 5 this 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 serv-
 ices 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.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress recognizes—

3 (1) the international character of the Conven-
4 tion on Protection of Children and Co-operation in
5 Respect of Intercountry Adoption (done at The
6 Hague on May 29, 1993); and

7 (2) the need for uniform interpretation and im-
8 plementation of the Convention in the United States
9 and abroad,

10 and therefore finds that enactment of a Federal law gov-
11 erning adoptions and prospective adoptions subject to the
12 Convention involving United States residents is essential.

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

14 (1) to provide for implementation by the United
15 States of the Convention;

16 (2) to protect the rights of, and prevent abuses
17 against, children, birth families, and adoptive par-
18 ents involved in adoptions (or prospective adoptions)
19 subject to the Convention, and to ensure that such
20 adoptions are in the children's best interests; and

21 (3) to improve the ability of the Federal Gov-
22 ernment to assist United States citizens seeking to
23 adopt children from abroad and residents of other
24 countries party to the Convention seeking to adopt
25 children from the United States.

1 **SEC. 3. DEFINITIONS.**

2 As used in this Act:

3 (1) ACCREDITED AGENCY.—The term “accred-
4 ited agency” means an agency accredited under title
5 II to provide adoption services in the United States
6 in cases subject to the Convention.

7 (2) ACCREDITING ENTITY.—The term “accred-
8 iting entity” means an entity designated under sec-
9 tion 202(a) to accredit agencies and approve persons
10 under title II.

11 (3) ADOPTION SERVICE.—The term “adoption
12 service” means—

13 (A) identifying a child for adoption and ar-
14 ranging an adoption;

15 (B) securing necessary consent to termi-
16 nation of parental rights and to adoption;

17 (C) performing a background study on a
18 child or a home study on a prospective adoptive
19 parent, and reporting on such a study;

20 (D) making determinations of the best in-
21 terests of a child and the appropriateness of
22 adoptive placement for the child;

23 (E) post-placement monitoring of a case
24 until final adoption; and

25 (F) where made necessary by disruption
26 before final adoption, assuming custody and

1 providing child care or any other social service
2 pending an alternative placement.

3 The term “providing”, with respect to an adoption
4 service, includes facilitating the provision of the
5 service.

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

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

12 (6) ATTORNEY GENERAL.—Except as used in
13 section 404, the term “Attorney General” means the
14 Attorney General, acting through the Commissioner
15 of Immigration and Naturalization.

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

20 (8) CENTRAL AUTHORITY FUNCTION.—The
21 term “central authority function” means any duty
22 required to be carried out by a central authority
23 under the Convention.

24 (9) CONVENTION.—The term “Convention”
25 means the Convention on Protection of Children and

1 Co-operation in Respect of Intercountry Adoption,
2 done at The Hague on May 29, 1993.

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

9 (11) CONVENTION RECORD.—The term “Con-
10 vention record” means any item, collection, or
11 grouping of information contained in an electronic or
12 physical document, an electronic collection of data, a
13 photograph, an audio or video tape, or any other in-
14 formation storage medium of any type whatever that
15 contains information about a specific past, current,
16 or prospective Convention adoption (regardless of
17 whether the adoption was made final) that has been
18 preserved in accordance with section 401(a) by the
19 Secretary of State or the Attorney General.

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

23 (13) OTHER CONVENTION COUNTRY.—The
24 term “other Convention country” means a Conven-
25 tion country other than the United States.

1 (14) PERSON.—The term “person” shall have
2 the meaning provided in section 1 of title 1, United
3 States Code, and shall not include any agency of
4 government or tribal government entity.

5 (15) PERSON WITH AN OWNERSHIP OR CON-
6 TROL INTEREST.—The term “person with an owner-
7 ship or control interest” has the meaning given such
8 term in section 1124(a)(3) of the Social Security Act
9 (42 U.S.C. 1320a–3).

10 (16) SECRETARY.—The term “Secretary”
11 means the Secretary of State.

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

16 **TITLE I—UNITED STATES**
17 **CENTRAL AUTHORITY**

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

19 (a) IN GENERAL.—For purposes of the Convention
20 and this Act—

21 (1) the Department of State shall serve as the
22 central authority of the United States; and

23 (2) the Secretary shall serve as the head of the
24 central authority of the United States.

1 (b) PERFORMANCE OF CENTRAL AUTHORITY FUNC-
2 TIONS.—

3 (1) Except as otherwise provided in this Act,
4 the Secretary shall be responsible for the perform-
5 ance of all central authority functions for the United
6 States under the Convention and this Act.

7 (2) All personnel of the Department of State
8 performing core central authority functions in a pro-
9 fessional capacity in the Office of Children’s Issues
10 shall have a strong background in consular affairs,
11 personal experience in international adoptions, or
12 professional experience in international adoptions or
13 child services.

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

18 **SEC. 102. RESPONSIBILITIES OF THE SECRETARY OF**
19 **STATE.**

20 (a) LIAISON RESPONSIBILITIES.—The Secretary
21 shall have responsibility for—

22 (1) liaison with the central authorities of other
23 Convention countries; and

1 (2) the coordination of activities under the Con-
2 vention by persons subject to the jurisdiction of the
3 United States.

4 (b) INFORMATION EXCHANGE.—The Secretary shall
5 be responsible for—

6 (1) providing the central authorities of other
7 Convention countries with information concerning—

8 (A) accredited agencies and approved per-
9 sons, agencies and persons whose accreditation
10 or approval has been suspended or canceled,
11 and agencies and persons who have been tempo-
12 rarily or permanently debarred from accredita-
13 tion or approval;

14 (B) Federal and State laws relevant to im-
15 plementing the Convention; and

16 (C) any other matters necessary and ap-
17 propriate for implementation of the Convention;

18 (2) not later than the date of the entry into
19 force of the Convention for the United States (pur-
20 suant to Article 46(2)(a) of the Convention) and at
21 least once during each subsequent calendar year,
22 providing to the central authority of all other Con-
23 vention countries a notice requesting the central au-
24 thority of each such country to specify any require-
25 ments of such country regarding adoption, including

1 restrictions on the eligibility of persons to adopt,
2 with respect to which information on the prospective
3 adoptive parent or parents in the United States
4 would be relevant;

5 (3) making responses to notices under para-
6 graph (2) available to—

7 (A) accredited agencies and approved per-
8 sons; and

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

11 (4) ensuring the provision of a background re-
12 port (home study) on the prospective adoptive par-
13 ent or parents (pursuant to the requirements of sec-
14 tion 203(b)(1)(A)(ii)), through the central authority
15 of each child's country of origin, to the court having
16 jurisdiction over the adoption (or in the case of a
17 child emigrating to the United States for the pur-
18 pose of adoption to the competent authority in the
19 child's country of origin with responsibility for ap-
20 proving the child's emigration) in adequate time to
21 be considered prior to the granting of such adoption
22 or approval;

23 (5) providing Federal agencies, State courts,
24 and accredited agencies and approved persons with
25 an identification of Convention countries and per-

1 sons authorized to perform functions under the Con-
2 vention in each such country; and

3 (6) facilitating the transmittal of other appro-
4 priate information to, and among, central authori-
5 ties, Federal and State agencies (including State
6 courts), and accredited agencies and approved per-
7 sons.

8 (c) ACCREDITATION AND APPROVAL RESPONSIBIL-
9 ITIES.—The Secretary shall carry out the functions pre-
10 scribed by the Convention with respect to the accreditation
11 of agencies and the approval of persons to provide adop-
12 tion services in the United States in cases subject to the
13 Convention as provided in title II. Such functions may not
14 be delegated to any other Federal agency.

15 (d) ADDITIONAL RESPONSIBILITIES.—The
16 Secretary—

17 (1) shall monitor individual Convention adop-
18 tion cases involving United States citizens; and

19 (2) may facilitate interactions between such
20 citizens and officials of other Convention countries
21 on matters relating to the Convention in any case in
22 which an accredited agency or approved person is
23 unwilling or unable to provide such facilitation.

24 (e) ESTABLISHMENT OF REGISTRY.—The Secretary
25 and the Attorney General shall jointly establish a case reg-

1 istry of all adoptions involving immigration of children
2 into the United States and emigration of children from
3 the United States, regardless of whether the adoption oc-
4 curs under the Convention. Such registry shall permit
5 tracking of pending cases and retrieval of information on
6 both pending and closed cases.

7 (f) METHODS OF PERFORMING RESPONSIBILITIES.—
8 The Secretary may—

9 (1) authorize public or private entities to per-
10 form appropriate central authority functions for
11 which the Secretary is responsible, pursuant to regu-
12 lations or under agreements published in the Federal
13 Register; and

14 (2) carry out central authority functions
15 through grants to, or contracts with, any individual
16 or public or private entity, except as may be other-
17 wise specifically provided in this Act.

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

19 In addition to such other responsibilities as are spe-
20 cifically conferred upon the Attorney General by this Act,
21 the central authority functions specified in Article 14 of
22 the Convention (relating to the filing of applications by
23 prospective adoptive parents to the central authority of
24 their country of residence) shall be performed by the At-
25 torney General.

1 **SEC. 104. ANNUAL REPORT ON INTERCOUNTRY ADOPTI-**
2 **ONS.**

3 (a) **REPORTS REQUIRED.**—Beginning 1 year after
4 the date of the entry into force of the Convention for the
5 United States and each year thereafter, the Secretary, in
6 consultation with the Attorney General and other appro-
7 priate agencies, shall submit a report describing the activi-
8 ties of the central authority of the United States under
9 this Act during the preceding year to the Committee on
10 International Relations, the Committee on Ways and
11 Means, and the Committee on the Judiciary of the House
12 of Representatives and the Committee on Foreign Rela-
13 tions, the Committee on Finance, and the Committee on
14 the Judiciary of the Senate.

15 (b) **REPORT ELEMENTS.**—Each report under sub-
16 section (a) shall set forth with respect to the year con-
17 cerned, the following:

18 (1) The number of intercountry adoptions in-
19 volving immigration to the United States, regardless
20 of whether the adoption occurred under the Conven-
21 tion, including the country from which each child
22 emigrated, the State to which each child immigrated,
23 and the country in which the adoption was finalized.

24 (2) The number of intercountry adoptions in-
25 volving emigration from the United States, regard-
26 less of whether the adoption occurred under the

1 Convention, including the country to which each
2 child immigrated and the State from which each
3 child emigrated.

4 (3) The number of Convention placements for
5 adoption in the United States that were disrupted,
6 including the country from which the child emi-
7 grated, the age of the child, the date of the place-
8 ment for adoption, the reasons for the disruption,
9 the resolution of the disruption, the agencies that
10 handled the placement for adoption, and the plans
11 for the child, and in addition, any information re-
12 garding disruption or dissolution of adoptions of
13 children from other countries received pursuant to
14 section 422(b)(14) of the Social Security Act, as
15 amended by section 205 of this Act.

16 (4) The average time required for completion of
17 a Convention adoption, set forth by country from
18 which the child emigrated.

19 (5) The current list of agencies accredited and
20 persons approved under this Act to provide adoption
21 services.

22 (6) The names of the agencies and persons tem-
23 porarily or permanently debarred under this Act,
24 and the reasons for the debarment.

1 (7) The range of adoption fees charged in con-
2 nection with Convention adoptions involving immi-
3 gration to the United States and the median of such
4 fees set forth by the country of origin.

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

9 **TITLE II—PROVISIONS RELAT-**
10 **ING TO ACCREDITATION AND**
11 **APPROVAL**

12 **SEC. 201. ACCREDITATION OR APPROVAL REQUIRED IN**
13 **ORDER TO PROVIDE ADOPTION SERVICES IN**
14 **CASES SUBJECT TO THE CONVENTION.**

15 (a) IN GENERAL.—Except as otherwise provided in
16 this title, no person may offer or provide adoption services
17 in connection with a Convention adoption in the United
18 States unless that person—

19 (1) is accredited or approved in accordance with
20 this title; or

21 (2) is providing such services through or under
22 the supervision and responsibility of an accredited
23 agency or approved person.

24 (b) EXCEPTIONS.—Subsection (a) shall not apply to
25 the following:

1 (1) BACKGROUND STUDIES AND HOME STUD-
2 IES.—The performance of a background study on a
3 child or a home study on a prospective adoptive par-
4 ent, or any report on any such study by a social
5 work professional or organization who is not pro-
6 viding any other adoption service in the case, if the
7 background or home study is approved by an accred-
8 ited agency.

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

12 (3) LEGAL SERVICES.—The provision of legal
13 services by a person who is not providing any adop-
14 tion service in the case.

15 (4) PROSPECTIVE ADOPTIVE PARENTS ACTING
16 ON OWN BEHALF.—The conduct of a prospective
17 adoptive parent on his or her own behalf in the case,
18 to the extent not prohibited by the law of the State
19 in which the prospective adoptive parent resides.

20 **SEC. 202. PROCESS FOR ACCREDITATION AND APPROVAL;**
21 **ROLE OF ACCREDITING ENTITIES.**

22 (a) DESIGNATION OF ACCREDITING ENTITIES.—

23 (1) IN GENERAL.—The Secretary shall enter
24 into agreements with one or more qualified entities
25 under which such entities will perform the duties de-

1 scribed in subsection (b) in accordance with the Con-
2 vention, this title, and the regulations prescribed
3 under section 203, and upon entering into each such
4 agreement shall designate the qualified entity as an
5 accrediting entity.

6 (2) QUALIFIED ENTITY.—In paragraph (1), the
7 term “qualified entity” means—

8 (A) a nonprofit private entity that has ex-
9 pertise in developing and administering stand-
10 ards for entities providing child welfare services
11 and that meets such other criteria as the Sec-
12 retary may by regulation establish; or

13 (B) a public entity (other than a Federal
14 entity), including an agency or instrumentality
15 of State government having responsibility for li-
16 censing adoption agencies, that—

17 (i) has expertise in developing and ad-
18 ministering standards for entities providing
19 child welfare services;

20 (ii) accredits only agencies located in
21 the State in which the public entity is lo-
22 cated;

23 (iii) on the basis of the most recent
24 review, has not been found to have con-
25 ducted a State program that has been

1 found to have failed substantially to con-
2 form with the requirements of the child
3 and family services review system author-
4 ized under section 1123A of the Social Se-
5 curity Act; and

6 (iv) meets such other criteria as the
7 Secretary may by regulation establish.

8 (b) DUTIES OF ACCREDITING ENTITIES.—The duties
9 described in this subsection are the following:

10 (1) ACCREDITATION AND APPROVAL.—Accredi-
11 tation of agencies, and approval of persons, to pro-
12 vide adoption services in the United States in cases
13 subject to the Convention.

14 (2) OVERSIGHT.—Ongoing monitoring of the
15 compliance of accredited agencies and approved per-
16 sons with applicable requirements, including review
17 of complaints against such agencies and persons in
18 accordance with procedures established by the ac-
19 crediting entity and approved by the Secretary.

20 (3) ENFORCEMENT.—Taking of adverse actions
21 (including requiring corrective action, imposing sanc-
22 tions, and refusing to renew, suspending, or can-
23 celing accreditation or approval) for noncompliance
24 with applicable requirements, and notifying the
25 agency or person against whom adverse actions are

1 taken of the deficiencies necessitating the adverse
2 action.

3 (4) DATA, RECORDS, AND REPORTS.—Collection
4 of data, maintenance of records, and reporting to
5 the Secretary, the United States central authority,
6 State courts, and other entities (including on per-
7 sons and agencies granted or denied approval or ac-
8 creditation), to the extent and in the manner that
9 the Secretary requires.

10 (c) REMEDIES FOR ADVERSE ACTION BY ACCRED-
11 ITING ENTITY.—

12 (1) CORRECTION OF DEFICIENCY.—An agency
13 or person who is the subject of an adverse action by
14 an accrediting entity may re-apply for accreditation
15 or approval (or petition for termination of the ad-
16 verse action) on demonstrating to the satisfaction of
17 the accrediting entity that the deficiencies necessi-
18 tating the adverse action have been corrected.

19 (2) NO OTHER ADMINISTRATIVE REVIEW.—An
20 adverse action by an accrediting entity shall not be
21 subject to administrative review.

22 (3) JUDICIAL REVIEW.—An agency or person
23 who is the subject of an adverse action by an accred-
24 iting entity may petition the United States district
25 court in the judicial district in which the agency is

1 located or the person resides to set aside the adverse
2 action. The court shall review the adverse action in
3 accordance with section 706 of title 5, United States
4 Code, and for purposes of such review the accred-
5 iting entity shall be considered an agency within the
6 meaning of section 701 of such title.

7 (d) FEES.—The amount of fees assessed by accred-
8 iting entities for the costs of accreditation shall be subject
9 to approval by the Secretary. Such fees may not exceed
10 the costs of accreditation. In reviewing the level of such
11 fees, the Secretary shall consider the relative size of, the
12 geographic location of, and the number of Convention
13 adoption cases managed by the agencies or persons subject
14 to accreditation or approval by the accrediting entity.

15 **SEC. 203. STANDARDS AND PROCEDURES FOR PROVIDING**
16 **ACCREDITATION OR APPROVAL.**

17 (a) IN GENERAL.—

18 (1) PROMULGATION OF REGULATIONS.—The
19 Secretary, shall, by regulation, prescribe the stand-
20 ards and procedures to be used by accrediting enti-
21 ties for the accreditation of agencies and the ap-
22 proval of persons to provide adoption services in the
23 United States in cases subject to the Convention.

24 (2) CONSIDERATION OF VIEWS.—In developing
25 such regulations, the Secretary shall consider any

1 standards or procedures developed or proposed by,
2 and the views of, individuals and entities with inter-
3 est and expertise in international adoptions and fam-
4 ily social services, including public and private enti-
5 ties with experience in licensing and accrediting
6 adoption agencies.

7 (3) APPLICABILITY OF NOTICE AND COMMENT
8 RULES.—Subsections (b), (c), and (d) of section 553
9 of title 5, United States Code, shall apply in the de-
10 velopment and issuance of regulations under this
11 section.

12 (b) MINIMUM REQUIREMENTS.—

13 (1) ACCREDITATION.—The standards pre-
14 scribed under subsection (a) shall include the re-
15 quirement that accreditation of an agency may not
16 be provided or continued under this title unless the
17 agency meets the following requirements:

18 (A) SPECIFIC REQUIREMENTS.—

19 (i) The agency provides prospective
20 adoptive parents of a child in a prospective
21 Convention adoption a copy of the medical
22 records of the child (which, to the fullest
23 extent practicable, shall include an
24 English-language translation of such
25 records) on a date which is not later than

1 the earlier of the date that is 2 weeks be-
2 fore: (I) the adoption; or (II) the date on
3 which the prospective parents travel to a
4 foreign country to complete all procedures
5 in such country relating to the adoption.

6 (ii) The agency ensures that a thor-
7 ough background report (home study) on
8 the prospective adoptive parent or parents
9 has been completed in accordance with the
10 Convention and with applicable Federal
11 and State requirements and transmitted to
12 the Attorney General with respect to each
13 Convention adoption. Each such report
14 shall include a criminal background check
15 and a full and complete statement of all
16 facts relevant to the eligibility of the pro-
17 spective adopting parent or parents to
18 adopt a child under any requirements spec-
19 ified by the central authority of the child's
20 country of origin under section 102(b)(3),
21 including in the case of a child emigrating
22 to the United States for the purpose of
23 adoption the requirements of the child's
24 country of origin applicable to adoptions
25 taking place in such country. For purposes

1 of this clause, the term “background re-
2 port (home study)” shall include any sup-
3 plemental statement submitted by the
4 agency to the Attorney General for the
5 purpose of providing information relevant
6 to any requirements specified by the child’s
7 country of origin.

8 (iii) The agency provides prospective
9 adoptive parents with a training program
10 that includes counseling and guidance for
11 the purpose of promoting a successful
12 intercountry adoption before such parents
13 travel to adopt the child or the child is
14 placed with such parents for adoption.

15 (iv) The agency employs personnel
16 providing intercountry adoption services on
17 a fee for service basis rather than on a
18 contingent fee basis.

19 (v) The agency discloses fully its poli-
20 cies and practices, the disruption rates of
21 its placements for intercountry adoption,
22 and all fees charged by such agency for
23 intercountry adoption.

24 (B) CAPACITY TO PROVIDE ADOPTION
25 SERVICES.—The agency has, directly or through

1 arrangements with other persons, a sufficient
2 number of appropriately trained and qualified
3 personnel, sufficient financial resources, appro-
4 priate organizational structure, and appropriate
5 procedures to enable the agency to provide, in
6 accordance with this Act, all adoption services
7 in cases subject to the Convention.

8 (C) USE OF SOCIAL SERVICE PROFES-
9 SIONALS.—The agency has established proce-
10 dures designed to ensure that social service
11 functions requiring the application of clinical
12 skills and judgment are performed only by pro-
13 fessionals with appropriate qualifications and
14 credentials.

15 (D) RECORDS, REPORTS, AND INFORMA-
16 TION MATTERS.—The agency is capable of—

17 (i) maintaining such records and mak-
18 ing such reports as may be required by the
19 Secretary, the United States central au-
20 thority, and the accrediting entity that ac-
21 credits the agency;

22 (ii) cooperating with reviews, inspec-
23 tions, and audits;

24 (iii) safeguarding sensitive individual
25 information; and

1 (iv) complying with other require-
2 ments concerning information management
3 necessary to ensure compliance with the
4 Convention, this Act, and any other appli-
5 cable law.

6 (E) LIABILITY INSURANCE.—The agency
7 agrees to have in force adequate liability insur-
8 ance for professional negligence and any other
9 insurance that the Secretary considers appro-
10 priate.

11 (F) COMPLIANCE WITH APPLICABLE
12 RULES.—The agency has established adequate
13 measures to comply (and to ensure compliance
14 of their agents and clients) with the Conven-
15 tion, this Act, and any other applicable law.

16 (G) NONPROFIT ORGANIZATION WITH
17 STATE LICENSE TO PROVIDE ADOPTION SERV-
18 ICES.—The agency is a private nonprofit orga-
19 nization licensed to provide adoption services in
20 at least one State.

21 (2) APPROVAL.—The standards prescribed
22 under subsection (a) shall include the requirement
23 that a person shall not be approved under this title
24 unless the person is a private for-profit entity that

1 meets the requirements of subparagraphs (A)
2 through (F) of paragraph (1) of this subsection.

3 (3) RENEWAL OF ACCREDITATION OR AP-
4 PROVAL.—The standards prescribed under sub-
5 section (a) shall provide that the accreditation of an
6 agency or approval of a person under this title shall
7 be for a period of not less than 3 years and not
8 more than 5 years, and may be renewed on a show-
9 ing that the agency or person meets the require-
10 ments applicable to original accreditation or ap-
11 proval under this title.

12 (c) TEMPORARY REGISTRATION OF COMMUNITY-
13 BASED AGENCIES.—

14 (1) 1-YEAR REGISTRATION PERIOD FOR ME-
15 DIUM COMMUNITY-BASED AGENCIES.—For a 1-year
16 period after the entry into force of the Convention
17 and notwithstanding subsection (b), the Secretary
18 may provide, in regulations issued pursuant to sub-
19 section (a), that an agency may register with the
20 Secretary and be accredited to provide adoption
21 services in the United States in cases subject to the
22 Convention during such period if the agency has
23 provided adoption services in fewer than 100 inter-
24 country adoptions in the preceding calendar year
25 and meets the criteria described in paragraph (3).

1 (2) 2-YEAR REGISTRATION PERIOD FOR SMALL
2 COMMUNITY-BASED AGENCIES.—For a 2-year period
3 after the entry into force of the Convention and not-
4 withstanding subsection (b), the Secretary may pro-
5 vide, in regulations issued pursuant to subsection
6 (a), that an agency may register with the Secretary
7 and be accredited to provide adoption services in the
8 United States in cases subject to the Convention
9 during such period if the agency has provided adop-
10 tion services in fewer than 50 intercountry adoptions
11 in the preceding calendar year and meets the criteria
12 described in paragraph (3).

13 (3) CRITERIA FOR REGISTRATION.—Agencies
14 registered under this subsection shall meet the fol-
15 lowing criteria:

16 (A) The agency is licensed in the State in
17 which it is located and is a nonprofit agency.

18 (B) The agency has been providing adop-
19 tion services in connection with intercountry
20 adoptions for at least 3 years.

21 (C) The agency has demonstrated that it
22 will be able to provided the United States Gov-
23 ernment with all information related to the ele-
24 ments described in section 104(b) and provides
25 such information.

1 (D) The agency has initiated the process of
2 becoming accredited under the provisions of this
3 Act and is actively taking steps to become an
4 accredited agency.

5 (E) The agency has not been found to be
6 involved in any improper conduct relating to
7 intercountry adoptions.

8 **SEC. 204. SECRETARIAL OVERSIGHT OF ACCREDITATION**
9 **AND APPROVAL.**

10 (a) OVERSIGHT OF ACCREDITING ENTITIES.—The
11 Secretary shall—

12 (1) monitor the performance by each accred-
13 iting entity of its duties under section 202 and its
14 compliance with the requirements of the Convention,
15 this Act, other applicable laws, and implementing
16 regulations under this Act; and

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

21 (b) SUSPENSION OR CANCELLATION OF ACCREDITA-
22 TION OR APPROVAL.—

23 (1) SECRETARY'S AUTHORITY.—The Secretary
24 shall suspend or cancel the accreditation or approval
25 granted by an accrediting entity to an agency or per-

1 son pursuant to section 202 when the Secretary
2 finds that—

3 (A) the agency or person is substantially
4 out of compliance with applicable requirements;
5 and

6 (B) the accrediting entity has failed or re-
7 fused, after consultation with the Secretary, to
8 take appropriate enforcement action.

9 (2) CORRECTION OF DEFICIENCY.—At any time
10 when the Secretary is satisfied that the deficiencies
11 on the basis of which an adverse action is taken
12 under paragraph (1) have been corrected, the Sec-
13 retary shall—

14 (A) notify the accrediting entity that the
15 deficiencies have been corrected; and

16 (B)(i) in the case of a suspension, termi-
17 nate the suspension; or

18 (ii) in the case of a cancellation, notify the
19 agency or person that the agency or person may
20 re-apply to the accrediting entity for accredita-
21 tion or approval.

22 (c) DEBARMENT.—

23 (1) SECRETARY'S AUTHORITY.—On the initia-
24 tive of the Secretary, or on request of an accrediting
25 entity, the Secretary may temporarily or perma-

1 nently debar an agency from accreditation or a per-
2 son from approval under this title, but only if—

3 (A) there is substantial evidence that the
4 agency or person is out of compliance with ap-
5 plicable requirements; and

6 (B) there has been a pattern of serious,
7 willful, or grossly negligent failures to comply
8 or other aggravating circumstances indicating
9 that continued accreditation or approval would
10 not be in the best interests of the children and
11 families concerned.

12 (2) PERIOD OF DEBARMENT.—The Secretary’s
13 debarment order shall state whether the debarment
14 is temporary or permanent. If the debarment is tem-
15 porary, the Secretary shall specify a date, not earlier
16 than 3 years after the date of the order, on or after
17 which the agency or person may apply to the Sec-
18 retary for withdrawal of the debarment.

19 (3) EFFECT OF DEBARMENT.—An accrediting
20 entity may take into account the circumstances of
21 the debarment of an agency or person that has been
22 debarred pursuant to this subsection in considering
23 any subsequent application of the agency or person,
24 or of any other entity in which the agency or person

1 has an ownership or control interest, for accredita-
2 tion or approval under this title.

3 (d) JUDICIAL REVIEW.—A person (other than a pro-
4 spective adoptive parent), an agency, or an accrediting en-
5 tity who is the subject of a final action of suspension, can-
6 cellation, or debarment by the Secretary under this title
7 may petition the United States District Court for the Dis-
8 trict of Columbia or the United States district court in
9 the judicial district in which the person resides or the
10 agency or accrediting entity is located to set aside the ac-
11 tion. The court shall review the action in accordance with
12 section 706 of title 5, United States Code.

13 (e) FAILURE TO ENSURE A FULL AND COMPLETE
14 HOME STUDY.—

15 (1) Willful, grossly negligent, or repeated fail-
16 ure to ensure the completion and transmission of a
17 background report (home study) that fully complies
18 with the requirements of section 203(b)(1)(A)(ii)
19 shall constitute substantial noncompliance with ap-
20 plicable requirements.

21 (2) Regulations promulgated under section 203
22 shall provide for—

23 (A) frequent and careful monitoring of
24 compliance by agencies and approved persons

1 with the requirements of section
2 203(b)(1)(A)(ii); and

3 (B) consultation between the Secretary and
4 the accrediting entity where an agency or per-
5 son has engaged in substantial noncompliance
6 with the requirements of section
7 203(b)(1)(A)(ii), unless the accrediting entity
8 has taken appropriate corrective action and the
9 noncompliance has not recurred.

10 (3) Repeated serious, willful, or grossly neg-
11 ligent failures to comply with the requirements of
12 section 203(b)(1)(A)(ii) by an agency or person after
13 consultation between the Secretary and the accred-
14 iting entity with respect to previous noncompliance
15 by such agency or person shall constitute a pattern
16 of serious, willful, or grossly negligent failures to
17 comply under subsection (c)(1)(B).

18 (4) A failure to comply with the requirements
19 of section 203(b)(1)(A)(ii) shall constitute a serious
20 failure to comply under subsection (c)(1)(B) unless
21 it is shown by clear and convincing evidence that
22 such noncompliance had neither the purpose nor the
23 effect of determining the outcome of a decision or
24 proceeding by a court or other competent authority
25 in the United States or the child's country of origin.

1 **SEC. 205. STATE PLAN REQUIREMENT.**

2 Section 422(b) of the Social Security Act (42 U.S.C.
3 622(b)) is amended—

4 (1) in paragraph (11), by striking “and” at the
5 end;

6 (2) in paragraph (12), by striking “children.”
7 and inserting “children;”; and

8 (3) by adding at the end the following new
9 paragraphs:

10 “(13) contain a description of the activities that
11 the State has undertaken for children adopted from
12 other countries, including the provision of adoption
13 and post-adoption services; and

14 “(14) provide that the State shall collect and
15 report information on children who are adopted from
16 other countries and who enter into State custody as
17 a result of the disruption of a placement for adop-
18 tion or the dissolution of an adoption, including the
19 number of children, the agencies who handled the
20 placement or adoption, the plans for the child, and
21 the reasons for the disruption or dissolution.”.

1 **TITLE III—RECOGNITION OF**
2 **CONVENTION ADOPTIONS IN**
3 **THE UNITED STATES**

4 **SEC. 301. ADOPTIONS OF CHILDREN IMMIGRATING TO THE**
5 **UNITED STATES.**

6 (a) **LEGAL EFFECT OF CERTIFICATES ISSUED BY**
7 **THE SECRETARY OF STATE.—**

8 (1) **ISSUANCE OF CERTIFICATES BY THE SEC-**
9 **RETARY OF STATE.—**The Secretary of State shall,
10 with respect to each Convention adoption, issue a
11 certificate to the adoptive citizen parent domiciled in
12 the United States that the adoption has been grant-
13 ed or, in the case of a prospective adoptive citizen
14 parent, that legal custody of the child has been
15 granted to the citizen parent for purposes of emigra-
16 tion and adoption, pursuant to the Convention and
17 this Act, if the Secretary of State—

18 (A) receives appropriate notification from
19 the central authority of such child's country of
20 origin; and

21 (B) has verified that the requirements of
22 the Convention and this Act have been met with
23 respect to the adoption.

24 (2) **LEGAL EFFECT OF CERTIFICATES.—**If ap-
25 pended to an original adoption decree, the certificate

1 described in paragraph (1) shall be treated by Fed-
2 eral and State agencies, courts, and other public and
3 private persons and entities as conclusive evidence of
4 the facts certified therein and shall constitute the
5 certification required by section 204(d)(2) of the Im-
6 migration and Nationality Act, as amended by this
7 Act.

8 (b) LEGAL EFFECT OF CONVENTION ADOPTION FI-
9 NALIZED IN ANOTHER CONVENTION COUNTRY.—A final
10 adoption in another Convention country, certified by the
11 Secretary of State pursuant to subsection (a) of this sec-
12 tion or section 303(c), shall be recognized as a final valid
13 adoption for purposes of all Federal, State, and local laws
14 of the United States.

15 (c) CONDITION ON FINALIZATION OF CONVENTION
16 ADOPTION BY STATE COURT.—In the case of a child who
17 has entered the United States from another Convention
18 country for the purpose of adoption, an order declaring
19 the adoption final shall not be entered unless the Secretary
20 of State has issued the certificate provided for in sub-
21 section (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
5 the Immigration and Nationality Act (8 U.S.C.
6 1101(b)(1)) is amended—

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

9 (2) by striking the period at the end of sub-
10 paragraph (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
14 time a petition is filed on the child’s behalf to accord
15 a classification as an immediate relative under sec-
16 tion 201(b), who has been adopted in a foreign state
17 that is a party to the Convention on Protection of
18 Children and Co-operation in Respect of Inter-
19 country Adoption done at The Hague on May 29,
20 1993, or who is emigrating from such a foreign state
21 to be adopted in the United States, by a United
22 States citizen and spouse jointly, or by an unmarried
23 United States citizen at least 25 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
7 death or disappearance of, abandonment or
8 desertion by, the other parent), or other
9 persons or institutions that retain legal
10 custody of the child, have freely given their
11 written irrevocable consent to the termi-
12 nation of their legal relationship with the
13 child, and to the child’s emigration and
14 adoption;

15 “(III) the child is not the grandchild,
16 niece, nephew, brother, sister, aunt, uncle,
17 or first cousin of one or both of the adopt-
18 ing parents, unless—

19 “(aa) the child has no living par-
20 ents because of the death or dis-
21 appearance of, abandonment or deser-
22 tion by, separation from, or loss of,
23 both parents; or

24 “(bb) the sole or surviving parent
25 is incapable of providing the proper

1 care for the child and has in writing
2 irrevocably released the child for emi-
3 gration and adoption; and

4 “(IV) in the case of a child who has
5 not been adopted—

6 “(aa) the competent authority of
7 the foreign state has approved the
8 child’s emigration to the United
9 States for the purpose of adoption by
10 the prospective adoptive parent or
11 parents; and

12 “(bb) the prospective adoptive
13 parent or parents has or have com-
14 plied with any pre-adoption require-
15 ments of the child’s proposed resi-
16 dence; and

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

21 (b) APPROVAL OF PETITIONS.—Section 204(d) of the
22 Immigration and Nationality Act (8 U.S.C. 1154(d)) is
23 amended—

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

1 (2) by striking “section 101(b)(1)(F)” and in-
2 serting “subparagraph (F) or (G) of section
3 101(b)(1)”;

4 (3) by adding at the end the following new
5 paragraph:

6 “(2) Notwithstanding the provisions of subsections
7 (a) and (b), no petition may be approved on behalf of a
8 child defined in section 101(b)(1)(G) unless the Secretary
9 of State has certified that the central authority of the
10 child’s country of origin has notified the United States
11 central authority under the convention referred to in such
12 section 101(b)(1)(G) that a United States citizen habit-
13 ually resident in the United States has effected final adop-
14 tion of the child, or has been granted custody of the child
15 for the purpose of emigration and adoption, in accordance
16 with such convention and the Intercountry Adoption Act
17 of 2000.”.

18 (c) DEFINITION OF PARENT.—Section 101(b)(2) of
19 the Immigration and Nationality Act (8 U.S.C.
20 1101(b)(2)) is amended by inserting “and paragraph
21 (1)(G)(i)” after “second proviso therein”.

22 **SEC. 303. ADOPTIONS OF CHILDREN EMIGRATING FROM**
23 **THE UNITED STATES.**

24 (a) DUTIES OF ACCREDITED AGENCY OR APPROVED
25 PERSON.—In the case of a Convention adoption involving

1 the emigration of a child residing in the United States
2 to a foreign country, the accredited agency or approved
3 person providing adoption services, or the prospective
4 adoptive parent or parents acting on their own behalf (if
5 permitted by the laws of such other Convention country
6 in which they reside and the laws of the State in which
7 the child resides), shall do the following:

8 (1) Ensure that, in accordance with the
9 Convention—

10 (A) a background study on the child is
11 completed;

12 (B) the accredited agency or approved
13 person—

14 (i) has made reasonable efforts to ac-
15 tively recruit and make a diligent search
16 for prospective adoptive parents to adopt
17 the child in the United States; and

18 (ii) despite such efforts, has not been
19 able to place the child for adoption in the
20 United States in a timely manner; and

21 (C) a determination is made that place-
22 ment with the prospective adoptive parent or
23 parents is in the best interests of the child.

24 (2) Furnish to the State court with jurisdiction
25 over the case—

1 (A) documentation of the matters de-
2 scribed in paragraph (1);

3 (B) a background report (home study) on
4 the prospective adoptive parent or parents (in-
5 cluding a criminal background check) prepared
6 in accordance with the laws of the receiving
7 country; and

8 (C) a declaration by the central authority
9 (or other competent authority) of such other
10 Convention country—

11 (i) that the child will be permitted to
12 enter and reside permanently, or on the
13 same basis as the adopting parent, in the
14 receiving country; and

15 (ii) that the central authority (or
16 other competent authority) of such other
17 Convention country consents to the adop-
18 tion, if such consent is necessary under the
19 laws of such country for the adoption to
20 become final.

21 (3) Furnish to the United States central
22 authority—

23 (A) official copies of State court orders
24 certifying the final adoption or grant of custody
25 for the purpose of adoption;

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

4 (C) any other information concerning the
5 case required by the United States central au-
6 thority to perform the functions specified in
7 subsection (c) or otherwise to carry out the du-
8 ties of the United States central authority
9 under the Convention.

10 (b) CONDITIONS ON STATE COURT ORDERS.—An
11 order declaring an adoption to be final or granting custody
12 for the purpose of adoption in a case described in sub-
13 section (a) shall not be entered unless the court—

14 (1) has received and verified to the extent the
15 court may find necessary—

16 (A) the material described in subsection
17 (a)(2); and

18 (B) satisfactory evidence that the require-
19 ments of Articles 4 and 15 through 21 of the
20 Convention have been met; and

21 (2) has determined that the adoptive placement
22 is in the best interests of the child.

23 (c) DUTIES OF THE SECRETARY OF STATE.—In a
24 case described in subsection (a), the Secretary, on receipt
25 and verification as necessary of the material and informa-

1 tion described in subsection (a)(3), shall issue, as applica-
2 ble, an official certification that the child has been adopted
3 or a declaration that custody for purposes of adoption has
4 been granted, in accordance with the Convention and this
5 Act.

6 (d) FILING WITH REGISTRY REGARDING NON-
7 CONVENTION ADOPTIONS.—Accredited agencies, approved
8 persons, and other persons, including governmental au-
9 thorities, providing adoption services in an intercountry
10 adoption not subject to the Convention that involves the
11 emigration of a child from the United States shall file in-
12 formation required by regulations jointly issued by the At-
13 torney General and the Secretary of State for purposes
14 of implementing section 102(e).

15 **TITLE IV—ADMINISTRATION** 16 **AND ENFORCEMENT**

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

18 (a) PRESERVATION OF CONVENTION RECORDS.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of the enactment of this Act, the Sec-
21 retary, in consultation with the Attorney General,
22 shall issue regulations that establish procedures and
23 requirements in accordance with the Convention and
24 this section for the preservation of Convention
25 records.

1 (2) APPLICABILITY OF NOTICE AND COMMENT
2 RULES.—Subsections (b), (c), and (d) of section 553
3 of title 5, United States Code, shall apply in the de-
4 velopment and issuance of regulations under this
5 section.

6 (b) ACCESS TO CONVENTION RECORDS.—

7 (1) PROHIBITION.—Except as provided in para-
8 graph (2), the Secretary or the Attorney General
9 may disclose a Convention record, and access to
10 such a record may be provided in whole or in part,
11 only if such record is maintained under the authority
12 of the Immigration and Nationality Act and diselo-
13 sure of, or access to, such record is permitted or re-
14 quired by applicable Federal law.

15 (2) EXCEPTION FOR ADMINISTRATION OF THE
16 CONVENTION.—A Convention record may be dis-
17 closed, and access to such a record may be provided,
18 in whole or in part, among the Secretary, the Attor-
19 ney General, central authorities, accredited agencies,
20 and approved persons, only to the extent necessary
21 to administer the Convention or this Act.

22 (3) PENALTIES FOR UNLAWFUL DISCLOSURE.—
23 Unlawful disclosure of all or part of a Convention
24 record shall be punishable in accordance with appli-
25 cable Federal law.

1 (c) ACCESS TO NON-CONVENTION RECORDS.—Dis-
2 closure of, access to, and penalties for unlawful disclosure
3 of, adoption records that are not Convention records, in-
4 cluding records of adoption proceedings conducted in the
5 United States, shall be governed by applicable State law.

6 **SEC. 402. DOCUMENTS OF OTHER CONVENTION COUN-**
7 **TRIES.**

8 Documents originating in any other Convention coun-
9 try and related to a Convention adoption case shall require
10 no authentication in order to be admissible in any Federal,
11 State, or local court in the United States, unless a specific
12 and supported claim is made that the documents are false,
13 have been altered, or are otherwise unreliable.

14 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS; COLLEC-**
15 **TION OF FEES.**

16 (a) AUTHORIZATION OF APPROPRIATIONS.—

17 (1) IN GENERAL.—There are authorized to be
18 appropriated such sums as may be necessary to
19 agencies of the Federal Government implementing
20 the Convention and the provisions of this Act.

21 (2) AVAILABILITY OF FUNDS.—Amounts appro-
22 priated pursuant to paragraph (1) are authorized to
23 remain available until expended.

24 (b) ASSESSMENT OF FEES.—

1 (1) The Secretary may charge a fee for new or
2 enhanced services that will be undertaken by the De-
3 partment of State to meet the requirements of this
4 Act with respect to intercountry adoptions under the
5 Convention and comparable services with respect to
6 other intercountry adoptions. Such fee shall be pre-
7 scribed by regulation and shall not exceed the cost
8 of such services.

9 (2) Fees collected under paragraph (1) shall be
10 retained and deposited as an offsetting collection to
11 any Department of State appropriation to recover
12 the costs of providing such services.

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

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

19 **SEC. 404. ENFORCEMENT.**

20 (a) CIVIL PENALTIES.—Any person who—

21 (1) violates section 201;

22 (2) makes a false or fraudulent statement, or
23 misrepresentation, with respect to a material fact, or
24 offers, gives, solicits, or accepts inducement by way

1 of compensation, intended to influence or affect in
2 the United States or a foreign country—

3 (A) a decision by an accrediting entity with
4 respect to the accreditation of an agency or ap-
5 proval of a person under title II;

6 (B) the relinquishment of parental rights
7 or the giving of parental consent relating to the
8 adoption of a child in a case subject to the Con-
9 vention; or

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

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

16 shall be subject, in addition to any other penalty that may
17 be prescribed by law, to a civil money penalty of not more
18 than \$50,000 for a first violation, and not more than
19 \$100,000 for each succeeding violation.

20 (b) CIVIL ENFORCEMENT.—

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

1 (2) FACTORS TO BE CONSIDERED IN IMPOSING
2 PENALTIES.—In imposing penalties the court shall
3 consider the gravity of the violation, the degree of
4 culpability of the defendant, and any history of prior
5 violations by the defendant.

6 (c) CRIMINAL PENALTIES.—Whoever knowingly and
7 willfully violates paragraph (1) or (2) of subsection (a)
8 shall be subject to a fine of not more than \$250,000, im-
9 prisonment for not more than 5 years, or both.

10 **TITLE V—GENERAL PROVISIONS**

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

12 Subject to Article 24 of the Convention, adoptions
13 concluded between two other Convention countries that
14 meet the requirements of Article 23 of the Convention and
15 that became final before the date of entry into force of
16 the Convention for the United States shall be recognized
17 thereafter in the United States and given full effect. Such
18 recognition shall include the specific effects described in
19 Article 26 of the Convention.

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

21 (a) AUTHORITY TO ESTABLISH ALTERNATIVE PRO-
22 CEDURES FOR ADOPTION OF CHILDREN BY RELATIVES.—
23 To the extent consistent with the Convention, the Sec-
24 retary may establish by regulation alternative procedures
25 for the adoption of children by individuals related to them

1 by blood, marriage, or adoption, in cases subject to the
2 Convention.

3 (b) WAIVER AUTHORITY.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of this Act, to the extent consistent with
6 the Convention, the Secretary may, on a case-by-
7 case basis, waive applicable requirements of this Act
8 or regulations issued under this Act, in the interests
9 of justice or to prevent grave physical harm to the
10 child.

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

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

14 (a) PREEMPTION OF INCONSISTENT STATE LAW.—
15 The Convention and this Act shall not be construed to pre-
16 empt any provision of the law of any State or political
17 subdivision thereof, or prevent a State or political subdivi-
18 sion thereof from enacting any provision of law with re-
19 spect to the subject matter of the Convention or this Act,
20 except to the extent that such provision of State law is
21 inconsistent with the Convention or this Act, and then
22 only to the extent of the inconsistency.

23 (b) APPLICABILITY OF THE INDIAN CHILD WELFARE
24 ACT.—The Convention and this Act shall not be construed

1 to affect the application of the Indian Child Welfare Act
2 of 1978 (25 U.S.C. 1901 et seq.).

3 (c) RELATIONSHIP TO OTHER LAWS.—Sections
4 3506(c), 3507, and 3512 of title 44, United States Code,
5 shall not apply to information collection for purposes of
6 sections 104, 202(b)(4), and 303(d) of this Act or for use
7 as a Convention record as defined in this Act.

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

9 The Convention and this Act shall not be construed
10 to create a private right of action to seek administrative
11 or judicial relief, except to the extent expressly provided
12 in this Act.

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

14 (a) EFFECTIVE DATES.—

15 (1) PROVISIONS EFFECTIVE UPON ENACT-
16 MENT.—Sections 2, 3, 101 through 103, 202
17 through 205, 401(a), 403, 503, and 505(a) shall
18 take effect on the date of the enactment of this Act.

19 (2) PROVISIONS EFFECTIVE UPON THE ENTRY
20 INTO FORCE OF THE CONVENTION.—Subject to sub-
21 section (b), the provisions of this Act not specified
22 in paragraph (1) shall take effect upon the entry
23 into force of the Convention for the United States
24 pursuant to Article 46(2)(a) of the Convention.

1 (b) TRANSITION RULE.—The Convention and this
2 Act shall not apply—

3 (1) in the case of a child immigrating to the
4 United States, if the application for advance proc-
5 essing of an orphan petition or petition to classify an
6 orphan as an immediate relative for the child is filed
7 before the effective date described in subsection
8 (a)(2); or

9 (2) in the case of a child emigrating from the
10 United States, if the prospective adoptive parents of
11 the child initiated the adoption process in their
12 country of residence with the filing of an appropriate
13 application before the effective date described in
14 subsection (a)(2).

Passed the House of Representatives July 18, 2000.

Attest:

Clerk.