

106TH CONGRESS
1ST SESSION

H. R. 2909

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.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1999

Mr. GILMAN (for himself, Mr. CAMP, Mr. DELAHUNT, Mr. GEJDENSON, Mr. BLILEY, Mr. OBERSTAR, Mr. SMITH of New Jersey, Mr. POMEROY, Mr. MCGOVERN, Mr. BARRETT of Wisconsin, Mr. ENGLISH, Mr. FARR of California, Mr. HORN, Mr. FORBES, Mr. RAMSTAD, Mrs. MINK of Hawaii, Mrs. JOHNSON of Connecticut, Mr. CAPUANO, Mr. FROST, Mr. PORTER, Mr. BARCIA, Mr. BURTON of Indiana, Mr. UNDERWOOD, Mr. COOKSEY, Mr. HASTINGS of Florida, Mr. BARRETT of Nebraska, Mr. SMITH of Texas, Ms. ROS-LEHTINEN, Mr. GREENWOOD, Mr. ACKERMAN, Mr. BERMAN, Mr. DAVIS of Florida, Mr. STUPAK, Mr. CARDIN, Ms. ESHOO, Mr. LANTOS, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on the Judiciary, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To 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.

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 1999”.

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. Role of Secretary of Health and Human Services.
- Sec. 202. Accreditation or approval required in order to provide adoption services in cases subject to the Convention.
- Sec. 203. Process for accreditation and approval; role of accrediting entities.
- Sec. 204. Standards and procedures for providing accreditation or approval.
- Sec. 205. Secretarial oversight of accreditation and approval.
- Sec. 206. Limitations on authorization of appropriations.

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.
- Sec. 304. Voiding of adoptions for cause.

TITLE IV—ADMINISTRATION AND ENFORCEMENT

- Sec. 401. Records; privacy provisions.
- 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.—The 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),

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 203(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) providing professional counseling serv-
24 ices for a child, a birth parent, or a prospective
25 adoptive parent with respect to adoption;

1 (F) post-placement monitoring of a case
2 until final adoption;

3 (G) where made necessary by disruption
4 before final adoption, assuming custody and
5 providing child care or any other social service
6 pending an alternative placement; and

7 (H) post-adoption services, other than ac-
8 tivities relating to identifying or locating birth
9 parents or siblings.

10 The term “providing”, with respect to an adoption
11 service, includes facilitating the provision of the
12 service.

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

15 (5) APPROVED PERSON.—The term “approved
16 person” means a person approved under title II to
17 provide adoption services in the United States in
18 cases subject to the Convention.

19 (6) ATTORNEY GENERAL.—The term “Attorney
20 General” means the Attorney General, acting
21 through the Commissioner of Immigration and Nat-
22 uralization.

23 (7) CENTRAL AUTHORITY.—The term “central
24 authority” means the entity designated as such by
25 any Convention country under Article 6.1 of the

1 Convention, or if no such designation has been
2 made, the entity having responsibility for the dis-
3 charge of the obligations of that country under the
4 Convention.

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

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

13 (10) CONVENTION ADOPTION.—The term “Con-
14 vention adoption” means an adoption of a child resi-
15 dent in a foreign country party to the Convention by
16 a United States citizen, or an adoption of a child
17 resident in the United States by an individual resid-
18 ing in another Convention country.

19 (11) CONVENTION ADOPTION RECORD.—The
20 term “Convention adoption record” means any item,
21 collection, or grouping of information contained in
22 an electronic or physical document, an electronic col-
23 lection of data, a photograph, an audio or video
24 tape, or any other information storage medium of
25 any type whatever that contains information about a

1 specific past, current, or prospective Convention
2 adoption (regardless of whether the adoption was
3 made final).

4 (12) CONVENTION COUNTRY.—The term “Con-
5 vention country” means a country party to the Con-
6 vention.

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

10 (14) PERSON.—The term “person” shall have
11 the meaning provided in section 1 of title 1, United
12 States Code, and shall include any agency of govern-
13 ment.

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

18 **TITLE I—UNITED STATES**

19 **CENTRAL AUTHORITY**

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

21 (a) IN GENERAL.—For purposes of the Convention
22 and this Act—

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

1 (2) the Secretary of State shall serve as the
2 head of the central authority of the United States.

3 (b) PERFORMANCE OF CENTRAL AUTHORITY FUNC-
4 TIONS.—Except as otherwise provided in this Act, the Sec-
5 retary of State shall be responsible for the performance
6 of all central authority functions for the United States
7 under the Convention and this Act.

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

13 **SEC. 102. RESPONSIBILITIES OF THE SECRETARY OF**
14 **STATE.**

15 (a) LIAISON RESPONSIBILITIES.—The Secretary of
16 State shall have responsibility for—

17 (1) liaison with the central authorities of other
18 Convention countries; and

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

22 (b) INFORMATION EXCHANGE.—The Secretary of
23 State shall be responsible for—

24 (1) providing the central authorities of other
25 Convention countries with information concerning—

1 (A) agencies accredited and persons ap-
2 proved under title II, accredited agencies and
3 approved persons whose accreditation or ap-
4 proval has been suspended or canceled, and ac-
5 credited agencies and approved persons who
6 have been temporarily or permanently debarred
7 from accreditation or approval;

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

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

12 (2) providing Federal agencies, State courts,
13 and accredited agencies and approved persons with
14 an identification of Convention countries and per-
15 sons authorized to perform functions under the Con-
16 vention in each such country; and

17 (3) facilitating the transmittal of other appro-
18 priate information to, and among, central authori-
19 ties, Federal and State agencies (including State
20 courts), and accredited agencies and approved per-
21 sons.

22 (c) ADDITIONAL RESPONSIBILITIES.—The Secretary
23 of State—

24 (1) shall monitor individual Convention adop-
25 tion cases involving United States citizens;

1 (2) may facilitate interactions between such
2 citizens and officials of other Convention countries
3 on matters relating to the Convention in any case in
4 which an accredited agency or approved person is
5 unwilling or unable to provide such facilitation; and

6 (3) may provide any other appropriate assist-
7 ance in other cases, or take other appropriate ac-
8 tions necessary to implement the Convention.

9 (d) ESTABLISHMENT OF REGISTRY.—The Secretary
10 of State and the Attorney General shall jointly establish
11 a case registry of—

12 (1) all adoptions involving immigration into the
13 United States, regardless of whether the adoption
14 occurs under the Convention; and

15 (2) all adoptions involving emigration of the
16 child from the United States to any other Conven-
17 tion country.

18 Such registry shall permit tracking of pending cases and
19 retrieval of information on both pending and closed cases.

20 (e) METHODS OF PERFORMING RESPONSIBIL-
21 ITIES.—The Secretary of State may—

22 (1) authorize public or private entities to per-
23 form appropriate central authority functions for
24 which the Secretary is responsible, pursuant to regu-

1 lations or under agreements published in the Federal
2 Register; and

3 (2) carry out central authority functions
4 through grants to, or contracts with, any individual
5 or public or private entity, except as may be other-
6 wise specifically provided for in this Act.

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

8 In addition to such other responsibilities as are spe-
9 cifically conferred upon the Attorney General by this Act,
10 the central authority functions specified in Article 14 of
11 the Convention (relating to the filing of applications by
12 prospective adoptive parents to the central authority of
13 their country of residence) shall be performed by the At-
14 torney General.

15 **SEC. 104. ANNUAL REPORT ON INTERCOUNTRY ADOPT-**
16 **TIONS.**

17 (a) **REPORTS REQUIRED.**—Beginning one year after
18 the date of enactment of this Act, and each year there-
19 after, the Secretary of State, in consultation with the Sec-
20 retary of Health and Human Services, the Attorney Gen-
21 eral, and other appropriate agencies, shall submit a report
22 to the Congress describing the activities of the central au-
23 thority of the United States under this Act during the pre-
24 ceding year.

1 (b) REPORT ELEMENTS.—Each report under sub-
2 section (a) shall set forth with respect to the year con-
3 cerned, the following:

4 (1) The number of intercountry adoptions in-
5 volving immigration to the United States, regardless
6 of whether the adoption occurred under the Conven-
7 tion, including the country from which each child
8 emigrated, the State to which each child immigrated,
9 and the country in which the adoption was finalized.

10 (2) The number of intercountry adoptions in-
11 volving emigration from the United States, regard-
12 less of whether the adoption occurred under the
13 Convention, including the country to which each
14 child immigrated and the State from which each
15 child emigrated.

16 (3) The number of Convention adoptions that
17 were disrupted, including the country from which
18 the child emigrated, the age of the child, the date of
19 the adoption, the reasons for the disruption, and the
20 resolution of the disruption.

21 (4) The current list of agencies accredited and
22 persons approved under this Act to provide adop-
23 tion-related services.

24 (5) The names of the accredited agencies and
25 approved persons temporarily or permanently

1 debarred from accreditation or approval under this
2 Act, and the reasons for the debarment.

3 (6) The range of adoption fees charged in con-
4 nection with Convention adoptions involving immi-
5 gration to or emigration from the United States by
6 all entities, including accredited agencies and ap-
7 proved persons, set forth by country.

8 (7) The number of Convention adoptions involv-
9 ing immigration to the United States that were va-
10 cated for cause or in which proceedings to vacate for
11 cause are pending.

12 **TITLE II—PROVISIONS RELAT-**
13 **ING TO ACCREDITATION AND**
14 **APPROVAL**

15 **SEC. 201. ROLE OF SECRETARY OF HEALTH AND HUMAN**
16 **SERVICES.**

17 The Secretary of Health and Human Services (in this
18 title referred to as the “Secretary”), in coordination with
19 the Secretary of State, shall carry out the functions pre-
20 scribed by the Convention with respect to the accreditation
21 of agencies and the approval of persons to provide adop-
22 tion services in the United States in cases subject to the
23 Convention.

1 **SEC. 202. ACCREDITATION OR APPROVAL REQUIRED IN**
2 **ORDER TO PROVIDE ADOPTION SERVICES IN**
3 **CASES SUBJECT TO THE CONVENTION.**

4 (a) **IN GENERAL.**—Except as provided in subsection
5 (b), a person shall not offer or provide an adoption service
6 in the United States in a case subject to the Convention
7 unless the person is accredited or approved under this
8 title, or is providing the service through or under the su-
9 pervision and responsibility of a person so accredited or
10 approved.

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

13 (1) **BACKGROUND STUDIES AND HOME STUD-**
14 **IES.**—The performance of a background study on a
15 child or a home study on a prospective adoptive par-
16 ent, or any report on any such study, by a social
17 work professional or organization who is not pro-
18 viding any other adoption service in any case subject
19 to the Convention.

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

23 (3) **LEGAL SERVICES.**—The provision of legal
24 services by a person who is not providing any other
25 adoption service in the case.

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

6 **SEC. 203. PROCESS FOR ACCREDITATION AND APPROVAL;**

7 **ROLE OF ACCREDITING ENTITIES.**

8 (a) DESIGNATION OF ACCREDITING ENTITIES.—

9 (1) IN GENERAL.—The Secretary, with the con-
10 currence of the Secretary of State, shall enter into
11 agreements with one or more qualified entities under
12 which such entities will perform the duties described
13 in subsection (b) in accordance with the Convention,
14 this title, and the regulations prescribed under sec-
15 tion 204, and upon entry into each such agreement
16 shall designate the qualified entity as an accrediting
17 entity.

18 (2) QUALIFIED ENTITY.—In paragraph (1), the
19 term “qualified entity” means a nonprofit private
20 entity that has experience and expertise in devel-
21 oping and administering standards for entities pro-
22 viding child welfare services and that meets such
23 other criteria as the Secretary may by regulation es-
24 tablish.

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

3 (1) ACCREDITATION AND APPROVAL.—Accredi-
4 tation of agencies, and approval of persons, to pro-
5 vide adoption services in the United States in cases
6 subject to the Convention.

7 (2) OVERSIGHT.—Ongoing monitoring of the
8 compliance of accredited agencies and approved per-
9 sons with applicable requirements, including review
10 of complaints against such agencies and persons in
11 accordance with procedures established by the ac-
12 crediting entity and approved by the Secretary.

13 (3) ENFORCEMENT.—Taking of adverse actions
14 (including requiring corrective action, imposing sanc-
15 tions, and refusing to renew, suspending, or can-
16 celing accreditation or approval) for noncompliance
17 with applicable requirements, and notifying the
18 agency or person against whom adverse actions are
19 taken of the deficiencies necessitating the adverse
20 action.

21 (4) DATA, RECORDS, AND REPORTS.—Collection
22 of data, maintenance of records, and reporting to
23 the Secretary, the United States central authority,
24 State courts, and other entities (including on per-
25 sons and agencies granted or denied approval or ac-

1 creditation), to the extent and in the manner that
2 the Secretary requires.

3 (c) REMEDIES FOR ADVERSE ACTION BY ACCRED-
4 ITING ENTITY.—

5 (1) CORRECTION OF DEFICIENCY.—An agency
6 or person who is the subject of an adverse action by
7 an accrediting entity may re-apply for accreditation
8 or approval (or petition for termination of the ad-
9 verse action) on demonstrating to the satisfaction of
10 the accrediting entity that the deficiencies necessi-
11 tating the adverse action have been corrected.

12 (2) NO OTHER ADMINISTRATIVE REVIEW.—An
13 adverse action by an accrediting agency shall not be
14 subject to administrative review sought by the agen-
15 cy or person against whom the adverse action has
16 been taken.

17 (3) JUDICIAL REVIEW.—An agency or person
18 who is the subject of an adverse action by an accred-
19 iting agency may petition the United States district
20 court in the judicial district in which the agency is
21 located or the person resides to set aside the adverse
22 action. The court may set aside the adverse action
23 only upon clear and convincing proof that the deci-
24 sion to take the adverse action was not based on
25 substantial evidence of deficiencies or that the ac-

1 crediting entity abused its discretion in taking the
2 adverse action.

3 (d) FEES.—

4 (1) AUTHORITY TO ASSESS.—An accrediting en-
5 tity may assess fees against agencies and persons
6 seeking or maintaining accreditation or approval
7 under this title, in amounts approved by the Sec-
8 retary.

9 (2) FEE AMOUNTS.—The Secretary may ap-
10 prove fees to be assessed under paragraph (1) by an
11 accrediting entity if the Secretary estimates that the
12 aggregate of the amounts to be collected from the
13 fees will not exceed the sum of—

14 (A) the total amount of all direct or indi-
15 rect costs of the accrediting entity for accredita-
16 tion or approval and ongoing oversight (which
17 shall be estimated on the basis of the number
18 of cases subject to the Convention handled by
19 the agencies and persons accredited or approved
20 by the accrediting entity and other relevant fac-
21 tors); and

22 (B) an amount determined by the Sec-
23 retary to be the amount necessary to cover all
24 direct and indirect costs of Federal oversight of
25 the accrediting entity under section 205.

1 (3) COLLECTION; PAYMENT TO THE TREAS-
2 URY.—The accrediting entity shall collect the fees
3 assessed under paragraph (1), and from the
4 amounts collected remit to the Secretary the amount
5 determined under paragraph (2)(B). The Secretary
6 shall deposit in the Treasury of the United States
7 all amounts remitted under the preceding sentence.

8 **SEC. 204. STANDARDS AND PROCEDURES FOR PROVIDING**
9 **ACCREDITATION OR APPROVAL.**

10 (a) IN GENERAL.—

11 (1) PROMULGATION OF REGULATIONS.—The
12 Secretary, with the concurrence of the Secretary of
13 State, shall, by regulation, prescribe the standards
14 and procedures to be used by accrediting entities for
15 the accreditation of agencies and the approval of
16 persons to provide adoption services in the United
17 States in cases subject to the Convention.

18 (2) CONSIDERATION OF VIEWS.—In developing
19 such regulations, the Secretary shall consider the
20 views of individuals and entities with interest and
21 expertise in international adoptions and family social
22 services, including public and private entities with
23 experience in licensing and accrediting adoption
24 agencies.

1 (3) 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) MINIMUM REQUIREMENTS.—

7 (1) ACCREDITATION.—The standards pre-
8 scribed under subsection (a) shall include the re-
9 quirement that accreditation of an agency may not
10 be provided or continued under this title unless the
11 agency meets the following requirements:

12 (A) CAPACITY TO PROVIDE ADOPTION
13 SERVICES.—The agency has, directly or through
14 arrangements with other persons, a sufficient
15 number of appropriately trained and qualified
16 personnel, sufficient financial resources, appro-
17 priate organizational structure, and appropriate
18 procedures to enable the agency to provide, in
19 accordance with this Act, all adoption services
20 in cases subject to the Convention.

21 (B) USE OF SOCIAL SERVICE PROFES-
22 SIONALS.—The agency has established proce-
23 dures designed to ensure that social service
24 functions requiring the application of clinical
25 skills and judgment are performed only by pro-

1 professionals with appropriate qualifications and
2 credentials.

3 (C) RECORDS, REPORTS, AND INFORMA-
4 TION MATTERS.—The agency is capable of—

5 (i) maintaining such records and mak-
6 ing such reports as may be required by the
7 Secretary, the United States central au-
8 thority, and the accrediting entity that ac-
9 credits the agency;

10 (ii) cooperating with reviews, inspec-
11 tions, and audits;

12 (iii) safeguarding sensitive individual
13 information; and

14 (iv) complying with other require-
15 ments concerning information management
16 necessary to ensure compliance with the
17 Convention, this Act, and any other appli-
18 cable law.

19 (D) LIABILITY INSURANCE.—The agency
20 agrees to have in force adequate liability insur-
21 ance for professional negligence and any other
22 insurance that the Secretary considers appro-
23 priate, unless the agency is a State, local, or
24 tribal government entity.

1 (E) COMPLIANCE WITH APPLICABLE
2 RULES.—The agency has established adequate
3 measures to comply (and to ensure compliance
4 of their agents and clients) with the Conven-
5 tion, this Act, and any other applicable law.

6 (F) NONPROFIT ORGANIZATION WITH
7 STATE LICENSE TO PROVIDE ADOPTION SERV-
8 ICES.—The agency is a private nonprofit orga-
9 nization licensed to provide adoption services in
10 at least one State, unless the agency is a State,
11 local, or tribal government entity.

12 (2) APPROVAL.—The standards prescribed
13 under subsection (a) shall include the requirement
14 that a person shall not be approved under this title
15 unless the person is a private for-profit entity that
16 meets the requirements of subparagraphs (A)
17 through (E) of paragraph (1) of this subsection.

18 (3) RENEWAL OF ACCREDITATION OR AP-
19 PROVAL.—The standards prescribed under sub-
20 section (a) shall provide that the accreditation of an
21 agency or approval of a person under this title shall
22 be for a period of not less than 3 years and not
23 more than 5 years, and may be renewed on a show-
24 ing that the agency or person meets the require-

1 ments applicable to original accreditation or ap-
2 proval under this title.

3 **SEC. 205. SECRETARIAL OVERSIGHT OF ACCREDITATION**
4 **AND APPROVAL.**

5 (a) OVERSIGHT OF ACCREDITING ENTITIES.—The
6 Secretary shall monitor the performance by each accred-
7 iting entity of its duties under section 203 and its compli-
8 ance with requirements of the Convention, this Act, other
9 applicable laws, and applicable regulations prescribed
10 under this Act, and shall suspend or cancel the designation
11 of the entity as an accrediting entity if the Secretary finds
12 the entity to be substantially out of compliance with the
13 Convention, this Act, other applicable laws, or such regula-
14 tions.

15 (b) SUSPENSION OR CANCELLATION OF ACCREDITA-
16 TION OR APPROVAL.—

17 (1) SECRETARY'S AUTHORITY.—The Secretary
18 shall suspend or cancel the accreditation or approval
19 granted by an accrediting entity to an agency or per-
20 son pursuant to section 203 when the Secretary
21 finds that—

22 (A) the agency or person is substantially
23 out of compliance with applicable requirements;
24 and

1 (B) the accrediting entity has failed or re-
2 fused, after consultation with the Secretary, to
3 take appropriate corrective action.

4 (2) CORRECTION OF DEFICIENCY.—At any time
5 when the Secretary is satisfied that the deficiencies
6 on the basis of which an adverse action is taken
7 under paragraph (1) have been corrected, the Sec-
8 retary shall—

9 (A) notify the accrediting entity that the
10 deficiencies have been corrected; and

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

13 (ii) in the case of a cancellation, notify the
14 agency or person that the agency or person may
15 re-apply to the accrediting entity for accredita-
16 tion or approval.

17 (c) DEBARMENT.—

18 (1) SECRETARY'S AUTHORITY.—On the initia-
19 tive of the Secretary, or on request of an accrediting
20 entity, the Secretary may temporarily or perma-
21 nently debar an agency from accreditation or a per-
22 son from approval under this title, but only if—

23 (A) there is substantial evidence that the
24 agency or person is out of compliance with ap-
25 plicable requirements; and

1 (B) there has been a pattern of serious,
2 willful, or grossly negligent failures to comply
3 or other aggravating circumstances indicating
4 that continued accreditation or approval would
5 not be in the best interests of the children and
6 families concerned.

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

14 (3) EFFECT OF DEBARMENT.—An accrediting
15 entity may take into account the circumstances of
16 the debarment of an agency or person that has been
17 debarred pursuant to this paragraph in considering
18 any subsequent application of the agency or person,
19 or of any other entity in which the agency or person
20 has an ownership or control interest, for accredita-
21 tion or approval under this title.

22 (d) JUDICIAL REVIEW.—

23 (1) IN GENERAL.—A person (other than a pro-
24 spective adoptive parent), an agency, or an accred-
25 iting entity adversely affected by a final determina-

1 tion of the Secretary under this title with respect to
2 the designation of an accrediting entity, or the ac-
3 creditation of an agency or approval of a person,
4 may bring an action for review of the determination
5 in the United States District Court for the District
6 of Columbia, or in the United States district court
7 in the judicial district in which the person resides or
8 the agency or accrediting entity is located.

9 (2) STANDARD OF REVIEW.—The court may set
10 aside a determination referred to in paragraph (1)
11 only if there is clear and convincing evidence that
12 the determination was an abuse of discretion.

13 **SEC. 206. LIMITATIONS ON AUTHORIZATION OF APPRO-**
14 **PRIATIONS.**

15 For activities of the Secretary under this title, there
16 are authorized to be appropriated to the Secretary, for the
17 third fiscal year beginning after the date of the enactment
18 of this Act and for each succeeding fiscal year, an amount
19 not to exceed the aggregate of the amounts remitted to
20 the Treasury under section 203(d)(3).

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 ADOPTIONS FINALIZED IN
7 THE UNITED STATES.—

8 (1) ISSUANCE OF CERTIFICATES BY THE SEC-
9 RETARY OF STATE.—Pursuant to Article 23 of the
10 Convention, the Secretary of State shall, with re-
11 spect to each Convention adoption, issue a certificate
12 to the adoptive citizen parent domiciled in the
13 United States that the adoption has been granted
14 or, in the case of a prospective adoptive citizen par-
15 ent, that legal custody of the child has been granted
16 to the citizen parent for purposes of emigration and
17 adoption, pursuant to the Convention and this Act,
18 if the Secretary—

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

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

1 (2) LEGAL EFFECT OF CERTIFICATES.—If ap-
2 pended to an original adoption decree, the certificate
3 described in paragraph (1) shall be treated by Fed-
4 eral and State agencies, courts, and other public and
5 private persons and entities as conclusive evidence of
6 the facts certified therein, except as provided in sec-
7 tion 304, and shall constitute the certification re-
8 quired by section 204(d)(2) of the Immigration and
9 Nationality Act, as amended by this Act.

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

17 (c) CONDITION ON FINALIZATION OF CONVENTION
18 ADOPTION BY STATE COURT.—In the case of a child who
19 has entered the United States from another Convention
20 country for the purpose of adoption, a State court may
21 not issue an order declaring the adoption final unless the
22 Secretary of State has issued the certificate provided for
23 in subsection (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 twenty-five years of
24 age—

25 “(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 1999.”.

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) a determination is made that the child
13 cannot expeditiously be placed for adoption in
14 the United States; and

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

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

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

22 (B) the background report (home study)
23 on the prospective adoptive parent or parents
24 prepared in accordance with the laws of the re-
25 ceiving country; and

1 (C) a declaration by the Central Authority
2 (or other competent authority) of such other
3 Convention 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
9 other competent authority) of such other
10 Convention country consents to the adop-
11 tion, if such consent is necessary under the
12 laws of such country for the adoption to
13 become final.

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

16 (A) official copies of State court orders
17 certifying the final adoption or grant of custody
18 for 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
25 subsection (c) or otherwise to carry out the du-

1 ties of the United States central authority
2 under the Convention.

3 (b) CONDITIONS ON STATE COURT ORDERS.—A

4 State court shall not enter an order declaring an adoption
5 to be final or granting custody for the purpose of adoption
6 in a case described in subsection (a) 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 child’s best interests.

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

1 **SEC. 304. VOIDING OF ADOPTIONS FOR CAUSE.**

2 (a) VOIDING OF ADOPTION BY STATE COURT.—A
3 State court may not vacate a final adoption decree entered
4 pursuant to the Convention unless—

5 (1) the decree was granted by a State court;

6 (2) the court finds clear and convincing evi-
7 dence that—

8 (A) the consent of a birth parent or, in the
9 absence of such consent, the consent of a bio-
10 logical relative if required by the law of the
11 State in which the decree was granted, to ter-
12 mination of parental rights or to the adoption
13 was not obtained, or was obtained as a result
14 of fraud, duress, or inducement by compensa-
15 tion; or

16 (B) consent of an adoptive parent to the
17 adoption was obtained by fraud which the adop-
18 tive parent did not and could not reasonably
19 have been expected to discover;

20 (3) voiding the adoption is in the best interests
21 of the child, taking into consideration the wishes of
22 the child as appropriate given the age of the child;
23 and

24 (4) the adoptive parents are afforded an oppor-
25 tunity to be heard in the proceeding.

1 (b) RECOGNITION OF PROCEEDING OF ANOTHER
2 CONVENTION COUNTRY TO VACATE CONVENTION ADOP-
3 TION.—A decision by the competent authorities of another
4 Convention country to vacate an adoption decree originally
5 issued in the country pursuant to the Convention shall be
6 recognized as valid and given full effect in the United
7 States upon receipt by the Secretary of State of notifica-
8 tion from such authorities that the conditions provided in
9 paragraphs (2) through (4) of subsection (a) were satis-
10 fied by the proceeding to vacate the decree.

11 (c) VOIDING OF ADOPTION NOT VOIDING CHILD’S
12 NATURALIZATION.—The vacating of an adoption decree in
13 a case subject to the Convention shall not be construed
14 to void or prohibit the naturalization of the child as a cit-
15 izen of the United States. Nothing in this provision shall
16 be construed to limit the Attorney General’s authority
17 under title III of the Immigration and Nationality Act to
18 revoke the naturalization of such a child, or to limit the
19 Attorney General’s discretion to consider a finding of fact
20 by a State court that is relevant to such a determination.

21 **TITLE IV—ADMINISTRATION** 22 **AND ENFORCEMENT**

23 **SEC. 401. RECORDS PRIVACY PROVISIONS.**

24 (a) REGULATIONS REGARDING CONVENTION ADOP-
25 TION RECORDS PRESERVATION.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, the Sec-
3 retary of State, in consultation with the Attorney
4 General, shall issue regulations that establish proce-
5 dures and requirements in accordance with the Con-
6 vention and this section for the preservation of Con-
7 vention adoption records.

8 (2) NOTICE AND COMMENT REQUIREMENT.—
9 Section 553 of title 5, United States Code, shall
10 apply to regulations issued under this section with-
11 out regard to subsection (a) of that section.

12 (b) PROHIBITION ON DISCLOSURE OF AND PROVI-
13 SION OF ACCESS TO IDENTIFYING INFORMATION.—

14 (1) PROHIBITION.—Identifying information in
15 any Convention adoption record shall not be dis-
16 closed by any person, and access to such information
17 shall not be provided by any person, except as other-
18 wise authorized by this subsection or the law of the
19 State in which the adoptive parents resided at the
20 time of the adoption.

21 (2) EXCEPTION FOR ADMINISTRATION OF THE
22 CONVENTION.—Identifying information in a Conven-
23 tion adoption record may be disclosed, and access to
24 such information may be provided, among the Attor-
25 ney General, central authorities, accredited agencies,

1 and approved persons, to the extent necessary to ad-
2 minister the Convention or this Act.

3 (c) RELATIONSHIP TO OTHER LAWS.—Sections 552
4 and 552a of title 5, United States Code, popularly known,
5 respectively, as the Freedom of Information Act and the
6 Privacy Act, shall not apply to the disclosure of, or the
7 provision of access to, identifying information in Conven-
8 tion adoption records.

9 (d) IDENTIFYING INFORMATION DEFINED.—

10 (1) DEFINITION.—In this section, the term
11 “identifying information”—

12 (A) except as provided in subparagraph
13 (B), means any information contained in a Con-
14 vention adoption record; and

15 (B) does not include information relating
16 to the health, social, or genetic background of
17 any individual if there is no reasonable basis to
18 believe that such information could be used to
19 identify the adopted child or any birth parent
20 or other birth relative of an adopted child.

21 (2) REGULATIONS.—Not later than 180 days
22 after the date of the enactment of this Act, the Sec-
23 retary of Health and Human Services, in consulta-
24 tion with the Secretary of State and the Attorney

1 General, shall issue regulations prescribing the infor-
2 mation referred to in paragraph (1)(B).

3 **SEC. 402. DOCUMENTS OF OTHER CONVENTION COUN-**
4 **TRIES.**

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

11 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS; COLLEC-**
12 **TION OF FEES.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—

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

18 (2) AVAILABILITY OF FUNDS.—Amounts appro-
19 priated pursuant to paragraph (1) are authorized to
20 remain available until expended.

21 (b) ASSESSMENT OF FEES.—

22 (1) The Secretary of State may charge a fee
23 prescribed by regulation to cover the costs of new or
24 enhanced services that will be undertaken by the De-

1 partment of State to meet the requirements of this
2 Act.

3 (2) Fees collected under paragraph (1) shall be
4 retained and deposited as an offsetting collection to
5 any Department of State appropriation to recover
6 the costs of providing such services.

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

10 **SEC. 404. ENFORCEMENT.**

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

12 (1) violates section 202;

13 (2) violates section 401 or any regulation issued
14 under section 401; or

15 (3) makes a false or fraudulent statement or
16 misrepresentation of material fact, or offers, gives,
17 solicits, or accepts inducement by way of compensa-
18 tion intended to influence or affect—

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

22 (B) the relinquishment of parental rights
23 or parental consent relating to the adoption of
24 a child in a case subject to the Convention; or

1 (C) a decision or action of any entity per-
2 forming a central authority function,
3 shall be subject, in addition to any other penalty that may
4 be prescribed by law, to a civil money penalty of not more
5 than \$25,000 for a first violation, and not more than
6 \$50,000 for each succeeding violation.

7 (b) ENFORCEMENT.—

8 (1) COORDINATION WITH ATTORNEY GEN-
9 ERAL.—The Secretary of Health and Human Serv-
10 ices, with respect to violations of subsection (a) in-
11 volving the Department of Health and Human Serv-
12 ices, an accrediting entity, an agency that has ap-
13 plied for or received accreditation under title II, or
14 a person who has applied for or received approval
15 under title II, and the Secretary of State, with re-
16 spect to violations of paragraphs (2) and (3) of sub-
17 section (a) involving the Department of State, may
18 impose a civil money penalty under subsection (a)
19 pursuant to this subsection and such procedures as
20 may be agreed upon by such Secretaries and the At-
21 torney General.

22 (2) NOTICE AND HEARING.—A penalty shall not
23 be imposed under subsection (a) until the person
24 charged has been given written notice of, and an op-
25 portunity to respond to the charge.

1 (3) FACTORS CONSIDERED IN IMPOSING PEN-
2 ALTY.—In determining the amount of a penalty to
3 be imposed under subsection (a), the gravity of the
4 violation, the degree of culpability of the violator,
5 and any history of prior violations by the violator
6 shall be considered.

7 (c) CRIMINAL PENALTIES.—Whoever knowingly and
8 willfully violates paragraph (2) or (3) of subsection (a)
9 shall be subject to a fine of not more than \$50,000, im-
10 prisonment for not more than 1 year, or both.

11 **TITLE V—GENERAL PROVISIONS**

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

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

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

22 (a) AUTHORITY TO ESTABLISH ALTERNATIVE PRO-
23 CEDURES FOR ADOPTION OF CHILDREN BY RELATIVES.—
24 To the extent consistent with the Convention, the Sec-
25 retary of State may establish by regulation alternative

1 procedures for the adoption of children by individuals re-
2 lated to them by blood or marriage, in cases subject to
3 the Convention.

4 (b) WAIVER AUTHORITY.—

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

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

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

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

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

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

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

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

11 (a) EFFECTIVE DATES.—

12 (1) PROVISIONS EFFECTIVE UPON ENACT-
13 MENT.—Sections 2, 101 through 104, 201, 203
14 through 206, and 403 shall take effect on the date
15 of the enactment of this Act.

16 (2) PROVISIONS EFFECTIVE UPON THE ENTRY
17 INTO FORCE OF THE CONVENTION.—Subject to sub-
18 section (b), the Convention and the provisions of this
19 Act not specified in paragraph (1) of this subsection
20 shall take effect upon the entry into force of the
21 Convention for the United States pursuant to Article
22 46(2)(a) of the Convention, and shall govern Con-
23 vention adoptions made final thereafter.

24 (b) TRANSITION RULE.—The Convention and this
25 Act shall not apply—

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

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

○