

# Union Calendar No. 387

106TH CONGRESS  
2D SESSION

# H. R. 2909

**[Report No. 106-691, Part I]**

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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## 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

JUNE 22, 2000

Reported from the Committee on International Relations with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 22, 2000

Referred to the Committee on Ways and Means for a period ending not later than June 22, 2000, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(s), rule X

JUNE 22, 2000

Referral to the Committees on the Judiciary and Education and the Workforce extended for a period ending not later than June 22, 2000

JUNE 22, 2000

Additional sponsors: Mr. WAMP, Mr. DEFazio, Ms. PRYCE of Ohio, Mr. WU, Mr. WEXLER, Mr. RADANOVICH, Mr. LUTHER, Mr. FOLEY, Ms. WOOLSEY, Mr. WAXMAN, Mr. UDALL of New Mexico, Mr. BENTSEN, Mr. CASTLE, Mr. HINCHEY, and Mr. BOEHLERT

JUNE 22, 2000

Committees on the Judiciary, Education and the Workforce, and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on September 22, 1999]

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## A BILL

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,*

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

4       (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5       *“Intercountry Adoption Act of 2000”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Findings and purposes.*

*Sec. 3. Definitions.*

### TITLE I—UNITED STATES CENTRAL AUTHORITY

*Sec. 101. Designation of central authority.*

*Sec. 102. Responsibilities of the Secretary of State.*

*Sec. 103. Responsibilities of the Attorney General.*

Sec. 104. *Annual report on intercountry adoptions.*

**TITLE II—PROVISIONS RELATING TO ACCREDITATION AND APPROVAL**

Sec. 201. *Accreditation or approval required in order to provide adoption services in cases subject to the Convention.*

Sec. 202. *Process for accreditation and approval; role of accrediting entities.*

Sec. 203. *Standards and procedures for providing accreditation or approval.*

Sec. 204. *Secretarial oversight of accreditation and approval.*

Sec. 205. *State plan requirement.*

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

Sec. 301. *Adoptions of children immigrating to the United States.*

Sec. 302. *Immigration and Nationality Act amendments relating to children adopted from Convention countries.*

Sec. 303. *Adoptions of children emigrating from the United States.*

**TITLE IV—ADMINISTRATION AND ENFORCEMENT**

Sec. 401. *Access to Convention records.*

Sec. 402. *Documents of other Convention countries.*

Sec. 403. *Authorization of appropriations; collection of fees.*

Sec. 404. *Enforcement.*

**TITLE V—GENERAL PROVISIONS**

Sec. 501. *Recognition of Convention adoptions.*

Sec. 502. *Special rules for certain cases.*

Sec. 503. *Relationship to other laws.*

Sec. 504. *No private right of action.*

Sec. 505. *Effective dates; transition rule.*

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

2 (a) *FINDINGS.—The Congress recognizes—*

3 (1) *the international character of the Convention*  
 4 *on Protection of Children and Co-operation in Re-*  
 5 *spect of Intercountry Adoption (done at The Hague*  
 6 *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,*

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

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

5 *(1) to provide for implementation by the United*  
6 *States of the Convention;*

7 *(2) to protect the rights of, and prevent abuses*  
8 *against, children, birth families, and adoptive parents*  
9 *involved in adoptions (or prospective adoptions) sub-*  
10 *ject to the Convention, and to ensure that such adop-*  
11 *tions are in the children’s best interests; and*

12 *(3) to improve the ability of the Federal Govern-*  
13 *ment to assist United States citizens seeking to adopt*  
14 *children from abroad and residents of other countries*  
15 *party to the Convention seeking to adopt children*  
16 *from the United States.*

17 **SEC. 3. DEFINITIONS.**

18 *As used in this Act:*

19 *(1) ACCREDITED AGENCY.—The term “accredited*  
20 *agency” means an agency accredited under title II to*  
21 *provide adoption services in the United States in*  
22 *cases subject to the Convention.*

23 *(2) ACCREDITING ENTITY.—The term “accred-*  
24 *iting entity” means an entity designated under sec-*

1        *tion 202(a) to accredit agencies and approve persons*  
2        *under title II.*

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

5            (A) *identifying a child for adoption and ar-*  
6        *ranging an adoption;*

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

9            (C) *performing a background study on a*  
10       *child or a home study on a prospective adoptive*  
11       *parent, and reporting on such a study;*

12           (D) *making determinations of the best in-*  
13       *terests of a child and the appropriateness of*  
14       *adoptive placement for the child;*

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

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

21        *The term “providing”, with respect to an adoption*  
22       *service, includes facilitating the provision of the serv-*  
23       *ice.*

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

1           (5) *APPROVED PERSON.*—*The term “approved*  
2 *person” means a person approved under title II to*  
3 *provide adoption services in the United States in*  
4 *cases subject to the Convention.*

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

9           (7) *CENTRAL AUTHORITY.*—*The term “central*  
10 *authority” means the entity designated as such by*  
11 *any Convention country under Article 6(1) of the*  
12 *Convention.*

13           (8) *CENTRAL AUTHORITY FUNCTION.*—*The term*  
14 *“central authority function” means any duty re-*  
15 *quired to be carried out by a central authority under*  
16 *the Convention.*

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

21           (10) *CONVENTION ADOPTION.*—*The term “Con-*  
22 *vention adoption” means an adoption of a child resi-*  
23 *dent in a foreign country party to the Convention by*  
24 *a United States citizen, or an adoption of a child*

1       *resident in the United States by an individual resid-*  
2       *ing in another Convention country.*

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

14              (12) *CONVENTION COUNTRY.*—*The term “Con-*  
15       *vention country” means a country party to the Con-*  
16       *vention.*

17              (13) *OTHER CONVENTION COUNTRY.*—*The term*  
18       *“other Convention country” means a Convention*  
19       *country other than the United States.*

20              (14) *PERSON.*—*The term “person” shall have the*  
21       *meaning provided in section 1 of title 1, United*  
22       *States Code, and shall not include any agency of gov-*  
23       *ernment or tribal government entity.*

24              (15) *PERSON WITH AN OWNERSHIP OR CONTROL*  
25       *INTEREST.*—*The term “person with an ownership or*

1       *control interest” has the meaning given such term in*  
2       *section 1124(a)(3) of the Social Security Act (42*  
3       *U.S.C. 1320a-3).*

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

6               (17) *STATE.*—*The term “State” means the 50*  
7       *States, the District of Columbia, the Commonwealth*  
8       *of Puerto Rico, the Commonwealth of the Northern*  
9       *Mariana Islands, Guam, and the Virgin Islands.*

10                   ***TITLE I—UNITED STATES***  
11                   ***CENTRAL AUTHORITY***

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

13               (1) *IN GENERAL.*—*For purposes of the Convention and*  
14       *this Act—*

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

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

19               (2) *PERFORMANCE OF CENTRAL AUTHORITY FUNC-*  
20       *TIONS.—*

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



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

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

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

13           (a) *LIAISON RESPONSIBILITIES.—The Secretary shall*  
14 *have responsibility for—*

15                 (1) *liaison with the central authorities of other*  
16 *Convention countries; and*

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

20           (b) *INFORMATION EXCHANGE.—The Secretary shall be*  
21 *responsible for—*

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

24                         (A) *agencies accredited and persons ap-*  
25 *proved under title II, accredited agencies and*

1           *approved persons whose accreditation or ap-*  
2           *proval has been suspended or canceled, and ac-*  
3           *credited agencies and approved persons who have*  
4           *been temporarily or permanently debarred from*  
5           *accreditation or approval;*

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

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

10                    *(2) providing Federal agencies, State courts, and*  
11            *accredited agencies and approved persons with an*  
12            *identification of Convention countries and persons*  
13            *authorized to perform functions under the Convention*  
14            *in each such country; and*

15                    *(3) facilitating the transmittal of other appro-*  
16            *priate information to, and among, central authorities,*  
17            *Federal and State agencies (including State courts),*  
18            *and accredited agencies and approved persons.*

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

1           (d)           *ADDITIONAL           RESPONSIBILITIES.—The*  
2 *Secretary—*

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

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

10           (e) *ESTABLISHMENT OF REGISTRY.—The Secretary*  
11 *and the Attorney General shall jointly establish a case reg-*  
12 *istry of all adoptions involving immigration of children*  
13 *into the United States and emigration of children from the*  
14 *United States, regardless of whether the adoption occurs*  
15 *under the Convention. Such registry shall permit tracking*  
16 *of pending cases and retrieval of information on both pend-*  
17 *ing and closed cases.*

18           (f) *METHODS OF PERFORMING RESPONSIBILITIES.—*  
19 *The Secretary may—*

20                   (1) *authorize public or private entities to per-*  
21 *form appropriate central authority functions for*  
22 *which the Secretary is responsible, pursuant to regu-*  
23 *lations or under agreements published in the Federal*  
24 *Register; and*

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

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

6           *In addition to such other responsibilities as are specifi-*  
7           *cally conferred upon the Attorney General by this Act, the*  
8           *central authority functions specified in Article 14 of the*  
9           *Convention (relating to the filing of applications by pro-*  
10           *spective adoptive parents to the central authority of their*  
11           *country of residence) shall be performed by the Attorney*  
12           *General.*

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

14           (a) *REPORTS REQUIRED.*—*Beginning one year after*  
15           *the date of the entry into force of the Convention for the*  
16           *United States and each year thereafter, the Secretary, in*  
17           *consultation with the Attorney General and other appro-*  
18           *priate agencies, shall submit a report describing the activi-*  
19           *ties of the central authority of the United States under this*  
20           *Act during the preceding year to the Committee on Inter-*  
21           *national Relations, the Committee on Ways and Means,*  
22           *and the Committee on the Judiciary of the House of Rep-*  
23           *resentatives and the Committee on Foreign Relations, the*  
24           *Committee on Finance, and the Committee on Judiciary*  
25           *of the Senate.*

1       (b) *REPORT ELEMENTS.*—Each report under sub-  
2 section (a) shall set forth with respect to the year concerned,  
3 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, regardless*  
12 *of whether the adoption occurred under the Conven-*  
13 *tion, including the country to which each child immi-*  
14 *grated and the State from which each child emi-*  
15 *grated.*

16          (3) *The number of Convention placements for*  
17 *adoption that were disrupted, including the country*  
18 *from which the child emigrated, the age of the child,*  
19 *the date of the placement for adoption, the reasons for*  
20 *the disruption, the resolution of the disruption, the*  
21 *agencies that handled the placement for adoption, and*  
22 *the plans for the child, and in addition, any informa-*  
23 *tion regarding disruption or dissolution of adoptions*  
24 *of children from other countries received pursuant to*

1 *section 422(b)(14) of the Social Security Act, as*  
2 *amended by section 205 of this Act.*

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

6 *(5) The current list of agencies accredited and*  
7 *persons approved under this Act to provide adoption*  
8 *services.*

9 *(6) The names of the accredited agencies and ap-*  
10 *proved persons temporarily or permanently debarred*  
11 *from accreditation or approval under this Act, and*  
12 *the reasons for the debarment.*

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

17 *(8) The range of fees charged for accreditation of*  
18 *agencies and the approval of persons in the United*  
19 *States engaged in providing adoption services under*  
20 *the Convention.*

1 **TITLE II—PROVISIONS RELAT-**  
2 **ING TO ACCREDITATION AND**  
3 **APPROVAL**

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

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

11 (1) *is accredited or approved by an accrediting*  
12 *entity in accordance with this title; or*

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

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

18 (1) *BACKGROUND STUDIES AND HOME STUD-*  
19 *IES.*—*The performance of a background study on a*  
20 *child or a home study on a prospective adoptive par-*  
21 *ent, or any report on any such study by a social work*  
22 *professional or organization who is not providing any*  
23 *other adoption service in the case, if the background*  
24 *or home study is approved by an accredited agency.*

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

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

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

12 **SEC. 202. PROCESS FOR ACCREDITATION AND APPROVAL;**

13                           **ROLE OF ACCREDITING ENTITIES.**

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

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

23           (2) *QUALIFIED ENTITY.*—*In paragraph (1), the*  
 24 *term “qualified entity” means a nonprofit private en-*  
 25 *tity that has expertise in developing and admin-*



1        *istering standards for entities providing child welfare*  
2        *services and that meets such other criteria as the Sec-*  
3        *retary may by regulation establish.*

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

6                *(1) ACCREDITATION AND APPROVAL.—Accredita-*  
7        *tion of agencies, and approval of persons, to provide*  
8        *adoption services in the United States in cases subject*  
9        *to the Convention.*

10               *(2) OVERSIGHT.—Ongoing monitoring of the*  
11        *compliance of accredited agencies and approved per-*  
12        *sons with applicable requirements, including review*  
13        *of complaints against such agencies and persons in*  
14        *accordance with procedures established by the accred-*  
15        *iting entity and approved by the Secretary.*

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

23               *(4) DATA, RECORDS, AND REPORTS.—Collection*  
24        *of data, maintenance of records, and reporting to the*  
25        *Secretary, the United States central authority, State*

1        *courts, and other entities (including on persons and*  
2        *agencies granted or denied approval or accreditation),*  
3        *to the extent and in the manner that the Secretary re-*  
4        *quires.*

5        *(c) REMEDIES FOR ADVERSE ACTION BY ACCREDITING*  
6        *ENTITY.—*

7                *(1) CORRECTION OF DEFICIENCY.—An agency or*  
8        *person who is the subject of an adverse action by an*  
9        *accrediting entity may re-apply for accreditation or*  
10        *approval (or petition for termination of the adverse*  
11        *action) on demonstrating to the satisfaction of the ac-*  
12        *crediting entity that the deficiencies necessitating the*  
13        *adverse action have been corrected.*

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

17                *(3) JUDICIAL REVIEW.—An agency or person*  
18        *who is the subject of an adverse action by an accred-*  
19        *iting entity 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 shall review the adverse action in*  
23        *accordance with section 706 of title 5, United States*  
24        *Code, and for purposes of such review the accrediting*

1        *entity shall be considered an agency within the mean-*  
2        *ing of section 701 of such title.*

3        (d) *FEES.*—*The amount of fees assessed by accrediting*  
4        *entities for the costs of accreditation shall be subject to ap-*  
5        *proval by the Secretary. Such fees may not exceed the costs*  
6        *of accreditation. In reviewing the level of such fees, the Sec-*  
7        *retary shall consider the relative size of, the geographic loca-*  
8        *tion of, and the number of Convention adoption cases man-*  
9        *aged by the agencies or persons subject to accreditation or*  
10       *approval by the accrediting entity.*

11       **SEC. 203. STANDARDS AND PROCEDURES FOR PROVIDING**  
12                                **ACCREDITATION OR APPROVAL.**

13        (a) *IN GENERAL.*—

14                (1) *PROMULGATION OF REGULATIONS.*—*The Sec-*  
15        *retary, shall, by regulation, prescribe the standards*  
16        *and procedures to be used by accrediting entities for*  
17        *the accreditation of agencies and the approval of per-*  
18        *sons to provide adoption services in the United States*  
19        *in cases subject to the Convention.*

20                (2) *CONSIDERATION OF VIEWS.*—*In developing*  
21        *such regulations, the Secretary shall consider any*  
22        *standards or procedures developed or proposed by,*  
23        *and the views of, individuals and entities with inter-*  
24        *est and expertise in international adoptions and fam-*  
25        *ily social services, including public and private enti-*

1 *ties with experience in licensing and accrediting*  
2 *adoption agencies.*

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

8 (b) *MINIMUM REQUIREMENTS.—*

9 (1) *ACCREDITATION.—The standards prescribed*  
10 *under subsection (a) shall include the requirement*  
11 *that accreditation of an agency may not be provided*  
12 *or continued under this title unless the agency meets*  
13 *the following requirements:*

14 (A) *SPECIFIC REQUIREMENTS.—*

15 (i) *The agency provides prospective*  
16 *adoptive parents of a child in a prospective*  
17 *Convention adoption a copy of the medical*  
18 *records of the child on a date which is not*  
19 *later than the earlier of the date that is 2*  
20 *weeks before (I) the adoption, or (II) the*  
21 *date on which the prospective parents travel*  
22 *to a foreign country to complete all proce-*  
23 *dures in such country relating to the adop-*  
24 *tion. To the fullest extent practicable, an*

1           *English-language translation of such*  
2           *records is provided.*

3           (ii) *The agency provides prospective*  
4           *adoptive parents with a training program*  
5           *that includes counseling and guidance for*  
6           *the purpose of promoting a successful inter-*  
7           *country adoption before such parents travel*  
8           *to adopt the child or the child is placed*  
9           *with such parents for adoption.*

10          (iii) *The agency employs personnel*  
11          *providing intercountry adoption services on*  
12          *a fee for service basis rather than on a con-*  
13          *tingent fee basis.*

14          (iv) *The agency discloses fully its poli-*  
15          *cies and practices, the disruption rates of*  
16          *its placements for intercountry adoption,*  
17          *and all fees charged by such agency for*  
18          *intercountry adoption.*

19          (B) *CAPACITY TO PROVIDE ADOPTION SERV-*  
20          *ICES.—The agency has, directly or through ar-*  
21          *rangements with other persons, a sufficient num-*  
22          *ber of appropriately trained and qualified per-*  
23          *sonnel, sufficient financial resources, appropriate*  
24          *organizational structure, and appropriate proce-*  
25          *dures to enable the agency to provide, in accord-*

1           *ance with this Act, all adoption services in cases*  
2           *subject to the Convention.*

3           (C) *USE OF SOCIAL SERVICE PROFES-*  
4           *SIONALS.—The agency has established procedures*  
5           *designed to ensure that social service functions*  
6           *requiring the application of clinical skills and*  
7           *judgment are performed only by professionals*  
8           *with appropriate qualifications and credentials.*

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

11           (i) *maintaining such records and mak-*  
12           *ing such reports as may be required by the*  
13           *Secretary, the United States central author-*  
14           *ity, and the accrediting entity that accred-*  
15           *its the agency;*

16           (ii) *cooperating with reviews, inspec-*  
17           *tions, and audits;*

18           (iii) *safeguarding sensitive individual*  
19           *information; and*

20           (iv) *complying with other requirements*  
21           *concerning information management nec-*  
22           *essary to ensure compliance with the Con-*  
23           *vention, this Act, and any other applicable*  
24           *law.*

1           (E) *LIABILITY INSURANCE.*—*The agency*  
2           *agrees to have in force adequate liability insur-*  
3           *ance for professional negligence and any other*  
4           *insurance that the Secretary considers appro-*  
5           *priate.*

6           (F) *COMPLIANCE WITH APPLICABLE*  
7           *RULES.*—*The agency has established adequate*  
8           *measures to comply (and to ensure compliance of*  
9           *their agents and clients) with the Convention,*  
10          *this Act, and any other applicable law.*

11          (G) *NONPROFIT ORGANIZATION WITH STATE*  
12          *LICENSE TO PROVIDE ADOPTION SERVICES.*—*The*  
13          *agency is a private nonprofit organization li-*  
14          *censed to provide adoption services in at least*  
15          *one State.*

16          (2) *APPROVAL.*—*The standards prescribed under*  
17          *subsection (a) shall include the requirement that a*  
18          *person shall not be approved under this title unless*  
19          *the person is a private for-profit entity that meets the*  
20          *requirements of subparagraphs (A) through (F) of*  
21          *paragraph (1) of this subsection.*

22          (3) *RENEWAL OF ACCREDITATION OR AP-*  
23          *PROVAL.*—*The standards prescribed under subsection*  
24          *(a) shall provide that the accreditation of an agency*  
25          *or approval of a person under this title shall be for*

1        *a period of not less than 3 years and not more than*  
2        *5 years, and may be renewed on a showing that the*  
3        *agency or person meets the requirements applicable to*  
4        *original accreditation or approval under this title.*

5        *(c) TEMPORARY REGISTRATION OF SMALL COMMUNITY*  
6        *BASED AGENCIES.—For a 2-year period after the entry*  
7        *into force of the Convention and notwithstanding subsection*  
8        *(b), the Secretary may provide, in regulations issued pursu-*  
9        *ant to subsection (a), that an agency may register with the*  
10       *Secretary and be accredited to provide adoption services in*  
11       *the United States in cases subject to the Convention during*  
12       *such period if the agency—*

13                *(1) is licensed in the State in which it is located*  
14                *and is a non-profit agency;*

15                *(2) has been providing adoption services in con-*  
16                *nection with intercountry adoptions for at least 5*  
17                *years;*

18                *(3) has provided adoption services in fewer than*  
19                *20 intercountry adoptions in the preceding calendar*  
20                *year;*

21                *(4) has demonstrated that it will be able to pro-*  
22                *vide the United States Government with all informa-*  
23                *tion related to the elements described in section 104(b)*  
24                *and provides such information;*



1           (5) *has initiated the process of becoming accred-*  
2           *ited under the provisions of this Act and is actively*  
3           *taking steps to become an accredited agency; and*

4           (6) *has not been found to be involved in any im-*  
5           *proper conduct relating to intercountry adoptions.*

6 **SEC. 204. SECRETARIAL OVERSIGHT OF ACCREDITATION**  
7   **AND APPROVAL.**

8           (a) *OVERSIGHT OF ACCREDITING ENTITIES.—The Sec-*  
9           *retary shall—*

10           (1) *monitor the performance by each accrediting*  
11           *entity of its duties under section 202 and its compli-*  
12           *ance with the requirements of the Convention, this*  
13           *Act, other applicable laws, and implementing regula-*  
14           *tions under this Act; and*

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

19           (b) *SUSPENSION OR CANCELLATION OF ACCREDITA-*  
20           *TION OR APPROVAL.—*

21           (1) *SECRETARY’S AUTHORITY.—The Secretary*  
22           *shall suspend or cancel the accreditation or approval*  
23           *granted by an accrediting entity to an agency or per-*  
24           *son pursuant to section 202 when the Secretary finds*  
25           *that—*

1           (A) *the agency or person is substantially*  
2           *out of compliance with applicable requirements;*  
3           *and*

4           (B) *the accrediting entity has failed or re-*  
5           *fused, after consultation with the Secretary, to*  
6           *take appropriate corrective action.*

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

12           (A) *notify the accrediting entity that the*  
13           *deficiencies have been corrected; and*

14           (B)(i) *in the case of a suspension, terminate*  
15           *the suspension; or*

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

20           (c) *DEBARMENT.—*

21           (1) *SECRETARY’S AUTHORITY.—On the initiative*  
22           *of the Secretary, or on request of an accrediting enti-*  
23           *ty, the Secretary may temporarily or permanently*  
24           *debar an agency from accreditation or a person from*  
25           *approval under this title, but only if—*

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

4           (B) *there has been a pattern of serious, will-*  
5           *ful, or grossly negligent failures to comply or*  
6           *other aggravating circumstances indicating that*  
7           *continued accreditation or approval would not*  
8           *be in the best interests of the children and fami-*  
9           *lies concerned.*

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

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

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 para-*  
9 *graphs:*

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 re-*  
15 *port 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 adoption*  
18 *or the dissolution of an adoption, including the num-*  
19 *ber of children, the agencies who handled the place-*  
20 *ment or adoption, the plans for the child, and the rea-*  
21 *sons 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 ADOPTIONS FINALIZED IN THE*  
7 *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 respect*  
11 *to each Convention adoption, issue a certificate to the*  
12 *adoptive citizen parent domiciled in the United*  
13 *States that the adoption has been granted or, in the*  
14 *case of a prospective adoptive citizen parent, that*  
15 *legal custody of the child has been granted to the cit-*  
16 *izen parent for purposes of emigration and adoption,*  
17 *pursuant to the Convention and this Act, if the Sec-*  
18 *retary of State—*

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 adop-*  
24 *tion.*

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

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

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

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

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

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

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

24 “(i) if—

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

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

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

18                   “(aa) the child has no living par-  
19 ents because of the death or disappear-  
20 ance of, abandonment or desertion by,  
21 separation from, or loss of, both par-  
22 ents; or

23                   “(bb) the sole or surviving parent  
24 is incapable of providing the proper  
25 care for the child and has in writing



1                   *irrevocably released the child for emi-*  
2                   *gration and adoption; and*

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

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

11                  “*(bb) the prospective adoptive*  
12                  *parent or parents has or have complied*  
13                  *with any pre-adoption requirements of*  
14                  *the child’s proposed residence; and*

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

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

22                         ***(1) by striking “(d)” and inserting “(d)(1)”;***

23                         ***(2) by striking “section 101(b)(1)(F)” and in-***  
24                         ***serting “subparagraph (F) or (G) of section***  
25                         ***101(b)(1)”;*** and

1           (3) *by adding at the end the following new para-*  
2           *graph:*

3           “(2) *Notwithstanding the provisions of subsections (a)*  
4           *and (b), no petition may be approved on behalf of a child*  
5           *defined in section 101(b)(1)(G) unless the Secretary of State*  
6           *has certified that the central authority of the child’s country*  
7           *of origin has notified the United States central authority*  
8           *under the convention referred to in such section*  
9           *101(b)(1)(G) that a United States citizen habitually resi-*  
10           *dent in the United States has effected final adoption of the*  
11           *child, or has been granted custody of the child for the pur-*  
12           *pose of emigration and adoption, in accordance with such*  
13           *convention and the Intercountry Adoption Act of 2000.”.*

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

18           **SEC. 303. ADOPTIONS OF CHILDREN EMIGRATING FROM**  
19           **THE UNITED STATES.**

20           (a) *DUTIES OF ACCREDITED AGENCY OR APPROVED*  
21           *PERSON.*—*In the case of a Convention adoption involving*  
22           *the emigration of a child residing in the United States to*  
23           *a foreign country, the accredited agency or approved person*  
24           *providing adoption services, or the prospective adoptive*  
25           *parent or parents acting on their own behalf (if permitted*

1 *by the laws of such other Convention country in which they*  
2 *reside and the laws of the State in which the child resides),*  
3 *shall do the following:*

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

6                   (A) *a background study on the child is com-*  
7 *pleted;*

8                   (B) *the accredited agency or approved*  
9 *person—*

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

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

17                   (C) *a determination is made that placement*  
18 *with the prospective adoptive parent or parents*  
19 *is in the best interests of the child.*

20           (2) *Furnish to the State court with jurisdiction*  
21 *over the case—*

22                   (A) *documentation of the matters described*  
23 *in paragraph (1);*

24                   (B) *a background report (home study) on*  
25 *the prospective adoptive parent or parents (in-*

1           cluding a criminal background check) prepared  
2           in accordance with the laws of the receiving  
3           country; and

4           (C) a declaration by the central authority  
5           (or other competent authority) of such other Con-  
6           vention country—

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

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

17          (3) Furnish to the United States central  
18          authority—

19               (A) official copies of State court orders cer-  
20               tifying the final adoption or grant of custody for  
21               the purpose of adoption;

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

1           (C) any other information concerning the  
2 case required by the United States central au-  
3 thority to perform the functions specified in sub-  
4 section (c) or otherwise to carry out the duties of  
5 the United States central authority under the  
6 Convention.

7           (b) *CONDITIONS ON STATE COURT ORDERS.*—A State  
8 court shall not enter an order declaring an adoption to be  
9 final or granting custody for the purpose of adoption in  
10 a case described in subsection (a) unless the court—

11           (1) has received and verified to the extent the  
12 court may find necessary—

13           (A) the material described in subsection  
14 (a)(2); and

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

18           (2) has determined that the adoptive placement  
19 is in the child's best interests.

20           (c) *DUTIES OF THE SECRETARY OF STATE.*—In a case  
21 described in subsection (a), the Secretary, on receipt and  
22 verification as necessary of the material and information  
23 described in subsection (a)(3), shall issue, as applicable, an  
24 official certification that the child has been adopted or a

1 *declaration that custody for purposes of adoption has been*  
2 *granted, in accordance with the Convention and this Act.*

3       (d) *FILING WITH REGISTRY REGARDING NONCONVEN-*  
4 *TION ADOPTIONS.*—*Accredited agencies, approved persons,*  
5 *and other persons, including governmental authorities, pro-*  
6 *viding adoption services in an intercountry adoption not*  
7 *subject to the Convention that involves the emigration of*  
8 *a child from the United States shall file information re-*  
9 *quired by regulations jointly issued by the Attorney General*  
10 *and the Secretary of State for purposes of implementing*  
11 *section 102(e).*

12 ***TITLE IV—ADMINISTRATION AND***  
13 ***ENFORCEMENT***

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

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

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

22           (2) *APPLICABILITY OF NOTICE AND COMMENT*  
23 *RULES.*—*Subsections (b), (c), and (d) of section 553*  
24 *of title 5, United States Code, shall apply in the de-*

1        *velopment and issuance of regulations under this sec-*  
2        *tion.*

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

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

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

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

23        *(c) ACCESS TO NON-CONVENTION RECORDS.—Disclo-*  
24       *sure of, access to, and penalties for unlawful disclosure of,*  
25       *adoption records that are not Convention records, including*

1 *records of adoption proceedings conducted in the United*  
2 *States, shall be governed by applicable State law.*

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 ap-*  
15 *propriated such sums as may be necessary to agencies*  
16 *of the Federal Government implementing the Conven-*  
17 *tion 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 may charge a fee for new or*  
23 *enhanced services that will be undertaken by the De-*  
24 *partment of State to meet the requirements of this Act*  
25 *with respect to intercountry adoptions under the Con-*



1       vention and comparable services with respect to other  
2       intercountry adoptions. Such fee shall be prescribed  
3       by regulation and shall not exceed the cost of such  
4       services.

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

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

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

15      **SEC. 404. ENFORCEMENT.**

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

17               (1) violates section 201;

18               (2) makes a false or fraudulent statement or mis-  
19      representation of material fact, or offers, gives, solici-  
20      its, or accepts inducement by way of compensation,  
21      intended to influence or affect in the United States or  
22      a foreign country—

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

1                   (B) the relinquishment of parental rights or  
2                   parental consent relating to the adoption of a  
3                   child in a case subject to the Convention; or

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

6                   (3) engages another person as an agent, whether  
7                   in the United States or in a foreign country, who in  
8                   the course of that agency takes any of the actions de-  
9                   scribed in paragraph (1) or (2),  
10 shall be subject, in addition to any other penalty that may  
11 be prescribed by law, to a civil money penalty of not more  
12 than \$50,000 for a first violation, and not more than  
13 \$100,000 for each succeeding violation.

14           (b) *CIVIL ENFORCEMENT.*—

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

19                   (2) *FACTORS TO BE CONSIDERED IN IMPOSING*  
20                   *PENALTIES.*—In imposing penalties the court shall  
21                   consider the gravity of the violation, the degree of cul-  
22                   pability of the defendant, and any history of prior  
23                   violations by the defendant.

24                   (c) *CRIMINAL PENALTIES.*—Whoever knowingly and  
25 willfully violates paragraph (1) or (2) of subsection (a)

1 *shall be subject to a fine of not more than \$250,000, impris-*  
2 *onment for not more than 5 years, or both.*

### 3 **TITLE V—GENERAL PROVISIONS**

#### 4 **SEC. 501. RECOGNITION OF CONVENTION ADOPTIONS.**

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

#### 13 **SEC. 502. SPECIAL RULES FOR CERTAIN CASES.**

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

21 *(b) WAIVER AUTHORITY.—*

22 *(1) IN GENERAL.—Notwithstanding any other*  
23 *provision of this Act, to the extent consistent with the*  
24 *Convention, the Secretary may, on a case-by-case*  
25 *basis, waive applicable requirements of this Act or*

1        *regulations issued under this Act, in the interests of*  
2        *justice or to prevent grave physical harm to the child.*

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

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

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

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

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

20           *The Convention and this Act shall not be construed*  
21       *to create a private right of action to seek administrative*  
22       *or judicial relief, except to the extent expressly provided in*  
23       *this Act.*

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

25           (a) *EFFECTIVE DATES.—*

1           (1) *PROVISIONS EFFECTIVE UPON ENACTMENT.*—  
2       *Sections 2, 3, 101 through 103, 202 through 205,*  
3       *401(a), 403, 503, and 505(a) shall take effect on the*  
4       *date of the enactment of this Act.*

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

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

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

19           (2) *in the case of a child emigrating from the*  
20      *United States, if the prospective adoptive parents of*  
21      *the child initiated the adoption process in their coun-*  
22      *try of residence with the filing of an appropriate ap-*  
23      *plication before the effective date described in sub-*  
24      *section (a)(2).*

**Union Calendar No. 387**

106TH CONGRESS  
2D SESSION

**H. R. 2909**

**[Report No. 106-691, Part I]**

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**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.

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JUNE 22, 2000

Reported from the Committee on International Relations  
with an amendment

Referred to the Committee on Ways and Means for a period ending not later than June 22, 2000, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(s), rule X

Referral to the Committees on the Judiciary and Education and the Workforce extended for a period ending not later than June 22, 2000

Committees on the Judiciary, Education and the Workforce, and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed