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S. 1934

To establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 23, 2003

Mr. NICKLES (for himself, Ms. LANDRIEU, Mr. CRAIG, Mr. BINGAMAN, Mr. INHOFE, and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

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.**

4 This Act may be cited as the “Intercountry Adoption
5 Reform Act of 2003” or the “ICARE Act”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) That a child, for the full and harmonious
9 development of his or her personality, should grow

1 up in a family environment, in an atmosphere of
2 happiness, love, and understanding.

3 (2) That intercountry adoption may offer the
4 advantage of a permanent family to a child for
5 whom a suitable family cannot be found in his or her
6 country of origin.

7 (3) There has been a significant growth in
8 intercountry adoptions. In 1990, Americans adopted
9 7,093 children from abroad. In 2001, they adopted
10 19,237 children from abroad.

11 (4) Americans increasingly seek to create or en-
12 large their families through intercountry adoptions.

13 (5) There are many children worldwide that are
14 without permanent homes.

15 (6) In the interest of United States citizens and
16 homeless children, reforms are needed in the inter-
17 country adoption process used by United States citi-
18 zens.

19 (7) In addition, Congress recognizes that for-
20 eign born adopted children do not make the decision
21 whether to immigrate to the United States. They are
22 being chosen by Americans to become part of their
23 immediate families.

24 (8) As such these children should not be classi-
25 fied as immigrants in the traditional sense. Once

1 fully and finally adopted, they should be treated as
2 children of United States citizens.

3 (9) Since a child who is fully and finally adopt-
4 ed is entitled to the same rights, duties, and respon-
5 sibilities as a biological child, the law should reflect
6 such equality.

7 (10) Therefore, foreign born adopted children
8 of United States citizens should be accorded the
9 same procedural treatment as biological children
10 born abroad to a United States citizen.

11 (11) If a United States citizen can confer citi-
12 zenship to a biological child born abroad, then the
13 same citizen is entitled to confer such citizenship to
14 their legally and fully adopted foreign born children
15 immediately upon final adoption.

16 (12) If a United States citizen cannot confer
17 citizenship to a biological child born abroad, then
18 such citizen cannot confer citizenship to their legally
19 and fully adopted foreign born child, except through
20 the naturalization process.

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

22 (1) to ensure that foreign born children adopted
23 by United States citizens will be treated identically
24 to a biological child born abroad to the same citizen
25 parent;

1 (2) to improve the intercountry adoption pro-
 2 cess to make it more citizen friendly and child ori-
 3 ented; and

4 (3) to foster best practices.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) **ADOPTABLE CHILD.**—The term “adoptable
 8 child” has the same meaning given such term in sec-
 9 tion 101(c)(3) of the Immigration and Nationality
 10 Act (8 U.S.C. 1101(c)(3)), as added by section
 11 204(a) of this Act.

12 (2) **AMBASSADOR AT LARGE.**—The term “Am-
 13 bassador at Large” means the Ambassador at Large
 14 for Intercountry Adoptions appointed to head the
 15 Office pursuant to section 101(b).

16 (3) **FULL AND FINAL ADOPTION.**—The term
 17 “full and final adoption” means an adoption—

18 (A) that is completed according to the laws
 19 of the child’s country of origin or the State law
 20 of the parent’s residence;

21 (B) under which a person is granted full
 22 and legal custody of the adopted child;

23 (C) that has the force and effect of sev-
 24 ering the child’s legal ties to the child’s biologi-
 25 cal parents;

1 (D) under which the adoptive parents meet
2 the requirements of section 205; and

3 (E) under which the child has been adju-
4 dicated to be an adoptable child in accordance
5 with section 206.

6 (4) OFFICE.—The term “Office” means the Of-
7 fice of Intercountry Adoptions established under sec-
8 tion 101(a).

9 (5) READILY APPROVABLE.—A petition or cer-
10 tification is considered “readily approvable” if the
11 documentary support provided demonstrates that the
12 petitioner satisfies the eligibility requirements and
13 no additional information or investigation is nec-
14 essary.

15 **TITLE I—ADMINISTRATION OF**
16 **INTERCOUNTRY ADOPTIONS**
17 **Subtitle A—In General**

18 **SEC. 101. OFFICE OF INTERCOUNTRY ADOPTIONS.**

19 (a) ESTABLISHMENT.—There is established within
20 the Department of State, an Office of Intercountry Adop-
21 tions which shall be headed by the Ambassador at Large
22 for Intercountry Adoptions who shall be appointed pursu-
23 ant to subsection (b).

24 (b) AMBASSADOR AT LARGE.—

1 (1) APPOINTMENT.—The Ambassador at Large
2 shall be appointed by the President, by and with the
3 advice and consent of the Senate, from among indi-
4 viduals who have background, experience, and train-
5 ing in intercountry adoptions.

6 (2) AUTHORITY.—The Ambassador at Large
7 shall report directly to the Secretary of State, in
8 consultation with the Assistant Secretary for Con-
9 sular Affairs.

10 (3) DUTIES OF THE AMBASSADOR AT LARGE.—
11 In carrying out the functions of the Office, the Am-
12 bassador at Large shall have the following respon-
13 sibilities:

14 (A) IN GENERAL.—The primary respon-
15 sibilities of the Ambassador at Large shall be—

16 (i) to ensure that intercountry adop-
17 tions take place in the best interests of the
18 child; and

19 (ii) to assist the Secretary of State in
20 fulfilling the responsibilities designated to
21 the central authority under title I of the
22 Intercountry Adoption Act of 2000 (42
23 U.S.C. 14911 et seq.).

24 (B) ADVISORY ROLE.—The Ambassador at
25 Large shall be a principal advisor to the Presi-

1 dent and the Secretary of State regarding mat-
2 ters affecting intercountry adoption and the
3 general welfare of children abroad and shall
4 make recommendations regarding—

5 (i) the policies of the United States
6 with respect to the establishment of a sys-
7 tem of cooperation among the parties to
8 The Hague Convention;

9 (ii) the policies to prevent abandon-
10 ment, strengthen families, and to advance
11 the placement of children in permanent
12 families; and

13 (iii) policies that promote the well-
14 being of children.

15 (C) DIPLOMATIC REPRESENTATION.—Sub-
16 ject to the direction of the President and the
17 Secretary of State, the Ambassador at Large
18 may represent the United States in matters and
19 cases relevant to international adoption in—

20 (i) fulfillment of the responsibilities
21 designated to the central authority under
22 title I of the Intercountry Adoption Act of
23 2000 (42 U.S.C. 14911 et seq.);

24 (ii) contacts with foreign governments,
25 intergovernmental organizations, and spe-

1 cialized agencies of the United Nations and
2 other international organizations of which
3 the United States is a member; and

4 (iii) multilateral conferences and
5 meetings relevant to international adop-
6 tion.

7 (D) INTERNATIONAL POLICY DEVELOP-
8 MENT.—To advise and support the Secretary of
9 State and other relevant Bureaus in the devel-
10 opment of sound policy regarding child protec-
11 tion and intercountry adoption.

12 (E) REPORTING RESPONSIBILITIES.—The
13 Ambassador at Large shall have the following
14 reporting responsibilities:

15 (i) IN GENERAL.—The Ambassador at
16 Large shall assist the Secretary of State
17 and other relevant Bureaus in preparing
18 those portions of the Human Rights Re-
19 ports that relate to the abduction, sale,
20 and trafficking of children.

21 (ii) ANNUAL REPORT ON INTER-
22 COUNTRY ADOPTION.—On September 1 of
23 each year, the Secretary of State, with the
24 assistance of the Ambassador at Large,
25 shall prepare and transmit to Congress an

1 annual report on intercountry adoption.

2 Each annual report shall include—

3 (I) a description of the status of
4 child protection and adoption in each
5 foreign country, including—

6 (aa) trends toward improve-
7 ment in the welfare and protec-
8 tion of children and families;

9 (bb) trends in family reunifi-
10 cation, domestic adoption, and
11 intercountry adoption;

12 (cc) movement toward ratifi-
13 cation and implementation of
14 The Hague Convention; and

15 (dd) census information on
16 the number of children in or-
17 phanages, foster homes, and
18 other types of nonpermanent res-
19 idential care;

20 (II) the number of intercountry
21 adoptions by United States citizens,
22 regardless of whether the adoption oc-
23 curred under The Hague Convention,
24 including the country from which each
25 child emigrated, the State in which

1 each child resides, and the country in
2 which the adoption was finalized;

3 (III) the number of intercountry
4 adoptions involving emigration from
5 the United States, regardless of
6 whether the adoption occurred under
7 The Hague Convention, including the
8 country where each child now resides
9 and the State from which each child
10 emigrated;

11 (IV) the number of Hague Con-
12 vention placements for adoption in the
13 United States that were disrupted, in-
14 cluding the country from which the
15 child emigrated, the age of the child,
16 the date of the placement for adop-
17 tion, the reasons for the disruption,
18 the resolution of the disruption, the
19 agencies that handled the placement
20 for adoption, and the plans for the
21 child, and in addition, any informa-
22 tion regarding disruption or dissolu-
23 tion of adoptions of children from
24 other countries received pursuant to

1 section 422(b)(4) of the Social Secu-
2 rity Act;

3 (V) the average time required for
4 completion of an adoption, set forth
5 by the country from which the child
6 emigrated;

7 (VI) the current list of agencies
8 accredited and persons approved
9 under the Intercountry Adoption Act
10 of 2000 (42 U.S.C. 14901 et seq.) to
11 provide adoption services;

12 (VII) the names of the agencies
13 and persons temporarily or perma-
14 nently debarred under the Inter-
15 country Adoption Act of 2000 (42
16 U.S.C. 14901 et seq.), and the rea-
17 sons for the debarment;

18 (VIII) the range of adoption fees
19 charged in connection with Hague
20 Convention adoptions involving adop-
21 tions by United States citizens and
22 the median of such fees set forth by
23 the country of origin;

24 (IX) the range of fees charged
25 for accreditation of agencies and the

1 approval of persons in the United
2 States engaged in providing adoption
3 services under The Hague Convention;
4 and

5 (X) recommendations of ways the
6 United States might act to improve
7 the welfare and protection of children
8 and families in each foreign country.

9 (c) FUNCTIONS OF OFFICE.—The Office shall have
10 the following 6 functions:

11 (1) APPROVAL OF A FAMILY TO ADOPT.—To
12 approve or disapprove the eligibility of United States
13 citizens to adopt foreign born children.

14 (2) CHILD ADJUDICATION.—To adjudicate the
15 status of a child born abroad as an adoptable child.

16 (3) FAMILY SERVICES.—To provide assistance
17 to United States citizens engaged in the intercountry
18 adoption process in resolving problems with respect
19 to that process and to track intercountry adoption
20 cases so as to ensure that all such adoptions are
21 processed in a timely manner.

22 (4) INTERNATIONAL POLICY DEVELOPMENT.—
23 To advise and support the Ambassador at Large and
24 other relevant Bureaus in the development of sound

1 policy regarding child protection and intercountry
2 adoption.

3 (5) CENTRAL AUTHORITY.—To assist the Sec-
4 retary of State in carrying out duties of the central
5 authority as defined in section 3 of the Intercountry
6 Adoption Act of 2000 (42 U.S.C. 14902).

7 (6) ADMINISTRATION.—To perform administra-
8 tive functions related to the functions performed
9 under paragraphs (1) through (5), including legal
10 functions and congressional liaison and public affairs
11 functions.

12 (d) ORGANIZATION.—

13 (1) IN GENERAL.—All functions of the Office
14 shall be performed by officers housed in a central-
15 ized office located in Washington, DC. Within the
16 Washington, DC, office, there shall be 6 divisions
17 corresponding to the 6 functions of the Office. All 6
18 divisions and their respective directors shall report
19 directly to the Ambassador at Large.

20 (2) APPROVAL TO ADOPT.—The division re-
21 sponsible for approving parents to adopt shall be di-
22 vided into regions of the United States as follows:

23 (A) Northwest.

24 (B) Northeast.

25 (C) Southwest.

1 (D) Southeast.

2 (E) Midwest.

3 (F) West.

4 (3) CHILD ADJUDICATION.—To the extent prac-
5 ticable, the division responsible for the adjudication
6 of foreign born children as adoptable shall be divided
7 by world regions which correspond to those currently
8 used by other divisions within the Department of
9 State.

10 (4) USE OF INTERNATIONAL FIELD OFFI-
11 CERS.—Nothing in this section shall be construed to
12 prohibit the use of international field officers posted
13 abroad, as necessary, to fulfill the requirements of
14 this Act.

15 (e) QUALIFICATIONS AND TRAINING.—In addition to
16 meeting the employment requirements of the Department
17 of State, officers employed in any of the 6 divisions of
18 the Office shall undergo extensive and specialized training
19 in the laws and processes of intercountry adoption as well
20 as understanding the cultural, medical, emotional, and so-
21 cial issues surrounding intercountry adoption and adoptive
22 families. The Ambassador at Large shall, whenever pos-
23 sible, recruit and hire individuals with background and ex-
24 perience in intercountry adoptions.

1 (f) USE OF ELECTRONIC DATABASES AND FILING.—
2 To the extent possible, the Office shall make use of cen-
3 tralized, electronic databases and electronic form filing.

4 **SEC. 102. RECOGNITION OF CONVENTION ADOPTIONS IN**
5 **THE UNITED STATES.**

6 Section 505(a)(1) of the Intercountry Adoption Act
7 of 2000 (42 U.S.C. 14901 note) is amended by inserting
8 “301, 302,” after “205,”.

9 **SEC. 103. TECHNICAL AND CONFORMING AMENDMENT.**

10 Section 104 of the Intercountry Adoption Act of 2000
11 (42 U.S.C. 14914) is repealed.

12 **Subtitle B—Transition Provisions**

13 **SEC. 111. TRANSFER OF FUNCTIONS.**

14 (a) IN GENERAL.—All functions under the immigra-
15 tion laws of the United States with respect to the adoption
16 of foreign born children by United States citizens and
17 their admission to the United States that have been vested
18 by statute in, or exercised by, the Commissioner of Immi-
19 gration and Naturalization, the Immigration and Natu-
20 ralization Service (or any officer, employee, or component
21 thereof), of the Department of Homeland Security (or any
22 officer, employee, or component thereof) immediately prior
23 to the effective date of this title, are transferred to the
24 Office on such effective date for exercise by the Amba-

1 sador at Large in accordance with applicable laws and title
2 II of this Act.

3 (b) EXERCISE OF AUTHORITIES.—Except as other-
4 wise provided by law, the Ambassador at Large may, for
5 purposes of performing any function transferred to the
6 Ambassador at Large under subsection (a), exercise all
7 authorities under any other provision of law that were
8 available with respect to the performance of that function
9 to the official responsible for the performance of the func-
10 tion immediately before the effective date of the transfer
11 of the function pursuant to this title.

12 **SEC. 112. TRANSFER OF RESOURCES.**

13 Subject to section 1531 of title 31, United States
14 Code, upon the effective date of this title, there are trans-
15 ferred to the Ambassador at Large for appropriate alloca-
16 tion in accordance with section 115, the assets, liabilities,
17 contracts, property, records, and unexpended balance of
18 appropriations, authorizations, allocations, and other
19 funds employed, held, used, arising from, available to, or
20 to be made available to the Immigration and Naturaliza-
21 tion Service or the Department of Homeland Security in
22 connection with the functions transferred pursuant to this
23 title.

1 **SEC. 113. INCIDENTAL TRANSFERS.**

2 The Ambassador at Large may make such additional
3 incidental dispositions of personnel, assets, liabilities,
4 grants, contracts, property, records, and unexpended bal-
5 ances of appropriations, authorizations, allocations, and
6 other funds held, used, arising from, available to, or to
7 be made available in connection with such functions, as
8 may be necessary to carry out this title. The Ambassador
9 at Large shall provide for such further measures and dis-
10 positions as may be necessary to effectuate the purposes
11 of this title.

12 **SEC. 114. SAVINGS PROVISIONS.**

13 (a) **LEGAL DOCUMENTS.**—All orders, determinations,
14 rules, regulations, permits, grants, loans, contracts, agree-
15 ments, including collective bargaining agreements, certifi-
16 cates, licenses, and privileges—

17 (1) that have been issued, made, granted, or al-
18 lowed to become effective by the President, the Am-
19 bassador at Large, the former Commissioner of the
20 Immigration and Naturalization Service, their dele-
21 gates, or any other Government official, or by a
22 court of competent jurisdiction, in the performance
23 of any function that is transferred pursuant to this
24 title; and

25 (2) that are in effect on the effective date of
26 such transfer (or become effective after such date

1 pursuant to their terms as in effect on such effective
2 date);
3 shall continue in effect according to their terms until
4 modified, terminated, superseded, set aside, or revoked in
5 accordance with law by the President, any other author-
6 ized official, a court of competent jurisdiction, or operation
7 of law, except that any collective bargaining agreement
8 shall remain in effect until the date of termination speci-
9 fied in the agreement.

10 (b) PROCEEDINGS.—

11 (1) PENDING.—The transfer of functions under
12 section 111 shall not affect any proceeding or any
13 application for any benefit, service, license, permit,
14 certificate, or financial assistance pending on the ef-
15 fective date of this title before an office whose func-
16 tions are transferred pursuant to this title, but such
17 proceedings and applications shall be continued.

18 (2) ORDERS.—Orders shall be issued in such
19 proceedings, appeals shall be taken therefrom, and
20 payments shall be made pursuant to such orders, as
21 if this Act had not been enacted, and orders issued
22 in any such proceeding shall continue in effect until
23 modified, terminated, superseded, or revoked by a
24 duly authorized official, by a court of competent ju-
25 risdiction, or by operation of law.

1 (3) DISCONTINUANCE OR MODIFICATION.—

2 Nothing in this section shall be considered to pro-
3 hibit the discontinuance or modification of any such
4 proceeding under the same terms and conditions and
5 to the same extent that such proceeding could have
6 been discontinued or modified if this section had not
7 been enacted.

8 (c) SUITS.—This title shall not affect suits com-
9 menced before the effective date of this title, and in all
10 such suits, proceeding shall be had, appeals taken, and
11 judgments rendered in the same manner and with the
12 same effect as if this title had not been enacted.

13 (d) NONABATEMENT OF ACTIONS.—No suit, action,
14 or other proceeding commenced by or against the Depart-
15 ment of State, the Immigration and Naturalization Serv-
16 ice, or the Department of Homeland Security, or by or
17 against any individual in the official capacity of such indi-
18 vidual as an officer or employee in connection with a func-
19 tion transferred pursuant to this section, shall abate by
20 reason of the enactment of this Act.

21 (e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF
22 PARTIES.—If any Government officer in the official capac-
23 ity of such officer is party to a suit with respect to a func-
24 tion of the officer, and pursuant to this title such function
25 is transferred to any other officer or office, then such suit

1 shall be continued with the other officer or the head of
 2 such other office, as applicable, substituted or added as
 3 a party.

4 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
 5 VIEW.—Except as otherwise provided by this title, any
 6 statutory requirements relating to notice, hearings, action
 7 upon the record, or administrative or judicial review that
 8 apply to any function transferred pursuant to any provi-
 9 sion of this title shall apply to the exercise of such function
 10 by the head of the office, and other officers of the office,
 11 to which such function is transferred pursuant to such
 12 provision.

13 **Subtitle C—Effective Date**

14 **SEC. 121. EFFECTIVE DATE.**

15 This title shall take effect 180 days after the date
 16 of enactment of this Act.

17 **TITLE II—REFORM OF UNITED** 18 **STATES LAWS GOVERNING** 19 **INTERCOUNTRY ADOPTIONS**

20 **SEC. 201. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR** 21 **ADOPTED CHILDREN BORN OUTSIDE THE** 22 **UNITED STATES.**

23 (a) AMENDMENTS OF AUTOMATIC CITIZENSHIP PRO-
 24 VISIONS.—Section 320 of the Immigration and Nationality
 25 Act (8 U.S.C. 1431) is amended—

1 (1) by amending the section heading to read as
2 follows: “CHILDREN BORN OUTSIDE THE UNITED
3 STATES; CONDITIONS UNDER WHICH CITIZENSHIP
4 AUTOMATICALLY ACQUIRED”; and

5 (2) in subsection (a), by striking paragraphs
6 (1) through (3) and inserting the following:

7 “(1) Upon the date the adoption becomes full
8 and final, at least 1 parent of the child is a citizen
9 of the United States, whether by birth or naturaliza-
10 tion, who has been physically present in the United
11 States or its outlying possessions for a period or pe-
12 riods totaling not less than 5 years, at least 2 of
13 which were after attaining the age of 14 years. Any
14 periods of honorable service in the Armed Forces of
15 the United States, or periods of employment with
16 the United States Government or with an inter-
17 national organization as that term is defined in sec-
18 tion 1 of the International Organizations Immunities
19 Act (22 U.S.C. 288) by such citizen parent, or any
20 periods during which such citizen parent is phys-
21 ically present abroad as the dependent unmarried
22 son or daughter and a member of the household of
23 a person—

24 “(A) honorably serving with the Armed
25 Forces of the United States; or

1 “(B) employed by the United States Gov-
2 ernment or an international organization as de-
3 fined in section 1 of the International Organiza-
4 tions Immunities Act (22 U.S.C. 288);
5 may be included in order to satisfy the physical pres-
6 ence requirement of this paragraph.

7 “(2) The child is an adoptable child described
8 in section 101(c)(3).

9 “(3) The child is the beneficiary of a full and
10 final adoption decree entered by a foreign govern-
11 ment or a court in the United States.

12 “(4) For purposes of this subsection, the term
13 “full and final adoption” means an adoption—

14 “(A) that is completed under the laws of
15 the child’s country of origin or the State law of
16 the parent’s residence;

17 “(B) under which a person is granted full
18 and legal custody of the adopted child;

19 “(C) that has the force and effect of sev-
20 ering the child’s legal ties to the child’s biologi-
21 cal parents;

22 “(D) under which the adoptive parents
23 meet the requirements of section 205 of the
24 Intercountry Adoption Reform Act; and

1 “(E) under which the child has been adju-
2 dicated to be an adoptable child in accordance
3 with section 206 of the Intercountry Adoption
4 Reform Act.”.

5 (b) EFFECTIVE DATE.—This section shall take effect
6 as if enacted on January 1, 1950.

7 **SEC. 202. REVISED PROCEDURES.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, the following requirements shall apply with
10 respect to the adoption of foreign born children by United
11 States citizens:

12 (1) Upon completion of a full and final adop-
13 tion, the Secretary of State shall issue a United
14 States passport and a Consular Report of Birth for
15 a child who satisfies the requirements of section 320
16 of the Immigration and Nationality Act (8 U.S.C.
17 1431), as amended by section 201 of this Act, upon
18 application by a United States citizen parent.

19 (2) An adopted child described in paragraph (1)
20 shall not require the issuance of a visa for travel and
21 admission to the United States but shall be admitted
22 to the United States upon presentation of a valid,
23 unexpired United States passport.

24 (3) No affidavit of support under section 213A
25 of the Immigration and Nationality Act (8 U.S.C.

1 1183a) shall be required in the case of any adopt-
2 able child.

3 (4) The Secretary of State shall not require an
4 adopted child described in paragraph (1) to undergo
5 a medical exam.

6 (b) REGULATIONS.—Not later than 90 days after the
7 date of enactment of this Act, the Secretary of State shall
8 prescribe such regulations as may be necessary to carry
9 out this section.

10 **SEC. 203. NONIMMIGRANT VISAS FOR CHILDREN TRAV-**
11 **ELING TO THE UNITED STATES TO BE ADOPT-**
12 **ED BY A UNITED STATES CITIZEN.**

13 (a) IN GENERAL.—Section 101(a)(15) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1101(a)(15)) is
15 amended—

16 (1) by striking “or” at the end of subparagraph
17 (U);

18 (2) by striking the period at the end of sub-
19 paragraph (V) and inserting “; or”; and

20 (3) by adding at the end the following:

21 “(W) an adoptable child who is coming into the
22 United States for adoption by a United States cit-
23 izen and a spouse jointly or by an unmarried United
24 States citizen at least 25 years of age, who has been
25 approved to adopt by the Ambassador at Large, act-

1 ing through the Office of Intercountry Adoptions es-
2 tablished under section 101(a) of the Intercountry
3 Adoption Reform Act.”.

4 (b) TERMINATION OF PERIOD OF AUTHORIZED AD-
5 MISSION.—Section 214 of the Immigration and Nation-
6 ality Act (8 U.S.C. 1184) is amended by adding at the
7 end the following:

8 “(q) In the case of a nonimmigrant described in sec-
9 tion 101(a)(15)(W), the period of authorized admission
10 shall terminate on the earlier of—

11 “(1) the date on which the adoption of the non-
12 immigrant is completed by the courts of the State
13 where the parents reside; or

14 “(2) the date that is 2 years after the date of
15 admission of the nonimmigrant into the United
16 States.”.

17 (c) TEMPORARY TREATMENT AS LEGAL PERMANENT
18 RESIDENT.—Notwithstanding any other law, all benefits
19 and protections that apply to a legal permanent resident
20 shall apply to a nonimmigrant described in section
21 101(a)(15)(W) of the Immigration and Nationality Act,
22 as added by subsection (a), pending a full and final adop-
23 tion.

24 (d) EXCEPTION FROM IMMUNIZATION REQUIREMENT
25 FOR CERTAIN ADOPTED CHILDREN.—Section

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

3 (1) in the heading by striking “10 YEARS” and
4 inserting “18 YEARS”; and

5 (2) in clause (i), by striking “10 years” and in-
6 serting “18 years”.

7 (e) REGULATIONS.—Not later than 90 days after the
8 date of enactment of this Act, the Secretary of State shall
9 prescribe such regulations as may be necessary to carry
10 out this section.

11 **SEC. 204. DEFINITION OF “ADOPTABLE CHILD”.**

12 (a) IN GENERAL.—Section 101(c) of the Immigration
13 and Nationality Act (8 U.S.C. 1101(c)) is amended by
14 adding at the end the following:

15 “(3) The term “adoptable child” means an unmarried
16 person under the age of 18—

17 “(A) whose biological parents (or parent, in the
18 case of a child who has one sole or surviving parent)
19 or other persons or institutions that retain legal cus-
20 tody of the child—

21 “(i) have freely given their written irrev-
22 ovable consent to the termination of their legal
23 relationship with the child, and to the child’s
24 emigration and adoption;

1 “(ii) are unable to provide proper care for
2 the child, as determined by the appropriate gov-
3 ernmental authority of the child’s residence; or

4 “(iii) have voluntarily relinquished the
5 child to governmental authorities pursuant to
6 the law of the child’s residence;

7 “(B) with respect to whom the Secretary of
8 State is satisfied that the proper care will be fur-
9 nished the child if admitted to the United States;

10 “(C) with respect to whom the Secretary of
11 State is satisfied that the purpose of the adoption is
12 to form a bona fide parent-child relationship and
13 that the parent-child relationship of the child and
14 the biological parents has been terminated (and in
15 carrying out both obligations under this subpara-
16 graph the Secretary of State, in consultation with
17 the Secretary of Homeland Security, may consider
18 whether there is a petition pending to confer immi-
19 grant status on one or both of the biological par-
20 ents);

21 “(D) with respect to whom the Secretary of
22 State, in consultation with the Secretary of Home-
23 land Security, is satisfied that the person is not a
24 security risk; and

1 “(E) whose adoption and emigration to the
2 United States has been approved by the competent
3 authority of the country of the child’s place of birth
4 or residence.”.

5 (b) CONFORMING AMENDMENT.—Section 204(d) of
6 the Immigration and Nationality Act (8 U.S.C. 1154(d))
7 is amended by inserting “and an adoptable child as de-
8 fined in section 101(c)(3)” before “unless a valid home-
9 study”.

10 **SEC. 205. APPROVAL TO ADOPT.**

11 (a) IN GENERAL.—Prior to the issuance of a visa
12 under section 101(a)(15)(W) of the Immigration and Na-
13 tionality Act, as added by section 203(a) of this Act, or
14 the issuance of a full and final adoption decree, the United
15 States citizen adoptive parent shall have approved by the
16 Office a petition to adopt. Such petition shall be subject
17 to the same terms and conditions as are applicable to peti-
18 tions for classification under section 204.3 of title 8 of
19 the Code of Federal Regulations, as in effect on the day
20 before the date of enactment of this Act.

21 (b) EXPIRATION OF APPROVAL.—Approval to adopt
22 under this Act is valid for 24 months from the date of
23 approval.

24 (c) EXPEDITED REAPPROVAL PROCESS OF FAMILIES
25 PREVIOUSLY APPROVED TO ADOPT.—The Ambassador at

1 Large shall prescribe such regulations as may be necessary
2 to provide for an expedited and streamlined process for
3 families who have been previously approved to adopt and
4 whose approval has expired, so long as not more than 3
5 years have lapsed since the original application.

6 (d) DENIAL OF PETITION.—

7 (1) NOTICE OF INTENT.—If the officer adjudi-
8 cating the petition to adopt finds that it is not read-
9 ily approvable, the officer shall notify the petitioner,
10 in writing, of the officer's intent to deny the peti-
11 tion. Such notice shall include the specific reasons
12 why the petition is not readily approvable.

13 (2) PETITIONERS RIGHT TO RESPOND.—Upon
14 receiving a notice of intent to deny, the petitioner
15 has 30 days to respond to such notice.

16 (3) DECISION.—Within 30 days of receipt of
17 the petitioner's response the Office must reach a
18 final decision regarding the eligibility of the peti-
19 tioner to adopt. Notice of a formal decision must be
20 delivered in writing.

21 (4) RIGHT TO AN APPEAL.—Unfavorable deci-
22 sions may be appealed to the appropriate appellate
23 jurisdiction of the Department of State, and if nec-
24 essary, Federal court.

1 (5) REGULATIONS REGARDING APPEALS.—Not
2 later than 6 months after the date of enactment of
3 this Act, the Ambassador at Large shall promulgate
4 formal regulations regarding the process for appeal-
5 ing the denial of a petition.

6 **SEC. 206. ADJUDICATION OF CHILD STATUS.**

7 (a) IN GENERAL.—Prior to the issuance of a full and
8 final adoption decree or a visa under section
9 101(a)(15)(W) of the Immigration and Nationality Act,
10 as added by section 203(a) of this Act—

11 (1) the Office shall obtain from the competent
12 authority of the country of the child’s residence a
13 certification, together with documentary support,
14 that the child sought to be adopted meets the de-
15 scription of an adoptable child; and

16 (2) within 30 days of receipt of the certification
17 referred to in paragraph (1), the Office shall make
18 a final determination on whether the certification
19 and the documentary support are sufficient to meet
20 the requirements of this section.

21 (b) PROCESS FOR DETERMINATION.—

22 (1) IN GENERAL.—The Ambassador at Large
23 shall work with the competent authorities of the
24 child’s country of residence to establish a uniform,
25 transparent, and efficient process for the exchange

1 and approval of the certification and documentary
2 support required under subsection (a).

3 (2) NOTICE OF INTENT.—If the Office finds
4 that the certification submitted by the competent au-
5 thority of the child’s country of origin is not readily
6 approvable, the Office shall—

7 (A) notify the competent authority and the
8 prospective adoptive parents, in writing, of the
9 specific reasons why the certification is not suf-
10 ficient; and

11 (B) provide the competent authority and
12 the prospective adoptive parents the oppor-
13 tunity to address the stated insufficiencies.

14 **TITLE III—FUNDING**

15 **SEC. 301. FUNDS.**

16 The Secretary of State shall provide the Ambassador
17 at Large with such funds as may be necessary for—

18 (1) the hiring of staff for the Office;

19 (2) investigations conducted by the Office; and

20 (3) travel and other expenses necessary to carry
21 out this Act.

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