DOCUMENT RESUME

ED 174 353 PS 010 781

TITLE Immigration and Naturalization of Adopted Children. Report (to Accompany H.R. 12508), Committee on the Judiciary, House of Representatives, 95th Congress, Second Session. Report No. 95-1301.

INSTITUTION Congress of the U.S., Washington, D.C. House Committee on the Judiciary.

PUB DATE 16 Jun 78

NOTE 16p.

EDRS PRICE MF01/PC01 Plus Postage.

DESCRIPTORS *Adopted Children; Citizenship; *Federal Legislation; *Immigrants; Refugees

IDENTIFIERS *Aliens; *Immigration; *Naturalization

ABSTRACT

This report from the Committee on the Judiciary of the House of Representatives, 95th Congress, recommends passage of the bill (H.R. 12508) to amend the Immigration and Nationality Act. The purpose of H.R. 12508 is to establish uniform procedures for admission to the United States of adopted or prospective adoptive children of U.S. citizens and to remove the statutory prohibition on the approval of more than two petitions filed by the same petitioner in behalf of alien adopted children. The bill also facilitates the naturalization of such children. Immigration requirements and procedures for adopted children are specified in the analysis of the bill. Background information, including a brief historical review of legislation on the admission of adopted children, is provided. The report includes a section-by-section analysis and reproduces favorable reports on several bills incorporated into H.R. 12508. (RH)

95TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 95–1301

IMMIGRATION AND NATURALIZATION OF ADOPTED CHILDREN

JUNE 16, 1978.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. EILBERG, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 12508]

[Including the cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 12508) to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to establish uniform procedures for admission to the United States of adopted or prospective adoptive children of U.S. citizens and to remove the statutory prohibition on the approval of more than two petitions filed by the same petitioner in behalf of alien adopted children. The bill also facilitates the naturalization of such children.

ANALYSIS OF THE BILL

IMMIGRATION REQUIREMENTS AND PROCEDURES FOR ADOPTED CHILDREN

The Immigration and Nationality Act contains two provisions which set forth the requirements which must be satisfied in order for an alien adopted child to receive an immigration benefit by virtue of his adoption. These are sections 101(b)(1)(E) and (F) of that act. If the requirements of one of these sections are met, these children may be classified as immediate relatives, or preference immigrants. Benefits under these sections are granted to the children after the filing of an

immigration petition, for each child, by the adoptive parents or prospective adoptive parents, and the subsequent approval of that petition by the Immigration and Naturalization Service.

However, section 204(c) of the Immigration and Nationality Act provides that a petitioner who has filed and received approval for two such petitions on behalf of adopted children may not receive approval for any further petitions except when necessary to prevent the separation of siblings. If a third alien child has been or is in the process of being adopted, his immigration can only be accomplished as the result of his processing as a nonpreference immigrant. This can be extremely time consuming and inconvenient for adoptive parents. For example, at the current time, the processing priority date for the nonpreference category is July 15, 1976 for the Eastern Hemisphere and September 1, 1976 for the Western Hemisphere. Further, in countries where there is a very heavy demand for immigrant visas, such as China, Korea, and the Philippines, nonpreference applicants may have to wait for 10 years or more for visa issuance. In its report to the committee on similar legislation, the Department of State observed that the two petition limitation does not determine "whether a child will immigrate to the United States, but rather when he will do so."

H.R. 12508 addresses these problems by removing the numerical limitation on the number of petitions which may be filed and approved. In the committee's judgment this numerical limitation unnecessarily delays the admission of alien children who have been adopted abroad by American families or who are coming to the United States for adoption and should be eliminated.

Section 101(b)(1)(F) (the section under which most adopted children are admitted) provides that the Attorney General must determine that a child will receive proper care in the United States before he may approve an immediate relative petition on behalf of an adopted child. This determination is an important safeguard against improper placements of children. However, under current procedures, a valid adoption home-study, while conducted in most cases, is not statutorily required prior to this determination by the Attorney General.

H.R. 12508 creates a statutory requirement that a favorable adoption home-study must be performed in all cases. In most cases under section 101(b)(1)(F), children are coming to the United States to be adopted under the laws of one of the States. In these cases, H.R. 12508 requires the home-study to be performed by the State of the proposed residence of the child, or by an agency authorized by that State to conduct such studies. The committee intends that the term "agency" shall include both organizations and individuals who are authorized to preform home-studies. In the cases of children who have been adopted under the laws of foreign countries, the home-study required by H.R. 12508 must be performed by an agency licensed in the United States to perform such studies.

The purpose of these provisions in H.R. 12508 is to require a comprehensive home-study or evaluation by a qualified or licensed agency prior to the admission of an adopted child. The bill does not affect the authority of the Attorney General with regard to decisions on the "suitability" of the adoptive parents or the eventual approval or disapproval of the immediate relative petition.

The home-study requirements of H.R. 12508 do not apply to section 101(b)(1)(E). That section applies to children who have already resided for 2 years in the legal custody of their adoptive parents subsequent to their adoption.

NATURALIZATION OF ADOPTED CHILDREN

The Immigration and Nationality Act requires an alien adopted child to reside with the adoptive parents in the United States for 2 years, before the child is eligible for naturalization. This 2-year residence requirement does not apply to natural born alien children of U.S. citizens. Existing law also requires 1 year physical presence by the adopted child in the United States prior to the filing of the naturalization petition. H.R. 12508 would eliminate these residence and physical presence requirements and thereby make an adopted child eligible for naturalization immediately following his adoption and lawful admission to the United States for permanent residence.

DERIVATIVE CITIZENSHIP

Under current law, alien children under the age of 16 derive U.S. citizenship through the naturalization of their parents. Children between the ages of 16 and 18 can be naturalized only if their parents file naturalization petitions on their behalf. Upon reaching the age of 18, the child is eligible to file his own petition. H.R. 12508 would raise the critical age for automatic acquisition of U.S. citizenship from age 16 to 18.

Unlike natural born children, alien adopted children are not eligible, at any age, to automatically derive citizenship through the naturalization of their parents. H.R. 12508 eliminates this distinction and makes adopted children eligible for the same derivative citizenship benefits as natural-born children.

NONPREFERENCE PROCESSING OF ADOPTED CHILDREN

Existing procedures governing the nonpreference processing of adopted children, do not require the conduct of a home-study in all cases prior to issuance of the visa. H.R. 12508 changes this by applying to adopted children, who proceed through the nonpreference route, the same home-study procedure established by this bill for those applying for admission as immediate relatives. The bill also provides that no other children under the age of 16 may proceed through the nonpreference route unless accompanying or following to join their natural parents. Under present regulations, labor certifications are not required for children under the age of 16 who apply for nonpreference visas. This has had the effect of encouraging the immigration of unaccompanied, minor children. H.R. 12508 corrects this situation by insuring that all children under the age of 16 who immigrate under the nonpreference category will have natural or adoptive parents in the United States who are legally responsible for their care.

Background Information

The Subcommittee on Immigration, Citizenship, and International Law held a hearing on June 15, 1977 to consider several bills to permit the filing of more than two immediate relative petitions for alien adopted children and to provide for more expeditious naturalization of these children. In addition to considering this public legislation, the subcommittee has also addressed this issue during its consideration of private bills to waive the two petition limitation. The subcommittee, the Committee on the Judiciary and the full House have consistently approved such legislation. One purpose served by private bills is to demonstrate and identify the need for public legislative reform in a particular area. This need has long since been demonstrated in this area. In the 94th Congress, there were 99 private immigration laws enacted. The beneficiaries of 58 of these laws were adopted orphans, and 24 involved waivers of the two petition limitation. The committee believes it is now more timely, equitable, and efficient to enact public legislation on this subject.

At the subcommittee hearing, Members of Congress and the Departments of State, Justice, and Health, Education, and Welfare all supported removal of the two petition limitation. The General Counsel of the Immigration and Naturalization Service testified as follows:

> The Department believes that the two petition limitation can be removed without any adverse effects on the administration of immigration laws. Both sections 101(b)(1)(E) and (F) already contain safeguards to insure that petitions are approved only where a bona fide parent child relationship has been established, or in the case of an orphan coming to the United States for adoption, will be established. An orphan petition will not be approved under section 101(b)(1)(F) if the Service knows that the prospective parents will not be able to support the child or if it is learned that the child is actually going to live with persons other than the petitioner. The Department favors enactment of legislation to eliminate the two petition restriction. ("Alien Adopted Children", Hearings before the Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, 95th Cong., 1st Sess., Serial No. 31, at p. 70.)

Before an adopted child may immigrate under the aforementioned sections the Immigration and Naturalization Service must approve an immigration petition, and a consular officer must approve the issuance of the visa. The witnesses before the subcommittee believed that these are two important safeguards to prevent children from being placed with families which would not properly care for them, and to prevent improper obtaining or transferring of children. The witnesses felt that the numerical limitation was not necessary as a safeguard and that it "imposes unnecessary delays on legitimate cases." This delay is considerable in countries such as Korea (a major source country for alien adopted children) since nonpreference numbers are not currently available for that country.

The following statistics indicate the total number of orphan petitions for alien adopted children (I–600 petitions) approved from 1966 to 1976.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, D.C.: ORPHAN VISA PETITIONS (FORM I-600) FILED, APPROVED, AND DENIED, YEARS ENDED JUNE 30, 1958-76

Years	Filed	Approved	Denied
1976	7,474	6,913	138
1975	6,742	6,187	103
1974	5,538	5,325	121
1973	4,665	4,247	76
1972	3,589	3,259	97
1971	3,008	2,258	59
1970	2,902	2,605	55
1969	2,436	2,178	39
1968	1,903	1,699	49
1967	1,950	1,918	74
1966	2,103	1,912	80

In the past 5 years, approximately 54 percent of the children have come from Korea. The next highest percentage during this period came from Vietnam which provided approximately 8.6 percent. Other leading Asian source countries are the Philippines and Thailand. During this period adoptions from Central and South America have been increasing with the largest numbers coming from Colombia and Mexico. Other significant source countries are Canada and Germany.

COMMITTEE ACTION

The Subcommittee on Immigration, Citizenship, and International Law, held a hearing on June 15, 1977, to consider various bills which had been introduced to remove the two petition limitation for alien adopted children and to remove the residence and physical presence requirements for the naturalization of these children. The bills considered were: H.R. 368 by the Honorable Bill Frenzel; H.R. 871, by the Honorable Millicent Fenwick; H.R. 1956, by the Honorable Don Edwards; H.R. 3109, by the Honorable James H. Quillen; H.R. 3324, by the Honorable Don H. Clausen; H.R. 3704, by the Honorable Guy Vander Jagt; H.R. 4636, by the Honorable James L. Oberstar; H.R. 5804, by the Honorable B. F. Sisk; and H.R. 6488, by the Honorable Herbert E. Harris II.

On April 20, 1978, the subcommittee considered the aforementioned bills and ordered favorably reported to the full committee a clean bill, H.R. 12508, which was sponsored by a majority of the members of the subcommittee.

COMMITTEE VOTE

The full committee considered H.R. 12508 in open session on June 6 and on that date ordered the bill, without amendment, favorably reported to the House by unanimous voice vote.

LEGISLATIVE HISTORY OF PERTINENT PROVISIONS

The Immigration and Nationality Act, enacted on December 24, 1952, contained no provision relating to the admission of adopted

alien children of U.S. citizens or of resident aliens or intending immigrants. The first amendment to that law relating to admission of adopted children was on September 11, 1957, when section 101(b)(1) of the Immigration and Nationality Act, whihc defines the term "child", was amended to include a new paragraph "E" providing that the term "child" be defined to include a child adopted while under the age of 14 who has thereafter been in the legal custody of, and has resided with, the adopting parent or parents for at least 2 years. Such a child would be eligible to immediate relative status if adopted by a U.S. citizen, to preference status if the adopting parent was a lawful permanent resident of the United States, or to the same preference status as the adopting parent who is an intending immigrant.

Provision for admission of orphan refugees for adoption by U.S. citizens was contained in the Displaced Persons Act of 1948, as amended. Subsequently, numerous temporary laws were enacted relating to the admission of alien children for adoption by citizens of the United States—the acts of July 29, 1953, September 11, 1957, September 9, 1959, and July 14, 1960. The restriction to two on the number of orphans who may be granted immediate relative status has continued in the immigration laws since first enacted in 1953. The 1959 act, in addition to eliminating the proxy adoption, also established a petition procedure to be approved by the Attorney General prior to admission of children adopted abroad or coming to the United States for adoption. That action was taken after allegations to Congress that children were being exploited for personal gain, that tragedy had resulted from certain proxy adoptions and that prospective parents of children were not informed of the physical or mental impairment of children and that termination of parental rights had been obtained in highly questionable ways. The act of September 22, 1959, amending the Immigration and Nationality Act also included in the law for the first time the provision that only two children defined in section 101(b)(1)(E) could be beneficiaries of petitions filed by the same petitioner. The Immigration and Nationality Act amendments of 1961 (Public Law 87–301, 75 Stat 650) incorporated in the permanent law provision for admission for adopted children defined in section 101(b)(1)(F) of that act, and remained essentially the same as incorporated into the Immigration and Nationality Act Amendments of 1965 (Public Law 89–236, 79 Stat. 911). The only further amendment to this section was the act of December 16, 1975 (Public Law 95–155, 89 Stat. 824) which provided for admission of orphans for adoption by U.S. citizens over 25 years of age who are single, as well as by U.S. citizens and spouses.

Sections 320, 321 and 322 of the Immigration and Nationality Act contain the procedures under which children born outside of the United States acquire citizenship through the naturalization of their parents or on the petition of a U.S. citizen parent. No amendments have been made to these sections of law since their enactment in 1959. Sections 320 and 321 provide that a child under the age of 16 will derive U.S. citizenship through the naturalization of his alien parent or parents.

Section 323 of the Immigration and Nationality Act provides for the naturalization of a child adopted while under the age of 16 who has been lawfully admitted for permanent residence for 2 years, one-

half of which must be physical presence. This section was amended by the acts of September 11, 1957 and August 20, 1958, to provide for expeditious naturalization for adopted children of U.S. Government employees, or employees of American firms or international organizations of which the United States is a member, and members of religious denominations residing abroad in pursuit of their calling.

Section-by-Section Analysis of H.R. 12508

Section 1 requires a valid adoption home-study prior to the granting of a nonpreference visa for children adopted abroad or coming for adoption by U.S. citizens. Provides that no other nonpreference visa shall be issued to an unmarried child under the age of 16 unless accompanying or following to join his natural parent.

Section 2 removes the limitation of two per family on petitions to grant immigration benefits to alien adopted children.

Section 3 requires a valid adoption home-study to be performed by an appropriate agency prior to the granting of an immediate relative immigrant visa for an adopted child or child coming for adoption as defined by section 101(b)(1)(F) of the Immigration and Nationality Act.

Section 4 and 5 raise from 16 to 18 the age under which an alien child can derive citizenship through the naturalization of his parents or parent. Make adopted children eligible for derivative citizenship.

Sections 6 and 7 conform the naturalization requirements for adopted children to the requirements for natural born children by eliminating the 2-year residence and 1-year physical presence requirement which now applies only to adopted children.

Section 8 amends the table of contents to reflect the above changes.

Departmental Position

The administration supports removal of the two petition limitation, as well as the expeditious naturalization and derivative citizenship provisions, all of which are contained in H.R. 12508. While departmental reports were not requested on H.R. 12508, favorable reports were requested and received on several bills (H.R. 368, H.R. 668, and H.R. 1956) which have been incorporated into H.R. 12508. The reports on these bills follow:

Department of State,
Washington, D.C., June 3, 1977.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives.

Dear Mr. Chairman: The Secretary has asked me to reply to your letter of March 28, 1977, enclosing for the Department's study and report a copy of H.R. 368, "a bill to amend the Immigration and Nationality Act to permit the adoption of more than two children.

If enacted, this bill would amend section 204(c) of the act to delete therefrom the limitation on the number of petitions which may be approved for one petitioner in behalf of a "child" as defined in section 101(b)(1)(E) or (F) of the act. At present, no more than two such

petitions may be approved for any one petitioner, except as necessary to prevent the separation of brothers and sisters.

In considering the effect of this proposal, the Department has concluded that the restriction which would be removed by it constitutes a factor of administrative delay in the immigration of the minor aliens involved rather than a substantive restriction upon their immigration. At present, a minor alien who is destined to an adoptive parent or parents in the United States and who cannot be classified as a "child" within the meaning of section 101(b)(1) (E) or (F) of the act solely on the basis of this restriction can, nevertheless, be classified as a nonpreference applicant. General demand for immigration by aliens subject to the same numerical limitation determines how long a waiting period, if any, there will be before his turn for immigration is reached. Thus, the restriction does not, under existing legislation, determine whether the alien will immigrate to the United States, but merely when he will do so.

As a technical matter, the title of the bill should be changed since there is no restriction in the Immigration and Nationality Act on the number of alien children who may be adopted by U.S. citizens or permanent resident aliens, but rather only on the number of petitions which may be filed by such adoptive parents to confer benefits under the act upon alien children they have adopted. Otherwise, the Department favors enactment of this bill.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNET, JR.,
Assistant Secretary
for Congressional Relations.

DEPARTMENT OF JUSTICE,
Washington, D.C., May 31, 1977.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department of Justice on H.R. 368, a bill to amend the Immigration and Nationality Act to permit adoption of more than two children.

This bill would amend section 204(c) of the Immigration and Nationality Act, 8 U.S.C. 1154(c) by eliminating from that section the language which presently declares that "no more than two petitions may be approved for one petitioner in behalf of a child as defined in section 101(b)(1) (E) or (F) unless necessary to prevent the separation of brothers and sisters."

The provision against the approval of more than two petitions for orphans or adopted children by any American couple unless necessary to prevent separation of brothers and sisters was written into the Immigration and Nationality Act of 1952 by section 3(b) of the act of September 26, 1961, 75 Stat. 650. The legislative history of this act

does not disclose the reason for this restriction. See Senate Report 646 and House Reports 1086 and 1172, 87th Cong., 1st sess. (1961).

Although the Displaced Persons Act of 1948 as amended, 62 Stat. 1009, 64 Stat. 219, did not contain this bar, the Refugee Relief Act of 1953, 67 Stat. 400, the act of September 11, 1957, 71 Stat. 639, the act of September 9, 1959, 73 Stat. 490 and the act of September 22, 1959, 73 Stat. 644, did contain a prohibition against more than two children coming to the United States destined to one adopting American couple. The legislative history of those acts is likewise silent on the reasons for this restriction. See Senate Report 629, House Report 974 and Conference Report 1069, 83d Cong., 1st sess. (1953); Senate Report 1057 and House Report 1199, 85th Cong., 1st sess. (1957); Senate Report 475 and House Report 291, 86th Cong., 1st sess. (1959); and Senate Report 962 and House Report 582, 86th Cong., 1st sess. (1959). It should be noted that the restriction has resulted in hardship. See *Matter of Kim*, 11 I&N Dec. 69 (1964).

The Department of Justice favors the enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

DEPARTMENT OF JUSTICE,
Washington, D.C., November 11, 1977.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 668, a bill "To amend sections 320 and 321 of the Immigration and Nationality Act."

The bill would amend the age requirements of sections 320(a) and 321(a) of the Immigration and Nationality Act, 8 U.S.C. 1431(a) and 1432(a), by striking out "sixteen" and inserting "eighteen" in lieu thereof.

Sections 320 and 321 of the Immigration and Nationality Act currently provide for the derivation of U.S. citizenship by children upon the naturalization of a parent or parents under certain conditions. One of these conditions is that the child be under the age of 16 years at the time of the naturalization. Under the bill, children would be allowed to derive citizenship up to the age of 18.

Currently, a person is not eligible to file a petition for naturalization in his own behalf under section 334 of the act, 8 U.S.C. 1445, until reaching the age of 18. Thus, there is a 2-year period during which a child is not able to derive citizenship by reason of his parents' naturalization, but is not able to file his own petition for naturalization either. The only procedure available during this period is for the parent or parents to file a formal petition for the child's naturalization as provided in section 332 of the act, 8 U.S.C. 1433. The Department be-

lieves that this procedure is both cumbersome and unnecessary. Young people between the ages of 16 and 18 should be allowed to derive citizenship automatically under sections 320 and 321. The Department therefore favors enactment of this bill. The effect of enactment upon the budget of the Immigration and Naturalization Service would be negligible.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

PATRICIA M. WALD.
Assistant Attorney General.

DEPARTMENT OF JUSTICE,
Washington, D.C., May 16, 1978.

HON. PETER RODINO, JR.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: You have requested the views of the Department of Justice on H.R. 1956, a bill to amend the Immigration and Nationality Act to eliminate the legal custody requirement and the requirement of residence and physical presence in the United States for the naturalization of children adopted by United States citizens.

The bill would amend section 323 of the Immigration and Nationality Act, 8 U.S.C. 1434, by deleting therefrom all requirements pertaining to the legal custody, residence and physical presence in the United States for the naturalization of children adopted by U.S. citizens.

Section 323(a)(3) of the act currently provides that an adopted child, under 18 years of age, of U.S. citizens must reside continuously in the United States in legal custody of the adoptive parent or parents for at least 2 years prior to the filing of a petition for naturalization. Section 323(b) further requires 1-year physical presence by the adopted child in the United States prior to the filing of the petition. The proposed legislation would eliminate these requirements, and would make such adopted child eligible for naturalization as a U.S. citizen immediately after his admission into this country for lawful permanent residence. Section 323(c), providing for a waiver of the requirement of physical presence and residence in certain cases, would become superfluous if the proposed legislatiton were enacted, and accordingly is also eliminated by the bills.

Undue hardship has been created in some instances because of the requirements of section 323. For example, if an adoptive parent finds it necessary to leave the United States before the alien can comply with the residence requirements, the continuity of residence is broken thereby delaying the acquisition of citizenship. On the other hand, where alien parents who have been naturalized file petitions for naturalization on behalf of their natural children, such children may be naturalized without having to fulfill similar requirements. This distinction between children of tender years is artificial and unnecessary. Accordingly, the Department favors enactment of this bill.

There will be no significant impact on the budget if this bill is enacted.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

PATRICIA WALD,
Assistant Attorney General.

ESTIMATE OF COST

The Congressional Budget Office has estimated that the bill if enacted, will create no significant additional cost to the Federal Government. Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee states that the enactment of this bill will not result in any added cost to the Federal Government.

BUDGETARY INFORMATION

Clause 2(l)(3)(B) or rule XI of the Rules of the House of Representatives is inapplicable because the instant legislation does not provide new budgetary authority. Pursuant to clause 2(l)(3)(c) of rule XI, the following estimate has been made by the Congressional Budget Office and submitted to the committee:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 6, 1978.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 12508, a bill to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children, as ordered reported by the House Committee on the Judiciary, June 6, 1978.

Based on this review, it appears that no significant additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
Director.

OVERSIGHT STATEMENTS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee states that it has exercised close oversight with regard to the administration of the Immigration and Nationality Act by both the Departments of State and Justice. In fact, during the 95th Congress the Subcommittee on Immigration, Citizenship, and International Law, which has been charged by the

Committee with oversight responsibility in this area, held 11 days of hearings to review the implementation of the Immigration and Nationality Act by these Departments. This committee and that subcommittee will continue that close oversight over INS and will carefully monitor the implementation of H.R. 12508.

Clause (2) (l) (3) (D) of rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

Inflationary Impact Statement

Pursuant to clause 2(l) (4) of rule XI of the Rules of the House of Representatives, the committee estimates that this bill will not have a significant inflationary effect on prices and costs in the operation of the national economy.

Committee Recommendation

The committee, after careful and detailed consideration of all the facts and circumstances involved in this legislation, is of the opinion that this bill should be enacted and accordingly recommends that H.R. 12508 do pass.

Changes in Existing Law

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows: (new matter is printed in italic, matter proposed to be omitted is printed in black brackets, existing law in which no change is proposed is printed in roman).

Section 203(a)(8) of the Immigration and Nationality Act

(8) Visas authorized in any fiscal year, less those required for issuance to the classes specified in paragraphs (1) through (6) and less the number of conditional entries and visas made available pursuant to paragraph (7), shall be made available to other qualified immigrants strictly in the chronological order in which they qualify. Waiting lists of applicants shall be maintained in accordance with regulations prescribed by the Secretary of State. No immigrant visa shall be issued to a nonpreference immigrant under this paragraph, or to an immigrant with a preference under paragraph (3) or (6) of this subsection, until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). *No immigrant visa shall be issued under this paragraph to an adopted child or prospective adoptive child of a United States citizen or lawfully resident alien unless (A) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States; and (B) the child has been irrevocably released for immigration and adoption: Provided, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parent-*

age, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

SECTION 204(c) OF THE IMMIGRATION AND NATIONALITY ACT

(c) Notwithstanding the provisions of subsection (b) [no more than two petitions may be approved for one petitioner in behalf of a child as defined in section 101 (b)(1)(E) or (F) unless necessary to prevent the separation of brothers and sisters and] no petition shall be approved if the alien has previously been accorded a nonquota or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws.

SECTION 204(e) OF THE IMMIGRATION AND NATIONALITY ACT

(c) Notwithstanding the provisions of subsections (a) and (b) no petition may be approved on behalf of a child defined in section 101(b)(1)(F) unless a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.

SECTION 204(f) OF THE IMMIGRATION AND NATIONALITY ACT

[(e)] (*f*) Nothing in this section shall be construed to entitle an immigrant, in behalf of whom a petition under this section is approved, to enter the United States as a preference immigrant under section 203(a) or as an immediate relative under section 201(b) if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification.

SECTION 320 OF THE IMMIGRATION AND NATIONALITY ACT

SEC. 320. (a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when:—

(1) such naturalization takes place while such child is under the age of [sixteen] *eighteen* years; and

(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of [sixteen] *eighteen* years.

(b) Subsection (a) (*1*) of this section shall [not apply to an adopted child.] *apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.*

SECTION 324 OF THE IMMIGRATION AND NATIONALITY ACT

SEC. 321. (a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

(1) The naturalization of both parents; or

(2) The naturalization of the surviving parent if one of the parents is deceased; or

(3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if

(4) Such naturalization takes place while such child is under the age of [sixteen] *eighteen* years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of [sixteen] *eighteen* years.

(b) Subsection (a) of this section shall [not apply to an adopted child.] *apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.*

SECTION 322 OF THE IMMIGRATION AND NATIONALITY ACT

SEC. 322. (a) A child born outside of the United States, one or both of whose parents is at the time of petitioning for naturalization of the child, a citizen of the United States, either by birth or naturalization, may be naturalized if under the age of eighteen years and not otherwise disqualified from becoming a citizen by reason of section 313, 314, 315, or 318 of this Act, and if residing permanently in the United States, with the citizen parent, pursuant to a lawful admission for permanent residence, on the petition of such citizen parent, upon compliance with all the provisions of this title, except that no particular period of residence or physical presence in the United States shall be required. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.

"(b) Subsection (a) of this section shall [not apply to an adopted child.] *apply to a child adopted while under the age of sixteen years who is residing in the United States, in the custody of the adoptive parent or parents, pursuant to a lawful admission for permanent residence.*

SECTION 323 OF THE IMMIGRATION AND NATIONALITY ACT

[SEC. 323. (a) An adopted child may, if not otherwise disqualified from becoming a citizen by reason of section 313, 314, 315, or 318 of

this Act, be naturalized before reaching the age of eighteen years upon the petition of the adoptive parent or parents, upon compliance with all the provisions of this title, if the adoptive parent or parents are citizens of the United States, and the child—]

[(1) was lawfully admitted to the United States for permanent residence;]

[(2) was adopted before attaining the age of sixteen years; and]

[(3) subsequent to such adoption has resided continuously in the United States in legal custody of the adoptive parent or parents for two years prior to the date of filing such petition.]

[(b) In lieu of the residence and physical presence requirements of section 316(a) of this Act such child shall be required to establish only two years' residence and one year's physical presence in the United States during the two-year period immediately preceding the filing of the petition. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.]

[(c) Any such adopted child (1) one of whose adoptive parents is (A) a citizen of the United States, (B) in the Armed Forces of the United States or in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such service or employment, and (2) who is in the United States at the time of naturalization, and (3) whose citizen adoptive parent declares before the naturalization court in good faith an intention to have such child take up residence within the United States immediately upon the termination of such service or employment abroad of such citizen adoptive parent, may be naturalized upon compliance with all the requirements of the naturalization laws except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required, and paragraph (3) of subsection (a) of this section shall not be applicable.]

○