

AMENDING THE IMMIGRATION AND NATIONALITY ACT TO PROVIDE THAT  
AN ADOPTED ALIEN WHO IS LESS THAN 18 YEARS OF AGE MAY BE CON-  
SIDERED A CHILD UNDER SUCH ACT IF ADOPTED WITH OR AFTER A SIB-  
LING WHO IS A CHILD UNDER SUCH ACT

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OCTOBER 14, 1999.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. SMITH of Texas, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 2886]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill  
(H.R. 2886) amending the Immigration and Nationality Act to pro-  
vide that an adopted alien who is less than 18 years of age may  
be considered a child under such act if adopted with or after a sib-  
ling who is a child under such Act, having considered the same, re-  
ports favorably thereon without amendment and recommends that  
the bill do pass.

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## PURPOSE AND SUMMARY

H.R. 2886 would allow an alien child age 16 or 17 to qualify as an immediate relative child if the U.S. citizen adoptive parents have also adopted a sibling of that child who is under the age of 16.

## BACKGROUND AND NEED FOR THE LEGISLATION

Currently, Immigration and Nationality Act (INA), sections 101 (b)(1) (E)–(F) permit a foreign-born child who meets the INA definition of orphan and who has been adopted by a United States citizen parent to be classified as an immediate relative child for purposes of immigration to the United States. To qualify, the child must be under the age of 16 at the time the adoptive U.S. citizen parent files an immigrant visa petition on the child's behalf.

Since most parents prefer to adopt infants or very young children, older children constitute a relatively small portion of the adoptive children admitted as immigrants. (According to the Immigration and Naturalization Service, out of a total 11,316 immigrant orphans admitted in Fiscal Year 1996, only 351 were age 10 or older.) However in cases involving siblings, adoptive parents frequently wish to adopt the older child (children) in order to keep a family group intact. If the oldest sibling happens to be 16 or 17, there is no way to for that child to immigrate to the U.S. under current law.

A typical case would likely involve a group of siblings, one of whom is age 16 or 17, who have been orphaned. A U.S. citizen family is willing to adopt all of the siblings in order to keep them together, but the oldest child cannot immigrate to the United States. The result will be either separation of older child from the sibling group or, in cases where foreign adoption authorities will not permit the separation of siblings, the U.S. citizen loses the opportunity to adopt any of the siblings.

H.R. 2886 would further the goal of maintaining family unity in the relatively small number of cases involving the adoption of siblings, one of whom is age 16 or 17 at the time the adoptive parents file immigrant visa petitions on the children's behalf. It would allow an alien child age 16 or 17 to qualify as immediate relative child if the U.S. citizen adoptive parents also have adopted a sibling of that alien who is under the age of 16. Aliens who are immediate relative children of United States citizens can be admitted to the U.S. as permanent residents without numerical limitation.

## HEARINGS

No hearings were held on H.R. 2886.

## COMMITTEE CONSIDERATION

On September 30, 1999, the Subcommittee on Immigration and Claims met in open session and ordered favorably reported the bill H.R. 2886 by a voice vote, a quorum being present. On October 5, 1999, the committee met in open session and ordered favorably reported the bill H.R. 2886 without amendment by voice vote, a quorum being present.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform were received as referred to in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the committee sets forth, with respect to the bill, H.R. 2886, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 13, 1999.*

Hon. HENRY J. HYDE, *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2886, a bill to amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age may be considered a child under such act if adopted with or after a sibling who is a child under such act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for immigration and naturalization service costs), who can be reached at 226-2860, Valerie Baxter (for effects on entitlement programs), who can be reached at 226-2820, and Lisa Cash Driskill (for the state and local impact), who can be reached at 225-3220.

Sincerely,

DAN L. CRIPPEN, *Director.*

*H.R. 2886—A bill to amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age may be considered a child under such act if adopted with or after a sibling who is a child under such act.*

CBO estimates that enacting H.R. 2886 would have a negligible impact on the federal budget. Because the bill would affect direct

spending, pay-as-you-go procedures would apply. However, we estimate that the additional spending from enacting this bill would be less than \$500,000 a year. This legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, but it could result in a very small increase in the state share of benefits paid under certain federal entitlement programs.

Under current law, U.S. citizens who adopt foreign-born children and who wish to live in the United States may file petitions for immigrant visas for these children if they are under the age of 16. H.R. 2886 would provide that any siblings of these children, who are under the age of 18, would also be eligible for a visa if the older child is adopted by the same family. Enacting the bill would increase the amount of visa fees collected by the Immigration and Naturalization Service (INS), but we expect only a few hundred children to be affected each year. The INS could spend the fees mostly in the year that they were collected, so enacting H.R. 2886 would result in a negligible net impact on INS spending.

In addition, CBO estimates that enacting the bill would have an insignificant effect on benefits paid under certain federal entitlement programs. H.R. 2886 would increase the number of children admitted to the United States through adoption, and some of these children could become eligible for certain means-tested benefits.

The CBO staff contacts are Mark Grabowicz (for INS costs), Valerie Baxter (for effects on entitlement programs), and Lisa Cash Driskill (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8, clause 4 of the Constitution.

#### SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The bill contains only one section

##### *Section 1.(a) In General*

Section 1 (a) amends the section 101(b)(1) of the Immigration and Nationality Act to include in the definition of “child” under subsections (E) and (F) an adopted child under the age of 18 if he or she is a natural sibling of a child who is under age 16 when both children are adopted by the same parent (or prospective adoptive parent) or parents.

##### *Section 1.(b) Conforming Amendments*

Section 1 (b) amends sections 101(c)(1) and 322(a) of the Immigration and Nationality Act to conform with the changes made in Section 1(a).

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## IMMIGRATION AND NATIONALITY ACT

\* \* \* \* \*

### TITLE I—GENERAL

#### DEFINITIONS

#### SECTION 101. (a) \* \* \*

\* \* \* \* \*

(b) As used in titles I and II—

(1) The term “child” means an unmarried person under twenty-one years of age who is—

(A) \* \* \*

\* \* \* \* \*

(E)(i) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: *Provided*, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

*(ii) subject to the same proviso as in clause (i), a child who (I) is a natural sibling of a child described in clause (i) or subparagraph (F)(i); (II) was adopted by the adoptive parent or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child was adopted while under the age of eighteen years; or*

(F)(i) a child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 201(b), who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings; or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child’s proposed residence: *Provided*, That the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States: *Provided further*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act[.]; or

(ii) subject to the same provisos as in clause (i), a child who (I) is a natural sibling of a child described in clause (i) or subparagraph (E)(i); (II) has been adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child is under the age of eighteen at the time a petition is filed in his or her behalf to accord a classification as an immediate relative under section 201(b).

\* \* \* \* \*

(c) As used in title III—

(1) The term “child” means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child’s residence or domicile, or under the law of the father’s residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 320 and 321 of title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of [sixteen years,] sixteen years (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)), and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

\* \* \* \* \*

TITLE III—NATIONALITY AND NATURALIZATION

\* \* \* \* \*

CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR CERTIFICATE OF CITIZENSHIP REQUIREMENTS

SEC. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled:

(1) \* \* \*

\* \* \* \* \*

(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the citizen parent before the child reached the age of [16 years] 16 years (except to the extent that the child is described in clause (ii) of subparagraph (E) or (F) of section 101(b)(1)) and the child meets the requirements for being a child under [subparagraph (E) or (F) of section 101(b)(1).] either of such subparagraphs.

\* \* \* \* \*