

UPDATE

Legislative Update

“ICARE” Act Introduced in Senate

Landmark legislations heralds changes to international adoption process — passage expected in 2004

By John Towriss, Adoption Today Washington Bureau

On the sun-drenched weekend before Thanksgiving, with Congress practically quarantined in chambers to hammer out compromise on Medicare and Energy bills, Sens. Don Nickles and Mary Landrieu took time out to officially introduce the bi-partisan “Intercountry Adoption Reform Act of 2003.” Known as the “ICARE” Act, the legislation has been three years in the making and was co-sponsored by Sens. Larry Craig, James Inhofe, Jeff Bingaman and Gordon Smith. The timing was not coincidental. It was the weekend of National Adoption Day.

By any measure the legislation is extraordinary in its scope and, if enacted, will fundamentally change the way the U.S. government views, accepts and processes children adopted from foreign countries.

No Longer Immigrants

The most dramatic change presented in the bill is one of philosophical approach by the U.S. government. Simply put, the bill establishes that children adopted in a foreign country by Americans will receive the same treatment and documentation as children born to American parents abroad. In other words, the government will no longer view adoption as an immigration process, but rather as a family acquiring dependent children, then returning home. In his floor statement, Nickles explained why, “They (foreign adopted children) are not choosing to come to our country, but rather American citizens are choosing to bring them here as part of their families. As a child of an

American citizen, the foreign adopted child should be treated as such, not as an immigrant.”

In practical terms, this means an end to the practice of attaining an immigration visa for an adopted child. Instead, each child will be issued a U.S. passport and consular report of birth, equivalent to a birth certificate, by the nearest U.S. Embassy just as is now done with biological children of American parents who give birth overseas.

While hard to quantify, adoption professionals say the symbolic effect of eliminating differences between adopted and biological children as viewed by the U.S. government cannot be overstated and should be welcome news to adoptive parents. Kerry Marks Hasenbalg, head of the Congressional Coalition on Adoption Institute agrees, “Adoption is not the second choice, but the other first choice, and the intent of the drafters of this legislation to show that adopted children are equal to biological children is to be commended.”

Eliminating Bureaucracy

The other primary purpose of the legislation is to rethink and reorganize how the federal government administers international adoption. The legislation seeks to eliminate much of the duplicative or similar government functions that were spread across several agencies involved in intercountry adoption. For example, under current procedure adoptive parents have to prove financial ability to raise the adoptive child twice, once in the homestudy phase and again after completing the adoption but before bringing the child

home. In introducing the legislation, Landrieu outlined how this would work, “Simply put, this bill hopes to streamline the existing international adoption process, consolidate its federal functions into one agency and to empower that agency with the staff and resources it needs to represent the United States.”

Empowering an agency with the staff and resources to intervene on behalf of the U.S. resonates strongly with adoptive parents who have experienced the frustrations of program shut-downs and delays. Jennifer Rudolph is one such adoptive mother from Oklahoma who was caught in the process when Cambodia was shut down, “I was a called a category four pipeline case! How do you like that title? If this legislation will prevent just one person from having to go through what I went through then I will support it all day and as long as my legs can carry me.”

10 Things that Will Change

The ICARE Act will change many parts of the international adoption process. Adoption Today has summarized some of the most significant changes below:

Removes U.S. Citizenship Immigration Services from the Process — The ICARE Act removes the immigration service, formerly known as INS and BCIS, completely from the adoption process. Besides the philosophical issue of immigrant versus dependent, framers of the legislation point out the CIS is now a part of the Department of Homeland Security and is focused on stopping terrorism. They say international adoption should have no part in this. This means parents will no longer need