



Rep. Edward J. Acevedo

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1 AMENDMENT TO HOUSE BILL 1825

2 AMENDMENT NO. _____. Amend House Bill 1825 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Immigrant Family Preservation Act.

6 Section 5. Purpose. The purpose of this Act is to protect
7 the foreign national minors or minors holding dual nationality
8 throughout the United States, in particular the State of
9 Illinois. The General Assembly recognizes that foreign
10 national minors and minors holding dual nationality are
11 essential to the maintenance of the culture, traditions, and
12 values of their country of nationality. Therefore, this Act
13 provides a method of early identification of foreign national
14 minors and minors holding dual nationality and their families
15 in order to provide services that ensure all the protections
16 afforded by the Vienna Convention and all other applicable

1 treaties and laws.

2 The General Assembly recognizes that the governments of
3 foreign countries have a duty to care for the interests of
4 their citizens and nationals abroad, particularly those of
5 minors, as expressed in Article 5, Secs. (a) and (h), of the
6 Vienna Convention. The General Assembly also recognizes that it
7 is imperative that foreign consulates be notified, without
8 delay, of guardianship as expressed by the Vienna Convention,
9 Article 37(b). The General Assembly further recognizes that
10 governments of foreign countries have a right to information
11 and access in all cases involving minors who are foreign
12 national minors and minors holding dual nationality.

13 The further purpose of this Act is to ensure compliance
14 with the Vienna Convention. The Vienna Convention provides for
15 consular notification and access in cases in which foreign
16 nationals are involved in legal proceedings. The Convention
17 places a special responsibility on the receiving state's
18 authorities, in this case, the Director of the Department, to
19 treat cases of foreign national minors and minors holding dual
20 nationality with particular care. The General Assembly
21 recognizes that the notification of consular authorities is
22 essential in these cases, not only because a legally binding
23 treaty dictates it, but also because foreign consulates provide
24 essential services that can mutually assist both the Department
25 and the consulates, as well as the individuals personally
26 affected.

1 Section 10. Definitions. In this Act:

2 "Agency" means the agency in a foreign country charged with
3 ensuring the welfare of minors who are nationals of that
4 country or who hold dual nationality in that country and the
5 United States.

6 "Custodian" means the nonparental caretaker of a foreign
7 national minor or minor holding dual nationality who has been
8 entrusted by the parent of the minor with the day-to-day care
9 of the minor.

10 "Department" means the Department of Children and Family
11 Services.

12 "Foreign national minor" means an unmarried person who is
13 under the age of eighteen years, was born in a country other
14 than the United States, and has not acquired United States
15 citizenship as the biological child of a United States citizen.

16 "Minor holding dual nationality" means an unmarried person
17 who is under the age of eighteen years, bears United States
18 citizenship, and is eligible for nationality in another country
19 as the biological child of a parent who is national of that
20 country.

21 "Vienna Convention" means the Vienna Convention on
22 Consular Relations, 21 U.S.T. 77, T.I.A.S. No. 6820.

23 Section 15. Inquiry. The Department shall inquire, at the
24 time a decision to take protective custody of a minor is made,

1 whether the minor is a foreign national minor or minor holding
2 dual nationality. The Department shall provide to any such
3 minor, and any parent or custodian of such minor, information,
4 in English and the minor's native language, explaining the
5 protective custody process and the rights of the minor and his
6 or her parents or custodian, including those rights afforded
7 under the Vienna Convention, and the address and telephone
8 number of the nearest consulate serving the minor. If the
9 Department learns at a later time that the minor is a foreign
10 national minor or minor holding dual nationality, then the
11 information shall be forwarded to the appropriate parties as
12 determined under this Act.

13 Section 20. Notification.

14 (a) The Department shall promulgate rules under which it
15 would notify the appropriate consulate in writing in a timely
16 manner after:

17 (1) the initial date the Department takes custody of a
18 foreign national minor or a minor holding dual nationality
19 or the date the Department learns that a minor in its
20 custody is a foreign national minor or a minor holding dual
21 nationality, whichever occurs first;

22 (2) the parent of a foreign national minor or a minor
23 holding dual nationality has requested that the consulate
24 be notified; or

25 (3) the Department determines that a noncustodial

1 parent of a foreign national minor or a minor holding dual
2 nationality in its custody resides in the country
3 represented by the consulate.

4 (b) The Department shall provide the consulate with the
5 name and date of birth of the foreign national minor or the
6 minor holding dual nationality, the name of his or her parent
7 or custodian, and the name and telephone number of the
8 departmental caseworker directly responsible for the case.

9 (c) If the consulate needs additional specific information
10 regarding the case of the foreign national minor or the minor
11 holding dual nationality, the consulate may contact the
12 Department's Division of Guardian and Advocacy or the
13 Division's designee, and the Department may release any
14 information not required to be kept confidential under federal
15 or Illinois law.

16 Section 25. Confidentiality; further information.

17 (a) Disclosure of information under this Act is subject to
18 the same requirements of confidentiality as the disclosure of
19 information under the Juvenile Court Act of 1987 and the Abused
20 and Neglected Child Reporting Act.

21 (b) In order to respond to a consulate's need for specific
22 information regarding the cases of foreign national minors and
23 minors holding dual nationality, the Department shall
24 designate Department personnel who are responsible for
25 responding to requests from foreign consulates for such

1 information.

2 Section 30. Interview of minor by consular representative.
3 Any foreign national minor or minor holding dual nationality in
4 the custody of the Department may be interviewed by a
5 representative of the consulate of the country of the child's
6 nationality. In the case of a minor holding dual nationality,
7 the Department's Guardianship Administrator or his or her
8 designee must consent to the interview. In order to arrange for
9 such an interview, the consulate shall contact the Department's
10 Division of Guardian and Advocacy or the Division's designee.

11 Section 35. Special Immigrant Juvenile Status. In cases in
12 which a foreign national minor has been placed as a ward of the
13 State of Illinois and has become eligible for Special Immigrant
14 Juvenile Status (SIJS) pursuant to 8 U.S.C. 101(a)(27)(J)(ii),
15 the Department may seek the assistance of the consulate of the
16 country of the child's nationality in obtaining the necessary
17 documentation from that country for completion of the SIJS
18 application.

19 Section 40. Proof of nationality. The Department's
20 Division of Guardian and Advocacy may obtain a birth
21 certificate from the appropriate country for a foreign national
22 minor or a minor holding dual nationality in the custody of the
23 Department. The Department may request the assistance of the

1 consulate in obtaining the necessary documentation to complete
2 the application for a birth certificate under this Section.

3 Section 45. DCFS assistance to foreign child welfare
4 agencies.

5 (a) Upon notification to a consulate pursuant to Section 20
6 of this Act, the Department may request that the consulate
7 obtain through the agency the appropriate home studies of
8 potential families in such country who may be involved in the
9 case and forward the information to the departmental caseworker
10 directly responsible for the case.

11 (b) When a foreign national minor is placed in his or her
12 country or a minor holding dual nationality is placed in the
13 country other than the United States in which he or she holds
14 nationality, the Department shall take all steps necessary to
15 obtain the cooperation of the consulate and the agency to
16 ensure the minor's welfare and provide whatever services are
17 needed. The Department shall request copies of the monitoring
18 reports prepared by the agency concerning the welfare of the
19 minor and shall ensure that such information is delivered to
20 the Department caseworker directly responsible for the case of
21 the minor.

22 Section 50. Witnesses. The Department may request the
23 cooperation of the appropriate consulate to locate individuals
24 who reside in a foreign country and are required to appear in

1 an Illinois court in connection with cases involving a foreign
2 national minor or a minor holding dual nationality, in order to
3 properly notify such individuals of court appearances.

4 Section 55. Ongoing communication. Department staff shall
5 meet as needed with consular officers in order to discuss,
6 clarify, and coordinate activities in areas of mutual interest
7 and concern. The Department may participate with the consulates
8 in joint prevention efforts regarding the protection and
9 well-being of foreign national minors and minors holding dual
10 nationality and their families. In addition, the Department's
11 Division of Communications shall make every effort to exchange
12 with the consulates ideas and concerns of a high profile nature
13 that may result in media attention, in a timely manner. The
14 consulates may contact the Department's Division of Guardian
15 and Advocacy, Advocacy Office for Children and Families, or
16 Office of Inspector General at any time, however,
17 notwithstanding any other provision of this Act.

18 Section 60. Immunity. Except as otherwise expressly
19 provided in this Act, nothing in this Act shall be construed as
20 a waiver of immunities to which a consulate and its consular
21 agents are entitled to under international law, the Foreign
22 Sovereign Immunities Act of 1976, 28 U.S.C. 1602 et seq., and
23 international treaties in force between the United States and
24 foreign countries. Except as otherwise expressly provided in

1 this Act, this Act shall not imply or confer a submission by
2 any foreign country or its consular agents to the jurisdiction
3 of any United States or Illinois courts."