



**House
Legislative
Analysis
Section**

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FOREIGN ADOPTIONS

**House Bills 4122 and 4123 as enrolled
Second Analysis (8-8-94)**

**Sponsor: Rep. Gregory E. Pitoniak
House Committee: Judiciary
Senate Committee: Family Law, Mental
Health, and Corrections**

THE APPARENT PROBLEM:

Adoptions of children from other countries represent about five percent of all adoptions nationwide, about ten percent of adoptions by nonrelatives, and, it is estimated, an even larger proportion of infant adoptions. Adoptions of foreign-born children are on the rise: the numbers of such adoptions are increasing faster than any other type of adoption. With some countries, adoptive children may leave the country with a caseworker for an adoption to be finalized in the adoptive family's home state. With others, however, the adoption must be finalized in the country of birth, and the adoptive parent must travel to that country for the child. With this latter type of international adoption, common in Latin American countries, problems can develop later in Michigan when the need arises to provide documentation for the child. The parents may have received a foreign birth certificate for the child, but typically there is only the one copy, and it is in the local language.

Without a readable birth certificate, parents may encounter difficulties in enrolling the child in school; later in life, the child may face hurdles getting a driver's license, a marriage license, or a passport. While such difficulties are not insurmountable, they can pose what many consider to be an unnecessary obstacle for parents and children. Michigan adoption law lacks provisions to recognize foreign adoptions (that is, those finalized in another country), although it does provide for a delayed registration of birth for children born in foreign countries and adopted in Michigan. It has been proposed that the law contain a presumption in favor of the validity of a foreign adoption and a mechanism for documentation of the child's birth.

THE CONTENT OF THE BILLS:

House Bill 4122 would amend the adoption code (MCL 710.21b) to specify that an adoption order issued by a court in another country would be presumed to be issued in accordance with the laws of that country, and would be recognized in Michigan. The rights and obligations of the parties on matters within the jurisdiction of Michigan would be determined as though the adoption order had been issued by a Michigan court. The bill could not take effect unless House Bill 4123 and Senate Bill 725 (which addresses various matters relating to children in foster care) were enacted.

House Bill 4123 would amend the Public Health Code (MCL 333.2830) to extend provisions for a delayed registration of birth to an adoption occurring under the laws of a foreign country. The bill could not take effect unless House Bill 4122 and Senate Bill 725 were enacted.

FISCAL IMPLICATIONS:

The Department of Social Services says that the bills would have no fiscal implications for the department. (2-9-93)

ARGUMENTS:

For:

The bills would help to ensure that parents who have already undergone the trouble and expense of completing a foreign adoption do not encounter additional unnecessary difficulties once they have returned to Michigan with their child. Under the bills, Michigan statute would explicitly recognize

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such adoptions, and a delayed registration of the child's birth would be made as it is now for foreign-born children whose adoptions are finalized in Michigan. Certified copies of the registration would

be obtainable to document the date and place of the child's birth; such proof should satisfy local authorities when the time comes to enroll the child in school, obtain a driver's license for him or her, or undertake some other matter that requires the documentation of date and place of birth.

Against:

Foreign adoptions can sometimes occur under questionable circumstances, especially where political upheaval, autocratic regimes, or corrupt bureaucracies make it uncertain whether parents had died or voluntarily given up their children. The bills would do nothing to ensure that a foreign adoption had been conducted properly.

Response:

Before a child who has been adopted abroad can be brought into the United States, the requirements of the federal Immigration and Naturalization Service (INS) must be met. The INS requires compliance with the laws of the foreign country, and evidence of parental fitness through the evaluation developed under an adoptive home study. The INS further requires that the child be one whose parents are dead, or who has been abandoned by both parents, or who is living with a sole or surviving parent who is unable to care for the child and has irrevocably released it for adoption; the child also must be under 16 years old. With rigorous federal requirements in place, there is no need for additional state requirements to verify the adoption. Additional state requirements would in fact be inappropriate; the matter is more properly within the purview of federal authorities.