

Title: To realign structures and reallocate resources in the Federal Government in keeping with the core belief that families are the best protection for children and the bedrock of any society to bolster United States diplomacy targeted at ensuring that every child can grow up in a permanent, safe, nurturing, and loving family, and to ensure that intercountry adoption to the United States becomes a viable and fully developed option for providing families for children in need, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Vulnerable Children and Families Act of 2016”.

(b) Table of Contents.—The table of contents is as follows:

Sec.1.Short title; table of contents.

Sec.2.Findings; purposes.

Sec.3.Definitions.

## TITLE I—REALIGNMENT OF CERTAIN INTERNATIONAL CHILD WELFARE RESPONSIBILITIES AND FUNCTIONS

Sec.101.Redesignation of Office of Children’s Issues as Office of Vulnerable Children and Family Security.

## TITLE II—ANNUAL REPORTING

Sec.201.Inclusion in annual country reports on human rights practices of information on children living without families.

Sec.202.Annual report on implementation of action plan.

## TITLE III—PROMOTION OF A COMPREHENSIVE APPROACH FOR CHILDREN IN ADVERSITY

Sec.301.USAID obligations for coordinating with Office of Vulnerable Children and Family Security.

## TITLE IV—FUNDING, RULE OF CONSTRUCTION, AND EFFECTIVE DATES

Sec.401.Authorization of appropriations.

Sec.402.Rule of construction.

Sec.403.Effective dates.

## SEC. 2. FINDINGS; PURPOSES.

(a) Findings.—Congress makes the following findings:

(1) The people of the United States recognize and believe that children ~~must~~should grow up in permanent, safe, and nurturing families in order to develop and thrive.

(2) Science shows that children, and particularly infants, living in impersonal, socially deprived institutions may suffer lasting, and in many cases, irreversible damage, including—

(A) reduced brain activity and brain size;

(B) lower intelligence quotients;

(C) serious behavioral and emotional problems; and

(D) disturbed relationships with others.

(3) Governments in other countries seek models that promote the placement of children who are living outside family care in permanent, safe, and nurturing families, rather than in foster care or institutions; but many governments lack the resources or infrastructure to adequately address this need.

(4) Despite the efforts of countless governments and nongovernmental organizations, millions of children remain uncounted and outside of the protection, nurturing care, permanence, safety, and love of a family.

(5) No reliable data currently exists to define and document the number and needs of children in the world currently living without families, but available evidence demonstrates that there are millions of children in this situation needing immediate help.

(6) The December 2012 Action Plan for Children in Adversity commits the United States Government to achieving a world in which all children grow up within protective family care and free from deprivation, exploitation, and danger. To effectively and efficiently accomplish this goal, it is necessary to realign the United States Government's current operational system for assisting orphans and vulnerable children and processing intercountry adoptions.

(7) Significant resources are already dedicated to international assistance for orphans and vulnerable children, and a relatively small portion of these resources can be reallocated to achieve more timely, effective, nurturing, and permanent familial solutions for children living without families, resulting in fewer children worldwide living in institutions or on the streets, more families preserved or reunified, and increased domestic and international adoptions.

(b) Purposes.—The purposes of this Act are—

(1) to support the core ~~American~~ value that families are the bedrock of any society;

(2) to protect the fundamental human right of all children to grow up within the loving care of permanent, safe, and nurturing families;

(3) to address a critical gap in United States foreign policy implementation by authorizing

a whole-of-government strategic approach to ensure coordination within and among the relevant Federal agencies for international policy and operational structures so that seeking permanent families for children living without families receives more prominence, focus, and resources (through the reallocation of existing personnel and resources);

(4) to harness the diplomatic and operational power of the United States Government in the international sphere by helping to identify and implement timely, permanent, safe, and nurturing familial solutions for children living without families through effective implementation of the three core and three supporting objectives of the Action Plan on Children in Adversity;

(5) to ensure that intercountry adoption by United States citizens becomes a viable and fully developed option for creating permanent families for children who need them;

(6) to protect against abuses of children; and

(7) to harmonize and strengthen existing intercountry adoption processes under United States law—

(A) by ensuring that the same set of procedures and criteria govern suitability and eligibility determinations for prospective adoptive parents seeking to complete intercountry adoptions, whether or not the child is from a foreign state that is a party to the Hague Adoption Convention; and

(B) by aligning the definitions of eligible children for Convention adoptions and non-Convention adoptions to the maximum extent possible.

## SEC. 3. DEFINITIONS.

In this Act:

(1) ACTION PLAN ON CHILDREN IN ADVERSITY.—The term “Action Plan on Children in Adversity” means the policy document entitled “United States Government Action Plan on Children in Adversity: A Framework for International Assistance: 2012–2017”, released on December 19, 2012.

(2) APPROPRIATE, PROTECTIVE, AND PERMANENT FAMILY CARE.—The term “appropriate, protective, and permanent family care” means a nurturing, lifelong, commitment to a child by an adult, or adults with parental roles and responsibilities that—

(A) provides physical and emotional support;

(B) provides the child with a sense of belonging; and

(C) generally involves full legal recognition of the child’s status as child of the parents and of the parents’ rights and responsibilities regarding the child.

(3) CENTRAL AUTHORITY.—The term “central authority” has the meaning given the term in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902).

(4) CHILDREN IN ADVERSITY.—The term “children in adversity” means children and youth—

(A) who are younger than 18 years of age;

(B) who live outside of family care; and

(C) whose safety, well-being, growth, and development are at significant risk due to inadequate care, protection, or access to essential services.

(5) CONVENTION ADOPTION.—The term “Convention adoption” has the meaning given the term in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902).

(6) CONVENTION COUNTRY.—The term “Convention country” has the meaning given the term in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902) and for which the Hague Adoption Convention has entered into force.

(7) GUARDIANSHIP.—

(A) IN GENERAL.—The term “guardianship” means a permanent legal relationship between an adult and a child, in which the adult is lawfully invested with the power, and charged with the duty, of taking care of the child.

(B) PERMANENT GUARDIANSHIP.—While some forms of guardianship are not truly permanent, the form of guardianship referred to and supported under this Act is permanent guardianship.

(C) KEFALA ORDER.—A Kefala order issued by a country that follows traditional Islamic law does not qualify as an adoption under United States law, but may be a form of guardianship in some circumstances.

(D) FAMILY-LIKE GROUP HOMES.—Individual parent-child relationships in a small, family-like group home in which caretaking is provided only by 1 or more unpaid caretakers might, in some circumstances, qualify as a guardianship if legalized in that form.

(E) PAID GUARDIANSHIP.—The term guardianship does not include a paid guardianship.

(8) HABITUAL RESIDENCE DETERMINATION.—The term “habitual residence determination” means a factual determination of where a prospective adoptive parent (or parents) resides and where the child resides for purposes of an intercountry adoption case.

(9) HAGUE ADOPTION CONVENTION.—The term “Hague Adoption Convention” means the Convention of Protection of Children and Cooperation in Respect of Intercountry Adoption, concluded at The Hague May 29, 1993.

(10) INSTITUTIONAL CARE.—The term “institutional care” means care provided in any nonfamily-based group setting, including—

(A) orphanages;

(B) transit or interim care centers;

(C) children’s homes;

(D) children’s villages or cottage complexes; and

(E) boarding schools used primarily for care purposes as an alternative to a children’s home.

(11) KINSHIP CARE.—The term “kinship care”—

(A) means the full-time care, nurturing, and protection of children by relatives,

members of their tribes or clans, godparents, stepparents, or any adult who has a kinship bond with a child, if such persons have the capacity and commitment to function as true parents for the child on a permanent basis; and

(B) does not include paid kinship foster care.

(12) NON-CONVENTION ADOPTION.—The term “non-Convention adoption” means—

(A) an adoption by United States parents of a child from a non-Convention country in accordance with subparagraph (F) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1));

(B) an adoption by United States parents of a child under the laws of the child’s country of origin (generally when the parents are living in the child’s country of origin and therefore able legally to complete a domestic adoption); or

(C) in certain circumstances (generally with respect to relative adoptions or adoptions by dual national parents), an adoption by United States parents of a child from a Convention country if that country allows legal and valid adoptions to take place outside the scope of the Convention.

(13) NON-CONVENTION COUNTRY.—The term “non-Convention country” means a country in which the Hague Adoption Convention has not entered into force, regardless of whether or not that country has signed the Convention.

(14) UNPARENTED CHILDREN.—The term “unparented children” means children lacking the legally recognized, permanent, safe, and nurturing care of a parental figure or figures, either inside their country of origin, in the country of their habitual residence, or elsewhere.

## TITLE I—REALIGNMENT OF CERTAIN INTERNATIONAL CHILD WELFARE RESPONSIBILITIES AND FUNCTIONS

### SEC. 101. REDESIGNATION OF OFFICE OF CHILDREN’S ISSUES AS OFFICE OF VULNERABLE CHILDREN AND FAMILY SECURITY.

(a) Redesignation.—The Office of Children’s Issues of the Department of State is hereby redesignated as the Office of Vulnerable Children and Family Security (referred to in this Act as the “VCFS”).

(b) Appointment of Ambassador-at-large.—The President, acting through the Secretary, shall appoint an Ambassador-at-Large to promote and support the following activities:

(1) Oversight of the Office of Vulnerable Children and Family Security.

(2) The development and implementation in foreign countries of child welfare laws, regulations, policies, best practices, and procedures in keeping with the goals articulated in the Action Plan for Children in Adversity, including—

(A) the sound development of children through the integration of health, nutrition,

and family support;

(B) supporting and enabling families to care for children through family preservation, reunification, and support of kinship care, guardianship, and domestic and intercountry adoption;

(C) facilitating the efforts of national governments and partners to prevent, respond to, and protect children from violence, exploitation, abuse, and neglect;

(D) supporting partners to build and strengthen holistic and integrated models to promote the best interests of the child;

(E) building and maintaining strong evidence base on which future activities to reach and assist the most vulnerable children can be effectively planned and implemented; and

(F) integrating this plan with United States Government departments and agencies.

(3) Addressing the gap in United States Government diplomacy, policy, and operations with respect to promoting appropriate, protective, and permanent family care for children living without families by leading the development and implementation of policies that will ensure the timely provision of appropriate, protective, and permanent family care for children living without families through the full continuum of permanence solutions, including family preservation and reunification, kinship care, guardianship, and domestic and intercountry adoption.

(c) Qualifications of Ambassador-at-Large.—The Ambassador-at-Large shall—

(1) have experience in the development of policies and systems and the implementation of programs that promote the goals of the Action Plan for Children in Adversity;

(2) be knowledgeable of international child welfare, family permanence, and family creation through domestic and intercountry adoption; and

(3) be committed to developing an integrated United States Government approach to international child welfare that places equal emphasis on—

(A) early childhood survival and development;

(B) family permanence; and

(C) protection from abuse and exploitation.

(c) Functions.—

(1) ADVISORY.—The Ambassador-at-Large shall serve as a primary advisor to the Secretary of State and the President in all matters related to vulnerable children and family security in foreign countries.

(2) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, and in consultation and coordination with the Administrator of the United States Agency for International Development and the Secretary of Homeland Security, the Ambassador-at-Large shall represent the United States in matters relevant to international child welfare, family preservation and reunification, and provision of permanent, safe parental care through kinship, domestic and intercountry adoption in—



(A) contacts with foreign governments, nongovernmental organizations, intergovernmental agencies, and specialized agencies of the United Nations and other international organizations of which the United States is a member;

(B) multilateral conferences and meetings relevant to family preservation, reunification, and creating appropriate, protective, and permanent care for unparented children; and

(C) fulfillment of the diplomatic responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.), as amended by this Act.

(3) POLICY DEVELOPMENT WITH RESPECT TO PERMANENCE FOR UNPARENTED CHILDREN.—

(A) IN GENERAL.—The Ambassador-at-Large shall—

(i) develop and advocate for policies and practices to ensure that children in foreign countries who are living without families find appropriate, protective, and permanent family care;

(ii) give consideration to family preservation and reunification, kinship care, guardianship, and domestic and intercountry adoption; and

(iii) seek to develop and implement policies that lead to the use of all options for providing appropriate, protective, and permanent family care to children living without families as quickly as possible.

(B) ADVOCATE FOR CONCURRENT PLANNING.—

(i) IN GENERAL.—In developing policies and programs under this Act, the Ambassador-at-Large shall advocate that all options for providing appropriate, protective, and permanent family care to children living without families must be considered concurrently and permanent solutions must be put in place as quickly as possible. Solutions include family preservation and reunification, kinship care, guardianship, domestic and intercountry adoption, and other culturally acceptable forms of care that will result in appropriate, protective, and permanent family care. Preference should be given to options that optimize the child's well-being, which generally means options which provide children with fully protected legal status and parents with full legal status as parents, including full parental rights and responsibilities. The principle of subsidiarity, which gives preference to in-country solutions, should be implemented within the context of a concurrent planning strategy, exploring in- and out-of-country options simultaneously. If an in-country placement providing appropriate, protective, and permanent care is not quickly available, and such an international home is available, encourage policies that allow the child to be placed in an international home without delay.

(ii) INTERIM PLACEMENTS.—Nothing in this subsection may be construed to preclude interim placements, including in kinship care, foster care, and small group homes, to temporarily improve children's living conditions in individual circumstances in which—

(I) a permanent solution is not immediately available if ongoing efforts are made to move the child from interim to permanent placement as soon as

possible; and

(II) the child's best interests will be served.

(iii) EXCEPTIONS.—Exceptions to the general rule set forth in clauses (i) and (ii) may be made, as needed in individual cases, to serve the child's best interests, including the following:

(I) Permanent guardianship may be preferable to adoption in certain cases where the child has developed a powerful bond to a loving guardian who prefers not to adopt because of the child's ties to birth parents who love the child, but are not in a position to provide appropriate nurturing.

(II) Options generally viewed as interim solutions, such as foster care and small group homes, may be preferable to family reunification when the parents are not in a position to provide appropriate nurturing.

(III) For children with disabilities, solutions to prevent institutionalization and to assist with reintegration into the community from institutions, include payment and support to families, substitute families, small group homes, or kinship care.

(C) BEST PRACTICES.—In developing policies and programs under this Act, the Ambassador-at-Large shall identify and utilize evidence-based programs and best practices in family preservation and reunification and provision of permanent parental care through guardianship, kinship care, and domestic and intercountry adoption as derived from a wide variety of domestic, foreign, and global policies and practices.

(D) TECHNICAL ASSISTANCE.—The Ambassador-at-Large, in consultation with other appropriate Federal agencies, shall provide technical assistance to governments of foreign countries to help build their child welfare capacities, particularly pertaining to family-based permanence. Such assistance should aim to strengthen family preservation and reunification and the provision of appropriate, protective, and permanent family care through kinship care, guardianship, and domestic and intercountry adoption, including assistance with—

(i) the drafting, disseminating, and implementing of legislation;

(ii) the development of implementing systems and procedures;

(iii) the establishment of public, private, and faith- and community-based partnerships;

(iv) the development of workforce training for governmental and nongovernmental staff; and

(v) infrastructure development and data collection techniques necessary to identify and document the number and needs of children living without appropriate, protective, and permanent family care.

(4) RESPONSIBILITIES WITH RESPECT TO INTERCOUNTRY ADOPTION.—

(A) IN GENERAL.—The VCFS, in coordination with other offices of the Department of State and U.S. Citizenship and Immigration Services, shall have lead responsibility



for representing the United States Government in discussions, negotiations, and diplomatic contacts pertaining to intercountry adoptions.

(B) CENTRAL AUTHORITY RESPONSIBILITY UNDER THE INTERCOUNTRY ADOPTION ACT OF 2000.—Section 101(b)(2) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911(b)(2)) is amended by striking “Office of Children’s Issues” and inserting the “Office of Vulnerable Children and Family Security”.

(C) DETERMINATIONS OF HAGUE ADOPTION CONVENTION COMPLIANCE.—The VCFS, in consultation with other offices of the Department of State, and the Department of Homeland Security, shall have lead responsibility for determining whether a Convention partner country has met its obligations under the Hague Adoption Convention and is eligible to participate in intercountry adoptions in accordance with United States law. Such determinations shall be documented in writing, based on standardized criteria, and available for public review and comment.

(5) POLICY COORDINATION.—The Ambassador-at-Large shall coordinate with the Secretary of Homeland Security and the Administrator of the United States Agency for International Development to maintain consistency in United States foreign and domestic policy and operations with respect to children living outside family care in foreign countries.

(6) INFORMATION COORDINATION.—The Ambassador-at-Large shall transmit—

(A) any intercountry adoption related case information received from the Central Authority of another Convention country to the Secretary of Homeland Security; and

(B) any intercountry adoption related case information that the Secretary of Homeland Security requests to the Central Authority of another Convention country.

## TITLE II—ANNUAL REPORTING

### SEC. 201. INCLUSION IN ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES OF INFORMATION ON CHILDREN LIVING WITHOUT FAMILIES.

Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended by adding at the end the following new paragraph:

“(13) The institutionalization of children including in orphanages, and in large and small group homes, when that institutionalization can be avoided either by promptly reunifying children with nurturing parents of origin or by promptly placing them in adoptive homes in the country of origin or abroad, and the related subjection of children to cruel, inhuman or degrading treatment, unnecessary detention, or denial of the right to life, liberty, and the security of persons.”.

### SEC. 202. ANNUAL REPORT ON IMPLEMENTATION OF ACTION PLAN.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the

Ambassador-at-Large, in coordination with the Special Advisor to the USAID Administrator on Children in Adversity, shall submit to Congress a report on implementation of the Action Plan for Children in Adversity, including the technical assistance provided under section 101(c)(3)(D).

## TITLE III—PROMOTION OF A COMPREHENSIVE APPROACH FOR CHILDREN IN ADVERSITY

### SEC. 301. USAID OBLIGATIONS FOR COORDINATING WITH OFFICE OF VULNERABLE CHILDREN AND FAMILY SECURITY.

(a) Objectives.—The United States Agency for International Development’s Center of Excellence on Children in Adversity, in particular its Special Advisor to the USAID Administrator on Children in Adversity, shall work in consultation with the Ambassador-at-Large of the Office of Vulnerable Children and Family Security of the Department of State to promote greater United States Government coherence and accountability for whole-of-government assistance to children in adversity and ensure that United States foreign assistance and development programs are focused on the following objectives:

(1) The sound development of children through the integration of health, nutrition, and family support.

(2) Supporting and enabling families to care for children through family preservation, reunification, and support of kinship care, guardianship, and domestic and intercountry adoption.

(3) Facilitating the efforts of national governments and partners to prevent, respond to, and protect children from violence, exploitation, abuse, and neglect.

(4) Supporting partners to build and strengthen holistic and integrated child welfare and protection systems to promote the best interests of the child.

(5) Building and maintaining a strong evidence base on which future activities to reach and assist the most vulnerable children can be effectively planned and implemented.

(6) Integrating this plan with United States Government departments and agencies.

(b) Approach.—The Special Advisor shall ensure that efforts to assist children in adversity through the Action Plan on Children in Adversity are coordinated with the efforts by the Ambassador-at-Large in implementing its adoption strategy in priority countries and also are responsive to the data on unparented children provided pursuant to paragraph (13) of section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)), as added by section 201 of this Act.

(c) Repeal.—Section 135 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152f) is repealed.

## TITLE IV—FUNDING, RULE OF CONSTRUCTION, AND EFFECTIVE DATES

## SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

### (a) Prohibition on New Appropriations.—

(1) IN GENERAL.—Nothing in this Act may be construed as authorizing additional funds to be appropriated to carry out this Act or the amendments made by this Act.

(2) USE OF EXISTING FUNDS.—This Act, and the amendments made by this Act, shall be carried out using amounts otherwise available for such purposes, including unobligated balances of funds made available to carry out activities under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

### (b) Limitations on Use of Funds.—

(1) SEGREGATED SERVICES.—No funds obligated in accordance with this Act may be awarded for building, renovating, or refurbishing residential facilities that segregate children with disabilities from society. The limitation under this paragraph does not prohibit funding for small, community-based group homes that house up to 6 children.

(2) ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the amounts described in subsection (a)(2) may be used for administrative expenses.

### (c) Focus of Assistance.—Assistance provided under this Act—

(1) shall focus primarily on promoting international child welfare, as set forth in this Act, for all children in adversity; and

(2) may be provided on such terms and conditions as the President determines appropriate.

## SEC. 402. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as precluding the provision of stipends or subsidies to those caring for children with disabilities.

## SEC. 403. EFFECTIVE DATES.

(a) Effective Upon Enactment.—Sections 104 and 202 and titles III and IV shall take effect on the date of the enactment of this Act.

(b) Delayed Effective Date.—Sections 101, 102, 103, and 201 shall take effect on the date that is 1 year after the date of the enactment of this Act.