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APPROVED
DEC 16 1975

signed 12/16

ACTION

THE WHITE HOUSE

WASHINGTON

Last Day: December 19

December 16, 1975

Revised
12/17

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON ~~✓~~

To Archives
12/17

SUBJECT: H.R. 568 - Adoption of an Alien
Child by an Unmarried U.S. Citizen

Attached for your consideration is H.R. 568, sponsored by Representative Koch, which amends the Immigration and Nationality Act to permit U.S. citizens who are unmarried the same standing as married couples in the adoption of minor alien orphans.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 568 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 12 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 568 - Adoption of an alien
child by an unmarried U.S. citizen
Sponsor - Rep. Koch (D) New York

Last Day for Action

December 19, 1975 - Friday

Purpose

To grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. married couple.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education and Welfare	Approval
Department of Justice	Approval
Department of State	No objection

Discussion

H.R. 568 amends the Immigration and Nationality Act to accord unmarried U.S. citizens the same standing as married couples in the adoption of minor alien orphans. The bill also requires that (a) the unmarried citizen must be at least twenty-five years of age, and (b) the Attorney General must be satisfied that both the single and married citizens will provide the children with proper care if admitted to the United States.



Under current law, only married U.S. citizens, either having adopted or wishing to adopt an alien child, may file an "immediate relative petition" on behalf of the child. The granting of this petition exempts the child from the numerical limitations on immigration and permits his or her admission to the United States as a permanent resident alien. However, an unmarried U.S. citizen is prevented from filing such a petition unless the alien child has been adopted abroad and has since been in the legal custody of, and resided with, the adopting parent for two years. These extra requirements on unmarried citizens would be removed by this bill.

The impact of this legislation is limited to the extent that the laws of various States or foreign jurisdictions permit a single person to adopt children.

James M. Frey
Assistant Director
for Legislative Reference

Enclosures





DEPARTMENT OF STATE

Washington, D.C. 20520

DEC 5 - 1975

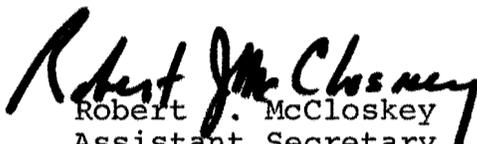
Honorable James T. Lynn
Director Office of
Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to Mr. Frey's communication of December 4, 1975, transmitting for comment enrolled bill H.R. 568 "To grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse."

The Department has no objection to the enactment of this bill.

Sincerely,


Robert J. McCloskey
Assistant Secretary
for Congressional Relations



Department of Justice
Washington, D.C. 20530

December 5, 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (H.R. 568), "To grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse."

H.R. 568 would amend section 101(b)(1)(F) of the Immigration and Nationality Act to make it possible for an unmarried United States citizen who is at least twenty-five years of age and who has complied with the preadoption requirements to adopt a minor alien orphan. The current law allows for adoption of such an orphan by a United States citizen and his spouse.

The Department of Justice recommends Executive approval of this measure.

Sincerely,



Michael M. Uhlmann





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DEC 8 1975

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 568, an enrolled bill "To grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse."

In summary, we support the elimination of unnecessary obstacles to the adoption of children by unmarried individuals and therefore recommend that the bill be signed into law.

The bill would amend section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)) to include in the definition of "child" for purposes of subchapters I and II of the Immigration and Nationality Act (relating to immigration) any child under the age of fourteen who has been adopted abroad by an unmarried United States citizen at least twenty-five years of age or who is entering the United States for the purpose of adoption by an unmarried United States citizen at least twenty-five years of age. Currently, the definition of "child" for purposes of immigration into the United States includes only those children who have been or will be adopted by married couples.

The bill would also amend the definition of "child" to require the Attorney General to determine that proper care will be furnished the child if admitted to the United States. Currently the law includes a requirement that proper care will be provided to the child, but does not specify who is to make that determination.

The bill is similar to H.R. 680 which was introduced in the Ninety-third Congress. In the Department's bill report on H.R. 680 to the Committee on the Judiciary of the House of



Representatives we recommended that, subject to some technical clarification, the bill be favorably considered. The enrolled bill has been modified to clarify the ambiguities we found in H.R. 680.

The Department's report on H.R. 680, a copy of which is enclosed with this report, expressed support for the intent of the bill--to provide the same immigrant status for children adopted by unmarried individuals as is provided for children adopted by married individuals. The Department continues to adhere to this position and recommends that the bill be signed into law.

Sincerely,



Acting Secretary

Enclosure



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 12 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 568 - Adoption of an alien
child by an unmarried U.S. citizen
Sponsor - Rep. Koch (D) New York

Last Day for Action

December 19, 1975 - Friday

Purpose

To grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. married couple.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education and Welfare	Approval
Department of Justice	Approval
Department of State	No objection

Discussion

H.R. 568 amends the Immigration and Nationality Act to accord unmarried U.S. citizens the same standing as married couples in the adoption of minor alien orphans. The bill also requires that (a) the unmarried citizen must be at least twenty-five years of age, and (b) the Attorney General must be satisfied that both the single and married citizens will provide the children with proper care if admitted to the United States.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 12

Time: 700pm

FOR ACTION:

Dick ~~Er~~rrsons *eh*
Max Friedersdorf *eh*
Ken Lazarus *eh*
NSC/S *eh*

cc (for information): Jack Marsh=
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date:

December 15

Time:

300pm

SUBJECT:

H.R. 568 - Adoption of an alien child by an unmairred U.S.
Citizens

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



THE WHITE HOUSE
WASHINGTON

December 15, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M. L.*
SUBJECT: H. R. 568 - Adoption of an alien child by an
unmarried U. S. Citizen

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments



Date: December 12

Time: 700pm

FOR ACTION:

Dick Parsons
Max Friedersdorf
Ken Lazarus
NSC/S

cc (for information): Jack Marsh=
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date:

December 15

Time:

300pm

SUBJECT:

H.R. 568 - Adoption of an alien child by an unmarried U.S. Citizen

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection.

Ken Lazarus

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JAN 10 1964
FOR THE STAFF SECRETARY

Date: December 12

Time: 700pm

FOR ACTION:

Dick Parsons
Max Friedersdorf
Ken Lazarus
NSC/S

cc (for information): Jack Marsh=
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date:

December 15

Time:

300pm

SUBJECT:

H.R. 568 - Adoption of an alien child by an unmairred U.S. Citizen

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Recommend Approval

DL May

12/12/72

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JAN 11 1973
FOR STAFF SECRETARY

MEMORANDUM

NATIONAL SECURITY COUNCIL

8216

December 15, 1975

MEMORANDUM FOR: JIM CAVANAUGH

FROM: Jeanne W. Davis 

SUBJECT: H.R. 568

The NSC Staff concurs in the memorandum to the President on H.R. 568.

GRANTING AN ALIEN CHILD ADOPTED BY AN UNMARRIED UNITED STATES CITIZEN THE SAME IMMIGRANT STATUS AS AN ALIEN CHILD ADOPTED BY A UNITED STATES CITIZEN AND HIS SPOUSE

MARCH 26, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. EILBERG, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 568]

The Committee on the Judiciary, to whom was referred the bill (H.R. 568) to grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant a child adopted by a single U.S. citizen the same immediate relative status for immigration purposes as a child adopted by a U.S. citizen and his spouse.

BACKGROUND OF LEGISLATION

Ninety-third Congress

Similar legislation (H.R. 7555) was unanimously approved by the Judiciary Committee in the 93d Congress, placed on the Consent Calendar, and approved by the House of Representatives on September 17, 1973.

Ninety-fourth Congress

H.R. 568 is identical to the 93d Congress legislation (H.R. 7555) except for the following additional requirement: the prospective adoptive parent must be of "good moral character." H.R. 568 was reported favorably by the Subcommittee on Immigration, Citizenship, and International Law on March 6, 1975, and was ordered favorably reported by the full Committee on the Judiciary by unanimous voice vote on March 11, 1975.

GENERAL INFORMATION

Under section 201(b) of the Immigration and Nationality Act, "immediate relatives" are defined as the children, spouses and parents of a U.S. citizen and in the cases of parents the citizen child must be at least 21 years of age. Furthermore, the category "child" is defined in Section 101(b) of such Act to include an unmarried person under 21 years of age who is: 1) a legitimate child; 2) a stepchild; 3) a legitimated child; 4) an illegitimate child through its natural mother; 5) an adopted child under the age of 14 who has resided with the adopting parent or parents for at least two years; and 6) an orphan.

In order to qualify as an orphan under section 101(b)(1)(F), the child must be under the age of 14 at the time an immediate relative petition is filed in his behalf and who is an orphan because of the death or disappearance, abandonment of or desertion by, or separation or loss from both parents or for whom the sole-surviving parent is incapable of providing proper care. This section also requires that the immediate relative petition in behalf of an orphan must be filed by a U.S. citizen and his spouse who have adopted the orphan abroad or who intend to adopt the orphan after his admission to the United States. This provision also requires the preadoption requirements of a state to be met prior to approval of the immediate relative petition.

H.R. 568 would amend section 101(b)(1)(F) of the Immigration and Nationality Act to provide that an unmarried person could file an immediate relative petition for an otherwise eligible orphan. The Subcommittee is aware of many instances in which unmarried aunts of the orphan child and widows, who are desirous of adopting orphans, are unable to satisfy the statutory requirements. Furthermore, on several occasions, existing law has created undue hardship and inconvenience for single U.S. citizens, who are attempting to bring in children whom they have adopted abroad. In addition, the Committee recognizes that there has been a continuing trend in state legislatures to enact legislation authorizing single persons to adopt children. In this regard, it should be emphasized that the impact of this legislation is properly limited to the extent that the laws of the various States or the applicable law in foreign jurisdiction permit a single person to adopt children.

Furthermore, the subcommittee was advised by officials of the Department of State that a provision such as H.R. 568 would remove one of the most serious impediments to the adoption of Vietnamese orphans by U.S. citizens. As noted, current law makes it extremely difficult for a single American to bring a Vietnamese orphan into this country. In effect, it prevents a single person from filing a petition for the admission of a Vietnamese orphan unless the child has been adopted abroad, is in the legal custody of, and has resided with, the adoptive parent for a period of 2 years. Unless these requirements are met and in the majority of cases they are not, the child must be registered for a nonpreference visa number.

While nonpreference visa numbers are currently available for all countries of the Eastern Hemisphere except Korea, experience has demonstrated that such numbers may become unavailable at any time. Furthermore, Korean nonpreference visas are currently being issued

H.R. 121

only to those who have a priority registration earlier.

DEPARTMENTAL POSITION

Although departmental reports have not been prepared, departmental reports on similar legislation in the past Congress indicate that this legislation is supported by the Department of State, Justice, and Health, Education, and Welfare. H.R. 568 was drafted to conform with the recommendations of the reports on H.R. 680. Copies of these reports

DEPARTMENT OF STATE
Washington, D.C.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Secretary Rogers has received your letter of February 15, 1973, enclosing for the Department a report and a copy of H.R. 680, "A bill to grant United States citizenship to a single United States citizen the same immigrant as adopted by a United States citizen and his spouse."

The bill would, if enacted, make it possible for a single United States citizen to petition the Immigration and Naturalization Service to accord the status of "child" under section 101(b)(1)(F) of the Immigration and Nationality Act, to a minor who is a citizen either had adopted abroad or desired to adopt after entry into the United States after entry.

The Department is entirely sympathetic to the proposed legislation, especially since we have had many cases in which an unmarried United States citizen has had difficulty in obtaining an immigrant visa for a minor child she had adopted or intended to adopt simply because the child could not be classified as a "child" under section 101(b)(1)(F). It should be noted that the practical effect of this legislation might be to the extent that the laws of the various states or the applicable law in foreign jurisdictions would not permit a single person to adopt children.

In view of the fact that petitions to accord the status of a "child" for immigration purposes are processed by the Immigration and Naturalization Service which requires that the preadoption requirements, if any, of the state of residence have been compiled with, the Department has no comments of the Department of Justice on this legislation.

The Office of Management and Budget advises that the point of the Administration's program there is to expedite the submission of this report.

Sincerely yours,

MARSHA
Acting Assistant
Commissioner

DEPARTMENT OF JUSTICE,
Washington, D.C., April 25, 1973.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 680, a bill "To grant a child adopted by a single United States citizen the same immigrant status as a child adopted by a United States citizen and his spouse."

Under existing law only a United States citizen and his spouse may file a petition for an adopted orphan child or an orphan child coming to the United States for adoption pursuant to section 101(b)(1)(F). The administrative rulings hold that an unmarried person may not petition for immediate relative status for an otherwise eligible adopted orphan. *Matter of Lovell*, 11 I. & N. Dec. 473 (1966); *Matter of D-----*, 8 I. & N. Dec. 628 (1960).

This bill would amend section 101(b)(1)(F) of the Act to provide that an unmarried person could file such a petition. This amendment would overcome such administrative decisions as those cited above wherein unmarried aunts of the orphan child, respectively a widow and a divorcee, were found not to meet the statutory requirement.

It is the view of the Department of Justice that the objective of the bill is desirable. Many state statutes permit adoption by single persons. (See compilation set forth in H.R. 1086, 87th Cong., 1st Sess. 1961, pp. 13-21.) However, as proposed the bill could be interpreted as making it possible for a married person to petition for an orphan without the consent of his spouse. It is the view of the Department that this is undesirable. Instead, the Committee may wish to leave undisturbed the present language of the section, adding after the word "spouse" a comma and the words "if he has a spouse" followed by a comma, wherever "spouse" appears in the section.

If revised as suggested, the Department of Justice would have no objection to the enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

MIKE McKEVITT,
Assistant Attorney General.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., June 11, 1973.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 15, 1973, for a report on H.R. 680, a bill "To grant a child adopted by a single United States citizen the same immigrant status as a child adopted by a United States citizen and his spouse."

The bill would amend section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) definition of "child" for purposes of Subchapter I of the Immigration and Nationality Act (relating to child under the age of fourteen who has been adopted by a United States citizen or who is coming to the United States for adoption by a United States citizen. Current definition of "child" one who is under the age of 18 who has been adopted abroad by a United States citizen who personally saw and observed the child before or during adoption proceeding or who is coming to the United States for adoption by a United States citizen and spouse who has met the preadoption requirements, if any, of the law of the residence.

We support the intent of H.R. 680—to provide for immigration status for children adopted by unmarried persons currently provided for children adopted by married persons. The trend of State adoption laws in recent years has been toward the prohibition of permitting adoptions by unmarried persons. It is important for our immigration laws to be consistent in treating the children of such adoptions the same as those of married couples.

We believe, however, that the bill should be amended at certain points which now appear ambiguous. It is the view of the Department that the amendments applicable to married couples (i.e., that the child prior to or during adoption abroad must be adopted with the preadoption requirements of the law of the country in the case of a child coming to the United States for adoption) would be applicable to a single individual. In the case of the term "United States citizen", it is not sufficient to require that there is no intent to include a married individual with his spouse. For these reasons, we propose striking the language of section 10 of the bill, and inserting in lieu thereof the following:

(1) by inserting "or an unmarried individual" after "and his spouse", and

(2) by inserting "or an unmarried United States citizen who has," after "spouse who have".

With these changes, we would recommend that the bill be favorably considered.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

FRA

ESTIMATE OF COST

Pursuant to the requirements of clause 7 of rule 1 of the House of Representatives, the committee estimates that the enactment of this legislation will result in no increase in the cost of the Government.

BUDGETARY INFORMATION

Clause 2(1)(3) (B) and (C) of rule XI are inapplicable because this legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENTS

Pursuant to clause 2(1)(3) (A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Immigration, Citizenship, and International Law has been charged by the Committee on the Judiciary with the responsibility of overseeing the administration of the Immigration and Nationality Act by the Departments of State, Justice, and Labor. Consequently, that subcommittee will closely monitor the implementation of this amendment to the Immigration and Nationality Act.

Clause 2(1)(3) (D) of rule XI of the Rules of the House of Representatives is inapplicable since no oversight findings and recommendations have been received from the Committee on Government Operations.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the committee estimates that this bill will have no inflationary effect on prices and costs in the operation of the national economy.

COMMITTEE RECOMMENDATION

The committee, after careful and detailed consideration of all the facts and circumstances involved in this legislation, is of the opinion that this bill should be enacted and accordingly recommends that H.R. 568 do pass.

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (new matter is printed in italic, matter proposed to be omitted is printed in black brackets, existing law in which no change is proposed is printed in roman).

SECTION 101(b)(1)(F) OF THE IMMIGRATION AND NATIONALITY ACT

(F) a child, under the age of fourteen 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 which will be provided the child if admitted to the United States and who has in writing irrevocably released the child for emigration and adoption; who has been adopted abroad *by an unmarried United States citizen of good moral character* or by a United States citizen and his spouse who personally saw and observed the child prior to or during the adoption proceedings; or who is com-

ing to the United States for adoption *by an unmarried citizen of good moral character* or by a United States citizen **[who have complied]** *who has or have complied* requirements, if any, of the child's proposed residence, no natural parent or prior adoptive parent of the child thereafter, by virtue of such parentage, be granted the same rights, privileges, or status under this Act.

Calendar No. 452

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-464

GRANTING AN ALIEN CHILD ADOPTED BY AN UNMARRIED U.S. CITIZEN THE SAME IMMIGRANT STATUS AS AN ALIEN CHILD ADOPTED BY A U.S. CITIZEN AND HIS SPOUSE

NOVEMBER 20 (legislative day, NOVEMBER 18), 1975.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 568]

The Committee on the Judiciary, to which was referred the bill (H.R. 568) to grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

AMENDMENT

Strike all after the enacting clause and insert in lieu thereof, the following:

That section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)) is amended to read as follows: "(F) a child, under the age of fourteen 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 25 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 25 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.*"

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant a child adopted by a single U.S. citizen the same immediate relative status for immigration purposes as a child adopted by a U.S. citizen and his spouse jointly. The bill has been amended to provide that an unmarried U.S. citizen adoptive parent must be at least 25 years old. In addition, the Attorney General is given discretionary authority to withhold or refuse approval of a petition unless he "is satisfied that proper care will be furnished to the child if admitted to the United States."

STATEMENT

Section 101(b)(1)(F) of the Immigration and Nationality Act gives preferential immigrant status to an alien child adopted by a United States citizen and spouse. The bill, as passed by the House, would allow the adoption to be made not only by a married couple but also by "an unmarried United States citizen of good moral character." Since the moral character requirement is not imposed on a married couple, the implication is that it may be of no consequence so long as the adoptive parents are a married couple.

The bill, as amended by the Senate, would allow an adoption to be made by an unmarried United States citizen but provides that such adoptive parent must be at least 25 years old. This will help to assure a degree of maturity—more important where there is only one parent responsible for the child.

The Attorney General would be given discretionary authority to withhold or refuse approval of a petition unless he "is satisfied that proper care will be furnished to the child if admitted to the United States." The current statute uses similar language, but indirectly and ambiguously. It is intended that by rewriting and repositioning this language in section 101(b)(1)(F) it will be clear that unless a proper home environment seems assured for the child, as determined by the Attorney General, the petition will have to be denied.

Although departmental reports were not received on the instant bill, reports on similar legislation (H.R. 680) of the 93d Congress were received.

A letter dated April 25, 1973 to the chairman of the Committee on the Judiciary, House of Representatives, from the Acting Assistant Secretary for Congressional Relations, U.S. Department of State, with reference to H.R. 680 reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., April 25, 1973.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Secretary Rogers has asked me to reply to your letter of February 15, 1973, enclosing for the Department's study and report a copy of H.R. 680, "A bill to grant a child adopted by a

single United States citizen the same immigrant status as a child adopted by a United States citizen and his spouse.

The bill would, if enacted, make it possible for a United States citizen to petition the Immigration and Naturalization Service to accord the status of "child" under section 101(b)(1)(F) of the Immigration and Nationality Act, to a minor alien child who is a citizen either had adopted abroad or desired to adopt in the United States after entry.

The Department is entirely sympathetic to the proposed legislation, especially since we have many cases in which an unmarried United States citizen has difficulty in obtaining an immigrant visa for a minor child she had adopted or intended to adopt simply because the child could not be classified as a child under section 101(b)(1)(F). It should be noted that the practical effect of this legislation might be to the extent that the laws of the various states of the United States applicable law in foreign jurisdictions would not apply to adopt children.

In view of the fact that petitions to accord the status of a "child" for immigration purposes are processed by the Immigration and Naturalization Service which must determine that the preadoption requirements, if any, of the State of residence have been complied with, the Department has no further comments of the Department of Justice on this matter.

The Office of Management and Budget advises that the program there is being reviewed at the point of the Administration's program there and will be submitted in the submission of this report.

Sincerely yours,

MARSHALL
Acting Assistant Secretary
Congress

A letter dated April 25, 1973 to the chairman of the Committee on the Judiciary, House of Representatives, from the Acting Assistant Secretary for Congressional Relations, U.S. Department of State, with reference to H.R. 680 reads as follows:

DEPARTMENT OF STATE,
Washington, D.C.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of February 15, 1973, enclosing for the Department's study and report a copy of H.R. 680, "A bill to grant a child adopted by a single United States citizen the same immediate relative status as a child adopted by a United States citizen and spouse."

Under existing law only a United States citizen may petition the Immigration and Naturalization Service to file a petition for an adopted orphan child or a minor child to the United States for adoption pursuant to section 101(b)(1)(F) of the Immigration and Nationality Act. The administrative rulings hold that an unmarried United States citizen may file a petition for immediate relative status for an orphan child. *Matter of Lovell*, 11 I. & N. Dec. 473 (1960), 8 I. & N. Dec. 628 (1960).

This bill would amend section 101(b)(1)(F) of the Act to provide that an unmarried person could file such a petition. This amendment would overcome such administrative decisions as those cited above wherein unmarried aunts of the orphan child, respectively a widow and a divorcee, were found not to meet the statutory requirement.

It is the view of the Department of Justice that the objective of the bill is desirable. Many state statutes permit adoption by single persons. (See compilation set forth in H.R. 1086, 87th Cong., 1st Sess. 1961, pp. 13-21.) However, as proposed the bill could be interpreted as making it possible for a married person to petition for an orphan without the consent of his spouse. It is the view of the Department that this is undesirable. Instead, the Committee may wish to leave undisturbed the present language of the section, adding after the word "spouse" a comma and the words "if he has a spouse" followed by a comma, wherever "spouse" appears in the section.

If revised as suggested, the Department of Justice would have no objection to the enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

MIKE McKEVITT,
Assistant Attorney General.

A letter dated June 11, 1973 to the chairman, Committee on the Judiciary, House of Representatives, from the Acting Secretary of the Department of Health, Education, and Welfare with reference to H.R. 680 reads as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., June 11, 1973.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 15, 1973, for a report on H.R. 680, a bill "To grant a child adopted by a single United States citizen the same immigrant status as a child adopted by a United States citizen and his spouse."

The bill would amend section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)) to include in the definition of "child" for purposes of Subchapters I and II of the Immigration and Nationality Act (relating to immigration) any child under the age of fourteen who has been adopted abroad by a United States citizen or who is coming to the United States for adoption by a United States citizen. Currently, the law includes in the definition of "child" one who is under the age of fourteen and has been adopted abroad by a United States citizen and his spouse who personally saw and observed the child prior to or during the adoption proceeding or who is coming to the United States for adoption by a United States citizen and spouse who have complied with the preadoption requirements, if any, of the child's proposed residence.

We support the intent of H. R. 680—to provide equal status for children adopted by unmarried individuals. The current trend of State adoption laws in recent years has been toward permitting adoptions by unmarried individuals. It is important for our immigration laws to recognize that the children of such adoptions should have the same status as those of couples.

We believe, however, that the bill should be amended at points which now appear ambiguous. It is not clear that the provisions applicable to married couples (i.e., that the child prior to or during adoption abroad or with the preadoption requirements of the child's country of origin in the case of a child coming to the United States) should be applicable to a single individual. Furthermore, the phrase "United States citizen" is not sufficiently clear to include a married individual who is acting with his spouse. For these reasons, we propose striking out lines 5 through 8 and inserting in lieu thereof the following:

(1) by inserting ", or an unmarried United States citizen" after "and his spouse", and

(2) by inserting ", or an unmarried United States citizen" after "spouse who have".

With these changes, we would recommend that the bill be considered.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report of the Administration's program.

Sincerely,

FRANK

RECOMMENDATION

The committee, after consideration of all the factors, recommends that the bill (H.R. 568), as amended, should be enacted.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XX of the Rules of the Senate, changes in existing law made by this bill, as reported, are shown as follows (new material is printed in black type, law in which no change is proposed is shown in gray type, and proposed to be omitted is printed in black brackets).

SECTION 101(b)(1)(F) OF THE IMMIGRATION AND NATIONALITY ACT

(F) a child, under the age of fourteen at the time of his coming to the United States, in his behalf to accord a classification as an immigrant under section 201(b), who is an orphan because of the death of, abandonment or desertion by, or separation from, his parents, or for whom the sole or surviving parent is unable to provide the proper care [which will be provided to the child by the United States] and [who] has in writing

the child for emigration and adoption; who has been adopted abroad by a United States citizen and [his] spouse *jointly, or by an unmarried United States citizen at least 25 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 25 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.



H. R. 568

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)) is amended to read as follows:

“(F) a child, under the age of fourteen 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.”

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 8, 1975

Dear Mr. Director:

The following bills were received at the White House on December 8th:

H.R. 5681 ✓
H.R. 6669 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.