

ratified by the United States in 2002,⁴ mandates *inter alia* criminal sanctions and legal liability for adoption intermediaries who improperly induce or attempt to induce consent to adoption. Implementing legislation in the United States in 42 U.S.C. §§14944 and 14925 imposes civil penalties under federal law for making false statements or factual misrepresentations or offering, soliciting, or accepting compensation in order to influence or affect a parental relinquishment or consent to adoption, or for engaging an agent who violates such norms; as well as criminal sanctions for intentionally engaging in such conduct.⁵

The Hague Intercountry Adoption Convention, which entered into force for the United States on April 1, 2008, has significantly impacted U.S. federal law regulating the immigration of children to the United States through intercountry adoption, prompting the creation of a third category of visa for children adopted transnationally by at least one U.S. citizen (see Section II below). The Convention is implemented in the United States through the Intercountry Adoption Act of 2000 (IAA), 42 U.S.C. § 14901 *et seq.*, and a plethora of federal regulations mandating government oversight and standards of practice for accredited adoption agencies and approved persons who facilitate Convention adoptions. As of 2014, the standards mandated by the Convention for adoption facilitators working with Convention countries have now been extended by the Intercountry Adoption Universal Accreditation Act of 2012 (UAA) to agencies and persons facilitating adoptions from non-Convention nations as well.⁶ Extensive coverage of the provisions of the Hague Convention, the IAA, and the implementing regulations is beyond the scope of this program, but certain key provisions that place the immigration law in context will be discussed below.

It is critical to understand that not all intercountry adoptions by U.S. citizens or residents are regulated by the Hague Intercountry Adoption Convention. The Convention itself applies only if the prospective adoptive parents and the child are all habitually resident in a contracting nation. Hague Intercountry Adoption Convention, art. 2. For purposes of U.S. immigration law, U.S. federal regulations generally equate “habitual residence” with domicile. 8 C.F.R. § 204.3. Currently, 101 nations (approximately half of the nations in the world) are states parties to the

⁴ For a list of states parties to the CRC Protocol, see https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=_en.

⁵ Initially these sanctions applied only to conduct related to the adoption of children from nations that were parties to the Hague Intercountry Adoption Convention, but they were made applicable to the adoption of children from non-Convention countries who immigrate through orphan visas in the Intercountry Adoption Universal Accreditation Act of 2012 (UAA), effective July 1, 2014.

⁶ The UAA, *id.*, now requires all agencies and persons who facilitate adoption of children who emigrate from non-Convention nations under “orphan visas” (see Section II below) to satisfy all of the standards established by the Intercountry Adoption Act of 2000 (IAA).