

119TH CONGRESS  
2D SESSION

# H. R. 9633

To amend section 301 of the Immigration and Nationality Act to clarify those classes of individuals born in the United States who are not nationals or citizens of the United States at birth.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2026

Mr. MCGUIRE introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To amend section 301 of the Immigration and Nationality Act to clarify those classes of individuals born in the United States who are not nationals or citizens of the United States at birth.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Birthright Citizenship  
5       Clarification Act of 2026”.

6       **SEC. 2. SENSE OF CONGRESS.**

7       It is the sense of Congress that—

1           (1) the phrase “subject to the jurisdiction  
2           thereof” in section 1 of the 14th Amendment to the  
3           Constitution of the United States reflects a principle  
4           of allegiance and obedience, not mere geography;

5           (2) *United States v. Wong Kim Ark*, 169 U.S.  
6           649 (1898), involved a person born in the United  
7           States to alien parents permanently domiciled and  
8           residing in the United States, and described histor-  
9           ical exceptions for children of foreign sovereigns or  
10          their ministers, persons born on foreign public ships,  
11          children of enemies within and during a hostile occu-  
12          pation, and children of members of Indian Tribes;

13          (3) Congress later addressed the Indian Tribe  
14          exception through the Indian Citizenship Act of  
15          1924 and carried forward the words “born in the  
16          United States, and subject to the jurisdiction there-  
17          of” in the Nationality Act of 1940 and the Immigra-  
18          tion and Nationality Act of 1952, now codified at  
19          section 301(a) of the Immigration and Nationality  
20          Act (8 U.S.C. 1401(a)); and

21          (4) Justice Kavanaugh, concurring in the judg-  
22          ment and dissenting in part in *Trump v. Barbara*,  
23          concluded that Executive Order 14160 conflicted  
24          with section 301(a), but explained that Congress  
25          could establish exceptions for children born to for-

1       eign citizens unlawfully or temporarily in the coun-  
2       try; this Act exercises that authority to clarify citi-  
3       zenship at birth and deter birth tourism and visa  
4       manipulation.

5   **SEC. 3. PURPOSES.**

6       The purposes of this Act are—

7           (1) to preserve in Federal statutory law the his-  
8       torical exceptions to citizenship at birth for children  
9       of foreign sovereigns or their ministers, persons born  
10      on foreign public ships, and children of enemies  
11      within and during a hostile occupation of part of the  
12      territory of the United States;

13          (2) to amend section 301(a) of the Immigration  
14      and Nationality Act (8 U.S.C. 1401(a)) in the man-  
15      ner identified by Justice Kavanaugh by establishing  
16      statutory exceptions for persons born in the United  
17      States to foreign citizens unlawfully or temporarily  
18      present in the United States; and

19          (3) to define lawful but temporary presence by  
20      reference to temporary presence categories reflected  
21      in Executive Order 14160, including the Visa Waiv-  
22      er Program and student, work, tourist, and other  
23      nonimmigrant visas.

1 **SEC. 4. CITIZENSHIP AT BIRTH CLARIFICATION.**

2 (a) IN GENERAL.—Section 1401(a) of title 8, United  
3 States Code, is amended by striking the semicolon at the  
4 end and inserting the following:

5 “: *Provided*, That a person born in the United States  
6 shall not be considered born subject to the jurisdiction of  
7 the United States, and shall not be a national or citizen  
8 of the United States at birth under this subsection, if the  
9 person is described in subsection (i);”.

10 (b) CERTAIN PERSONS NOT SUBJECT TO JURISDIC-  
11 TION.—Section 1401 of title 8, United States Code, is  
12 amended by adding at the end the following:

13 “(i) CERTAIN PERSONS NOT SUBJECT TO THE JU-  
14 RISDICTION OF THE UNITED STATES.—

15 “(1) PERSONS DESCRIBED.—For purposes of  
16 subsection (a), a person born in the United States  
17 shall not be considered born subject to the jurisdic-  
18 tion of the United States, and shall not be a na-  
19 tional or citizen of the United States at birth under  
20 subsection (a), if, at the time of such person’s  
21 birth—

22 “(A) the person is a child of a foreign sov-  
23 ereign or a minister of a foreign sovereign;

24 “(B) the person is born on a foreign public  
25 ship;

1           “(C) the person is a child of an enemy  
2 within and during a hostile occupation of any  
3 part of the territory of the United States;

4           “(D) the person’s mother is an alien who  
5 is unlawfully present in the United States, and  
6 the person’s father is not, at the time of such  
7 person’s birth, a citizen or national of the  
8 United States or an alien lawfully admitted for  
9 permanent residence; or

10          “(E) the person’s mother is an alien whose  
11 presence in the United States is lawful but tem-  
12 porary, and the person’s father is not, at the  
13 time of such person’s birth, a citizen or national  
14 of the United States or an alien lawfully admit-  
15 ted for permanent residence.

16          “(2) DEFINITIONS.—In this subsection:

17           “(A) The term ‘alien’ has the meaning  
18 given such term in section 101(a)(3).

19           “(B) The term ‘alien lawfully admitted for  
20 permanent residence’ has the meaning given  
21 such term in section 101(a)(20).

22           “(C) The term ‘mother’ means the imme-  
23 diate female biological progenitor.

24           “(D) The term ‘father’ means the imme-  
25 diate male biological progenitor.

1           “(E) The term ‘foreign public ship’ means  
2           a vessel or aircraft owned, operated, or com-  
3           manded by a foreign sovereign and used exclu-  
4           sively for a sovereign, public, noncommercial  
5           governmental purpose.

6           “(F) The term ‘hostile occupation’ means  
7           the actual hostile control of any part of the ter-  
8           ritory of the United States by the Armed  
9           Forces, agents, or instrumentalities of a foreign  
10          enemy during a war, invasion, or armed attack  
11          against the United States.

12          “(G) The term ‘minister of a foreign sov-  
13          ereign’ means an ambassador, public minister,  
14          diplomatic agent, or other official representative  
15          of a foreign sovereign who is recognized by the  
16          United States and entitled to diplomatic immu-  
17          nity under Federal law or treaty obligation. For  
18          purposes of this subsection, the term ‘foreign  
19          sovereign’ means a foreign monarch, head of  
20          state, head of government, or other sovereign  
21          authority of a foreign state recognized by the  
22          United States.

23          “(H) The term ‘unlawfully present’ means,  
24          with respect to an alien, that the alien—

1 “(i) is present in the United States  
2 without having been admitted or paroled;

3 “(ii) remains in the United States  
4 after the expiration of the period of stay  
5 authorized by the Secretary of Homeland  
6 Security or the Attorney General;

7 “(iii) is present in the United States  
8 in violation of the terms or conditions of  
9 admission, parole, status, classification, or  
10 other authorization to remain; or

11 “(iv) otherwise lacks lawful immigra-  
12 tion status under the immigration laws.

13 “(I) The term ‘lawful but temporary’  
14 means, with respect to the presence of an alien  
15 in the United States, presence that does not  
16 constitute lawful admission for permanent resi-  
17 dence and that is pursuant to—

18 “(i) the Visa Waiver Program under  
19 section 217; or

20 “(ii) a nonimmigrant visa or non-  
21 immigrant classification under section  
22 101(a)(15), including a student, exchange,  
23 tourist, business, work, temporary worker,  
24 crewman, transit, treaty trader, treaty in-  
25 vestor, intracompany transferee, or other

1 temporary nonimmigrant visa or classifica-  
2 tion.”.

3 **SEC. 5. EFFECTIVE DATE; PROSPECTIVE APPLICATION.**

4 (a) EFFECTIVE DATE.—The amendments made by  
5 this Act shall apply to persons born in the United States  
6 on or after the date that is 30 days after the date of enact-  
7 ment of this Act.

8 (b) PROSPECTIVE APPLICATION.—Nothing in this  
9 Act may be construed to deny or impair citizenship or na-  
10 tionality at birth to any person born before the date de-  
11 scribed in subsection (a).

12 **SEC. 6. SEVERABILITY.**

13 If any provision of this Act, an amendment made by  
14 this Act, or the application of such provision or amend-  
15 ment to any person or circumstance is held to be unconsti-  
16 tutional or otherwise invalid, the remainder of this Act,  
17 the amendments made by this Act, and the application of  
18 such provision or amendment to any other person or cir-  
19 cumstance shall not be affected.

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