



PENNSYLVANIA IMMIGRATION AND CITIZENSHIP COALITION

Advocating for refugees, migrants, and immigrants in Pennsylvania

The Case Against Abolishing Birthright Citizenship

Pennsylvania House Bills 474 and 857 seek to deny birthright citizenship to children born in Pennsylvania to undocumented immigrants. The first authorizes Pennsylvania to join an Interstate Compact to issue different birth certificates to the children of undocumented parents, while the second redefines citizenship in Pennsylvania to exclude these children.

These Unconstitutional Provisions Would Leave Pennsylvania Vulnerable to Expensive Lawsuits

- The 14th Amendment to the U.S. Constitution provides that, with few exceptions, people born in the United States are citizens of this country, irrespective of race, ethnicity, or national origin of their parents.
- The Supreme Court explicitly ruled that this Amendment applies to children whose parents are not American citizens. In the landmark 1898 decision of *United States v. Wong Kim Ark*,¹ the Court held that a person born in San Francisco to Chinese parents – who, at the time, were not permitted to naturalize as U.S. citizens – nonetheless became a U.S. citizen at the time of his birth by virtue of the 14th Amendment.
- The 14th Amendment cannot be altered by legislation at the state level. The right to citizenship at birth is enshrined in our Constitution and cannot be repealed without a constitutional amendment.²

They Create a Permanent Undocumented Underclass

- Some children born in the U.S. but denied birthright citizenship might also be ineligible for citizenship in their parents' home country, leaving them without a nationality and forcing them to live at the margins of the international community.³
- These children would be undocumented, drastically increasing the total number of undocumented people living in our Commonwealth.

The “Problem” Doesn’t Exist

- The phrase “anchor babies,” which is at the heart of the arguments in favor of these bills, is completely misleading. U.S. citizen children cannot protect their parents from deportation, and they must wait until turning 21 to sponsor them for legal status.⁴ Having a child here is not a practical way for any immigrant to gain citizenship.

They Would be Impractical to Implement and Jeopardize the Rule of Law

- Each state implementing its own definitions citizenship would create chaos and erode the rule of law.
- If a birth certificate no longer proves citizenship, many Pennsylvanians would have to go through the arduous process of confirming their parents' origins in order to prove they are citizens.

They Promote Racism and Fly in the Face of Our National Ideals

- These bills fly in the face of everything our nation has stood for since its inception here in our Commonwealth over two centuries ago – that each child born in the United States has equal rights and opportunities under the law.
- They would taint our Commonwealth's legal code by including a mean-spirited and vindictive manifestation of anti-immigrant hatred.

¹ 169 U.S. 649 (1898).

² Article V of the U.S. Constitution provides two ways to propose constitutional amendments: (1) amendments may be proposed either by the Congress, by two thirds votes of the House and the Senate; or (2) by a convention called by Congress in response to applications from the legislatures of two-thirds (34) or more of the states. Amendments must be ratified by three-quarters (38) or more of the states. The Congress can choose to refer proposed amendments either to state legislatures, or to special conventions called in the states to consider ratification.

³ “Defending the 14th Amendment: A Resource Page.” *Immigration Policy Center: American Immigration Council*. 4 January, 2011. <<http://www.immigrationpolicy.org/just-facts/defending-fourteenth-amendment-resource-page>>

⁴ Ibid.