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To declare that any person who enters the United States without authorization or for the purpose of engaging in birth tourism is considered an invader and to amend section 301(a) of the Immigration and Nationality Act to exclude the children of invaders from birthright citizenship.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2026

Mr. BANKS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To declare that any person who enters the United States without authorization or for the purpose of engaging in birth tourism is considered an invader and to amend section 301(a) of the Immigration and Nationality Act to exclude the children of invaders from birthright citizenship.

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 “Citizenship Act of
5 2026”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Section 4 of article IV of the Constitution
4 of the United States imposes a constitutional duty
5 on the United States to “protect each [State]
6 against invasion”.

7 (2) Section 8 of article I of the Constitution of
8 the United States gives Congress the power to “es-
9 tablish a uniform Rule of Naturalization”.

10 (3) According to James Madison, the natu-
11 ralization power given to Congress under article I of
12 the Constitution of the United States was designed
13 to protect States from being forced to accept liberal
14 immigration policies.

15 (4) Illegal immigration into the United States
16 has become a national security crisis.

17 (5) Under the Biden administration, millions of
18 migrants flooded our Nation’s borders or were other-
19 wise permitted to enter the country, including known
20 cartel members, violent criminals, and terrorists.

21 (6) President Biden abused emergency tem-
22 porary immigration programs, such as parole and
23 temporary protected status, to allow millions of oth-
24 erwise illegal aliens to remain in the United States
25 and receive public benefits.

1 (7) The Trump administration has worked hard
2 to secure the southern land border of the United
3 States and is carrying out the largest mass deporta-
4 tion effort in our Nation’s history.

5 (8) Notwithstanding, such efforts, as many as
6 15,000,000 illegal aliens remain in the United
7 States.

8 (9) Nearly 16 percent of the population of the
9 United States is foreign born and most of the recent
10 increase in foreign births can be attributed to illegal
11 immigration.

12 (10) Illegal immigration has downstream con-
13 sequences for many aspects of American life, includ-
14 ing increased housing prices, depressed wages,
15 threats to public safety, and fewer jobs for United
16 States citizens.

17 (11) Worldwide, mass migration has increas-
18 ingly been used by migrants’ countries of origin to
19 exert control over foreign territory, which has been
20 referred to by scholars as the global
21 “weaponization” of migration.

22 (12) Some Mexicans view migration to the
23 United States as a method of reconquering territory
24 acquired by the United States during the nineteenth
25 century. Mexican politicians sometimes refer to cer-

1 tain United States cities as “occupied territories” or
2 “migrant land”.

3 (13) An estimated 1,500,000 nationals of the
4 People’s Republic of China have acquired United
5 States citizenship by being born in the United States
6 by surrogates, a practice that has been encouraged
7 by the Chinese Communist Party.

8 (14) On January 20, 2025, President Donald
9 Trump declared that the mass unlawful movement
10 of persons into the United States constitutes an in-
11 vasion. The governors of multiple States have also
12 declared a state of invasion at the southern border.

13 (15) The United States, at various times, has
14 treated private, non-state actors, including pirates,
15 slave traders, and terrorists, as enemy combatants.

16 (16) While millions of illegal aliens remain in
17 the United States and birth tourism is allowed to be
18 exploited by foreign adversaries, this invasion re-
19 mains ongoing.

20 (17) As confirmed by Federal courts and
21 judges, including *California v. United States*, 104
22 F.3d 1086, 1091 (9th Cir. 1997); *Padavan v.*
23 *United States*, 82 F.3d 23, 28 (2d Cir. 1996);
24 *Chiles v. United States*, 69 F.3d 1094, 1097 (11th
25 Cir. 1995), and *United States v. Abbott*, 110 F.4th

1 700, 726–29 (5th Cir. 2024) (Ho, J., concurring in
2 part), the determination of the existence of an inva-
3 sion is a nonjusticiable question committed to the
4 political branches and is not reviewable by the Fed-
5 eral courts. Similar to other political questions, a de-
6 termination of invasion involves “a lack of judicially
7 discoverable and manageable standards” that courts
8 can use to adjudicate such determinations.
9 Zivotofsky ex rel. Zivotofsky v. Clinton, 566 U.S.
10 189, 195 (2012).

11 (18) Children of foreign invaders who are born
12 on United States soil are not entitled to birthright
13 citizenship under the Fourteenth Amendment to the
14 Constitution of the United States.

15 (19) Birthright citizenship did not apply to chil-
16 dren born to invaders under the British common
17 law, and the framers of the Citizenship Clause of the
18 Fourteenth Amendment understood the clause to ex-
19 clude the children of invaders.

20 (20) Although the United States Supreme
21 Court broadened the meaning of the Citizenship
22 Clause in *Trump v. Barbara*, 609 U.S. ____ (2026),
23 the court did not hold that children born to invaders
24 are entitled to birthright citizenship. The Supreme
25 Court reaffirmed *United States v. Wong Kim Ark*,

1 169 U.S. 649, 658 (1898), which held that “children
 2 within territory in hostile occupation” are not enti-
 3 tled to birthright citizenship. 169 U.S. 649, 658
 4 (1898).

5 (21) It is therefore consistent with the holding
 6 in *Barbara v. Trump* for Congress to invoke its con-
 7 stitutional authority by—

8 (A) codifying President Trump’s declara-
 9 tion of an invasion; and

10 (B) revoking birthright citizenship from
 11 children who are born in the United States to
 12 a woman who is unlawfully present or to a
 13 woman engaged in birth tourism.

14 **SEC. 3. CONGRESSIONAL DECLARATIONS.**

15 (a) INVADERS.—Congress declares that all of the fol-
 16 lowing persons are designated invaders while remaining in
 17 the United States for purposes of section 301(a) of the
 18 Immigration and Nationality Act, as amended by section
 19 4:

20 (1) Any person who has not been lawfully ad-
 21 mitted to the United States (as defined in section
 22 101(a)(13)(A) of the Immigration and Nationality
 23 Act (8 U.S.C. 1101(a)(13)(A))).

1 (2) Any person who is otherwise unlawfully
2 present under section 212(a)(9)(B)(ii) of such Act
3 (8 U.S.C. 1182(a)(9)(B)(ii)).

4 (3) Any person seeking admission to the United
5 States under the Immigration and Nationality Act
6 (8 U.S.C. 1101 et seq.) who, in the opinion of the
7 consular officer at the time of application for a visa,
8 or in the opinion of the Attorney General at the time
9 of application for admission or adjustment of status,
10 is seeking admission or adjustment of status for the
11 purpose of giving birth to a child in the United
12 States.

13 (b) COMMERCIAL SURROGACY CONTRACTS.—Con-
14 gress declares that any person who is a national of a cov-
15 ered nation (as defined in section 4872(f)(2) of title 10,
16 United States Code) and enters into a commercial
17 surrogacy contract with a person in the United States, or
18 with a surrogacy broker who arranges a commercial
19 surrogacy contract with a person in the United States, for
20 the purpose of having a child birthed in the United States
21 shall be designated an invader for purposes of section
22 301(a) of the Immigration and Nationality Act, as amend-
23 ed by section 4.

24 (c) RULES OF CONSTRUCTION.—

1 (1) NOT LAWFULLY ADMITTED.—Subsection
 2 (a)(1) shall be construed to include all persons who
 3 were never lawfully admitted to the United States
 4 (as defined in section 101(a)(13)(A) of the Immigra-
 5 tion and Nationality Act (8 U.S.C.
 6 1101(a)(13)(A))), regardless of when such persons
 7 entered the United States.

8 (2) NOT LAWFULLY PRESENT.—Subsection
 9 (a)(2) shall be construed to include all persons un-
 10 lawfully present under section 212(a)(9)(B)(ii) of
 11 such Act (8 U.S.C. 1182(a)(9)(B)(ii)), regardless of
 12 when such persons entered the United States.

13 **SEC. 4. CHILDREN OF INVADERS NOT ENTITLED TO BIRTH-**
 14 **RIGHT CITIZENSHIP.**

15 Section 301(a) of the Immigration and Nationality
 16 Act (8 U.S.C. 1401(a)) is amended to read as follows:

17 “(a) a person born in the United States, and
 18 subject to the jurisdiction thereof, which shall not
 19 include any of the following persons:

20 “(1) A person who was born to an invader
 21 (as defined in paragraph (1) or (2) of section
 22 3(a) of the Citizenship Act of 2026) if such per-
 23 son’s mother was not lawfully admitted to the
 24 United States or was otherwise unlawfully
 25 present in the United States and such person’s

1 father was not a United States citizen or a law-
2 ful permanent resident of the United States at
3 the time of such person's birth.

4 “(2) A person who was born to an invader
5 (as defined in section 3(a)(3) of the Citizenship
6 Act of 2026) if such person's mother sought ad-
7 mission to the United States or adjustment of
8 status in the United States for the purpose of
9 giving birth to a child in the United States and
10 the father was not a United States citizen or a
11 lawful permanent resident of the United States
12 at the time of such person's birth.

13 “(3) A person born to an invader (as de-
14 fined in section 3(b) of the Citizenship Act of
15 2026) as the result of a commercial surrogacy
16 contract.”.

17 **SEC. 5. JUDICIAL REVIEW.**

18 No court is authorized to review a determination by
19 the President or by Congress of the existence of an inva-
20 sion.

21 **SEC. 6. RULES OF CONSTRUCTION.**

22 (a) **JURISDICTION.**—Nothing in this Act may be con-
23 strued to revoke the criminal or civil jurisdiction of the
24 United States, or of any State, over invaders for violations
25 of Federal or State law.

1 (b) MILITARY FORCE.—Nothing in this Act may be
2 construed to authorize the use of military force under the
3 War Powers Resolution (50 U.S.C. 1541 et seq.).

4 **SEC. 7. EFFECTIVE DATE.**

5 This Act shall apply to all children born after the
6 date of the enactment of this Act to a person who, at the
7 time of such birth, was designated as an invader pursuant
8 to section 3.

9 **SEC. 8. SEVERABILITY.**

10 Any provision of this Act, including any amendment
11 made by this Act, which is held to be invalid or unenforce-
12 able by its terms, or as applied to any person or cir-
13 cumstance, shall be construed so as to give it the max-
14 imum effect permitted by law, unless such holding shall
15 be one of utter invalidity or unenforceability, in which
16 event such provision shall be deemed severable from this
17 Act and shall not affect the remainder of this Act, or the
18 application of such provision to other persons not similarly
19 situated or to other, dissimilar circumstances.

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