

Public Law 106-395
106th Congress

An Act

To amend the Immigration and Nationality Act to modify the provisions governing acquisition of citizenship by children born outside of the United States, and for other purposes.

Oct. 30, 2000

[H.R. 2883]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Citizenship
Act of 2000.
8 USC 1101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Citizenship Act of 2000".

**TITLE I—CITIZENSHIP FOR CERTAIN
CHILDREN BORN OUTSIDE THE
UNITED STATES**

**SEC. 101. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR CERTAIN
CHILDREN BORN OUTSIDE THE UNITED STATES.**

(a) IN GENERAL.—Section 320 of the Immigration and Nationality Act (8 U.S.C. 1431) is amended to read as follows:

"CHILDREN BORN OUTSIDE THE UNITED STATES AND RESIDING PERMANENTLY IN THE UNITED STATES; CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED

"SEC. 320. (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

"(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.

"(2) The child is under the age of eighteen years.

"(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

"(b) Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1)."

(b) **CLERICAL AMENDMENT.**—The table of sections of such Act is amended by striking the item relating to section 320 and inserting the following:

“Sec. 320. Children born outside the United States and residing permanently in the United States; conditions under which citizenship automatically acquired.”.

SEC. 102. ACQUISITION OF CERTIFICATE OF CITIZENSHIP FOR CERTAIN CHILDREN BORN OUTSIDE THE UNITED STATES.

(a) **IN GENERAL.**—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follows:

“CHILDREN BORN AND RESIDING OUTSIDE THE UNITED STATES;
CONDITIONS FOR ACQUIRING CERTIFICATE OF CITIZENSHIP

“**SEC. 322.** (a) A parent who is a citizen of the United States may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General shall issue a certificate of citizenship to such parent upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

“(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

“(2) The United States citizen parent—

“(A) has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

“(B) has a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

“(3) The child is under the age of eighteen years.

“(4) The child is residing outside of the United States in the legal and physical custody of the citizen parent, is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

“(b) Upon approval of the application (which may be filed from abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

“(c) Subsections (a) and (b) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).”.

(b) **CLERICAL AMENDMENT.**—The table of sections of such Act is amended by striking the item relating to section 322 and inserting the following:

“Sec. 322. Children born and residing outside the United States; conditions for acquiring certificate of citizenship.”.

SEC. 103. CONFORMING AMENDMENT.

(a) **IN GENERAL.**—Section 321 of the Immigration and Nationality Act (8 U.S.C. 1432) is repealed.

(b) **CLERICAL AMENDMENT.**—The table of sections of such Act is amended by striking the item relating to section 321.

SEC. 104. EFFECTIVE DATE.

The amendments made by this title shall take effect 120 days after the date of the enactment of this Act and shall apply to individuals who satisfy the requirements of section 320 or 322 of the Immigration and Nationality Act, as in effect on such effective date.

Applicability.

8 USC 1431 note.

TITLE II—PROTECTIONS FOR CERTAIN ALIENS VOTING BASED ON REASONABLE BELIEF OF CITIZENSHIP

SEC. 201. PROTECTIONS FROM FINDING OF BAD MORAL CHARACTER, REMOVAL FROM THE UNITED STATES, AND CRIMINAL PENALTIES.

(a) **PROTECTION FROM BEING CONSIDERED NOT OF GOOD MORAL CHARACTER.**—

(1) **IN GENERAL.**—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended by adding at the end the following:

“In the case of an alien who makes a false statement or claim of citizenship, or who registers to vote or votes in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of such registration or voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such statement, claim, or violation that he or she was a citizen, no finding that the alien is, or was, not of good moral character may be made based on it.”

(2) **EFFECTIVE DATE.**—The amendment made by paragraph

(1) shall be effective as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-546) and shall apply to individuals having an application for a benefit under the Immigration and Nationality Act pending on or after September 30, 1996.

Applicability.

8 USC 1101 note.

(b) **PROTECTION FROM BEING CONSIDERED INADMISSIBLE.**—

(1) **UNLAWFUL VOTING.**—Section 212(a)(10)(D) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(D)) is amended to read as follows:

“(D) **UNLAWFUL VOTERS.**—

“(i) **IN GENERAL.**—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

“(ii) **EXCEPTION.**—In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen

(whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.”.

(2) FALSELY CLAIMING CITIZENSHIP.—Section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)) is amended to read as follows:

“(ii) FALSELY CLAIMING CITIZENSHIP.—

“(I) IN GENERAL.—Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

“(II) EXCEPTION.—In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.”.

8 USC 1182 note.

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall be effective as if included in the enactment of section 347 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-638) and shall apply to voting occurring before, on, or after September 30, 1996. The amendment made by paragraph (2) shall be effective as if included in the enactment of section 344 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-637) and shall apply to representations made on or after September 30, 1996. Such amendments shall apply to individuals in proceedings under the Immigration and Nationality Act on or after September 30, 1996.

Applicability.

(c) PROTECTION FROM BEING CONSIDERED DEPORTABLE.—

(1) UNLAWFUL VOTING.—Section 237(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(6)) is amended to read as follows:

“(6) UNLAWFUL VOTERS.—

“(A) IN GENERAL.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.

“(B) EXCEPTION.—In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the

United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be deportable under any provision of this subsection based on such violation.”

(2) FALSELY CLAIMING CITIZENSHIP.—Section 237(a)(3)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(D)) is amended to read as follows:

“(D) FALSELY CLAIMING CITIZENSHIP.—

“(i) IN GENERAL.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any Federal or State law is deportable.

“(ii) EXCEPTION.—In the case of an alien making a representation described in clause (i), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be deportable under any provision of this subsection based on such representation.”

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall be effective as if included in the enactment of section 347 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-638) and shall apply to voting occurring before, on, or after September 30, 1996. The amendment made by paragraph (2) shall be effective as if included in the enactment of section 344 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-637) and shall apply to representations made on or after September 30, 1996. Such amendments shall apply to individuals in proceedings under the Immigration and Nationality Act on or after September 30, 1996.

8 USC 1227 note.

(d) PROTECTION FROM CRIMINAL PENALTIES.—

(1) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Section 611 of title 18, United States Code, is amended by adding at the end the following:

“(c) Subsection (a) does not apply to an alien if—

“(1) each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization);

“(2) the alien permanently resided in the United States prior to attaining the age of 16; and

“(3) the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States.”

Applicability.

(2) CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP.—Section 1015 of title 18, United States Code, is amended by adding at the end the following:

“Subsection (f) does not apply to an alien if each natural parent of the alien (or, in the case of an adopted alien, each adoptive

parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making the false statement or claim that he or she was a citizen of the United States.”.

18 USC 611 note.

(3) **EFFECTIVE DATES.**—The amendment made by paragraph (1) shall be effective as if included in the enactment of section 216 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-572). The amendment made by paragraph (2) shall be effective as if included in the enactment of section 215 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-572). The amendments made by paragraphs (1) and (2) shall apply to an alien prosecuted on or after September 30, 1996, except in the case of an alien whose criminal proceeding (including judicial review thereof) has been finally concluded before the date of the enactment of this Act.

Applicability.

Approved October 30, 2000.

LEGISLATIVE HISTORY—H.R. 2883:

HOUSE REPORTS: No. 106-852 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 146 (2000):

Sept. 19, considered and passed House.

Oct. 12, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

Oct. 30, Presidential statement.