

111TH CONGRESS  
1ST SESSION

# H. R. 2812

To establish certain standards for the adjudication of United States passport applications, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2009

Mr. ORTIZ (for himself, Mr. HINOJOSA, Mr. GONZALEZ, Mr. REYES, Mr. GRIJALVA, and Mr. RODRIGUEZ) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To establish certain standards for the adjudication of United States passport applications, and for other purposes.

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 “Western Hemisphere  
5       Travel Initiative Improvement Act of 2009”.

6       **SEC. 2. FINDINGS; DEFINITION.**

7       (a) FINDINGS.—Congress finds the following:

8               (1) All claims of United States citizenship and  
9       nationality must be treated with the utmost respect  
10      and care, with adherence to procedures necessary

1       and sufficient to guard against the serious risk of  
2       United States citizens and nationals being deprived  
3       of the rights, privileges, and benefits attendant to  
4       such citizenship and nationality or the denial of valid  
5       claims thereto.

6               (2) The right to travel abroad and return home  
7       is an important and protected element of United  
8       States citizenship. This right should not be denied  
9       on the basis of race or ancestry or for reasons that  
10      are arbitrary and capricious.

11             (3) Millions of United States citizens live in  
12      United States border communities and regularly  
13      cross the border for family, work, business, and per-  
14      sonal reasons. With the Western Hemisphere Travel  
15      Initiative (WHTI) scheduled to be fully implemented  
16      on June 1, 2009, virtually all United States citizens  
17      will be required to possess a passport, passport card,  
18      or other WHTI-compliant document to cross the  
19      land borders of the United States or enter through  
20      sea ports of entry. At that time, a passport—already  
21      required for international travel by air—will become  
22      a fundamental necessity of everyday life for those  
23      United States citizens who live along or near United  
24      States land borders.

(4) In recent years, certain United States citizens living or born in States bordering Mexico have been formally or effectively denied United States passports as a result of a process that often lacks due process, imposes a heightened burden of proof on certain passport applicants, and results in decisions that are inadequately supported by an evidentiary record.

(b) DEFINITIONS.—

(1) APPLICANT.—The term “applicant” means a person who submits a United States passport application.

(2) SECRETARY.—The term “Secretary” means the Secretary of State and any individual designated by the Secretary of State to adjudicate United States passport applications under an Act to regulate the issue and validity of passports, and for other purposes (July 3, 1926; 22 U.S.C. 211a).

**SEC. 3. CONFIRMATION AND CLARIFICATION OF STANDARDS FOR ADJUDICATION OF UNITED STATES PASSPORT APPLICATIONS BY SECRETARY OF STATE.**

(a) IN GENERAL.—

1           (1) IN GENERAL.—The Secretary shall adjudicate United States passport applications in an individualized, evidence-based manner.

4           (2) INDIVIDUALIZED ASSESSMENT.—At every stage of the passport application adjudicatory process under paragraph (1), including any requests for additional evidence and rulings on the merits of an application, the Secretary’s decisions respecting United States passport applications shall be based on an assessment of individual circumstances and evidence.

12          (3) PROHIBITION.—An applicant’s race, ethnicity, or ancestry may not be a factor taken into account in the passport application adjudicatory process under paragraph (1).

16          (b) PROCEEDINGS.—

17           (1) IN GENERAL.—An applicant shall establish by a preponderance of the evidence at all stages of the passport application adjudicatory process, including in proceedings under section 360 of the Immigration and Nationality Act (8 U.S.C. 1503), that such applicant is a United States citizen or national.

23           (2) PROHIBITION.—The Secretary shall not utilize or apply any heightened burden of proof when evaluating the citizenship or nationality of an appli-

1 cant and shall apply such preponderance of the evi-  
2 dence standard required under paragraph (1) in a  
3 uniform and consistent manner to all passport appli-  
4 cations.

5 (3) WRITING.—Any determination by the Sec-  
6 retary that an applicant has not met the burden of  
7 proving United States citizenship or nationality by a  
8 preponderance of the evidence shall be made in writ-  
9 ing, state the reasons for the Secretary’s determina-  
10 tion, and be provided to the applicant in a timely  
11 manner.

12 (c) ACCEPTANCE OF CERTAIN EVIDENCE.—A birth  
13 certificate signed by a midwife, doctor, or other person au-  
14 thorized under State law to sign such a document, or a  
15 previously-issued United States passport, shall constitute  
16 prima facie evidence of United States citizenship or na-  
17 tionality and, absent individualized evidence that a birth  
18 did not take place in the United States, shall satisfy the  
19 preponderance of the evidence standard for demonstrating  
20 an applicant’s United States citizenship or nationality.

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