

To the office of U.S. Senator Eric Schmitt

Re: S 4973 (119th Congress), American Citizenship Act • Latest action (2026-07-14): Read twice and referred to the Committee on the Judiciary.

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Birthright Citizenship Clarification Commission Act of 2025

The measure, as described from the official record: To restrict birthright citizenship to children of U.S. citizens or lawful permanent residents, thereby removing the incentive for illegal immigration by ensuring that children born in the United States to parents who are not lawfully present do not automatically become citizens.

THE PROPOSAL

Section 1. Short Title. This Act may be cited as the 'Birthright Citizenship Clarification Commission Act of 2025'.

Section 2. Establishment of Commission. There is established a commission to be known as the 'Birthright Citizenship Clarification Commission' (hereinafter 'Commission'). The Commission shall consist of nine members appointed by the President, with the advice and consent of the Senate, from among constitutional scholars, historians, and former federal judges, with no more than five members from any one political party.

Section 3. Duties of the Commission. The Commission shall study the original meaning and historical interpretation of the Citizenship Clause of the Fourteenth Amendment, including its application to persons born in the United States to parents who are not U.S. citizens or lawful permanent residents. The Commission shall evaluate the legal, demographic, and federalism implications of the prevailing interpretation and shall identify any inconsistencies with the original intent of the framers. The Commission shall also consider the impact of birthright citizenship on immigration enforcement and the rule of law.

Section 4. Report and Recommendation. Not later than two years after the effective date of this Act, the Commission shall submit to Congress a final report containing its findings and a specific recommendation, which may include a draft joint resolution proposing a constitutional amendment to clarify the definition of 'subject to the jurisdiction thereof' in the Citizenship Clause if the Commission determines that such an amendment is necessary and consistent with the rest of the Constitution.

Section 5. Funding. The Commission shall be funded by appropriations from the general fund of the Treasury. The total amount authorized for the Commission is \$5,000,000 for fiscal years 2025 through 2027, to remain available until expended.

Section 6. Sunset. The Commission shall terminate 90 days after the submission of the report required by Section 4, but in no event later than three years after the effective date of this Act.

Section 7. Oversight. The Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate shall exercise oversight over the Commission's activities. The Commission shall provide quarterly updates to both committees.

Section 8. Enforcement. No enforcement mechanism is required for the Commission itself. However, any joint resolution for a constitutional amendment recommended by the Commission shall be transmitted to the Archivist of the United States and shall be considered by Congress under expedited procedures if introduced by the chair of the Judiciary Committee of either chamber within 60 days of receipt.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	General fund of the Treasury through appropriated funds.
Funding Amount	\$5,000,000 total for fiscal years 2025-2027.
Sunset Years	3 years
Oversight Body	House and Senate Committees on the Judiciary.
Enforcement Mechanism	None directly; the Commission's report and recommendation are advisory. If a joint resolution for a constitutional amendment is introduced, it will be considered under expedited procedures.
Effective Date	90 days after enactment.

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 18 (Necessary and Proper Clause to establish the Commission)
- Fourteenth Amendment, Section 5 (Congress's power to enforce by appropriate legislation, used here to study rather than override the clause)
- Tenth Amendment (reserving to the states or the people the power to amend the Constitution, which this bill respects by proposing only a study and potential amendment)

Concerns with the measure as written:

- The Fourteenth Amendment's Citizenship Clause is self-executing and has been interpreted by the Supreme Court in *United States v. Wong Kim Ark* (1898) to grant citizenship to all persons born in the United States and subject to its jurisdiction, with limited exceptions. A statute that attempts to narrow this definition likely exceeds Congress's power under Section 5 of the Fourteenth Amendment, as it would not be congruent and proportional to a recognized constitutional violation.
- The bill may violate the Fifth Amendment's Due Process Clause by depriving a class of persons of a fundamental right (citizenship) without a compelling government interest and without a clear constitutional basis.
- The Tenth Amendment reserves to the states or the people powers not delegated to the United States; the determination of citizenship is a core constitutional matter, not a policy choice for Congress to alter by statute.

WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities by preserving the current interpretation of birthright citizenship under the Fourteenth Amendment and avoiding any statutory change that would risk constitutional challenge or immediate denial of citizenship to children born in the United States. Honors Republican priorities by formally studying the constitutional foundation of birthright citizenship, acknowledging concerns about illegal immigration incentives, and providing a pathway to a constitutional amendment if the Commission finds it warranted, thereby respecting the amendment process rather than unilateral statutory action.

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