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## Statement of the American Immigration Lawyers Association

Submitted to the Committee on the Judiciary of the U.S. House of Representatives  
Hearing on "Birthright Citizenship: Is it the Right Policy for America?"

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The American Immigration Lawyers Association (AILA) is the national association of immigration lawyers established to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members. AILA has about 14,000 attorney and law professor members.

The question posed by this hearing—whether birthright citizenship is the right policy for America?—challenges a well-established principle guaranteed by the Fourteenth Amendment to the Constitution. The Fourteenth Amendment opens with the Citizenship Clause: “All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” Ratified in 1868 after the Civil War, the amendment was intended to put citizenship above the politics and prejudices of any given era. The amendment forms the cornerstone of American civil rights by ensuring due process and equal protection under the law to all persons. The amendment’s intent, repeatedly recognized by the Supreme Court, was to guarantee equal citizenship for all children born on U.S. soil (except children born to diplomats or invading soldiers), regardless of the status of their parents. It overturned one of the Supreme Court’s most infamous rulings, *Dred Scott v. Sandford*, 60 U.S. 393 (1857), which sought to deny citizenship to U.S.-born slaves and their children.

This right to citizenship under the 14th Amendment has been consistently recognized by courts and Attorneys General for over a century, most notably by the Supreme Court in *United States v. Wong Kim Ark*. With the exception of the brief period between the *Dred Scott* decision and the ratification of the 14th Amendment, birthright citizenship has been the rule since the founding of the Republic.

Citizenship based on place of birth is a fundamental right inextricably tied to our liberty and equal rights. In America, each person is born equal with no disadvantage or exalted status arising from the circumstance of their parentage.

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Recent proposals by Congressman Steve King (R-IA) and Senator David Vitter (R-LA) seek to prevent the children of undocumented immigrants from receiving citizenship by redefining the Fourteenth Amendment. Their bills (H.R. 140 and S. 45) would restrict citizenship to persons who are born in the United States to those with one parent who is (1) a citizen or national of the United States; (2) a lawful permanent resident; or (3) a person performing active service in the armed forces.

Congressman King and Senator Vitter's proposals to restrict the right of citizenship offend this country's most sacred values and constitutional principles. Civil rights leaders have spoken out loudly and clearly that they view such proposals as unprecedented and unacceptable attacks on the rights of all Americans. Placing limits on citizenship rights would re-establish the very same discriminatory exclusion that the Fourteenth Amendment was intended to remedy.

By calling it a "policy" of birthright citizenship, Congressman King and Senator Vitter are suggesting that a bedrock principle embodied in the Constitution can and should be easily altered. In fact, restricting the Fourteenth Amendment's guarantee of birthright citizenship cannot be done by memorandum or even enactment of law—it must be done by a constitutional amendment as specified in the Constitution itself. The proponents of these bills put forward a fringe interpretation of the "subject to the jurisdiction thereof" clause, and emphasize that the Supreme Court should revisit its century-long jurisprudence by addressing the case of a child born to undocumented parents. Constitutional scholars, civil rights leaders, and leaders in both political parties have rejected this interpretation.

Restricting citizenship rights is also not a solution or alternative to immigration reform. Overwhelmingly the American public is calling upon Congress to pass real immigration reform that meets the needs of the American economy, businesses, workers, and families. America does not want leaders to engage in rhetorical or symbolic fights that accomplish nothing but to sow division in our country.

Finally, on a practical level, these proposals to restrict citizenship would create enormous administrative challenges for most American citizens, who would no longer be able to use their birth certificates as proof of citizenship. The only alternative would be costly new bureaucracies, either to judge each newborn child's worthiness to receive a birth certificate, or to create and run a national citizens' registry.