



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

## **AILA Recommends Senators Vote NO on Vitter Amendment 284 – Congress Should Protect Constitutional Birthright Citizenship**

The Vitter amendment aims to redefine the meaning of the Fourteenth amendment in order to prevent the children of undocumented immigrants from receiving citizenship. The amendment would restrict citizenship for persons who are born in the United States only 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. The amendment would not apply retroactively to persons born before the date of enactment.

### **The 14th Amendment and the Citizenship Clause**

The 14th amendment was adopted in 1868 and forms the cornerstone of American civil rights by ensuring due process and equal protection under the law to all persons. The Citizenship Clause of the 14th Amendment states: “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.” The intent of the provision was to codify the existing Anglo-American common law rule of birthright citizenship and to reject the philosophy behind the infamous 1857 Supreme Court *Dred Scott* decision which sought to deny citizenship to US-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.

### **AILA opposes the Vitter amendment:**

- Any restrictions on the rights of citizenship guaranteed in the 14th Amendment would offend this country’s most sacred values and Constitutional principles. Placing limits on citizenship rights would re-establish the very same discriminatory exclusion that the 14th Amendment was intended to remedy.
- 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. Civil rights leaders have spoken out loudly and clearly that they view this proposal as an unprecedented and unacceptable attack on the rights of all Americans.

**AILA National Office**

1331 G Street NW, Suite 300, Washington, DC 20005

Phone: 202.507.7600 | Fax: 202.783.7853 | [www.aila.org](http://www.aila.org)

- Punishing innocent children by denying them Constitutional rights because of the misdeeds of their parents is mean-spirited.
- Restricting citizenship rights is not a solution on immigration. 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.
- Repeal of citizenship based on place of birth would create enormous administrative nightmares 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.
- The Vitter amendment is not the way to prevent fraud and crime. There are already criminal statutes to address fraudulent and criminal conduct, such as "birth tourism" schemes. Federal and local law enforcement agencies are aggressively prosecuting these cases.