

The Virgin Islands Consortium

Congressional Bill Seeks to End Automatic Birthright Citizenship in USVI and Other Territories Beginning in 2027

The bill says the change would apply to children born in the territories to parents who are neither U.S. citizens nor lawful permanent residents, but Right to Democracy warns the operative language is open-ended and could deny citizenship more broadly.

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Legislation introduced in the U.S. House of Representatives would end the automatic statutory recognition of U.S. citizenship for most children born in the Virgin Islands and three other territories beginning January 1, 2027.

H.R. 9724, titled the End Birthright Citizenship for Territories Act, would amend the laws granting citizenship at birth in the U.S. Virgin Islands, Puerto Rico, Guam and the Northern Mariana Islands. A separate provision states that citizenship would remain protected for children born to U.S. citizens or lawful permanent residents, but territorial-rights advocates contend that the operative amendments are broader than those stated protections and could leave some children without citizenship anywhere.

The proposal was introduced by Republican Rep. Morgan Griffith of Virginia's 9th Congressional District. Its stated purpose is to "clarify United States birthright citizenship laws in the territories and combat foreign nationals who are seeking citizenship in the United States territories."

Right to Democracy has characterized the legislation as "dangerous and unconstitutional," arguing that it relies on the Insular Cases to support the proposition that Congress can decide whether a constitutional right applies to people born in the territories.

Bill Would Insert a 2027 Cutoff Into Territorial Citizenship Laws

Under current federal law, people born in the Virgin Islands on or after February 25, 1927, and subject to U.S. jurisdiction are recognized as citizens at birth.

H.R. 9724 would change that language by inserting the words "and before January 1, 2027," creating an end date for the existing statutory guarantee.

The bill would make parallel changes to the citizenship laws covering Puerto Rico and Guam. It would also amend the citizenship provision of the covenant establishing the Northern Mariana Islands' political union with the United States.

The legislation contains an applicability section stating that the changes would not affect the citizenship or nationality of anyone born before January 1, 2027.

It also states that the amendments should not affect a person born in a U.S. territory who is the child of a U.S. citizen or "an alien lawfully admitted for permanent residence in the United States."

American Samoa is not included among the affected territories. Unlike residents born in the Virgin Islands, Puerto Rico, Guam and the Northern Mariana Islands, people born in American Samoa are generally classified as U.S. nationals rather than citizens at birth.

Bill Invokes Territory Clause and Insular Cases

The legislation cites the Territory Clause of the U.S. Constitution, which authorizes Congress to make rules and regulations governing U.S. territories.

It also relies on the Insular Cases, a series of Supreme Court decisions beginning in the early 20th century that developed a framework under which not every constitutional provision was treated as automatically applicable in the territories.

The bill argues that those cases establish congressional authority to legislate for the territories, including over citizenship status. It notes that Congress granted citizenship by

statute to people born in four of the five inhabited territories and declares that Congress has the authority to change those laws.

The proposal follows the U.S. Supreme Court's June 30 decision in *Trump v. Barbara*, which held that an executive order creating new exceptions to birthright citizenship violated the Fourteenth Amendment.

That ruling addressed children born in the United States to parents who were unlawfully or temporarily present, but it did not decide whether the Citizenship Clause independently guarantees citizenship to people born in the territories.

Mr. Griffith has pointed to that distinction in arguing that Congress remains free to revise territorial citizenship statutes.

A newsletter from his office stated that the Supreme Court decision did not address birthright citizenship in the territories.

"I am leading a bill to crack down on abuse of birthright citizenship in the territories," Mr. Griffith said. "This bill should stop the so-called 'birth tourism' that is taking place in the American territories."

Mr. Griffith cited estimates that approximately 1,000 companies around the world provide birth-tourism services.

"This is outrageous and I am working on a legislative fix."

Advocates Warn Operative Amendments Are Broader

Neil Weare, co-director of Right to Democracy, said the legislation "is a concern we've been warning about for a long time, and here it is in black and white."

Mr. Weare acknowledged that the bill's applicability section says the citizenship and nationality of children born to U.S. citizens or lawful permanent residents would not be affected.

He argued, however, that the actual amendments made to the individual territorial statutes contain "no such exceptions."

The amendments themselves place an end date on the provisions recognizing territorial birthright citizenship, while the exceptions appear separately in the applicability section.

Mr. Weare warned that the resulting language could create uncertainty over how the protections would be interpreted and applied.

The proposed amendments "could mean that anyone born in a U.S. territory starting in 2027 would no longer be recognized as a U.S. citizen, indeed, may not be a citizen of anywhere," he said.

He argued that the amendments "do not contain any limiting language and could deny citizenship to anyone born in a territory moving forward."

Right to Democracy maintains that Congress cannot use the Insular Cases to unilaterally remove citizenship from people born under U.S. sovereignty and jurisdiction.

The organization previously filed a Supreme Court brief on behalf of 21 current and former territorial elected officials and judges, arguing that the Fourteenth Amendment's Citizenship Clause protects people born in the territories and limits the authority of both Congress and the president.

Proposal Follows Comments From Vice President JD Vance

The legislation also follows comments from Vice President JD Vance supporting the consideration of limits on territorial birthright citizenship through executive action.

Mr. Weare noted that Mr. Vance described the proposal as “a great idea.”

According to reporting accompanying Right to Democracy's response, Mr. Vance said the administration was considering the issue after being presented with an argument that the territories are not automatically covered by the Fourteenth Amendment.

Right to Democracy Co-Director Adi Martinez Roman said the proposal illustrates the consequences of allowing the federal government broad unilateral authority over territorial citizenship.

“This is an eye-opening moment, and we will continue fighting to ensure constitutional limits on federal power apply in both States and Territories alike.”

H.R. 9724 has been introduced in the House but has not become law. If enacted, its citizenship changes would apply to births beginning January 1, 2027, while leaving the status of people born before that date unchanged.