



Office of the City Clerk

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Legislation Text

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RESOLUTION

WHEREAS, the Constitution of the United States of America guarantees birthright citizenship; and

WHEREAS, the plain language of the United States Constitution provides for birthright citizenship in Section 1, Clause 1 of the Fourteenth Amendment, which states, "[a]ll 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;" and

WHEREAS, the United States Constitution is the supreme law of the land per Article VI, Clause II, commonly referred to as the Supremacy Clause; and

WHEREAS, in the event of a conflict between the Federal Constitution and an executive action or even an Act of Congress, the Constitution shall control and trump such law; and

WHEREAS, the United States Supreme Court is the court of final appeal for conflicts in the interpretation of terms or meanings of the words used in the United States Constitution; and

WHEREAS, the provisions in Section 1 have been interpreted by the United States Supreme Court to the effect that children born on United States soil, with very few exceptions, are United States citizens; and \

WHEREAS, the United States Supreme Court in *United States v. Wong Kim Ark* (1898) held that, under the Fourteenth Amendment, a man born within the United States to foreigners (in that case, Chinese citizens) who have a permanent domicile and residence in the United States and are carrying on business in the United States and who were not employed in a diplomatic or other official capacity by a foreign power, was a citizen of the United States; and

WHEREAS, the *Wong Kim Ark* Court clarified that the phrase "subject to the jurisdiction thereof" excludes only children born to foreign diplomats and children born to enemy forces engaged in hostile occupation of the Country; and

WHEREAS, legal scholars refer to this kind of guarantee as *jus soli*, or "right of the territory," which is a principle known at English common law, a principle that is prevalent in the Americas, and is widely accepted in nations that share the Anglo tradition of law; and

WHEREAS, the United States Constitution may only be amended through a vehicle provided for in Article V, and it may not be amended or modified through executive order or Act of Congress; and

WHEREAS, in spite of the aforementioned, the President of the United States tweeted the following statement: "So-called Birthright Citizenship, which costs our Country billions of dollars and is very unfair to our citizens, will be ended one way or the other. It is not covered by the 14th Amendment because of the words "subject to the jurisdiction thereof." Many legal

scholars agree ;" and

WHEREAS, nothing would so surely destroy the substance of what the Fourteenth Amendment protects than its perversion to prevent social progress; and

WHEREAS, the City of Chicago refuses to engage in animus towards immigrants and minorities, so thinly veiled as constitutional scholarship; and

WHEREAS, the City of Chicago is consistent in its defense of the most vulnerable segments of society, having called on the federal government to cease the deportation of veterans, extend rights guaranteed under the DREAM Act, and to stop the separation of immigrant children from their parents; and

WHEREAS, the City of Chicago is firm in its status as a Welcoming City, providing a home to all individuals; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

Members aim to support and defend the Constitution of the United States of America, bearing true faith and allegiance to the same, by protecting the rights of born United States citizens, naturalized citizens, and any person subject to the jurisdiction thereof; and

BE IT FURTHER RESOLVED, that the City of Chicago opposes any challenge to the validity of born United States citizenship; and

BE IT FURTHER RESOLVED, that a suitable copy of this resolution be presented to the President of the United States as a sign of our dedication to and support of this critical issue.