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AJR-5 Birthright citizenship. (2025-2026)

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Assembly Joint Resolution No. 5

CHAPTER 178

Relative to birthright citizenship.

[Filed with Secretary of State September 16, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 5, Lee. Birthright citizenship.

This measure would declare the Legislature's opposition to the unlawful Executive Order No. 14160, entitled "Protecting the Meaning and Value of American Citizenship," ending birthright citizenship as enshrined in the United States Constitution and would affirm the Legislature's commitment to birthright citizenship, as specified.

Fiscal Committee: no

WHEREAS, On January 20, 2025, President Donald J. Trump unlawfully issued Executive Order No. 14160, entitled "Protecting the Meaning and Value of American Citizenship" (the "Executive Order"), that attempts to end birthright citizenship for children born to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident; and

WHEREAS, Birthright citizenship was enshrined in the Citizenship Clause of the Fourteenth Amendment of the United States Constitution, ratified after the Civil War to repudiate the infamous decision of the United States Supreme Court in *Dred Scott v. Sandford* (1857) 60 U.S. 393 which held that Black Americans of African descent could never be United States citizens; and

WHEREAS, Birthright citizenship impacts every child born in California, regardless of race, color, sex, ability, class, parents' national origin, parents' immigration status, or any characteristic, because all persons born in the United States and subject to the jurisdiction thereof are citizens; and

WHEREAS, Birthright citizenship is especially important to California, where one in four residents is an immigrant and where about one-half of all children in California have at least one immigrant parent; and

WHEREAS, Denying birthright citizenship for children of certain immigrants would make hundreds of thousands of children ineligible for federal and state benefits and services such as CalWORKs and CalFresh, would damage their educational, economic, and health prospects, and would undermine community safety, political participation, and economy; and

WHEREAS, The unlawful Executive Order would block these children's access to United States passports, social security cards, free lunch programs, health care access, and federal student aid, and denying these fundamental needs jeopardizes the well-being of these children and harms the broader community, leading to devastating social, political, and economic consequences; and

WHEREAS, After the Executive Order was announced, California joined 17 states, the City and County of San Francisco, and the District of Columbia in suing to block the Executive Order on the grounds that the Executive Order violates the Fourteenth Amendment and Article I of the United States Constitution, the Immigration and Nationality Act of 1965, and the Administrative Procedure Act; and

WHEREAS, The Fourteenth Amendment's guarantee of birthright citizenship was affirmed over 125 years ago in the landmark United States Supreme Court decision *United States v. Wong Kim Ark* (1898) 169 U.S. 649 involving San Francisco-born Chinese American Wong Kim Ark; and

WHEREAS, Wong Kim Ark was born in 1873 at 751 Sacramento Street in Chinatown in the City and County of San Francisco to parents Wong Si Ping and Wee Lee, who owned a grocery store but were unable to naturalize as United States citizens due to prevailing anti-Chinese policies; and

WHEREAS, In 1895, Wong Kim Ark returned from visiting his family in China and, upon reentry, was denied admission on the false basis that he was not a citizen of the United States and ordered to be deported under the Chinese Exclusion Act of 1882; and

WHEREAS, The Chinese Consolidated Benevolent Association in San Francisco hired an attorney to fight Wong Kim Ark's unlawful detention and the case was ultimately decided by the United States Supreme Court on March 28, 1898, which held that the Fourteenth Amendment to the United States Constitution establishes birthright citizenship, with very few exceptions; and

WHEREAS, The Supreme Court's opinion in *United States v. Wong Kim Ark* (1898) 169 U.S. 649 extends birthright citizenship to all persons born in the United States, "including all children here born of resident aliens," and excludes only children born to foreign sovereigns or their ministers; children born on foreign public ships; children born to enemies within and during a hostile occupation of our territory; and children of members of some sovereign Indian tribes; and

WHEREAS, Wong Kim Ark's legacy and historic fight for justice ensured the United States Constitution's guarantee of birthright citizenship and empowers every child born in California to achieve their full potential as Americans to grow up to become whatever they dream, including President of the United States; and

WHEREAS, The unlawful Executive Order condemns babies to a legal status of statelessness, which will limit their lifetime access to schools, jobs, and medical care and subject them to social isolation, travel restrictions, and exploitation; and

WHEREAS, The unlawful Executive Order is just one of President Trump's draconian attempts to scapegoat and instill fear among immigrants, divide immigrants based on arbitrary distinctions, and roll back constitutional rights; and

WHEREAS, All residents, regardless of their immigration status, deserve dignity, fair treatment and due process under the law, and the opportunity to thrive in the United States, and this belief serves as the foundation for state and local sanctuary laws in California, including the California's Values Act of 2017; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature hereby opposes the unlawful Executive Order ending birthright citizenship as enshrined in the United States Constitution; and be it further

Resolved, That the Legislature affirms its commitment to birthright citizenship and recognizes and honors Wong Kim Ark's fight to affirm the fundamental right of birthright citizenship under the Fourteenth Amendment of the United States Constitution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State, to the Secretary of the Treasury, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.