

111TH CONGRESS
1ST SESSION

H. R. 2812

To establish certain standards for the adjudication of United States passport applications, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2009

Mr. ORTIZ (for himself, Mr. HINOJOSA, Mr. GONZALEZ, Mr. REYES, Mr. GRIJALVA, and Mr. RODRIGUEZ) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To establish certain standards for the adjudication of United States passport applications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Western Hemisphere
5 Travel Initiative Improvement Act of 2009”.

6 **SEC. 2. FINDINGS; DEFINITION.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) All claims of United States citizenship and
9 nationality must be treated with the utmost respect
10 and care, with adherence to procedures necessary

1 and sufficient to guard against the serious risk of
2 United States citizens and nationals being deprived
3 of the rights, privileges, and benefits attendant to
4 such citizenship and nationality or the denial of valid
5 claims thereto.

6 (2) The right to travel abroad and return home
7 is an important and protected element of United
8 States citizenship. This right should not be denied
9 on the basis of race or ancestry or for reasons that
10 are arbitrary and capricious.

11 (3) Millions of United States citizens live in
12 United States border communities and regularly
13 cross the border for family, work, business, and per-
14 sonal reasons. With the Western Hemisphere Travel
15 Initiative (WHTI) scheduled to be fully implemented
16 on June 1, 2009, virtually all United States citizens
17 will be required to possess a passport, passport card,
18 or other WHTI-compliant document to cross the
19 land borders of the United States or enter through
20 sea ports of entry. At that time, a passport—already
21 required for international travel by air—will become
22 a fundamental necessity of everyday life for those
23 United States citizens who live along or near United
24 States land borders.

1 (4) In recent years, certain United States citi-
2 zens living or born in States bordering Mexico have
3 been formally or effectively denied United States
4 passports as a result of a process that often lacks
5 due process, imposes a heightened burden of proof
6 on certain passport applicants, and results in deci-
7 sions that are inadequately supported by an evi-
8 dentiary record.

9 (b) DEFINITIONS.—

10 (1) APPLICANT.—The term “applicant” means
11 a person who submits a United States passport ap-
12 plication.

13 (2) SECRETARY.—The term “Secretary” means
14 the Secretary of State and any individual designated
15 by the Secretary of State to adjudicate United
16 States passport applications under an Act to regu-
17 late the issue and validity of passports, and for other
18 purposes (July 3, 1926; 22 U.S.C. 211a).

19 **SEC. 3. CONFIRMATION AND CLARIFICATION OF STAND-**
20 **ARDS FOR ADJUDICATION OF UNITED**
21 **STATES PASSPORT APPLICATIONS BY SEC-**
22 **RETARY OF STATE.**

23 (a) IN GENERAL.—

1 (1) IN GENERAL.—The Secretary shall adju-
2 dicate United States passport applications in an in-
3 dividualized, evidence-based manner.

4 (2) INDIVIDUALIZED ASSESSMENT.—At every
5 stage of the passport application adjudicatory proc-
6 ess under paragraph (1), including any requests for
7 additional evidence and rulings on the merits of an
8 application, the Secretary’s decisions respecting
9 United States passport applications shall be based
10 on an assessment of individual circumstances and
11 evidence.

12 (3) PROHIBITION.—An applicant’s race, eth-
13 nicity, or ancestry may not be a factor taken into ac-
14 count in the passport application adjudicatory proc-
15 ess under paragraph (1).

16 (b) PROCEEDINGS.—

17 (1) IN GENERAL.—An applicant shall establish
18 by a preponderance of the evidence at all stages of
19 the passport application adjudicatory process, in-
20 cluding in proceedings under section 360 of the Im-
21 migration and Nationality Act (8 U.S.C. 1503), that
22 such applicant is a United States citizen or national.

23 (2) PROHIBITION.—The Secretary shall not uti-
24 lize or apply any heightened burden of proof when
25 evaluating the citizenship or nationality of an appli-

1 cant and shall apply such preponderance of the evi-
2 dence standard required under paragraph (1) in a
3 uniform and consistent manner to all passport appli-
4 cations.

5 (3) WRITING.—Any determination by the Sec-
6 retary that an applicant has not met the burden of
7 proving United States citizenship or nationality by a
8 preponderance of the evidence shall be made in writ-
9 ing, state the reasons for the Secretary’s determina-
10 tion, and be provided to the applicant in a timely
11 manner.

12 (c) ACCEPTANCE OF CERTAIN EVIDENCE.—A birth
13 certificate signed by a midwife, doctor, or other person au-
14 thorized under State law to sign such a document, or a
15 previously-issued United States passport, shall constitute
16 prima facie evidence of United States citizenship or na-
17 tionality and, absent individualized evidence that a birth
18 did not take place in the United States, shall satisfy the
19 preponderance of the evidence standard for demonstrating
20 an applicant’s United States citizenship or nationality.

○