

Statement of
The Honorable Don Nickles

United States Senator
Oklahoma
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TESTIMONY OF SENATOR DON NICKLES
Before the Senate Committee on the Judiciary
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Thank you Mr. Chairman for holding this hearing today on the topic of who should be eligible to run for president of our country. This topic is very timely and appropriate in the midst of a presidential election. As you know, our Constitution states that "no person except a "natural born citizen" shall be eligible to seek the Office of the President. For years legal scholars have debated what the founders meant by the term "natural born citizen". Does it mean only children born within the boundaries of the United States? Does the term include within its scope children born abroad to a U.S. citizen? If so, does it include only children born abroad to a U.S. citizen who is serving in the military or employed by our government overseas? Or does it also include a child born abroad to a U.S. citizen simply living or working abroad? Could it include a child born abroad but adopted by a U.S. citizen? It is time that we put an end to these speculations.

On February 25, 2004, I introduced The Natural Born Citizen Act along with my colleagues Senator Landrieu and Senator Inhofe. This bill defines the term "natural born citizen" as used in the Constitution as a child born in the United States, a child born abroad to a U.S. citizen, and a child born abroad and adopted by a U.S. citizen. If passed, this bill would put an end to the speculation and clarify who is eligible to run for president of our great country.

I know this bill does not go as far as some on this Committee would like. I know Mr. Chairman that you have a bill that proposes to amend the Constitution to allow any person who has been a citizen for 20 years to run for President. Amending the Constitution is a long and arduous process. Those who wish to pursue a constitutional amendment should do so, but in the mean time, we should at minimum make clear who is eligible to run for President under the current language of the Constitution. My bill accomplishes this by simply defining by statute the term "natural born."

It is clear that a child born within the physical borders of the United States and subject to the jurisdiction of the United States is eligible to run for President. However, many Americans would probably be surprised to learn that a constitutional question remains as to whether children born abroad to a U.S. citizen serving in the military or serving at a Government post are not clearly, indisputably, eligible to seek the highest office in our land. Nor is it clear whether a child born overseas to a citizen traveling or working abroad is eligible to run for President. There are strong legal arguments that say these children are eligible to run for President, but it is certainly

not an inarguable point. The Natural Born Citizen Act would make it clear that these children would be considered "natural born" citizens within the meaning of the Constitution.

In addition to these children of American citizens being eligible to run for President, my bill also defines "natural born" to include children born abroad and adopted by a U.S. citizen. Such a child would have to be adopted by the age of 18, by a U.S. citizen who is otherwise eligible to transmit citizenship to a biological child pursuant to an Act of Congress. In other words, some citizens are ineligible to transmit citizenship to a biological child born abroad because of a failure to meet certain statutory criteria such as having lived in the U.S. for 5 years, two of which had to be after the age of 14. My bill does not seek to give any special treatment to adopted children over biological children born abroad. It simply seeks to treat biological and adopted children of American citizens equally.

As many of you will recall, we passed the Child Citizenship Act of 2000, which provided automatic U.S. citizenship to foreign adopted children. Under this Act which was signed into law on October 30, 2000, the minute these children arrive in the United States, citizenship attaches automatically. There is no naturalization process that these foreign adopted children have to go through. Once they are fully and finally adopted and enter the U.S. with their parents, they are deemed by law, to be U.S. citizens.

It can be argued that this citizenship is retroactive to birth. But regardless, under adoption law, once a child is fully and finally adopted they are entitled to all the same rights, duties and responsibilities of a biological child born to the same parent. They are to be treated as "natural issue" of their adoptive parents. All blood ties are severed from their biological families. In fact, the adopted child is issued a new birth certificate with the adoptive parents listed as the birth parents of that child. If we are to ensure true equality to children born or adopted abroad by U.S. citizens then it is imperative that foreign adopted children be fully eligible to seek the American dream - to grow up to do or be whatever they want to be including President of the United States.

It only makes sense that children born abroad and adopted by a U.S. citizen parent or parents be eligible to run for President. They are raised in America by American parents. They are as much a product of American culture and values as a biological child born to such parents. These children are no less loyal to America. They are not any less of a citizen than any other American. And they should be no less eligible to be president than any other American child. It is the last inequality left in the treatment of our foreign adopted children. This inequality needs to be removed permanently.

The Constitution also requires that the president have resided in the United States for fourteen years. This provision shows us that the framers believed that the president need not spend his whole life in the United States. It is possible for a person to reside in another country for a time and still be eligible to be President of the United States. So it follows that an American child born or adopted abroad should be just as eligible to be president as any child born in the United States that happens to reside abroad for a time.

Over my years as a senator, my office has received letters and inquiries from many foreign adopted children and their families seeking a change in the law to allow them to pursue the office of President of the United States. The Natural Born Citizen Act would accomplish this goal as

well as remove any doubt that biological children born abroad to a U.S. citizen is eligible to run for President. This bill ensures that children born to or adopted by American parents abroad have claim to the full meaning of the American dream. That not only can they have the freedom to speak, the freedom to worship in any style they wish, the freedom to own a home and pursue happiness, but that they can also have the freedom to choose to serve our country as Commander in Chief.

Again, I thank the Chairman for having this hearing and I ask my Colleagues here today to join with me in support of this bill to make America truly the land of opportunity for all its citizens' children whether born here, born abroad or adopted abroad.