



Published: 12.30.2007

## Plan limits babies' rights to citizenship

### Birth certificates would be denied to those without a legal parent

By Howard Fischer

CAPITOL MEDIA SERVICES

PHOENIX — The architect of Arizona's new employer sanctions law, which takes effect Tuesday, is crafting a series of new measures aimed at people who entered the U.S. illegally.

Rep. Russell Pearce, R-Mesa, says he is introducing measures this legislative session to:

- Deny regular birth certificates to babies born in Arizona unless at least one parent proves citizenship.
- Expand the state crime of trespass to cover anyone in the U.S. without authorization.
- Require proof of legal presence in the U.S. to register a vehicle or get a title.
- Deny workers' compensation benefits to undocumented workers injured on the job.
- Bar local policies that prohibit police officers from checking the immigration status of those they encounter.

Pearce is not taking any chances the measures will be rejected by Democratic Gov. Janet Napolitano, who previously vetoed a trespass bill and similar proposals. All are being drafted so if they pass the Republican-controlled Legislature they go directly to the ballot.

The most controversial — and legally questionable — part of Pearce's package is his attempt to withhold regular birth certificates in order to deny automatic citizenship to children born here to illegal entrants. That would also deny them public benefits now reserved for legal U.S. residents.

A similar initiative drive launched last month already has drawn opposition from the Arizona Hospital and Healthcare Association amid concerns about putting these facilities in a law enforcement role and eroding trust with patients.

Pearce acknowledged courts have ruled the 14th Amendment to the U.S. Constitution, passed in the wake of the Civil War to provide equal protection under the law, guarantees citizenship to anyone born in this country.

But he said extending that right to babies born of parents in the U.S. illegally is based on a misreading of the amendment.

He notes it says citizenship requires not just birth in the United States but also that the person is "subject to the jurisdiction" of this country, which he said does not apply to people here illegally.

Critics counter it is Pearce who is misreading the Constitution.

Rep. Kyrsten Sinema, D-Phoenix, said visitors, legal or otherwise, are subject to U.S. jurisdiction, just as a foreigner who commits a crime here can be prosecuted in Arizona courts.

Rep. Tom Prezelski, D-Tucson, said the guarantee of citizenship to children born in the United States to illegal-entrant parents has been upheld by the courts for more than a century, including in 1898 by the U.S. Supreme Court.

The court ruled that a child born in San Francisco of Chinese parents who were excluded from citizenship

based on the Chinese Exclusion laws was a citizen of the United States by virtue of the 14th Amendment.

Pearce's measure rings of previous punitive measures aimed at American Indians, slaves and Chinese in ugly periods of U.S. history, Prezelski said.

"We are deciding who and who isn't American based on who their parents are and what their parents have done," he said. "That strikes me as undemocratic, and it really shakes the principles on which our country was founded."

Pearce acknowledges there will be a lawsuit once Arizona denies regular birth certificates to children of those not here legally, but said he believes this time the courts will side with his view of the 14th Amendment.

He said taxpayers are burdened with the cost of "anchor babies" born to parents in this country illegally.

The Pew Center for Hispanic Studies said in 2006 that about one out of every seven of the more than 1 million students in Arizona public schools were here because of illegal immigration. While as many as 60,000 are themselves here illegally, another 90,000 are children of illegal entrants who, by virtue of their birth in this country, are considered citizens.

While federal law requires states to educate all children regardless of immigration status, most other programs can be reserved for legal residents, ranging from free health care for those who meet income restrictions to subsidized tuition at state universities.

And Pearce said if those not here legally leave because of the other measures, they will take their children, reducing the state's nearly \$5 billion annual cost for education.

"A better name for these 'anchor babies' is probably 'jackpot babies,' " Pearce said.

Pearce's package, coupled with the sanctions bill and earlier voter-approved measures, is designed to make Arizona less hospitable to illegal entrants and pressure them to leave. There is at least anecdotal evidence the sanctions law already is doing that: Some Mexican nationals who normally return home to visit family at Christmas have indicated they may not return.

"It's a matter of cutting off the free stuff, stopping the benefits," Pearce said.

"I mean to make it unfriendly for those who break laws," he continued, comparing the measures to legislative efforts to stop drunken driving by imposing stiffer penalties. "What do you have to do to raise the bar so much that they stop?"

Prezelski said punitive measures aimed at illegal entrants have become an annual ritual in the Legislature even though there's no proof they've had any impact.

"It's already gone too far, and it's going to go even further," he said. "And, attacking this issue of birthright citizenship is an indication that things have gotten a little ridiculous."

But Sinema conceded all Pearce's measures likely would gain voter approval, as did prior measures in 2004 and 2006. She said voters are frustrated with lack of action by Congress to deal with the issue.

"When they don't act, Arizonans get mad at anyone they can," she said. "And I can't blame them for it because they have a right to be frustrated."

Read in-depth coverage of border-related issues at [azstarnet.com/border](http://azstarnet.com/border).

● *Arizona Daily Star* reporter Brady McCombs contributed to this article. Contact him at 573-4213 or [bmccombs@azstarnet.com](mailto:bmccombs@azstarnet.com).

All content copyright © 1999-2007 AzStarNet, Arizona Daily Star and its wire services and suppliers and may not be republished without permission. All rights reserved. Any copying, redistribution, or retransmission of any of the contents of this service without the expressed written consent of Arizona Daily Star or AzStarNet is prohibited.

