NATIONAL CATHOLIC REPORTER
Published on *National Catholic Reporter* (http://ncronline.org)

Arizona legislator pushes to deny citizenship

Pilar Marrero New American Media | Jul. 7, 2010

Russell Pearce, the legislator from Mesa, Ariz., who sponsored the controversial law SB 1070 against undocumented immigrants, has another objective: taking away citizenship from the U.S.-born children of undocumented immigrants.

?My intention is to push a state law that refuses to acknowledge or to issue birth certificates for children born of illegal aliens, unless one parent is a citizen,? Pearce recently wrote in an e-mail to his supporters. ?We have to reclaim America.?

It wouldn?t come as a surprise if he is able to achieve it, although experts question the constitutional survival of the law.

But there?s certainly no lack of support for the idea.

A recent Rasmussen survey found that 58 percent of Americans do not agree that the children of undocumented immigrants should receive automatic citizenship. Among Republicans, that number rises to 76 percent. There is no doubt that Arizona Gov. Jan Brewer would sign such a law in her state.

But that does not mean that children born in Arizona wouldn?t have a nationality: ?It?s not paper that grants citizenship, but birth on American soil,? noted Kathleen Kim, an expert on constitutional law and a professor at Loyola Law School in Los Angeles.

Kim, like other constitutional experts, agreed that a state couldn?t override this protection in the country?s constitution. Amendment 14 of the U.S. Constitution confers citizenship on the principle of *jus soli*, or right of soil.

?The reason the amendment exists and is enshrined in the Constitution is to establish equal rights after the abolition of slavery,? said Kim, who explained that the amendment was adopted after the Civil War in 1868, reversing a Supreme Court decision 11 years earlier that found blacks, descendants of slaves, could not be citizens even if they were born on U.S. soil.

But the goal of Pearce and his supporters in various anti-immigrant organizations is to force a legal fight that would put the issue in the national spotlight and, presumably, bring about its review before the Supreme Court.

In his correspondence with activists, including Anna Gaines of American Citizens United and Al Garza of Patriots Coalition, Pearce argues that there are reasons to believe that the amendment can be reinterpreted to exclude the children of undocumented immigrants who, he says, ?have hijacked the constitutional amendment by coming here and taking advantage of the ?welfare? offered by the state.?

Kevin Johnson, dean of the law school at University of California, Davis, believes that Pearce is wasting his time. ?If this law were brought to the Supreme Court and a challenge were made to the 14th Amendment, which

determines the right to citizenship by birth, I?m 100 percent certain that this right would be upheld by the high court. I have no doubt,? said Johnson.

The truth is that it?s not the first time a state or even a federal legislator has introduced a similar measure. California Congressman Elton Gallegly tried this in the 1990s; most recently, Congressman Nathan Deal of Georgia won the support of 91 sponsors in 2009 but was unable to advance the project.

Thomas Saenz, president of the Mexican American Legal Defense and Educational Fund, indicated that the only exception that the Constitution considers is the children of diplomats.

?The amendment is very clear,? said Saenz, although he acknowledged that if Congress came to pass a law like that, ?it would be more difficult to attack.?

Meanwhile, proponents of the idea affirm that it will be easier after the November elections, and if President Obama and Congress refrain from presenting immigration reform until after November, there will be more room for the idea in Congress.

[This story first appeared in the Los Angeles-based Spanish language newspaper, *La Opinión*. It was translated by Sarah Damian.]

Source URL (retrieved on *12/19/2013 - 13:03*): http://ncronline.org/news/politics/arizona-legislator-pushes-deny-citizenship