



Citizenship Provisions Explained

The *Puerto Rico Status Act*, introduced by U.S. Senators Martin Heinrich (D-N.M.), Catherine Cortez Masto (D-N.V.), and Alex Padilla (D-C.A.), is a historic proposal that represents an offer from Congress to the people of Puerto Rico to make an informed choice on their political future.

The bill sets up a binding plebiscite in which Puerto Rico voters would select among three self-governing, non-territorial arrangements: Statehood, Independence, and Sovereignty in Free Association with the United States. Importantly, the bill would then implement the arrangement selected.

Citizenship Under the Bill Generally

Under Statehood, citizenship would operate in Puerto Rico as it does in the other fifty states.

Under Independence and Sovereignty in Free Association with the United States, Puerto Rican citizenship would be determined by the nation of Puerto Rico, and U.S. citizenship would be determined by Congress.

Generally, current law provides several scenarios for persons to be U.S. citizens when born outside of the United States to parents who are U.S. citizens. However, the new nation of Puerto Rico would be unique among foreign nations in that it would already be populated overwhelmingly by U.S. citizens. Keeping these default rules would prevent Puerto Rico from becoming a nation that is populated by a majority of its own citizens.

The bill's sponsors agree that causing the nation of Puerto Rico to remain indefinitely with a population that is the majority the citizens of the United States would not be in the interest of the nation of Puerto Rico or in the interest of the United States.

Accordingly, the bill would limit some of the scenarios in which persons born in the nation of Puerto Rico would be U.S. citizens at birth.

Background on U.S. Citizenship

The U.S. citizenship provisions in the bill require the following context regarding provisions of the Immigration and Nationality Act (INA).

INA § 301(a): INA section 301, subsection (a), implements the U.S. Constitution by providing U.S. citizenship at birth to persons born in the fifty states.

INA § 302: INA section 302 provides U.S. citizenship to persons born in the territory of Puerto Rico.

INA § 301(c), (d), and (g): These subsections regard births that occur *outside* of the United States:

- 301(c) grants U.S. citizenship when both parents are U.S. citizens. (At least one parent must have had a U.S. residence at some point.)
- 301(d) grants U.S. citizenship when one parent is a U.S. citizen and the other parent is a U.S. national but not a U.S. citizen. (The citizen parent must have been physically present in the United States for at least one continuous year at some point.)
- 301(g) grants U.S. citizenship when one parent is a U.S. citizen and the other parent is not a U.S. citizen or national. (The citizen parent must have been physically present in the United States for at least five years, at least two of which were after reaching the age of 14.)

U.S. Citizenship in the Nation of Puerto Rico

Under Independence or Sovereignty in Free Association with the United States, the default in existing law would be that INA 301(c), (d), and (g) would apply to births in the nation of Puerto Rico just like those provisions apply to births in other foreign countries.

However, for the reasons discussed above, the bill modifies how INA 301(c), (d), and (g) would apply for purposes of births in the nation of Puerto Rico as follows.

- Under Independence, INA 301(c), (d), and (g) would not provide U.S. citizenship to a person born in the nation of Puerto Rico if one of the U.S. citizen parents obtained their citizenship under INA 302. (INA 301(c), (d), and (g) would remain applicable for persons born to parents who are U.S. citizens under provisions other than INA 302.)
- Under Sovereignty in Free Association with the United States, the bill provides for the same, with one key exception. During the *first* Articles of Free Association, *if* a future Congress approves, INA 301 would remain available as in other foreign countries – that is, a person born in Puerto Rico to at least one U.S. citizen would be a U.S. citizen if otherwise eligible (regardless of whether the parents obtained their U.S. citizenships under INA 302 or under another provision of law).¹

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¹ Reminder: The duration of the first Articles – and indeed all of the details in any Article of Free Association – would be subject to negotiation between the countries and would require approval by Congress and by the people of Puerto Rico.