

House Committee on the Judiciary
Member Day Hearing
Thursday, November 20, 2025
Statement Submitted for the Record by
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Thank you, Chairman Jordan and Ranking Member Raskin, for the opportunity to submit testimony for the House Judiciary Committee Member Day Hearing. I'd like to ask for your support for a bill before your committee, H.R. 6158, *the American Samoa Statutory Nationality and Citizenship Act*. This bill would provide a streamlined process for U.S. Nationals from American Samoa to claim the full breadth of their Citizenship rights while preserving the territory's right to self-determination.

As you may be aware the people of American Samoa considered "U.S. Nationals but not citizens" at birth. These Americans have all the rights and responsibilities of regular U.S. Citizens with a few minor exceptions. They cannot vote in federal elections or in local elections where specifically barred by state law; and they cannot hold government job positions which have an explicit citizenship requirement. Otherwise, they hold U.S. Passports and can live, work, and travel freely in the United States. We owe no allegiances to any other country, and we are proud to be Americans, consistently serving at the highest per-capita rate in the military.

The historical reasons for our U.S. National status are long and complex, but they can be summarized as the result of a long-standing agreement between the federal government and the indigenous people of American Samoa. Unlike some of the other territories which were acquired through purchases from colonial powers or as the result of conflict, the chiefs of American Samoa negotiated our place within the Union through our Deeds of Cession. As a result, while we are subject to all the laws of the United States, we also retain a certain level of autonomy over our ancestral lands.

This brings us to the modern day. American Samoans do not want full birthright Citizenship for the entire territory. We are happy with the status quo which protects indigenous rights and honors our loyalty to the United States. That said, many American Samoans relocate to the States and establish lives away from the territory. For these Americans to claim the rest of their rights and fully integrate into their new communities, they must undergo the Naturalization process – the same process as a foreigner attempting to immigrate. This process is long, tedious, and often expensive. It causes delays for our enlisted men and women who require citizenship for officer promotions and security clearances. It puts lives on hold and treats Americans – who already have the right to be here – as outsiders.

There are other issues as well. I am sure you have heard about the group of American Samoans in Alaska who were automatically registered to vote in State elections and are now facing criminal charges as a result. Federal law is relatively clear about citizenship status and voting, but the law from state to state is not consistent. The only crime here is that a group of Americans mistakenly believed that because the state of Alaska registered them to vote and sent them election reminders, that they could participate in democracy without the usual bureaucratic red tape of Naturalization.

My bill, H.R. 6158, provides a path forward that moves this group of Americans away from the Naturalization process reserved for foreigners. The bill would offer an important, practical fix for Americans born in American Samoa who are classified as “U.S. nationals but not citizens” by allowing those individuals, if they choose, to be reclassified on their passports as “U.S. nationals and citizens.” This would align American Samoan applicants with the same statutory citizenship status Congress already provides to people born in Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands under 8 U.S.C. §§ 1401–1407.

Why this matters:

- American Samoa prefers collective “national” status, which protects local culture and autonomy.
- At the same time, many American Samoans living in the states want the individual legal rights of citizenship—this bill honors both positions.
- Today, those who want citizenship can only obtain it through an outdated and legally flawed naturalization process (8 U.S.C. § 1436). H.R. 6158 creates a simpler, congressionally authorized path.

What the bill avoids:

For years, what some saw as well-intentioned but ill-advised lawsuits have tried to use American Samoa’s unique classification to:

1. Force all American Samoans to be statutory citizens on same terms as other territories, instead of nationals under historic agreements protecting local heritage, and
2. Apply the 14th Amendment Citizenship Clause and overturn the Insular Cases doctrine through the courts rather than Congress, a one-size fits all status imposed without self-determination, thereby repeating the original sin of the Insular Cases.

Those lawsuits have failed—and if H.R. 6158 passes, and to American Samoa, the entire legal theory behind them becomes unnecessary, preserving local self-determination to initiate change in federal-territorial relations. The bill preserves collective self-determination for American Samoa while protecting individual choice.

What H.R. 6158 ultimately does:

It protects:

- Collective autonomy (American Samoans remain “nationals” unless they choose otherwise)
- Individual rights (any person who wants statutory U.S. citizenship can elect it directly through passport reclassification)
- Congressional authority (avoiding judicial attempts to rewrite territorial law)

In short: H.R. 6158 provides a balanced path forward—respecting local preference while empowering individual American Samoans who want full citizenship rights while residing in a state or when traveling overseas. Included with my testimony is a copy of the legislation and a more in-depth overview of the legal context for the bill.

Thank you again, Chair Jordan and Ranking Member Raskin, for the opportunity to testify. My bill would allow us to preserve our culture and protects the indigenous rights of future generations of territorial residents, and it does so while recognizing our status as Americans who participate in the country as a whole. I ask that the committee please support H.R. 6158, and I look forward to working with you. God bless American Samoa, and God bless the United States of America.

H.R. 6158: Preserving collective and individual self-determination for American Samoa

H.R. 6158 will resolve the anomalies of current federal statute defining the status Americans born in American Samoa, as follows:

- Under 8 U.S.C. 1436, all Americans born and acquiring U.S. nationality in American Samoa can upon establishment of legal residence in a state apply for reclassification and certification as a U.S. citizen.
- This protocol as prescribed in federal law is confusing because it employs the term “naturalization” referring what is really a process for recognition of current nationality and allegiance to the U.S. as a basis for reclassification that also recognizes statutory rather than constitutional citizenship status when residing in a state.
- The term “naturalization” is inapplicable under the statutory definitions in the INA relating to American Samoa national status under 8 U.S.C. 1408, and makes allegiance to America a condition for compliance, even though American Samoans have the same U.S. nationality and allegiance to the U.S. under Section 1408 as Americans classified as “nationals and citizens” from the other four unincorporated territories under 8 U.S.C. 1402-1407.
- Because it is confusing and arguably inaccurate to “naturalize” an American with U.S. nationality, H.R. 6158 will enable certification of American Samoans as nationals collectively based on birth in the territory, but by individual choice also to be classified as “nationals and citizens,” a term used to describe Americans born or naturalized in the United States at 8 U.S.C. 1401.

A. Constitutional Context and Terms of Reference:

Persons born in a state of the union acquire birth right constitutionally conferred citizenship of the United States under the nationality clause in Section 1 of the 14th Amendment, and persons naturalized under federal law in a state also acquire constitutionally conferred U.S. and citizenship.

The 14th Amendment uses the term “citizenship” because that clause segues into a state citizenship clause, and states do not have separate nationality.

Thus, the terms “nationality” and “citizenship” both apply to Americans born or naturalized in a state under the 14th Amendment, but only the term “citizenship” applies to the status of Americans under state constitutions and laws.

As reflected in 8 U.S.C. 1401, persons born in states under the 14th Amendment have both American nationality and citizenship, and can be referred to as “nationals and citizens” of the United States.

Americans born overseas in foreign countries to parents with American nationality also acquire statutory nationality and are classified by federal statute as “nationals and citizens” of the United States under 8 U.S.C. 1401.

Americans born in Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands have statutory birthright U.S. nationality and under 8 U.S.C. §§ 1401–1407.

Only our fellow Americans born in the unincorporated territory of American Samoa are classified by federal statute as “nationals but not citizens” of the United States.

All persons with constitutional and statutory nationality and citizenship owe the same duty of allegiance with the United States.

Americans residing and eligible to vote in a territory are unable to exercise federal voting rights for full representation in Congress or the Electoral College

Only nationality and/or citizenship, combined with residence and eligibility to vote in federal elections conducted in a state, secures equal rights to vote in federal elections for equal representation in Congress and the Electoral College.

Under federal statute law, only residents in Northern Mariana Islands can cast absentee ballots under federal overseas voting act, but that must be based on previous residence and voting eligibility in a state.

B. H.R. 6158 Statutory Context and Terms of Reference

Proposed bill on American Samoa statutory nationality and citizenship confirms allegiance but on equality:

<https://www.congress.gov/bill/119th-congress/house-bill/6158>

H.R. 6158: To protect individual rights under federal statutes conferring collective nationality on persons born in the territory of American Samoa, by enabling subsequent individual election of statutory United States citizenship classification, as previously authorized by Congress for American Samoan nationals residing in a State or territory:

- Specifically, H.R. 6158 is a bill that would allow Americans who by statute currently carry passports as “nationals but not citizens” to apply for passports reclassifying an applicant requesting a statutory “nationals and citizens.” That would mean that our fellow Americans born in American Samoa as nationals under 8 USC 1408, but who apply and are reclassified would have the same statutory birthright “national and citizen” status that Americans born overseas have under 8 USC 1401.
- Under H.R. 6158, individuals born in American Samoa requesting reclassification would be eligible for the same territorial birthright national and citizen status as Americans born in Puerto Rico under 8 U.S.C. Section 1402, USVI under Section 1406, Guam under 1407, and Northern Mariana Islands P.L. 91-241.
- American Samoans prefer “national” status collectively for people born there, but recognize individual rights to reclassification as citizens as well. Accordingly, this bill effectively would render moot litigation or legislation that would seek to “rescue” the “nationals” of American Samoans by collectively making all nationals also citizens as well.
- The attempts to attain that result through litigation seeking court ordered reclassification of American Samoa statutory nationals as “citizens” have failed, (*Fitisemanu v. United States*, 10th Circuit 2021), and arguably would not be plausible if this bill is enacted.
- Similarly, litigation seeking court orders application of the constitutional citizenship clause in the 14th Amendment to American Samoa, which has repeatedly failed in the past would even be harder to pursue if this bill is in effect. The real purpose of that as litigation was to use the national but not citizen classification applicable only to American Samoa as a pretext for federal court intervention to apply the citizenship clause in the 14th Amendment to all U.S. territories.

- That litigation in turn has been part of a larger strategy to seek judicial reversal of the Insular Cases doctrine of non-incorporation, a court invented status the rectification of which the courts so far have left to Congress.
- Instead, H.R. 6158 would allow individual Americans who are nationals based on birth in American Samoa under 8 USC 1408 to individually acquire the same statutory U.S. nationality and citizenship as nationals and citizens born in the other four unincorporated territories. That is possible now only through “naturalization” based on certification as citizens under 8 USC 1436, but that is an essentially obsolete procedure that has been nullified and reassigned to the passport application process by State Department administrative action.

C. Historical and Legal Context:

RELEVANT LEGAL SOURCES SUPPORTING H.R. 6158 ENACTMENT:

- GONZALES V. WILLIAMS, 192 U.S. 1 (1904): Holding that persons born in unincorporated territories electing allegiance to Spain are not aliens subject to immigration and naturalization laws, and have protected national status under national law.
- FITISEMANU V. U.S., NO. 20-4017(10TH CIRCUIT 2021), cert. denied October 17, 2022: Holding that citizenship clause of 14th Amendment does not apply to persons born in American Samoa
- Relevant Definitions, Immigration and Nationality Act, Chapter 12, Subchapter III, PART I, Nationality and Naturalization:
 - 8 USC 1101(22-23): Defines “national” as person with duty of allegiance and “naturalization” as citizenship conferred “after birth” (Statutory Anomaly No. 1 and Statutory Anomaly No. 2, below)

- 8 USC 1401(a)(1): Codifies definition of “citizen” in 14th Amendment, Section 1, confirming person born in a state is both “national” and “citizen”
 - 8 USC 1408: Codifies “at birth” U.S. nationality for persons born in American Samoa
- Immigration and Nationality Act, Chapter 12, Subchapter III, PART II, Nationality Through Naturalization:
 - 8 USC 1436: Allows certification of statutory nationals residing in a state as statutory “citizens” based on qualification and compliance under foreign permanent resident alien naturalization process
 - 8 USC 1452(b): Allows certification of non-citizen national status by Secretary of State based on oath of allegiance (Administratively transposed into a “national but not citizens” U.S. passport application)
- 8 FAM308.9-1 (Numerous anomalies noted, including but not limited those noted in this memo)

ANOMALIES ARISING UNDER 8 U.S.C. 1436, CONTRADICTIONS REQUIRING H.R. 6158 revisions:

Statutory Anomaly No. 1:

- 8 USC 1408 confers nationality to nationals "at birth" in American Samoa
- 8 USC 1101(23) defines “naturalization” as conferral of "nationality after birth”
- 8 USC 1436 purports to provide for “naturalization” after birth for persons who already were naturalized at birth by 8 USC 1408
- Statutory classification as “citizen” does not “naturalize” after birth a person who is already naturalized with nationality “at birth”

Statutory Anomaly No. 2:

- 8 USC 1452(b) purports to provide for a person to be certified as a national but not citizen based on an oath of office

- By administrative directive State Department has suspended Section 1452(b) certifications,
See: <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/us-citizenship/Certificates-Non-Citizen-Nationality.html>
- Instead of Section 1452(b), State requires passport applicants who are non-citizen nationals to document that status by submission of Form DS-11
- State Department administrative directive requires non-citizen national passport applicants to “comply with the provisions of 8 USC 1452(b)” which include oath of allegiance
- However, 8 USC 1101(22) defines “national” as “person who, though not a citizen, owes permanent allegiance to the United States”
- This means State Department implementation of 8 USC 1452(b) requires nationals already under statutory legal duty of allegiance to execute redundant and discriminatorily mandated oath of allegiance to obtain a national non-citizen passport

H.R. 6158 DISCUSSION: Simplified option for H.R. 6061 revision based on 8 USC 1436 anomalies and recombination of citizenship certification and non-citizen national passport application under the provisions of 8 USC 1436 and 8 USC 1452(b), and also 8 USC 1401(a)(1):

A bill to enable U.S. nationals electively to apply for status and rights of statutory U.S. citizenship when residing in a state:

- All forms of statutory “citizenship” and “nationality” are based on the same and equivalent duty of allegiance, and the difference between the two terms is in the first instance one of statutory nomenclature.
- Constitutionally, it is allegiance that is the bedrock of law defining nationality, and as explained below constitutionally “nationality” and “citizenship” have the same meaning unless otherwise provided by law.
- It is only statutory nationality that can be limited by statutory classifications of “citizenship” and “nationality” that are given different meaning. But both terms can be given the same meaning, as determined by Congress under the uniform naturalization clause of in Art. I, Sec. 8, Clause 4 of the Constitution, as applied to

unincorporated territories in the exercise of its authority under Art. IV, Sec. 3, Clause 2.

- As to what “nationality” and “citizenship” really mean, 8 U.S.C. 1401-1408 use both terms and is widely interpreted as if citizenship is a primary and national a secondary status for purposes of statutory naturalization. The term “nationality” is used only as to persons born in certain unincorporated U.S. territories.
- But the peoples of all unincorporated territories were statutory nationals under *Gonzales v. Williams* and/or their subsequent respective unincorporated territory organic agreement or acts. That condition was retained unless and until Congress passed a statute reclassifying each body politic and each person born in each territory as statutory nationals and/or citizens as codified in 8 U.S.C. 1401-1408.
- The source of these statutory classifications in statute law are approved by Congress under the uniform naturalization clause in Article I, Section 8, Clause 4 of the Constitution.
- As for constitutional nationality and citizenship of persons born or naturalized under U.S. jurisdiction in a state, under Section 1 of the 14th Amendment such persons have “nationality of the United States” and “are citizens.”
- The reason “citizens” was used in Section 1 is that it is not merely a nationality clause, it is a combined national and state citizenship clause that includes “citizens” of “the state wherein they reside.” The terms citizens was used because it could not include “nationals...of the state wherein they reside,” since states do not confer “nationality.”
- The statement “All citizens are nationals but not all nationals are citizens” is partially true, but only as to statutory nationals and citizens. As to 14th Amendment as it applies to persons born or naturalized in a state, “All citizens are nationals and all nationals are citizens.”

- As it relates to the duty of allegiance to the United States and the rights of U.S. national citizenship, the term "citizens" in the citizenship clause of Section 1 under the 14th Amendment has the same meaning constitutionally and legally as the term "nationality."
- The terms "national" and "citizen" as used in federal naturalization statutes, including those conferring statutory birthright citizenship for persons born outside the U.S. and its possessions to a U.S. citizen parent (8 U.S.C. 1401), or persons born in unincorporated U.S. territories (8 U.S.C. 1402-1408), have the specific meaning and are subject to denial based on conditions precedent and rescission based on conditions subsequent, as prescribed by Congress under uniform naturalization clause in Article I, Section 8, Clause 4, (*Rogers v. Bellei* 1971).
- Thus, where Congress confers on such persons by statute U.S. nationality classified as "citizen" or "national" it also can provide that such person shall have the same status and rights as unconditional U.S. nationality/citizenship conferred under the 14th Amendment.
- Constitutionally, all U.S. citizens and nationals in an incorporated territory are denied federal voting rights for fully equal representation in Congress and the Electoral College that are limited by Art. I, Sec 2 and Art. II, Sec. 1, respectively, to persons eligible to vote in a state.