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Federal-Provincial-Territorial Deputy Ministers Responsible for Immigration

BIRTH ON SOIL – POLICY UPDATE SECRET

October 9-10, 2012
Calgary, Alberta

LEAD JURISDICTION –Citizenship and Immigration Canada (Citizenship and Multiculturalism Branch)

DECISION(S) / DIRECTION(S) REQUESTED –

Decision

Discussion

Information

RDIMS# 3132454

SUMMARY OF DECISIONS/DIRECTIONS REQUESTED: KEY MESSAGES

- *Key Messages to PTs:*
- Further to our meeting at the DG level, we are continuing to advance our thinking on this initiative. We have heard your concerns about the proposed changes to birth on soil legislation and the implementation scenarios discussed at our teleconferences with PTs in the summer.
- As such, CIC is exploring a Federal solution to implementation.
- We are considering using an electronic system that, for upwards of 80% of all applications, would validate an applicant's citizenship almost instantly.
- This would allow Canadian citizens to access Federal and P/T services at the same time as the registration of a birth, or shortly after.
- We will keep you informed as this initiative unfolds.

BACKGROUND:

- In March 2012, the CIC Minister contacted his PT counterparts to seek their views on issues related to citizenship by birth on soil due to growing concern that giving citizenship to persons born in Canada who have no strong connection to Canada undermines the value of citizenship. Responses were received from 7 PTs.
- At the June 2012 meeting of FPT DMs, you indicated to your PT counterparts that CIC would be engaging PTs in discussions on how these changes could be implemented to ensure that Canadian citizens born in Canada continue to have a means of easily proving their citizenship status when accessing FPT services and benefits.
- On July 24th, CIC hosted a special conference call with DGs from provincial and territorial Ministries of Immigration, Health and Vital Statistics on potential changes to citizenship by birth on soil. Participants from Health Canada and Statistics Canada were also invited to attend.
- The objectives of the call were to: explain why the Government is considering moving forward with changes to Canada's citizenship by birth on soil policy; explain what those changes could look like and how they could impact provinces and territories; as well as to propose three possible implementation scenarios for PTs.
- These scenarios are: 1) PTs would not change existing processes, but absorb the risk of providing services to non-citizens, whereas the Federal Government would ensure citizenship status before providing services; 2) PTs would modify the birth certificate to indicate the holder's citizenship status (New Zealand model); and 3) Both levels of government would accept a combination of documents to prove citizenship.

- As a follow-up to the FPT DG-level call, CIC sent a list of key questions to PTs based on the feasibility of implementing scenario 3 (combination of documents). BC, Manitoba, Ontario, New Brunswick, and Nova Scotia sent responses. The Vital Statistics Council for Canada also responded.
- PT responses to all three scenarios were overwhelmingly unfavourable, rejecting these options as too costly and burdensome for both PTs and Canadian citizens given the small numbers of persons who would be born in Canada who would not be Canadian under the proposed legislation.
- In general, PT concerns include: the significant burden (financial and administrative/operational) on PTs; the need for PT regulatory and legislative reform; the perceived transfer of the role of citizenship determination from the Federal government to the PTs; the burden on citizens (accessing benefits/services), as well as vulnerable populations (Aboriginal peoples; persons who would be born stateless).
- Several provinces also called for broader consultations with Canadians and stakeholders on the proposed legislative changes.
- PTs overwhelmingly called for a single document as proof of citizenship and a Federal solution.

CURRENT STATUS:

- CIC has since developed an implementation scenario that would allow PTs and OGDs to validate citizenship electronically with CIC. This would allow Canadian citizens to access Federal and P/T services (including the issuance of a SIN number) at the same time as the registration of a birth, or shortly after.
- This option has not yet been discussed with the PTs. Timing for a discussion with the PTs is yet to be determined.
- This option may be more amenable to the PTs given the lessened impact on citizens and PT governments with near-real time confirmation of citizenship upon application, as well as the lower cost of implementation for PTs.

NEXT STEPS:

- We will continue to engage the PTs as this proposal advances.

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Yukon	<ul style="list-style-type: none"> No substantive comments provided.
NWT	<ul style="list-style-type: none"> Occurrences of "birth tourism" not previously highlighted in NWT Challenges with gaps in current vital stats (i.e., gaps in data collected during birth registration process) Changing laws could impact current NWT government operations
Nunavut	<ul style="list-style-type: none"> No indication that "birth tourism" a problem in Nunavut. Concerned about impact of persons born to parents who may not have documents (i.e., birth certificate, SIN card, passport). Concerned about how children who are adopted through the Aboriginal Custom Adoption Practice (either formally or informally) would be treated.
BC	<ul style="list-style-type: none"> Significant impacts on BC processes; significant costs that cannot be absorbed. Significant financial, legislative, policy, administrative changes anticipated. Would impact several ministries, short and long term. Significant impact on access to services; undermines access to SIN at birth and tax benefits Concerned about passage rights for Aboriginal peoples (between US and Canada) and proof of citizenship for Métis people who currently use Métis provincial card as proof of citizenship. Concerned that Federal jurisdiction of determining citizenship transferred to PTs. CIC should be responsible for determining citizenship (i.e., no combination of documents).
AB	<ul style="list-style-type: none"> The scope of the problem that foreign nationals are exploiting birth on soil citizenship needs greater definition before AB could agree to implement extensive policy and program changes. Challenges with gaps in current vital stats (i.e., statistics kept on foreign national women who give birth in hospitals, but no differentiation between legitimate non-resident births and "passport babies") Could place additional burden on hospitals (new staff, costs), and hospital administrators, health care workers, vital statistics officials Could result in large medical bills for parents without proper documents to prove citizenship/residency. Recommends re-examining non-legislative options that could be implemented by provincial health care administrators before considering legislative reforms Concerned that provisions be included to protect children who may be rendered stateless Concerns raised about Aboriginal persons who may not have birth certificates to prove identity.

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	<ul style="list-style-type: none"> • If implemented, supports federal solution (i.e., CIC to determine citizenship). • Determination of citizenship should be based on the review of bona fide original documents. • The scope of the determination should be applied only to the population of newborns in Canada. • Would require legislative, administrative and systems changes.
SK	<ul style="list-style-type: none"> • Low incidence of foreign national visitors giving birth in SK. • One Saskatoon hospital billed 6 to 7 people in last fiscal year for costs of child delivery. Four or five of these people were Interim Federal Health Program clients
MB	<ul style="list-style-type: none"> • Initial implementation scenarios presented overwhelmingly problematic for Canadians and Manitoba agencies/departments • Would impact Canadians' access to services, especially at risk citizens (seniors, youth, homeless, Aboriginal peoples, etc.) who may not have the means to meet the more robust identification requirements needed to prove citizenship and access services and benefits. • Available evidence does not support need to change birth on soil legislation. • Canadians and stakeholders should be fully consulted before decisions taken.
ON	<ul style="list-style-type: none"> • Does not support changes to birth on soil legislation and the implementation of the proposed scenarios. • BOS issue not sufficiently pressing or significant to justify cost and effort of implementing the change. • Insufficient evidence to justify effort and expense required for such a system-wide program change. • Would have profound impact on provinces and territories. • If different jurisdictions implement through different approaches, may be difficult for Canadians to provide citizenship in different PTs, resulting in loss of access to services/benefits. • Several implications of this initiative would be challenging for Ontario as well as barriers/hardships for citizens, including vulnerable segments of population. • Several ministries identified significant policy and program issues with implementation scenarios affecting Ontario service delivery and access by clients. • Privacy issues with access to parent's birth certificates. • Concerns with how implementation would affect federal programs such as Passport and SIN issuance. • Increased handling of personal information could lead to privacy incidents and breaches. • If CIC proceeds, recommend a longer implementation period to allow for meaningful consultation with stakeholders, including First Nations.
QC	<ul style="list-style-type: none"> • Would like to be consulted on any proposed changes as they will have an impact on administration of certain provincial services. • Concerned about loss of revenue if Citizenship Certificates replace birth certificates as proof of citizenship. • Would have a significant impact on government operations and processes.

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	<ul style="list-style-type: none"> • Identified privacy considerations, as well as regulatory changes, changes to agreements between government departments and organizations, as well as operational, administrative and IT changes. • Concerned about impact on the delivery of services (i.e., delays). • Support a federal approach for determining citizenship; and one document as proof of citizenship. • Concerned about the impact on the population, especially exceptional cases (i.e., where identity may be difficult to prove).
NB	<ul style="list-style-type: none"> • Generally supportive of efforts to reform BOS laws. • Number of affected individuals too small to embark on comprehensive, systemic change. • Identified major financial, legislative, regulatory, privacy and policy implications. • Estimated that implementation would cost millions. • If PTs adopt different implementation approaches, risk to immigration integrity in NB. • CIC should be responsible for determining citizenship. • Supports the issuance of one Federal document to prove citizenship.
NS	<ul style="list-style-type: none"> • Challenges with gaps in current vital stats (i.e., nationality of mother not collected when giving birth in hospital; residence information collected but unreliable). • Privacy and info-sharing concerns would need to be addressed. • Would have significant operational impacts on many government services; could compromise electronic services such as Integrated Birth Registration with ServiceCanada (SIN at birth) and CRA. • Recommends further investigation of scope of problem before advancing major reforms. • Concerns that children will have challenges accessing parents' identity documents. • Access to another person's identity documents could lead to increased incidences of fraud and identity theft. • If PTs adopt different implementation strategies, could lead to uncertainty re: how citizenship is proven in Canada, and could weaken security measures.
PEI	<ul style="list-style-type: none"> • Maternity tourism not tracked and not of significant concern to PEI. • Changes would have profound effect on Federal and PT operations. • Calls for public consultations.
NL	No response

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<p>Vital Statistics Council for Canada (VSCC)</p> <p><i>(head of vital statistics divisions from all PTs, and Health Stats division of Stats Canada)</i></p>	<ul style="list-style-type: none">• VCSS has great interest and stake in BOS.• Initial implementation scenarios contain many obstacles for registration of births and issuance of birth certificates.• May compromise electronic services such as Integrated Birth Registration with CRA and ServiceCanada, as secondary offline proof of citizenship would be required by those agencies.• Many practical, financial, legal, and policy issues including further burdening health care providers who currently collect and submit birth info.• Perceived as shifting responsibility for determining citizenship status from Federal Gov to P/Ts, who do not have expertise or funding for this.• Challenges as almost all vital stats registries require consent from the person named on the certificate to issue to another person.• Significant impact on Canadians by increasing hardship to obtain services, long wait times, and need to prove citizenship several times throughout lives.
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