National Latina Institute for Reproductive Justice

Explainer on Executive Order No. 14160 and Birthright Citizenship Litigation

***FINAL STATUS*: Birthright citizenship remains protected. Executive Order No. 14160 has been ruled unconstitutional by the Supreme Court in Trump v. Barbara.**

BACKGROUND ON EXECUTIVE ORDER NO. 14160

On Monday, January 20, 2025, the Trump-Vance administration signed an executive order (EO) titled, "*Protecting the Meaning and Value of American Citizenship*." This EO misinterprets the Fourteenth Amendment of the United States Constitution to end birthright citizenship—a right guaranteed by the Constitution—for certain children born in the United States who fit a specific familial category. The EO states that a baby born in the U.S. would NOT be eligible for citizenship if (1) the father is not a U.S. citizen or does not have lawful permanent status *and* (2) the mother does not have either lawful permanent status or temporary lawful presence at the time of birth.[1]

> ***"My grandmother crossed the border from Mexico with her four young children to come to the United States to give us all a better life. [Their] sacrifices allowed me the privileges I have today as a birthright citizen. Thanks to them I am the highest educated woman in my family, and I was able to choose when and where I moved to and lived."***
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> **— Kait, RI**

How and when was this order supposed to take effect?

The EO was originally set to take effect on February 19, 2025, applying to children born on or after that date. This date was calculated based on Sec. 2, subsection (b) of the order: "this section shall apply to persons who are born within the United States after 30 days from the date of this order." However, the EO never went into effect because it was blocked by multiple lawsuits. The administration confirmed that they would not enforce the EO retroactively if it were ever allowed to go into effect by the Supreme Court.

The EO directs different agencies to implement the order by issuing guidance within 30 days. It explicitly states that "no department or agency of the United States government shall issue documents recognizing United States citizenship, or accept documents issued by State, local, or other governments or authorities" to people that fit in the above categories. It further directs the Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Commissioner of Social Security to take all measures to ensure that their regulations and policies are aligned with this order.

While the EO was blocked by a preliminary injunction in *Barbara v. Trump* (see details below), on July 25, 2025, U.S. Citizenship and Immigration Services released an implementation plan outlining how the order would be applied it if were ultimately upheld. This plan explains the difference between "unlawful status" and "unlawfully present" and addresses the status of children born in the United States to parents with lawful but temporary status, among other details. However, citizenship is dependent on a huge network of local organizations, hospitals, and

1 "Among the categories of individuals born in the United States and not subject to the jurisdiction thereof, the privilege of United States citizenship does not automatically extend to persons born in the United States: (1) when that person's mother was unlawfully present in the United States and the father was not a United States citizen or lawful permanent resident at the time of said person's birth, or (2) when that person's mother's presence in the United States at the time of said person's birth was lawful but temporary (such as, but not limited to, visiting the United States under the auspices of the Visa Waiver Program or visiting on a student, work, or tourist visa) and the father was not a United States citizen or lawful permanent resident at the time of said person's birth."

governments, and this "implementation" plan did nothing to address the procedural chaos and confusion that would result if the administration attempted to enforce this order.

What would be the effect of this Executive Order?

If this unconstitutional order were allowed to go into effect, it would deny birthright citizenship to a class of children that have parents with various statuses such as student visa holders, people with DACA, asylees, and people with work visas. Eliminating birthright citizenship for children of people in these categories would prevent them from accessing benefits they are legally entitled to, such as access to health care, the right to vote, access to education, employment, and other benefits afforded through U.S. citizenship. It could also leave some children born in the U.S. effectively stateless. Additionally, a U.S. birth certificate alone would no longer suffice as proof of citizenship. Parents would need to provide documentation of the mother's lawful status or the father's citizenship or permanent resident status. Procedurally, if the order were allowed to go into effect, the first step would be for agencies like the State Department, Department of Homeland Security, and the Social Security Administration to issue new regulations and guidance directing local and state governments, hospitals, and other entities on how to proceed with implementation.

This unlawful attempt to redefine birthright citizenship is cruel, unconstitutional, unlawful, and deeply racist. The Fourteenth Amendment explicitly provides that, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." When the Fourteenth Amendment was passed, it was clear to encompass children of immigrants. In fact, SCOTUS has upheld the Fourteenth Amendment's guarantee of birthright citizenship for children of immigrants born in the *United States in United States v. Wong Kim Ark*.

INITIAL LITIGATION EFFORTS: NATIONWIDE INJUNCTIONS

The implementation of this order faced significant legal challenges, with multiple lawsuits filed that challenge the EO as violating the Fourteenth Amendment (the "Citizenship Clause").

- The American Civil Liberties Union, ACLU of New Hampshire, ACLU of Maine, ACLU of Massachusetts, Asian Law Caucus, State Democracy Defenders Fund, and Legal Defense Fund filed a lawsuit (*New Hampshire Indonesian Community Support v. Trump*) in New Hampshire. New Hampshire federal court issued a preliminary injunction that blocked the birthright citizenship EO with respect to their plaintiffs on February 10, 2025.
- A second lawsuit (*State of Washington v. Trump*) was filed in Washington state by Washington, Arizona, Illinois, and Oregon. A preliminary nationwide injunction was issued blocking the EO on February 6, 2025.
- A third lawsuit (*State of New Jersey v. Trump*) was filed in Massachusetts by 17 Democratic-led states, the District of Columbia, and the City of San Francisco. The states are California, Colorado, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Rhode Island, Vermont, and Wisconsin. A preliminary nationwide injunction blocking the EO was issued on February 13, 2025.
- A fourth lawsuit (*CASA v. Trump*) was filed on January 21, 2025 on behalf of five pregnant mothers and hundreds of thousands of members of two immigrant-rights organizations—CASA and the Asylum Seeker Advocacy Project (ASAP). A federal district judge in Maryland granted a universal injunction against the EO on February 5, 2025.

In the last three cases, federal district court judges issued "universal" or "nationwide" injunctions against the EO, protecting not just the plaintiffs, but everyone across the nation who would have been impacted.

> ***"If I would not have been allowed to be a U.S. citizen just because of my father being an undocumented immigrant, I would have never been able to go to college and graduate with my bachelor's in psychology. I believe that birthright citizenship should not be taken away no matter your parents' citizenship status."***
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> **— Carmela, NC**

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First Supreme Court case and decision

The Trump administration appealed to the Supreme Court against these three nationwide injunctions. On May 15, 2025, SCOTUS heard consolidated oral arguments for *Trump v. CASA, Inc.*, *Trump v. Washington*, and *Trump v. New Jersey*, but the issue SCOTUS agreed to review was not whether the executive order itself is constitutional, but whether lower courts can use nationwide injunctions to block its enforcement. On June 27, 2025, SCOTUS sided with the Trump administration and denied the validity of universal or nationwide injunctions. This meant that many of the injunctions issued in the above cases could only block the EO from being enforced against the individuals who sued. The decision also specified that the EO could not go into effect until 30 days from the date of the Court's decision.

> ***"My mother came to the United States from the Dominican Republic when she was about five months pregnant with me, determined to build a better future for our family. Because I was born here, I am a U.S. citizen by birthright, a fact that has shaped every opportunity I've had. I carry both her resilience and the privileges of my upbringing with me, and I'm committed to using what I've been given to create opportunities for others."***
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> **— Anon, FL**

SECOND LITIGATION EFFORTS: CLASS ACTION

Immediately following the SCOTUS decision on *CASA v. Trump* in June 2025, the ACLU filed a new lawsuit called *Barbara v. Trump* in New Hampshire as a class action to get around the issue of nationwide injunctions. A class action is a type of lawsuit in which one or more people sue on behalf of a larger group that is referred to as the "class." In this case, the class is all children born on or after Feb. 20, 2025, who are subject to the order. On July 10, 2025, a federal district judge in New Hampshire issued a preliminary injunction barring the administration from enforcing the order for this class of children, blocking its enforcement against them. Since the class is so large, it effectively blocks the order nationwide, but it does not run into any legal conflicts with SCOTUS' ruling against universal injunctions.

Lawyers for *CASA v. Trump* also filed an amended class action complaint immediately following the initial SCOTUS decision. On August 7, 2025, the district court in Maryland certified a class of all children born after Feb. 19, 2025, who would be covered by the order and temporarily barred the Trump administration from enforcing the order against them.

Second Supreme Court case and decision

While *CASA v. Trump* continued in the lower courts, the Trump administration appealed to SCOTUS to review *Barbara v. Trump*, and on December 5, 2025, SCOTUS announced that it accepted the administration's petition to review the case. This time, SCOTUS was reviewing the constitutionality of the executive order itself. The central question the Court was considering was whether a presidential executive order that denies U.S. birthright citizenship to children born in the United States because their parents are unlawfully present or in the country on temporary visas is consistent with the Citizenship Clause of the Fourteenth Amendment and 8 U.S.C. § 1401(a). SCOTUS heard oral arguments for *Barbara v. Trump* on April 1, 2026.

On June 30, 2026, in a 6–3 decision, SCOTUS ruled that Executive Order No. 14160 is unconstitutional and affirmed that the Fourteenth Amendment guarantees birthright citizenship to all people born in the United States. As Chief Justice Roberts wrote in the decision, "Citizenship, then and now, was the right to have rights—to freely participate in our political community. The Framers of the Fourteenth Amendment extended that promise to 'every free-born person in this land.' We keep that promise today."

The *Barbara v. Trump* decision reaffirms a long-settled constitutional right, but this 150-year-old right should never have been brought before the Supreme Court. Birthright citizenship is a core part of what it means to be American and guarantees that all children born in the United States are equal under the law. While this case and its threat to our rights may be over for now, we know that attacks on immigrant communities will continue, so the National Latina Institute for Reproductive Justice will continue building power in Latine and immigrant communities and fight for a future of salud, dignidad y justicia—the future we all deserve.