



DEFEND BIRTHRIGHT CITIZENSHIP FOR ALL CHILDREN BORN IN TEXAS

On his first day back in office, President Trump announced Executive Order 14160,ⁱ which purports to end birthright citizenship for certain children born in the U.S. Under this order, a child would be denied citizenship at birth if their father is not a U.S. citizen or lawful permanent resident and their mother is either unlawfully or temporarily present in the U.S. The order also directs federal agencies to refuse to recognize these children as U.S. citizens, barring agencies from issuing citizenship documents to affected children and prohibiting agencies from accepting state or local documents affirming their citizenship.

A class action lawsuit challenging the executive order, *Barbara v. Donald J. Trump*,ⁱⁱ is currently working its way through the courts, and a preliminary injunction blocking the order nationwide is in place for now.ⁱⁱⁱ Additionally, on July 23, a federal court of appeals upheld a nationwide injunction put in place by a lower court in a separate lawsuit, *State of Washington v. Trump*,^{iv} finding that Executive Order 14160 is unconstitutional and that blocking its enforcement nationwide is the only way to grant “complete relief” to the states who have brought the lawsuit.^v

However, the outcome of all this litigation is uncertain. Therefore, it is still possible that Trump’s executive order seeking to deny birthright citizenship rights to children of certain immigrants could come into effect in Texas at some point soon.

How would Executive Order 14160 be implemented?

Even though the federal government is currently prohibited from enforcing the executive order, several federal agencies released guidance in July 2025 on how to implement the order if it comes into force.

1. Health and Human Services and the U.S. Department of Agriculture

Guidance from the Department of Health and Human Services (HHS)^{vi} and the U.S. Department of Agriculture’s (USDA) Food and Nutrition Service (FNS)^{vii} affirms that under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), with certain exceptions, only U.S. citizens, U.S. non-citizen nationals (e.g. individuals born in certain U.S. territories such as American Samoa), and qualified immigrants are eligible for federally funded benefits. In some cases, eligibility for immigrants is further limited to “only particular categories of qualified [immigrants].”^{viii} The “qualified” immigrants category includes:

- lawful permanent residents (green card holders);
- refugees, asylees, those granted withholding of deportation or removal, and conditional entrants;
- individuals granted parole for at least one year;
- Cuban and Haitian entrants;
- certain survivors of trafficking;
- certain abused immigrants and their children and/or parents; and
- individuals residing in the U.S. under a Compact of Free Association.^{ix}

The guidance from HHS and FNS then sets out the documents that can be used after Executive Order 14160 comes into force to verify eligibility for federal benefits by proving U.S. citizenship status or an eligible immigration status.

According to HHS and FNS guidance, children born in the United States after the executive order takes effect would have two options for establishing eligibility for federal benefit programs:

1. They could present a U.S. passport, a valid social security number, or any other document that the Secretary of HHS or Agriculture “may specify that provides proof of United States citizenship.”^x
2. Or, their parent could submit an Eligibility Attestation declaring that the child is either a citizen or was born in the U.S. to a mother who was a U.S. citizen, lawful permanent resident, or was “lawfully and permanently present within the United States” when child was born, or the child’s father was a U.S. citizen or lawful permanent resident when the child was born.^{xi} This Attestation must be supported by
 - a. a birth certificate showing that the child was born in the United States; and
 - b. a “Qualifying Parent Document” such as a U.S. passport, a valid social security number, or one of the other documents listed in the guidance as acceptable proof of the parent’s citizenship or immigration status.^{xii}

3. U.S. Citizenship and Immigration Services

The wording of Executive Order 14160 is confusing because it bases U.S.-born children’s eligibility for citizenship in part on whether their mother has lawful and permanent presence in the United States. In immigration law, “lawful status” is a recognized immigration classification that is defined in a statute or regulation. However, “lawful presence” is simply a term of art that refers to whether a person is accruing unlawful presence under immigration law that could eventually trigger a bar to re-entering the U.S. without authorization, either permanently or for a set period.

While a person’s lawful *status* may be either permanent or temporary, it does not make sense to speak about an individual’s lawful *presence* being temporary or permanent because the length of time a person may ultimately remain lawfully present in the country is unknown, and their immigration status may change over time. People with lawful presence are often waiting for decisions on pending immigration statuses, and it is even possible for an individual to be lawfully present without having lawful status—this is the case for DACA recipients.

On July 25, 2025, U.S. Citizenship and Immigration Services (USCIS) issued a policy alert outlining its “Implementation Plan of Executive Order 14160.”^{xiii} That document acknowledges the distinction between unlawful status and unlawful presence, and it provides a list of categories of individuals whom USCIS defines as having presence that is “lawful but temporary.” This list includes, among others:

- individuals with Temporary Protected Status;
- those who have been granted withholding of removal or deferral of removal under the Convention Against Torture;
- deferred action recipients (such as DACA recipients);
- citizens of “Compacts of Free Association” states; and
- individuals with nonimmigrant visas—including those granted a T or U visa because they are a victim of trafficking, domestic violence, sexual assault, or other crimes.

Therefore, under the executive order, babies born to mothers who hold one of these statuses would not be granted U.S. citizenship unless their father is a U.S. citizen or a lawful permanent resident at the time of their birth.

The only categories of immigrants whose presence USCIS considers to be “lawful and *not* temporary”—that is, the kind of presence a mother must have in order for her child to be recognized as a U.S. citizen if the child’s father is not a U.S. citizen or lawful permanent resident—are lawful permanent residents, conditional permanent residents, asylees, refugees, U.S. non-citizen nationals, and certain “American Indians born in Canada.”

It is unclear whether children would be granted or denied birthright citizenship in cases where the father is not a U.S. citizen or lawful permanent resident and the mother is lawfully present but holds a status that is not specifically listed in the Implementation Plan as conferring either temporary or *not* temporary presence, such as having a pending asylum application.

The Implementation Plan states that “DHS and USCIS will propose appropriate action to ensure that birth in the United States to individuals who possess lawful immigration status does not result in any negative immigration consequence for the child.” Specifically, USCIS intends to allow children of immigrants who have “lawful but temporary status to register to acquire any lawful status that at least one parent possesses,” and to “defer immigration enforcement against such children” until this process can be implemented.

However, the Implementation Plan does nothing to address the lingering issues these children would face without permanent status in the United States. Some would be left stateless. Many would be ineligible for federal benefits programs. Their temporary status would create long-term uncertainty for their lives in the United States and could significantly limit their academic and professional opportunities over time.

Most concerning, the Implementation Plan includes no pathway for children to obtain lawful status, either temporarily or permanently, if they are born to parents who lack lawful status, and there is no guarantee against “negative immigration consequences” for such children.

4. Social Security Administration

Guidance issued by the Social Security Administration (SSA) on implementing Executive Order 14160 states that once the Executive Order comes into force, “a birth certificate showing a U.S. place of birth will not be sufficient documentary evidence of U.S. citizenship for persons born after the EO takes effect.”^{xiv} Therefore, to prove citizenship for the purpose of applying for a social security number (SSN), “SSA will require evidence that such a person’s mother and/or father is a U.S. citizen or in an eligible immigration status at the time of the person’s birth.”

Currently, the easiest way for parents to obtain a social security number (SSN) for a newborn in Texas is to apply at the same time they provide information for their child’s birth certificate at the hospital,^{xv} through the Enumeration at Birth (EAB) program.^{xvi} According to SSA’s implementation guidance, SSA would “continue to operate and fully automate the SSN assignment” once the executive order comes into effect.^{xvii} In cases where parental SSNs are provided as part of the hospital birth registration process, SSA plans to “conduct an automated verification of U.S. citizenship or eligible-immigration-status check using the parental SSN(s).”^{xviii} SSA would first check its own records for information that was obtained about citizenship or immigration status at the time an SSN was issued to the parent(s), and if no such information is available, SSA would attempt to verify parental citizenship or immigration status through the “Systematic Alien Verification for Entitlements” (SAVE) program “or similar online service.”^{xix}

However, in cases where the “U.S. citizenship or eligible immigration status cannot be determined”—such as when a parent has not provided an SSN—SSA would not process the EAB record or issue an SSN. Instead, SSA would reach out to the parent(s) by mail instructing them to call an 800 number to provide identifying information for their child to identify their child’s unprocessed EAB record. If the EAB record is identified, then parent(s) would be instructed to “provide self-attestation, subject to State and Federal penalties for perjury, affirming they are either a U.S. citizen or have an eligible immigration status, and the record will be processed.”^{xx} If an EAB record is not identified or a parent does not provide the required self-attestation, SSA would provide “instructions on new required proofs of U.S. citizenship or eligible immigration status for the parent.”^{xxi}

If a U.S. citizen parent were to apply for their child’s SSN at an SSA office after Executive Order 14160 comes into effect, they would need to provide “[a]n SSN record of either parent which indicates citizenship or a U.S. place of birth,” or a document “conforming to 20 CFR 422.107(d),” such as a U.S. passport, birth certificate, or certificate of naturalization.^{xxii}

In the future, U.S. citizen parents who themselves were born in the United States after the executive order becomes effective may have to provide proof of a U.S. birthplace plus proof of *their* parents' U.S. citizenship or eligible immigration status to establish that their child is entitled to citizenship. (Several other kinds of documents are listed in SSA's implementation guidance as acceptable evidence of U.S. citizenship, but a U.S. passport is the only one that most U.S.-born citizens would possess.)

SSA's guidance suggests that Under Executive Order 14160, many of the babies born to parents without U.S. citizenship or an eligible immigration status would not only be denied citizenship but would also be denied an SSN. This would certainly be the case for babies born to immigrant parents who lack an SSN themselves.

Without an SSN, a U.S.-born child could not be enrolled in federal benefits programs like Medicaid, SNAP,^{xxiii} or potentially Head Start.^{xxiv} Federal benefits programs are open to certain lawful immigrants,^{xxv} but under Executive Order 14160, U.S.-born children whose parents lack lawful presence will not hold any lawful immigration status at all.

Protecting the constitutional right to citizenship for all babies born in Texas is crucial to ensuring the health and safety of all Texas children.

1. Refusing to recognize the citizenship of U.S.-born children based on their parents' citizenship or immigration status violates the U.S. Constitution.

The Fourteenth Amendment of the U.S. Constitution grants citizenship to everyone who is born or naturalized in the U.S. and subject to its jurisdiction. For over a century, the Supreme Court has upheld this fundamental right, affirming in an 1898 ruling that it applies to the children of noncitizens.^{xxvi} Executive Order 14160 defies that legal precedent and attempts to strip away a core constitutional protection.^{xxvii}

In the recent case of *Trump v. CASA*,^{xxviii} the Supreme Court of the United States struck down nationwide injunctions issued by three different federal judges to block this executive order, ruling that federal judges only have authority to issue nationwide ("universal") injunctions in cases where they are necessary to grant "complete relief" to the specific parties in the case being decided.

However, the Court did not consider the question of whether Executive Order 14160 itself was constitutional. Therefore, the Court's decision in *Trump v. Casa* does not change its longstanding interpretation of the Fourteenth Amendment right to citizenship for children born on U.S. soil.

2. Taking away birthright citizenship from some children is an attack on the rights of all citizens.

Any attempt to sidestep the Constitution and deny fundamental rights to a specific group should concern all Americans. If the government can ignore birthright citizenship when it comes to the children of certain immigrants, what is to stop it from disregarding other constitutional protections? Weakening one part of the Constitution weakens all of it—eroding the very foundation of our democracy and the rights we all depend on.

3. Ending birthright citizenship would inflict immediate, long-term, and intergenerational harm on children and their families.

A lawsuit filed by 18 states, the District of Columbia, and the city and county of San Francisco warns that Executive Order 14160 would deny citizenship to more than 150,000 children born in the U.S. each year.^{xxix} In 2022 alone, an estimated 153,000 children were born to two undocumented parents.^{xxx} Yet the true impact of ending birthright citizenship is even broader. As discussed above, the order also targets many children whose parents are lawfully present in the U.S.—such

as through Temporary Protected Status (TPS) or a student or work visa—dramatically increasing the number of families affected.

Without U.S. citizenship, these children would face long-term uncertainty in their legal status, making them vulnerable to immigration detention, deportation, exploitation, and abuse.

- Denying these children the right to citizenship in the country of their birth would leave many of them stateless, without the rights, protections, or belonging that citizenship provides in *any* country.
- Lack of U.S. citizenship or other lawful status would block children’s access to critical federal benefits like nutrition assistance, health insurance through CHIP or Medicaid, and other life-saving programs, compromising their ability to grow up healthy, safe, and secure.
- Growing up undocumented or with temporary status, these children would be denied the same educational and employment opportunities as their peers.
- Throughout their lives, lack of status or an uncertain status could prevent them from enforcing their rights against exploitative employers, seeking support to leave situations of violence or abuse, reporting crime, or getting medical care in emergencies.
- Lacking citizenship or lawful immigration status in the United States, many of these children would also face the looming threat of deportation at any time.
- U.S. children who are denied citizenship could be removed to countries where they have no legal rights, no support network, and no resources. They may also be sent to countries where they will be trafficked or persecuted, or where armed conflict, gang violence, or extreme poverty places their lives at risk.
- Additionally, forcibly removing U.S.-born infants or children to another country could be used to coerce entire families into leaving the U.S. alongside them, even if the child’s family members include lawfully present immigrants and/or U.S. citizens.

4. Ending birthright citizenship would weaken our democracy.

The harm caused by this executive order extends far beyond the children of immigrants. Ending birthright citizenship, a fundamental right enshrined in the Constitution, would have profound and lasting consequences for our democracy and society.

Research has found that ending birthright citizenship could dramatically increase the population of undocumented people in the United States over time.^{xxx} Children denied citizenship would pass their uncertain legal status to future generations, creating a legally and socially disadvantaged class of millions of people who lack basic rights.^{xxxii} Despite being born in the United States, along with their parents and grandparents, these individuals would be unable to vote, access critical services, or fully participate in civic life.

5. Blocking access to federal benefits programs for U.S.-born children would increase long-term costs for Texans and our economy.

Many of the children who are born in the United States but denied citizenship under the executive order would be ineligible for federal benefits programs that provide nutrition assistance, health insurance coverage, early childhood education, or other supports. Our state will bear the long-term financial consequences of denying these children the resources they need to thrive.

Lack of access to preventative health services or regular medical care would result in delayed medical attention, worse health outcomes, and higher-cost, uncompensated care at Texas emergency rooms. Meanwhile, increased food insecurity and housing instability as families are blocked from accessing critical supports would compromise children’s brain development, psychological well-being, and academic performance. Lack of citizenship would create barriers to children’s thriving in all areas of life, compromising their ability to grow into happy, healthy, financially self-sufficient adults who are able to provide a secure, prosperous future for themselves and their future families.

Author: Trudy Taylor Smith, Esq., Senior Administrator of Policy and Advocacy, CDF-TX

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- ⁱ United States, Executive Office of the President [Donald J. Trump]. Executive Order 14160: Protecting the Meaning and Value of American Citizenship. *Federal Register*, Jan. 20, 2025. <https://www.federalregister.gov/documents/2025/01/29/2025-02007/protecting-the-meaning-and-value-of-american-citizenship>.
- ⁱⁱ *Barbara v. Donald J. Trump*. United States (District Court for the District of New Hampshire). Complaint for Declaratory and Injunctive relief; Class Action L.R. 23.1 (1:25-cv-00244), Jun. 27, 2025. *Court Listener*, <https://www.courtlistener.com/docket/70651853/1/barbara-v-trump/>.
- ⁱⁱⁱ Ramer, Holly and Catalini, Mike, “Judge in New Hampshire to pause Trump’s birthright citizenship plan, certify class action lawsuit.” *PBS News*, Jul. 10, 2025.
- ^{iv} *State of Washington v. Trump*. United States (District Court for the Western District of Washington). Complaint for Declaratory and Injunctive Relief; 2:25-cv-00127, Jan. 21, 2025. *Court Listener*, <https://www.courtlistener.com/docket/69561931/state-of-washington-v-trump/>.
- ^v The Associated Press. “Appeals court upholds block against Trump’s effort to end birthright citizenship.” *NPR*, Jul. 24, 2025. <https://www.npr.org/2025/07/24/nx-s1-5478384/birthright-citizenship-appeals-court-blocks-trump>.
- ^{vi} United States, Department of Health and Human Services (HHS). “Guidance on Protecting the Meaning and Value of American Citizenship (Executive Order 14160) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.” Jul. 25, 2025. <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/citizenship-eo-guidance-hhs-508.pdf>. Accessed Aug. 7, 2025.
- ^{vii} United States, Department of Agriculture, Food and Nutrition Service (FNS). “Guidance on Protecting the Meaning and Value of American Citizenship (Executive Order 14160) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.” Jul. 25, 2025. <https://fns-prod.azureedge.us/sites/default/files/resource-files/usda-citizenshipEOGuidance-072625.pdf>. Accessed Aug. 7, 2025.
- ^{viii} *Ibid.*
- ^{ix} 8 U.S.C. §1641; see also Broder, Tanya and Lessard, Gabrielle. “Overview of Immigrant Eligibility for Federal Programs.” National Immigration Law Center. May 1, 2024. <https://www.nilc.org/resources/overview-immeligfedprograms/>. Accessed Aug. 7, 2025.
- ^x HHS, *supra* note vi, and FNS, *supra* note vii.
- ^{xi} *Ibid.*
- ^{xii} *Ibid.*
- ^{xiii} United States, Citizenship and Immigration Services. *USCIS Implementation Plan of Executive Order 14160 – Protecting the Meaning and Value of American Citizenship*. Jul. 25, 2025. https://www.uscis.gov/sites/default/files/document/policy-alerts/IP-2025-0001-USCIS_Implementation_Plan_of_Executive_Order_14160%E2%80%93Protecting_the_Meaning_and_Value_of_American_Citizenship.pdf. Accessed Aug. 8, 2025.
- ^{xiv} United States, Social Security Administration. *Guidance on Protecting the Meaning and Value of American Citizenship (Executive Order 14160) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996*. Jul. 2025. <https://www.ssa.gov/sites/g/files/npxnvu131/files/2025-07/SSA%20Guidance%20Document%20-%20EO%2014160.pdf>. Accessed Aug. 1, 2025.
- ^{xv} United States, Social Security Administration. *Social Security Numbers for Children*. Jan. 2024. <https://www.ssa.gov/pubs/EN-05-10023.pdf>. Accessed Jul. 21, 2025.
- ^{xvi} United States, Social Security Administration, *supra* note xiv.
- ^{xvii} *Ibid.*
- ^{xviii} *Ibid.*
- ^{xix} *Ibid.*
- ^{xx} *Ibid.*
- ^{xxi} *Ibid.*
- ^{xxii} *Ibid.*
- ^{xxiii} In some cases, newborns have been allowed to enroll in SNAP and Medicaid without an SSN if a Social Security application has been submitted on their behalf, but in those cases, the SSN must be submitted once it is received.
- ^{xxiv} Head Start was recently identified in a Notice from HHS as constituting a “Federal benefits program”: United States, Health and Human Services, Office of the Secretary. *Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)*;

Interpretation of “Federal Public Benefit”. Jul. 10, 2025. <https://www.hhs.gov/sites/default/files/prwora-notice.pdf>. Accessed Jul. 17, 2025.

^{xxv} “Qualified immigrants,” as defined in [8 USC 1641 §1641\(b\)](#), are eligible for some federal benefits programs, but the “One Big Beautiful Bill Act” (H.R.1 - 119th Congress (2025-2026): One Big Beautiful Bill Act.” *Congress.gov*, Library of Congress, 4 July 2025, <https://www.congress.gov/bills/119th-congress/house-bill/1/text/enr>.) further limits eligibility for Medicaid and SNAP to an even narrower group of lawful immigrants; see Protecting Immigrant Families Coalition, “Provisions on Immigrants’ Access to Public Benefits in the Final Reconciliation Package.” July 2025.

<https://docs.google.com/document/d/1HqIRPLQCFhVLuDwhBOSKjpr1RjfE3gDIPtVzcNNJ4xk/edit?tab=t.0>.

^{xxvi} U.S. Supreme Court, *United States v. Wong Kim Ark*, 169 U.S. 649 (1898). *Justia*, <https://supreme.justia.com/cases/federal/us/169/649/>; The University of Texas at Austin, Department of History, “United States v. Wong Kim Ark (1898).” *Immigration History*, 2019. <https://immigrationhistory.org/item/united-states-v-wong-kim-ark-1898/>.

^{xxvii} Somin, Ilya, “Birthright Citizenship and Undocumented Immigrants.” *Just Security*, Nov. 25, 2024.

<https://www.justsecurity.org/105176/birthright-citizenship-undocumented-immigrants-2/>.

^{xxviii} United States, Supreme Court. *Trump v. CASA, Inc.* Jun. 27, 2025. *Legal Information Institute*, Cornell Law School,

<https://www.law.cornell.edu/supremecourt/text/24A884>.

^{xxix} Raymond, Nate. “22 Democratic-led states sue over Trump’s birthright citizenship order.” *Reuters*. Jan. 21, 2025.

<https://www.reuters.com/legal/lawsuits-challenge-trumps-birthright-citizenship-other-orders-2025-01-21/>.

^{xxx} *State of New Jersey v. Donald J. Trump* (U.S. District Court for the District of Massachusetts). Complaint for Declaratory and Injunctive Relief (1:25-cv-10139), Jan. 21, 2025 at p. 22. <https://www.mass.gov/doc/birthright-citizenship-eo-complaint/download#page=22>.

^{xxxi} Fix, Michael and Van Hook, Jennifer, “The Demographic Impacts of Repealing Birthright Citizenship.” *Migration Policy Institute*. September 2021. <https://www.migrationpolicy.org/research/demographic-impacts-repealing-birthright-citizenship>. Accessed Jul. 21, 2025.

^{xxxii} Fix, Michael, “Repealing Birthright Citizenship: The Unintended Consequences.” *Migration Policy Institute*. Aug. 2015.

<https://www.migrationpolicy.org/news/repealing-birthright-citizenship-unintended-consequences>. Accessed Jul. 21, 2025.