

Executive Order on Protecting the Meaning and Value of American Citizenship Frequently Asked Questions January 2025

What is an Executive Order (EO)?

An [executive order](#) is a written directive that assigns actions to various federal departments. An executive order uses the President's executive authority and is outside of legislation approved by Congress. Executive orders are published in the [Federal Register](#) with certain exceptions.

Did President Trump issue a new executive order on birthright citizenship?

Yes. On January 20, 2025, President Trump issued an [Executive Order entitled "Protecting the Meaning and Value of American Citizenship."](#)

What is birthright citizenship?

Birthright citizenship refers to the practice of automatically granting citizenship upon birth. In the United States, birthright citizenship has two forms: birthplace-based citizenship and ancestry-based citizenship. Please see Global Refuge's [Birthright Citizenship Frequently Asked Questions](#) for more information on birthright citizenship.

What is the source of law for birthright citizenship in the U.S.?

In the United States, birthright citizenship is guaranteed under the [Citizenship Clause](#) within the 14th Amendment of the [U.S. Constitution](#), which states that anyone born or naturalized in the United States is automatically a citizen of the United States.

The 14th Amendment to the Constitution was passed in 1868 and [overturned the Supreme Court's Dred Scott decision](#) which ruled that slaves and formerly enslaved persons were not entitled to citizenship. Decades later, the U.S. Supreme Court issued a landmark decision in [United States v. Wong Kim Ark](#), stating that all children born in the United States are U.S. citizens regardless of the status of their parents. This case is the legal precedent for birthright citizenship.

Notably, the most recent legal precedent for birthright citizenship is not mentioned in the Executive Order.

What policy changes are in the new executive order on birthright citizenship?

This executive order prohibits all United States government departments and agencies from issuing documents recognizing United States citizenship to babies in two circumstances:

- when the mother has unlawful presence in the United States and the father is neither a United States citizen nor a lawful permanent resident at the time of the baby's birth (e.g. Mom is undocumented);

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- and when the mother has lawful but temporary presence in the United States and the father is neither a United States citizen nor a lawful permanent resident at the time of the baby's birth (e.g. Mom has Temporary Protected Status or H-1B visa).

When does this executive order go into effect?

The Executive Order is intended to go into effect 30 days after its issuance on January 20, 2025.

Are U.S. citizen children living here now in the U.S. with undocumented parents impacted by this Executive Order?

No. The Executive Order does not apply to them.

If implemented, what documents would be denied by this EO to the impacted babies?

It could include the State Department halting the issuance of passports to those impacted babies and the Social Security Administration halting the issuance of social security numbers and cards to the newborn babies.

What impact would this EO have on impacted babies?

They would be effectively a permanent underclass. Children denied citizenship and identification such as a social security card would be unable to legally work¹ or vote and [have limited access to higher education](#) in the United States. It's possible that some children born in the U.S. and denied U.S. citizenship could become [stateless](#) due to variations in ancestry-based citizenship in their parents' home countries.

Can children of undocumented parents still get birth certificates? Can U.S. citizens whose parents are undocumented still apply for passport?

Individuals should consult an immigration attorney.

Could the executive order on birthright citizenship be challenged in court?

Yes. Two separate federal lawsuits, in [U.S. District Court of Massachusetts](#) and [U.S. District Court for the Western District of Washington](#) have been filed representing Attorneys General of 22 states across the country, challenging the [constitutionality](#) of the executive order. Another [lawsuit](#) was filed in the [U.S. District Court of Maryland](#).

On January 23, 2025, a federal judge in Seattle, WA, blocked enforcement of the executive order, granting a 14-day [temporary restraining order \(TRO\)](#). A court hearing is set for February 6, 2025, on a preliminary injunction, which would halt the executive order while the [case](#) proceeds.

Has any other U.S. President issued an executive order on citizenship?

Yes. In 1925, President Calvin Coolidge issued [Executive Order 4359-A, Citizenship, Passports and Protection](#), which changed the Consular Regulations to incorporate the [1924 Indian Citizenship Act](#), which stated that "all noncitizen Indians born within the territorial limits" of

¹ It is important to note that U.S. citizens and noncitizens authorized to work in the U.S. are [eligible for Social Security numbers \(SSNs\)](#).

the United States are U.S. citizens. The executive order also specified the denial of naturalization to “Japanese, Hindus and Chinese, who served in the armed forces of the United States” during World War I, based on the Supreme Court case of [*Hidemitsu Toyota v. U.S.*](#) (1925). Prior to the *Toyota v. U.S.* decision, judges had naturalized at least 500 [Asian immigrant servicepersons and veterans](#) between 1918 and 1925.

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