

Know Your Rights: Trump's Birthright Citizenship Executive Order

Overview

The Supreme Court will soon be deciding the fate of President Trump's executive order on birthright citizenship.

The executive order seeks to strip birthright citizenship from children born in the United States to parents who lack permanent immigration status. Though the executive order was issued on January 20, 2025, lawsuits have so far effectively blocked the Trump administration from implementing it. Among the lawsuits challenging the executive order is [Barbara v. Trump](#), a nationwide class action case filed by the Asian Law Caucus and our partners, the American Civil Liberties Union, ACLU of New Hampshire, ACLU of Maine, ACLU of Massachusetts, NAACP Legal Defense Fund, and State Democracy Defenders Fund.

Through *Barbara v. Trump* (abbreviated as *Barbara* in this resource), we secured a preliminary injunction (court order), that prohibits the Trump Administration from enforcing the executive order against any affected children born in the United States.

The Barbara case is now before the Supreme Court. The Court will determine whether the executive order is unlawful. The stakes cannot be higher. The executive order, if allowed to go into effect, will cause harm to all of our communities and the nation as a whole. This resource addresses questions about the executive order, its implication and potential impacts. ALC will continue to update this webpage with any developments in the case.

If you are concerned that your child or family member might be impacted by Trump's executive order and would like to speak with the Asian Law Caucus, please [provide your contact information](#) and someone from ALC will follow up with you directly.

Barbara Case Updates

Q. What will the Supreme Court be deciding in *Barbara*?

In *Barbara*, the Supreme Court is being asked to decide whether the executive order violates the Citizenship Clause of the Fourteenth Amendment of the US Constitution and/or the Immigration Nationality Act.

Q. When should we expect a decision from the Supreme Court?

The Supreme Court is expected to issue a decision in *Barbara* this year, before the end of the Court's current term in June or July. The Supreme Court will hear oral argument on April 1.

Q. Is there currently a court order blocking the executive order?

Yes, to date, the Trump administration has not been allowed to enforce their executive order on birthright citizenship. Legal challenges, including our *Barbara* lawsuit have been successful in securing temporary court orders, called preliminary injunctions, that prohibit the executive order from going into effect. The preliminary injunction in *Barbara* applies to and protects all children, nationwide, who are targeted by the executive order, no matter the state in which they are born.

Q. What does it mean that *Barbara v. Trump* is a “class action lawsuit”?

A class action is a lawsuit where one or more individuals sue on behalf of a larger group of people. The full group of people who can get relief is known as the “class” or “class members.”

Barbara v. Trump is a class-action case filed by ALC and our partners that seeks to strike down the Trump administration's executive order on birthright citizenship and permanently stop the administration from applying it to anyone. We filed the case on June 27, 2025 to address the gaps in protection from the executive order that were left by the Supreme Court's decision in *Trump v. CASA*.

Q. Who is a “class member” in *Barbara*?

All children who are targeted by the executive order are automatically class members in *Barbara*. That means all children born in the United States on or after February 20, 2025 are part of the class if: (1) their father was not a United States citizen or lawful permanent resident at the time of their birth, and (2) their mother's presence in the United States was unlawful or lawful but temporary at

the time of their birth. For more detailed information, please see below (“Who does the executive order apply to?”).

Background on Birthright Citizenship

Q. What is birthright citizenship?

Birthright citizenship refers to the legal principle that someone born in a country is automatically a citizen of that country, regardless of their parents’ immigration status. The United States is one of [over 30 countries with birthright citizenship](#). Birthright citizenship is a constitutional right guaranteed by the Citizenship Clause of the 14th Amendment of the U.S. Constitution and federal statute. For over 100 years and across multiple generations, U.S. law has guaranteed that if you are born in the United States, you are a citizen.

Q. Why is birthright citizenship so important?

Birthright citizenship embodies America’s most fundamental promise that all children born on our soil begin life as full and equal members of our national community, regardless of their parents’ race, origins, status or circumstances. This principle has enabled generations of children to pursue their dreams and build a stronger America.

Q. What does President Trump’s executive order say about birthright citizenship?

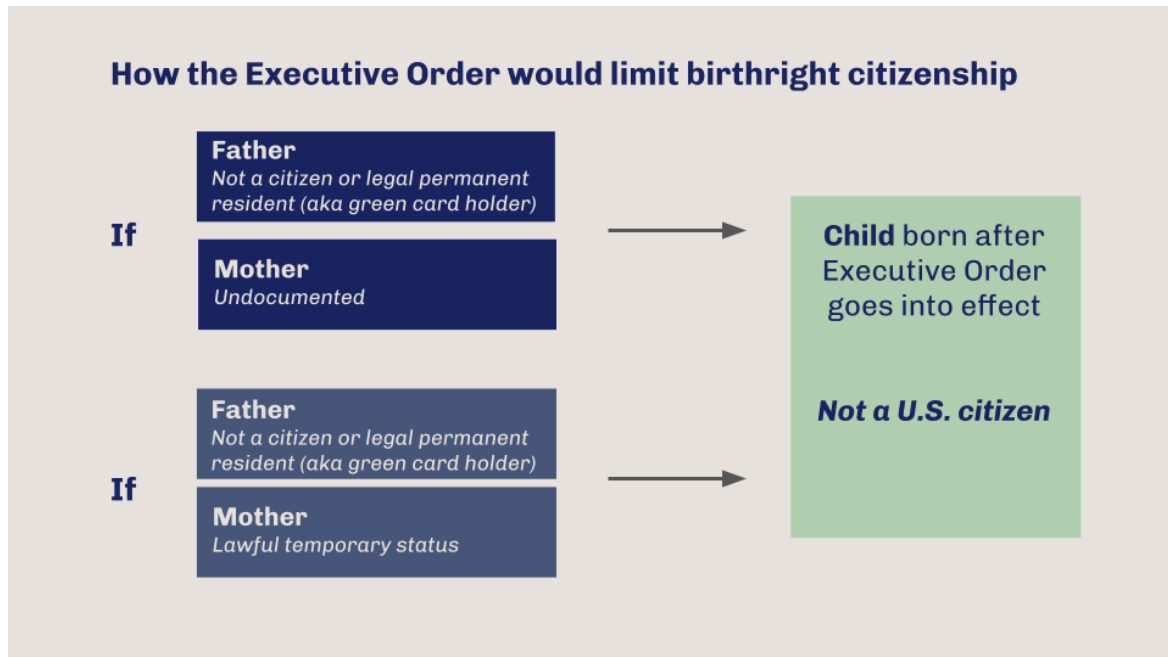
As written, the executive order attempts to get rid of birthright citizenship for U.S.-born children of certain immigrants, born after February 19, 2025. Specifically, it says the government will no longer recognize citizenship for a child born in the United States if their father is not a citizen or legal permanent resident, and if their mother is (1) in the U.S. without legal status or (2) in the U.S. on a “lawful but temporary” basis.

Q. Who would the executive order apply to?

If the executive order were to go into effect, it would apply to any child born in the United States whose father is not a U.S. citizen or legal permanent resident, and whose mother is in the U.S. without legal status or in the U.S. on a “lawful but temporary” basis. “Lawful but temporary” status includes, but is not limited to, mothers with:

- Humanitarian visas and pending applications, including pending applications for U-visas, T-visas, and asylum
- Temporary protected status (TPS) and humanitarian parole

- Deferred Action for Childhood Arrival (DACA) recipients
- Student, work and family visas, such as H-1B (specialty occupation workers), H-4 (dependents of H-1B), H2-a (temporary agricultural workers), F-1 (students), J-1 (exchange visitors), L-1 (intra-company transferees), L-2 (dependents of L-1), O-1 (extraordinary ability), and P-1 (athletes and entertainers)
- Tourist visas, such as B-1 (business visitors) and B-2 (tourists).



Q. How would the executive order affect newborn children?

A child stripped of U.S. citizenship under this executive order would be denied their rights as a U.S. citizen. The child will not be able to obtain a Social Security card or U.S. passport. The child’s access to critical federal programs like CHIP, SNAP and Medicaid will be jeopardized. Unless they find another way to get immigration status as they grow up, they will be barred from voting, jury service and holding certain jobs.

Q.What if one parent is a U.S. citizen or lawful permanent resident?

Under the executive order, a child born in the U.S. to a parent who is a U.S. citizen or lawful permanent resident would still be considered a citizen, regardless of the other parent’s immigration status.

Still, the executive order would make proving citizenship more complicated for everyone, including U.S. citizens, because state-issued birth certificates would no longer qualify as proof of citizenship.

Q. Would the executive order affect mothers who have asylee or refugee status?

The executive order does not explicitly address children whose mothers have asylee or refugee status, and whose fathers are neither U.S. citizens or legal permanent residents. The U.S. Citizenship and Immigration Services (USCIS) did, however, issue [a July 25, 2025 memo](#) stating that people granted asylum and refugee status are “lawful and not temporary.” Therefore, according to USCIS, the executive order should not apply to mothers who have been granted asylum or refugee status. It is important to note that the July 25 USCIS memo is not currently in effect. The memo is only an indication of how the agency plans to implement the executive order, if the executive order is upheld by the Supreme Court.

Q. What would limiting birthright citizenship mean for this country?

Taking birthright citizenship away from children born in the U.S. to parents who lack permanent immigration status would not only impact immigrant communities, but every American. The harms and disadvantages of any implementation are clear and unavoidable:

- **The executive order’s restrictions on birthright citizenship would mean childbirth becomes a time of increased vulnerability for all families.** Currently, all children born in the U.S. can apply to get their social security number without any investigation into their parents’ immigration status. The executive order will likely change that. In order to get a Social Security number and be recognized as a citizen, each and every newborn would be subjected to verification of parental citizenship and immigration status.
- **Trump’s policy would be costly to parents and all taxpayers.** [The American Immigration Council \(AIC\) points out that ending birthright citizenship would be extremely costly and time consuming.](#) The U.S. government would have to create a large new bureaucracy responsible for determining the citizenship of all children born in the U.S. State governments, who are tasked with recording the birth of children and then reporting that to the Social Security office, would incur significant costs from developing new systems to verify children’s citizenship status. [A study from the National Foundation for American Policy](#) estimated that ending birthright citizenship

would cost parents \$600 in government fees to prove the citizenship status of each baby, and likely an additional \$600 to \$1,000 in legal fees.

- **Trump's policy would complicate the way U.S. citizens prove their status.** A U.S. birth certificate is typically sufficient to prove U.S. citizenship, but if this executive order goes into effect, a U.S.-issued birth certificate will no longer provide evidence of citizenship. Citizen verification will instead require proof of the parents' immigration status at the time of the baby's birth – an invasive process that will inevitably be burdensome and fraught with potential error, complications, and delay.
- **Stripping birthright citizenship from children targeted by the executive order would make those children undocumented and potentially stateless.** Children affected by this order face risks of health and economic instability as they would be ineligible for basic benefits through federal programs like CHIP, SNAP and Medicaid. And without citizenship, their immigration status would be uncertain. They would face exclusion from society and potential deportation. The fear and uncertainty can be extremely damaging for children and their families. Some children would be left stateless, without any country recognizing them as a national or a citizen. [Robbed of any national identity, protection or rights, stateless persons are vulnerable to discrimination and human rights abuses.](#)

Q. If children are denied U.S. citizenship because of Trump's executive order, could they get citizenship from their birth parents' home country?

If the order goes into effect, whether impacted children could get citizenship from their parents' home country would depend on different factors, including, but not limited to, their parents' immigration status, home country, and whether the U.S. has diplomatic relations with their parents' home country. Without birthright citizenship, some children could be left stateless, without any country recognizing them as a national or a citizen.

Q. If not by an executive order, are there other ways that politicians can get rid of birthright citizenship?

Birthright citizenship is set forth under the Citizenship Clause of the Fourteenth Amendment of the United States Constitution, as well as a federal statute called the Immigration Nationality Act.

Congress could try to remove the birthright citizenship provided by the Immigration National Act through legislation. Any changes to the Citizenship Clause of the Fourteenth Amendment would require a constitutional amendment

that needs either a two thirds majority vote in both the House and the Senate, or a constitutional convention called for by two-thirds of the state legislatures. Three quarters of the nation's state legislatures would also need to ratify the amendment.

Q. What can I do to fight back against this illegal and inhumane order?

If you are an individual who may be directly impacted by Trump's executive order, or if you would like to learn about how you can support the campaign to protect birthright citizenship, [please contact the Asian Law Caucus through this form.](#)

Sharing resources and knowledge with your family, friends and networks is one of the most powerful things we can do in the face of Trump's agenda of chaos, fear, and division. Remind them that birthright citizenship is a constitutional right! Feel free to share the information on this page, and other resources listed below from ALC and our trusted community partners.

We must continue to advocate for what our families, neighbors and communities really need. President Trump and his billionaire backers are pursuing a reckless attack on our freedoms instead of solving the problems that would create safer communities and brighter economic futures. People who have work or student visas or who came to the U.S. as refugees and asylum seekers are also aspiring citizens. But the immigration system moves slowly, and people must overcome tremendous hurdles that take years and years, if it ever works. Most Americans believe that we should have an immigration system that is rooted in our values and that helps people put down roots and thrive. In the face of these unconstitutional attacks, we can join together to fight for what our communities truly need.

Q. Where can I learn more?

- [Defending Birthright Citizenship toolkit](#)
- [Defending Birthright Citizenship talking points](#)
- [ALC: Wong Kim Ark's Legacy Lives on With Us](#)
- [ALC Know Your Rights Guide for Immigrant Communities](#)
- [NILC: Know Your Rights Resource Page](#)
- [Native American Rights Fund: Native Americans and Immigration Enforcement - Know Your Rights](#)
- [American Immigration Council: Birthright Citizenship in the United States](#)
- [AAPI New Jersey: Teaching the 14th Amendment and Birthright Citizenship](#)
- [Latina Institute: Share your Story](#)

