

BIRTHRIGHT CITIZENSHIP IN THE U.S.

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Birthright citizenship has been a fundamental principle of U.S. law since the passage of the 14th Amendment in 1868. It guarantees that anyone born on U.S. soil automatically becomes a citizen, regardless of their parents' immigration status. This principle has been central to shaping the nation's identity and ensuring equality for all individuals born in the United States. However, in recent years, challenges to birthright citizenship have surfaced, raising important legal and social questions about its future. This fact sheet explores the significance of birthright citizenship, the challenges it faces, and the potential consequences of altering this long-established legal doctrine.

WHAT IS BIRTHRIGHT CITIZENSHIP IN THE U.S.?

Birthright citizenship is the legal principle that grants automatic U.S. citizenship to nearly all individuals born within the country, regardless of their parents' nationality or immigration status. This right is enshrined in the [14th Amendment](#) to the U.S. Constitution, which states, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States." The phrase "subject to the jurisdiction thereof" excludes a [limited group](#), such as children of foreign diplomats who are not fully under U.S. legal authority and thus generally immune from arrest, detention, and prosecution for criminal offenses in the U.S., exempt from paying federal, state, and local taxes, and insulated from other civil actions. This interpretation ensures that most individuals born on U.S. soil are guaranteed citizenship, forming the foundation of equality and inclusion within the American legal framework.

WHAT DO TRUMP'S EXECUTIVE ACTIONS SAY ABOUT BIRTHRIGHT CITIZENSHIP?

In a Day 1 [executive order](#), President Trump attempts to reinterpret the 14th Amendment, restricting birthright citizenship for certain children born in the U.S. Specifically the order would deny automatic citizenship to those born on American soil if: (a) their biological mother was unlawfully present, and the biological father was not a U.S. citizen or lawful permanent resident at the time of birth; or (b) the biological mother was in the U.S. on a temporary visa, and the biological father was neither a citizen nor a lawful permanent resident. To implement this, federal agencies, including the Social Security Administration (SSA), Department of State (DOS), and Department of Homeland Security (DHS), are barred from recognizing citizenship for those who fall outside these new criteria. This policy applies to individuals born 30 days after the order's issuance, taking effect on February 20, 2025.

However, [legal challenges](#) have been immediate. In blocking the order, Judge John C. Coughenour of the Federal District Court in Seattle called it "blatantly unconstitutional," noting that the 14th Amendment's language is unequivocal: all persons born on U.S. soil are citizens, regardless of their parents' immigration status.

IS BIRTHRIGHT CITIZENSHIP WELL-SETTLED UNDER U.S. LAW?

Yes. Birthright citizenship is firmly established law in the United States. It is rooted in the 14th Amendment and reinforced by Supreme Court precedent. The landmark case [United States v. Wong Kim Ark \(1898\)](#) confirmed the principle, which established that individuals born on U.S. soil are automatically citizens regardless of their parents'

immigration status. Moreover, the amendment's language "subject to the jurisdiction thereof" has been consistently interpreted to include virtually all individuals in the U.S. who are not expressly immune from its laws such as foreign diplomats. This principle is not only based on the U.S. Constitution and longstanding legal tradition dating back to the English common law, but it is also part of our country's founding ethos and separation from old-world aristocracies that relied on family bloodlines and lineage to determine citizenship. Birthright citizenship has endured for more than a century, providing legal clarity and stability in defining U.S. citizenship.

WHAT ARE SOME RECENT CHALLENGES TO BIRTHRIGHT CITIZENSHIP?

Challenges to birthright citizenship have emerged in recent years primarily focused on excluding children born to undocumented immigrants or those in the U.S. without status from automatic citizenship. These efforts have taken the form of legislative proposals, such as the recent *Birthright Citizenship Act of 2024* ([S. 5223](#)), which would redefine who is considered "subject to the jurisdiction" of the United States by limiting citizenship to those born to U.S. citizens, lawful permanent residents, or active military members. During his first term as president, Donald Trump also proposed issuing an executive order to alter the interpretation of the 14th Amendment, but this idea was widely criticized as unconstitutional and ultimately not pursued.

These efforts represent a significant departure from the established interpretation of the 14th Amendment, notwithstanding the significant legal headwinds they'd face. It represents a direct challenge to a Constitutional guarantee and over a century of precedent supporting it established by the Supreme Court. While its supporters argue that these measures would reduce illegal immigration, such as change would alter the legal understanding of what citizenship means in the U.S. say nothing of seismic disrupts to American families, communities, and the character of the country.

WHY WOULD CHANGES TO BIRTHRIGHT CITIZENSHIP BE SO DAMAGING?

Fundamentally, altering birthright citizenship would represent a departure from America's commitment to equality and inclusion, weakening its democratic values and international standing as a nation of immigrants. It would also have far-reaching legal, social, and humanitarian consequences. Legally, it would overturn more than a century of precedent established by the 14th Amendment and *United States v. Wong Kim Ark*. Attempting to redefine "subject to the jurisdiction thereof" through legislation or executive action would create confusion about citizenship status for millions and invite constitutional challenges.

Beyond this, the human cost of restricting birthright citizenship would be immense. It would risk creating [stateless individuals](#), particularly among children born to undocumented immigrants. Statelessness deprives individuals of basic rights, including access to education, healthcare, and legal protections, exacerbating social inequality. Moreover, mixed-status families—where some members are U.S. citizens and others are not—would face further challenges, including potential family separations. Economically, the changes could destabilize families, communities, and the country, which depends on the invaluable contributions of immigrants.

CONCLUSION

Birthright citizenship is more than just a legal doctrine—it is a core value of equality and inclusivity that has defined the United States for over a century. Trump's efforts to change or restrict this right would not only disrupt established legal precedent but also create profound social and humanitarian challenges. As the nation continues to navigate debates on immigration, preserving birthright citizenship ensures that the U.S. remains a place where all individuals born on its soil can claim the protections and opportunities that come with citizenship. Safeguarding this principle is essential to upholding the democratic ideals on which the nation was built.