

Immigrants' Rights Advocates Sue Trump Administration Over Birthright Citizenship Executive Order

New order puts newborns in harm's way, is unconstitutional, and flouts fundamental American values

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CONCORD, N.H. — Immigrants' rights advocates today sued the Trump administration over its executive order that seeks to strip certain babies born in the United States of their U.S. citizenship.

The case was filed by 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 on behalf of organizations with members whose babies born on U.S. soil will be denied citizenship under the order, including New Hampshire Indonesian Community Support, League of United Latin American Citizens (LULAC),

and Make the Road New York. The lawsuit charges the Trump administration with flouting the Constitution's dictates, congressional intent, and longstanding Supreme Court precedent.

“Denying citizenship to U.S.-born children is not only unconstitutional — it’s also a reckless and ruthless repudiation of American values. Birthright citizenship is part of what makes the United States the strong and dynamic nation that it is. This order seeks to repeat one of the gravest errors in American history, by creating a permanent subclass of people born in the U.S. who are denied full rights as Americans. We will not let this attack on newborns and future generations of Americans go unchallenged. The Trump administration's overreach is so egregious that we are confident we will ultimately prevail,” said **Anthony D. Romero, executive director of the American Civil Liberties Union.**

Birthright citizenship is the principle that every baby born in the United States is a U.S. citizen. The Constitution’s 14th Amendment guarantees the citizenship of all children born in the United States (with the extremely narrow exception of children of foreign diplomats) regardless of race, color, or ancestry. Specifically, it states 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.”

The 14th Amendment was ratified in 1868, overturning the *Dred Scott* decision that denied Black Americans the rights and protections of U.S. citizenship. In 1898, the U.S. Supreme Court confirmed in *United States v. Wong Kim Ark* that children born in the United States to immigrant parents were entitled to U.S. citizenship, and the principle has remained an undisturbed constitutional bedrock for over a century.

“Birthright citizenship is guaranteed in our Constitution and is absolutely central to what America stands for,” said **Cody Wofsy, deputy director of the ACLU’s Immigrants’ Rights Project and lead attorney in this case.** “Denying citizenship to babies born on U.S. soil is illegal, profoundly cruel, and contrary to our values as a country.”

Many expectant couples across the United States now fear what will happen to their newborns. One such couple impacted by this lawsuit are members of New Hampshire Indonesian Community Support. They arrived in 2023, applied for asylum, and their application awaits review. The mom-to-be is in her third trimester. Under this executive order, their baby would be considered an undocumented noncitizen and could be denied basic health care and nutrition, putting the newborn at grave risk at such a vulnerable stage of life.

Such children would also be unable to obtain required identification and, as they grow up, be denied the right to vote, serve on juries, hold certain jobs, and otherwise be a full member of American society, even though they were born in the United States and have never lived anywhere else.

“Birthright citizenship is a cornerstone of our democracy. Our members, who come from all over the world, have created vibrant communities, loving families, and built this country over generations. To deny their children the same basic rights as all other children born in the United States is an affront to basic values of fairness, equality, and inclusivity. We are grateful for the bravery of our members who have taken on this case, and are prepared to fight alongside them,” said **Theo Oshiro, co-executive director of Make the Road New York.**

“Every child born in the United States should be born with the same rights as every other child — and that’s why the U.S. Constitution ensures that no politician can ever decide who among those born in our country is worthy of citizenship. Trump’s executive order directly opposes our Constitution, values, and history, and it would create a permanent, multigenerational subclass of people born in the U.S. but who are denied full rights,” said **SangYeob Kim, senior staff attorney at the ACLU of New Hampshire.**

The order will also stigmatize and send a message of exclusion not only to children directly impacted by the order, but to many others who will have their citizenship questioned because of their race or who their parents are. Excluding people born here will also create a permanent underclass of

those who have never been to another country and may be rendered stateless.

“If you’re born here, you are a citizen — period. No politician, including President Trump, can decide who is American and who is not,” said **Aarti Kohli, executive director of the Asian Law Caucus**. “For over a century, since a young Chinese American cook from San Francisco named Wong Kim Ark won his case at the Supreme Court, birthright citizenship for all — including babies born to immigrants — has been a cornerstone of U.S. democracy. This constitutional protection has been especially vital to Asian American communities, who have faced decades of exclusionary laws. Most Americans’ own ancestors who came after 1898 built their families’ futures on this very right. Wong Kim Ark’s legacy lives on in every child born to immigrant parents today, and we stand ready to mount a formidable response to any attempt to strip away this essential freedom.”

“With this executive order, the president of the United States is once again attempting to violate the civil rights of American citizens and their immigrant family members,” said **Juan Proaño, chief executive officer of LULAC**. “This effort to demonize Brown and Black immigrants targets all immigrants in this country, regardless of their background. If not stopped, it will undermine the very essence of what it means to be an American and will tear families apart.”

“Birthright citizenship is a clear principle of U.S. law. Any challenge to this is an attack on the rule of law and the protections of the 14th Amendment,” said **Tianna Mays, legal director for State Democracy Defenders Fund**. “We will firmly oppose any efforts to undermine these fundamental rights.”

“From the 1790 Naturalization Act to the infamous *Dred Scott* decision, U.S. citizenship has long been shaped to uphold racial hierarchy,” said **Karla McKanders, director of LDF’s Thurgood Marshall Institute**. “By sidestepping the constitutional amendment process, this executive order attempts to unilaterally rewrite the 14th Amendment — an essential Reconstruction-era measure that granted citizenship to all

persons born or naturalized in the U.S., including formerly enslaved people. This action seeks to resurrect a racialized notion of who is American in opposition to LDF's commitment working towards to a multi-racial democracy.”

The complaint can be found online [here](#).

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