

What You Need to Know about August 2026 Executive Orders on Birth Tourism and Birthright Citizenship

On August 6, 2026 the Trump administration issued two Executive Orders (EOs) [limiting access to birthright citizenship](#), for the children of certain immigrant parents. These EOs, [Executive Order 14409 Ending Birth Tourism](#) and [Executive Order 14418 Continuing to Protect the Meaning and Value of American Citizenship](#), contain provisions that directly contravene the Constitution and [multiple US Supreme Court decisions](#), including its recent ruling in [Trump v. Barbara](#). In that case, the Court reaffirmed that all US-born children are citizens by virtue of being born on US soil, irrespective of their parents' immigration status.

These EOs violate the Supreme Court's decision by restricting citizenship to US-born children of immigrant parents, beyond what is permitted by law. They also give Department of Homeland Security (DHS) officers, State Department officials, and other frontline officials broad discretion to deny entry to any person suspected of engaging in "birth tourism," the act of coming to the US solely for the purpose of giving birth, without clear or consistent guidelines.

Has there been litigation on this issue? Yes. On August 11, 2026, the ACLU and others filed a [Motion to Clarify the Preliminary Injunction](#) to ensure protection for all birthright citizens.

Executive Order 14418: Continuing to Protect the Meaning and Value of American Citizenship *What Does It Do?*

Executive Order 14418 (EO 14418) expands the exceptions to birthright citizenship for US-born children of immigrant parents by creating new categories of exclusion and by expanding the existing statutory categories to encompass more immigrant parents.

EO 14418 functions by limiting access to birth certificates and other citizenship documents. Specifically, it prohibits federal agencies including, by name, DHS, the State Department (DOS), and the Social Security Administration (SSA) from issuing documents to any child where both parents are not citizens, and one parent falls into one of the new or expanded categories. It also prohibits these agencies from accepting state-issued documents such as birth certificates for children in these categories.

The new and expanded categories include:

- When "either parent of that person is an alien enemy,"
- when the "parent is employed by an international organization that possess international organization immunity,"
- when the parent is "employed by a foreign government in any capacity,"
- other categories and distinctions

The EO instructs the heads of all executive departments and agencies to provide public guidance on implementation within 30 days.

Four Ways EO 14418 Is Harmful

1. It creates new categories of immigrant parents whose US children are ineligible for citizenship, in violation of existing law

Existing law narrowly defines the permissible exceptions to birthright citizenship, such as children of diplomats who have diplomatic immunity. In *Trump v. Barbara*, the Supreme Court reaffirmed that these exceptions are a “closed set,” meaning that the **Executive Branch cannot expand, alter, or revise these narrow exceptions.**¹ The administration’s attempt to expand these exceptions and create new ones is therefore a violation of the Supreme Court’s holdings in multiple cases, including *Trump v. Barbara*.

2. Many of the categories are ill-defined, administratively unworkable, and/or have been held otherwise unlawful by the courts

EO 14418’s new and expanded categories are not only impermissible, but many of them are also vague, overbroad, and would be unworkable to implement. For instance, the EO creates a new exclusionary category of “alien enemy,” a term that the administration has used in ways that courts have found unlawful, including removing Venezuelan nationals suspected of gang affiliation to the CECOT prison in El Salvador, without verified evidence of gang affiliation. This raises significant concerns about how state and federal officials would define “alien enemy,” and what process someone who is suspected of being an “alien enemy” would receive before their child is denied citizenship documents.

The EO also expands existing categories in unlawful ways. For instance, while it is well established that the child of a diplomat holding diplomatic immunity is not a citizen, the EO expands that category to include *anyone* employed by a foreign government. As written, this would not only include employees who do not have diplomatic immunity, which existing law requires for the exception to apply, it would also include workers such as administrative and janitorial staff.

3. The EO does not distinguish between types of immigrants

The administration’s first Executive Order eliminating birthright citizenship protections, *Executive Order 14160 Protecting the Meaning and Value of American Citizenship*, contained language to exclude legal permanent residents and other categories of legal immigrants. The current version of the EO contains no such limiting language; as written, it would apply to US-born babies of Legal Permanent Residents (“green card holders”) and other categories of long-term, lawful US immigrants.

4. If implemented, the EO would delay access to vital documents such as birth certificates and passports for US citizen babies

US-born children whose parents do not fall into one of the existing “closed set” exceptions are still citizens. However, if implemented, the EO could impede or delay access to birth certificates and other vital documents for US citizen children of many immigrant parents. These provisions could also impact children of US citizen parents who do not show proof of citizenship upon the birth of their child.

As WRC has previously discussed, documents like birth certificates are essential for parents to obtain vital services for their children, including enrolling them in school and accessing healthcare. Passports, visas, and other identity documents are also crucial for parents’ ability to prevent family separation if they are

¹ *Trump v. Barbara*, No. 25-365 (U.S. Jan. 20, 2026 at 2470 (Kavanaugh, J., concurring in the judgment in part and dissenting in part))

facing detention and deportation, reunify with their children if they have been deported without them, or establish a safe caregiving plan such as legal guardianship for children who remain in the United States.

Executive Order 14409: Ending Birth Tourism

What Does It Do?

Executive Order 14409 (EO 14409) gives frontline officials at DHS the ability to deny entry to or remove any person they suspect of engaging in birth tourism, having previously engaged in birth tourism, or having plans to engage in birth tourism. It also allows DOS officials to deny or revoke the issuance of a visa to any individual they suspect of engaging in birth tourism.

The EO defines “birth tourism” as:

- The entry of any foreign national into the United States via a nonimmigrant visa for the purpose of giving birth on American soil; or
- Any effort by any foreign national to facilitate the entry of any foreign national into the United States via a nonimmigrant visa for the purpose of giving birth on American soil.

Three Ways EO 14409 Is Harmful

1. No criteria for making birth tourism determinations

The EO provides no clearly-defined criteria for how frontline officials are supposed to make birth tourism determinations. It also provides no clear guidelines for determining when a person is pregnant or might become pregnant, for the purpose of birth tourism. Moreover, the EO contains no process for appealing a denied or revoked visa, or denial of entry based on a suspicion of birth tourism.

2. Birth tourism is poorly defined

The definition of birth tourism provided in the EO contains two provisions, one pertaining to pregnant individuals who travel to the US for the purpose of birth tourism and other pertaining to individuals who facilitate that entry. Both provisions lack precise definition. For instance, the EO provides no definition of “facilitating entry,” no determining criteria or standards for facilitation, or guidelines on what kind of individuals or entities could be considered.

3. The EO could leave women who are pregnant or suspected of being pregnant unable to enter the United States

The EO gives officials vast discretion to deny entry to, remove, or deny and revoke visas for pregnant individuals they believe are engaging in birth tourism. Many pregnant women arriving at a Port of Entry have legal visas that allow them to enter the US or may be eligible for nonimmigrant visas for a variety of important purposes. Denying such women entry could leave them in a precarious or vulnerable situation, lead to family separation, or cause other significant harm.

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Women's Refugee Commission

The Women's Refugee Commission (WRC) improves the lives and protects the rights of women, children, youth, and other people who are often overlooked, undervalued, and underserved in humanitarian responses to displacement and crises. We work in partnership with displaced communities to research their needs, identify solutions, and advocate for gender-transformative and sustained improvement in humanitarian, development, and displacement policy and practice. Since our founding in 1989, we have been a leading expert on the needs of refugee women, children, and youth and the policies that can protect and empower them.

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