

State Attorney General Birthright Citizenship Cases at the Supreme Court

On May 15, 2025, the Supreme Court will hear arguments in a set of cases brought by 23 Democratic state attorneys general (AGs) and a nonprofit group to defend a foundational guarantee: that all persons born on U.S. soil are American citizens. The question before the Court is whether the type of relief the AGs seek—known as an injunction, or a block on a challenged policy—can apply nationwide, or if courts may grant injunctions only to the states and individuals who have challenged the law. The AGs are standing up for nationwide relief, arguing that when a policy is illegal, it shouldn't apply to anyone, no matter what state they call home

- **Birthright citizenship: a century-and-a-half-old promise**

- For more than 150 years, the United States Constitution has guaranteed citizenship to every child born “within the jurisdiction of the United States,”¹ a concept known as birthright citizenship.
- The Immigration and Nationality Act likewise states that “a person born in the United States, and subject to the jurisdiction thereof” is a citizen of the U.S. at birth.²
- In short, multiple sources of law guarantee that anyone born on U.S. soil is a citizen, regardless of their parents' country of origin or citizenship status.

- **President Trump's executive order to limit birthright citizenship**

- On January 20, 2025, one of the first actions Donald Trump took after inauguration was to issue an executive order denying birthright citizenship to children born to undocumented parents or whose parents are in the country on temporary status.³
- Executive Order 14156 attempts to make ancestry a requirement for citizenship, meaning children born on U.S. soil must have at least one parent with U.S. citizenship or a green card to be born U.S. citizens.

- **Challenges to President Trump's executive order**

- The very next day, in *Washington v. Trump* and *New Jersey v. Trump*, all 23 of the nation's Democratic AGs filed suits challenging this harmful action.⁴

¹ U.S. Const. Amend. XIV.

² 8 U.S.C. § 1401(a).

³ 6 Executive Order No. 14156, “Protecting the Meaning and Value of American Citizenship,” January 20, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-meaning-and-value-of-american-citizenship/>

⁴ *State of Washington v. Trump* (2025) [Complaint – #1 in State of Washington v. Trump \(W.D. Wash., 2:25-cv-00127\) – CourtListener.com](#), *State of New Jersey v. Trump* (2025) [Complaint – #1 in State of New Jersey v. Trump \(D. Mass., 1:25-cv-10139\) – CourtListener.com](#).

- The AGs stood up against the order, arguing that it violates the Fourteenth Amendment of the Constitution as well as federal statute.
- To protect their residents and states from harm, the AGs requested preliminary injunctions to prohibit the Trump administration from implementing the order.
- **Protecting the states and their residents against harm**
 - The AGs sued to protect their states and residents against myriad harms that would flow from stripping citizenship from more than 150,000 newborn babies a year.
 - *Loss of fundamental rights:* The children whose citizenship would be stripped by the executive order would lose their most basic rights, such as the right to vote, serve on juries, obtain a Social Security number, to one day work lawfully in this country, and they would be at risk for deportation.
 - *Loss of federal support for key programs like healthcare and child welfare:* In addition to the potential harm to their state residents, the order would harm the states themselves. States administer numerous programs for the benefit of their residents, some of which are funded by federal dollars tied to the citizenship of the individuals served.⁵ These programs include Medicaid, the Children’s Health Insurance Program, and foster care and adoption programs. Federal funding for these programs hinges on the immigration status of the resident being served; stripping citizenship from these individuals would deny states funds to assist them, causing significant financial harm.
- **AGs won nationwide relief in the lower courts**
 - Nationwide federal injunctions were issued in both cases brought by state attorneys general, with courts finding that the states, as funders of key programs, were likely to suffer irreparable economic harm without preliminary relief. The courts considered carefully whether a nationwide preliminary injunction was necessary or if they should limit the injunction just to the states and plaintiffs that brought the cases.
 - If the courts issued a preliminary injunction only to the states that brought the cases, then a child could be born in a non-plaintiff state, be deemed not to be a U.S. citizen, and then move to a plaintiff state, meaning they would be ineligible for federally funded programs and be forced to rely instead on state-funded programs and still harm the plaintiff state, despite a block on the policy there. The courts found that a nationwide injunction was necessary to prevent this irreparable harm.

⁵ State of New Jersey v. Trump (2025) at 23. [Complaint – #1 in State of New Jersey v. Trump \(D. Mass., 1:25-cv-10139\) – CourtListener.com](#).

- **Supreme Court hearing**

- On May 15, 2025, the Supreme Court will hear arguments on three birthright citizenship cases with lower court injunctions that nationally halted Executive Order 14156. The Court will not determine whether President Trump's executive order is constitutional at this time but will instead consider whether a federal trial judge may issue an order that binds the entire country.
- If the Trump administration's lawyers were to convince the Supreme Court to limit nationwide injunctions, it would have major implications that stretch far beyond the birthright citizenship cases. There are now more than two hundred lawsuits challenging the Trump administration's actions. If lower court judges cannot issue nationwide injunctions, President Trump will have significant leeway to implement policies even if a federal district court finds them illegal and unconstitutional.

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