

Birthright Citizenship Frequently Asked Questions

What is birthright citizenship?

Birthright citizenship refers to the practice of automatically granting citizenship to children upon their birth. In the United States [birthright citizenship](#) has two forms: birthplace-based citizenship and ancestry-based citizenship.

What is the source of law for birthright citizenship in the U.S.?

In the United States, birthright citizenship is guaranteed under the [Citizenship Clause](#) within the 14th Amendment of the [U.S. Constitution](#), which states that anyone born or naturalized in the United States is automatically a citizen of the United States.

The 14th Amendment to the Constitution was passed in 1868 and overturned the Supreme Court's [Dred Scott](#) decision which ruled that slaves and formerly enslaved persons were not entitled to citizenship. Decades later, the U.S. Supreme Court issued a landmark decision in [United States v. Wong Kim Ark](#), stating that all children born in the United States are U.S. citizens regardless of the status of their parents. This case is the legal precedent for birthright citizenship.

What is the difference between the two forms of birthright citizenship?

U.S.-Birthplace-based citizenship automatically grants U.S. citizenship to anyone born in the United States, regardless of the citizenship status of their parents. Ancestry-based citizenship automatically grants U.S. citizenship to a child based on the U.S. citizenship of one or both of their parents.

Do other countries have birthright citizenship? If so, how many and which?

Yes. At present, at least [65 countries around the world](#) have some form of birthright citizenship, whether birthplace-based or ancestry-based citizenship. Countries who have some type of birthright citizenship include Canada, Mexico, Brazil, the United Kingdom, France, Costa Rica, Argentina, Thailand, Colombia, Spain, Australia, and many others.

Can U.S. birthright citizenship be ended? If so — how?

Yes. Birthright citizenship can be ended in the United States but modifying or repealing it would require a Constitutional amendment as birthright citizenship is enshrined in the U.S. Constitution and is a Constitutionally protected right. Congress cannot unilaterally pass legislation to end birthright citizenship.

What would it take to pass a Constitutional Amendment?

A [Constitutional Amendment](#) limiting or removing [birthright citizenship](#) in the United States would require approval from 2/3 of both the Senate and the House and ratification by three-fourths of states.

Have there been bills in Congress to attempt to change birthright citizenship?

There have been bills introduced to change the provisions of birthright citizenship as recently as the [Birthright Citizenship Act of 2024](#). Such bills that intend to change birthright citizenship via statute instead of Constitutional Amendment will likely face [federal court challenges](#).

Can the President change birthright citizenship through an Executive Order?

No. The President does not have the power to unilaterally change the Constitution through Executive Order and end U.S. birthright citizenship.

Can Congress change birthright citizenship through legislation?

No. Protections and provisions enshrined in the Constitution cannot be modified through a regular Congressional vote. Proposed Constitutional Amendments must overcome two hurdles: a 2/3 approval vote in both the House and the Senate and ratification by ¾ of the states.

What would the impact of ending birthright citizenship be?

Immediate Uncertainty for Large Numbers of Children Living in the U.S.

Ending U.S. birthright citizenship would create vast and generational inequities by denying citizenship to children of undocumented parents living in the United States. As of 2021, [an estimated 4.4 million U.S. citizen](#) children under the age of 18 currently live with at least one undocumented parent and [an estimated 250,000 babies](#) were born to undocumented parents in the United States in 2016.

Administrative Burdens for Citizen and Immigrant Parents Alike

According to government [data](#), there were almost 4 million births in the U.S. in 2022. All parents of newborns in the U.S. would feel an impact as ending birthright citizenship would require establishment of a system to verify every parent's citizenship and immigration status upon their child's birth. The U.S. currently requires a [citizenship adjudication procedure](#) when a baby is born to American citizen parents while abroad, including an [application](#), a fee, and may include [DNA testing](#). Some children born in the U.S. and denied U.S. citizenship could become [stateless](#) due to variations in ancestry-based citizenship in their parents' home countries.

Statelessness [creates many challenges](#) including limited employment prospects and difficulties opening bank accounts and obtaining driver's licenses.