

Unrestricted Birthright Citizenship?

A Rare Policy

- The United States and Canada are the only developed nations in the world to still grant automatic citizenship to the children of tourists and illegal aliens who are born within their borders.¹
- By the end of the 20th century, most developed countries around the world had rejected unconditional birthright citizenship. Recently, Ireland (2005) and New Zealand (2006) abolished the practice.²

By the Numbers

- Approximately 250,000 babies are born each year to parents who are in the United States illegally.³
- Approximately 350,000 babies are born each year to at least one parent who is in the U.S. illegally.⁴
- Approximately 40,000 babies are born each year to women in the United States on a travel visa.⁵
- U.S.-born children of illegal aliens and tourists not only represent additional U.S. population growth themselves, but are eligible to sponsor extended family members into the country legally once they turn 21.

¹The Law Library of Congress, 2018, "Birthright Citizenship Around the World," <https://tile.loc.gov/storage-services/service/l1/l1qrd/2018655070/2018655070.pdf>

² Ibid.

³ Jeffrey Passel, D'Vera Cohn, and John Gramlich, 2018, "Number of U.S.-born babies with unauthorized immigrant parents has fallen since 2007," Pew Research Center. <https://www.pewresearch.org/short-reads/2018/11/01/the-number-of-u-s-born-babies-with-unauthorized-immigrant-parents-has-fallen-since-2007/>

⁴ Jeffrey Passel, and D'Vera Cohn, 2011, "Unauthorized Immigrant Population: National and State Trends, 2010," Pew Research Center. <https://www.pewresearch.org/hispanic/2011/02/01/unauthorized-immigrant-population-brnational-and-state-trends-2010/#about-this-report>

⁵ Andrew Blankstein, Anna Schechter and Tracy Connor, "Feds Raid California 'Maternity Hotels' for Birth Tourists," NBC News, January 9, 2018. <https://www.nbcnews.com/news/us-news/feds-raid-l-maternity-hotel-birth-tourists-n315996> Birth tourism organizers tout "the benefits of a child with U.S. citizenship: 13 years of free education, low-cost college financial aid, less pollution, and a path for the entire family to emigrate when the child becomes an adult." See also: Camarota, Steven, 2019, "There Are an Estimated 39,000 Births Annually to Foreign Students, Guestworkers, and Other Long-Term Temporary Visitors" Center for Immigration Studies. <https://cis.org/Report/Birthright-Citizenship-Overview>

An entire “birth tourism” industry has built up around unconditional birthright citizenship.

- Giving birth is typically not grounds for admission to the U.S. on a temporary basis; but the birth tourism industry coaches clients on how to lie to immigration officers and commit immigration fraud.⁶
- Underground maternity centers and birth tourism packages range from luxurious (high-end shopping and trips to SeaWorld)⁷ to squalid.⁸
- Birth tourism packages can cost up to six figures.⁹
- Chinese listings show several hundred “maternity hotels” in Southern California alone.¹⁰

Guaranteed by the Constitution or Not?

- Birthright citizenship is defined in Chapter One of the [Immigration and Nationality Act](#) (1964)¹¹ and originally derived from Section One of the [Fourteenth Amendment](#) to the United States Constitution (1868), which states: “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.”¹²
- The 14th Amendment was primarily aimed at enfranchising freed slaves and their descendants; not all children born to people with foreign allegiances.¹³
- Congress has not passed legislation clarifying the language in the Immigration and Nationality Act. President Trump’s Executive Order on January 20, 2025 to limit automatic birthright citizenship to the children of citizens or legal permanent residents has been blocked by the lower courts. . The debate is unlikely to be settled until the Supreme Court has ruled on the interpretation of “subject to the jurisdiction thereof.”

⁶ Blankstein, et. al, “Feds Raid California ‘Maternity Hotels’”

⁷ Susan Berfield, “Chinese Maternity Tourists and the Business of Being Born American,” Bloomberg, May 12, 2015. <http://www.bloomberg.com/news/articles/2015-05-13/chinese-maternity-tourists-and-the-business-of-being-born-american>

⁸ Kerry J. Byrne and Dean Balsamini, “Years after savage attack on newborns, birth tourism schemes thrive in NYC,” New York Post, May 26, 2021. <https://nypost.com/2021/05/15/years-after-savage-attack-birth-tourism-schemes-thrive-in-nyc/>

⁹ Ibid.

¹⁰ Frank Shyong, “Why birth tourism from China persists even as U.S. officials crack down,” Los Angeles Times, December 30, 2016. <http://www.latimes.com/local/lanow/la-me-ln-birth-tourism-persists-20161220-story.html>

¹¹ Chapter One, Section 301 of the Immigration and Nationality Act reads: “The following shall be nationals and citizens of the United States at birth: (a) a person born in the United States, and subject to the jurisdiction thereof;” [8 U.S.C. 1401] <https://www.uscis.gov/laws-and-policy/legislation/immigration-and-nationality-act>

¹² Amendment XIV, Section 1 to the U.S. Constitution reads: “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.” <https://constitution.congress.gov/browse/amendment-14/>

¹³ Amy Swearer, “Does the Constitution Mandate Universal Birthright Citizenship? Here’s the Answer,” The Heritage Foundation, May 24, 2019. <https://www.heritage.org/the-constitution/commentary/does-the-constitution-mandate-universal-birthright-citizenship-heres>

- In 1898, the Supreme Court ruled in favor of birthright citizenship for children born to legal, permanent immigrants,¹⁴ but has never ruled on whether the 14th amendment applies to the children of illegal aliens or tourists.

¹⁴ *Ibid.*