



Frequently Asked Questions: Birthright Citizenship

Photo: CNS/Jeffrey Bruno

What is Birthright Citizenship?

In the United States, citizenship is conferred by birth – meaning that any person born within the territory of the United States is a U.S. citizen.¹

Do Other Countries Allow Birthright Citizenship?

Yes. Canada is another country that allows birthright citizenship.²

Is Birthright Citizenship Something That is Protected Under U.S. Law?

Yes. Birthright citizenship is guaranteed by the U.S. Constitution. The President would need a Constitutional amendment to end birthright citizenship. The right to birthright citizenship can be found within the Fourteenth Amendment's Citizenship Clause, which states in pertinent part, that "[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States."³

Can the President Unilaterally Repeal Birthright Citizenship?

No. The President does not have the authority to unilaterally alter the Constitution. Rather, amendments to the Constitution must be proposed by two-thirds of the House and Senate or by a constitutional convention called for by two-thirds of the state legislatures.⁴ Ultimately, the states must approve the amendment by a three-quarters majority.⁵

Does Birthright Citizenship Apply Even if the Parent of the Child is Undocumented?

Yes. Under current law, U.S.-born children⁶ of undocumented immigrants are automatically considered U.S. citizens.

Would ending Birthright Citizenship Curtail Unauthorized Migration?

No. Most undocumented immigrants come to the United States seeking protection, reunification with family, or a better

future, not to give birth on U.S. soil. Additionally, the argument that countless undocumented immigrants will be able to immediately obtain legal status through their U.S.-born children is not accurate; a U.S. Citizen child must be at least 21 years of age before he or she can apply for a visa for his or her parent.⁷ Thus, the unlawfully present parent of a U.S.-born child would have to wait 21 years before he or she could even *apply* for lawful status through his or her U.S.-born child.

What Could be the Child Welfare Consequences of Eliminating Birthright Citizenship?

In many cases, these U.S.-born children would be rendered stateless (without citizenship) and left undocumented in the United States.⁸ In effect, these children would be punished and relegated to second- or third- class members of U.S. society.

What are Some Practical, Real Life Implications of Eliminating Birthright Citizenship?

Repealing birthright citizenship would place an undue burden on all Americans, eliminating easy proof of citizenship status through birth certificates. This would likely be replaced with an onerous process of having to trace one's family heritage and produce documentation of blood relations.

What is the Position of the Church?

The Church opposes the repeal of birthright citizenship because it would render innocent children stateless, depriving them of the ability to thrive in their communities and reach their full potential. The Church believes that a repeal of birthright citizenship would create a permanent underclass in U.S. society, contravening U.S. democratic tradition; undermining the human dignity of innocent children who would be punished though they did nothing wrong; and ultimately weakening the family. Because of this, the Church opposes the current efforts underway for its repeal.

Endnotes

1 James C. Ho, *'Defining 'American': Birthright Citizenship and the Original Understanding of the 14th Amendment*, 9 THE GREEN BAG 367 (2006).

2 Canada extends unconditional citizenship to anyone born within its borders under a legal principle known as "jus soli" (law of the soil). Further, a "[r]eview of the constitutions and nationality laws of the 35 nations in the Western Hemisphere demonstrates that 30 of these countries provide birthright citizenship automatically to children of any immigrants." Katherine Culliton-Gonzalez, *Born in the Americas: Birthright Citizenship and Human Rights* 25 *Harvard Human Rights Journal* 127, 135 (2012).

3 U.S. CONST. amend. XIV.

4 U.S. CONST. article V; *see also* Scott Bomboy, *What Does It Take to Repeal a Constitutional Amendment*, NATIONAL CONSTITUTION CENTER (March 18, 2018), <https://constitutioncenter.org/blog/what-does-it-take-to-repeal-a-constitutional-amendment>.

5 *Id.*

6 Those children born within the United States or its territories.

7 8 U.S.C § 1151(b)(2).

8 JENNIFER VAN HOOK AND MICHAEL FIX, MIGRATION POLICY INSTITUTE, *THE DEMOGRAPHIC IMPACTS OF REPEALING BIRTHRIGHT CITIZENSHIP* 2-5 (2010).