

America struggles with birthright citizenship

Joseph Chamie | April 28, 2025



In the United States, birthright citizenship is a constitutional right that dates back to 1868. However, following President Trump's recently issued executive order, the new administration is seeking to deny US citizenship to the children born to unauthorized foreign-born migrants residing in the country. Joseph Chamie clarifies the most immediate demographic consequences of such a change.

America is struggling with continuing its birthright citizenship, which was established by the 14th Amendment to the US Constitution in 1868. Section 1 of the 14th Amendment declares: "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".

The struggle

Shortly after taking office on 20 January, President Trump issued an executive order restricting birthright citizenship, insisting that the 14th Amendment does not apply to the births of unauthorized migrants. Many have raised objections, pointing out that America has upheld birthright citizenship for more than 150 years and as US laws apply to unauthorized migrants, so the Constitution's 14th Amendment should apply to them too.

The American Civil Liberties Union and several states have filed federal legal challenges to Trump's executive order restricting birthright citizenship. The American Bar Association described it as an attack on a "constitutionally protected" right. Also, no less than four federal judges and a growing number of courts have blocked the order. How the US Supreme Court, where conservative justices form a supermajority, would interpret the 14th Amendment is not clear. The litigation over Trump's executive order is likely to focus on what it means for someone to be "subject to the jurisdiction" of the United States.

Shortly after becoming president on January 20, Trump falsely claimed that “We are the only country in the world that does this with the birthright, as you know, and it’s just absolutely ridiculous.” Actually, at least 33 countries provide automatic citizenship to anyone born within their borders. Those countries, located mostly in the Western hemisphere, include America’s neighboring countries of Canada and Mexico.

Foreign-born population

The number and proportion of foreign-born residents in America have varied considerably over the past several centuries (Table 1). In 1890, for example, they totaled nearly ten million and their proportion reached a high of 14.8%. Following World War II, their number declined to below 10 million and their proportion fell to a record low of 4.7% in 1970. The early 21st century saw a marked increase and their number rose to 31 million (11% of the total population). In 2024, the estimated 51.6 million foreign-born residents accounted for a record-breaking 15.6% of America’s population.

Table 1. Number and percent of foreign-born population in the US: 1850-2024

Year	Number (millions)	Percent
1850	2.2	9.7
1860	4.1	13.2
1870	5.6	14.4
1880	6.7	13.3
1890	9.2	14.8
1900	10.3	13.6
1910	13.5	14.7
1920	13.9	13.2
1930	14.2	11.6
1940	11.6	8.8
1950	10.3	6.9
1960	9.7	5.4
1970	9.6	4.7
1980	14.1	6.2
1990	19.8	7.9
2000	31.1	11.1
2010	40.0	12.9
2020	45.1	13.7
2023	47.8	14.3
2022	46.2	13.9
2024	51.6	15.6

Source: U.S. Census Bureau.

Births to foreign-born mothers

Over the period 2014-2024, the average number of births to foreign-born mothers in the US was 850,000, varying from a high of 910,000 in 2016 to a low of 780,000 in 2021. Their share of total births remained relatively stable at approximately 23% (Table 2) - greater than the proportion of foreign-born population in the same period (about 14%).

Table 2. Percent of foreign-born residents and births to foreign-born mothers in the US: 2014-2024

Year	Percent of		
	Foreign-born (%)	Births to foreign-born mothers (%)	(of whom: unauthorized*)(%)
2014	13	22	6
2015	13	23	6
2016	14	23	6
2017	14	23	6
2018	14	23	6
2019	14	23	6
2020	14	22	5
2021	14	21	5
2022	14	23	5
2023	14	23	6
2024	16	23	6
<i>Average</i>	<i>14</i>	<i>23</i>	<i>6</i>

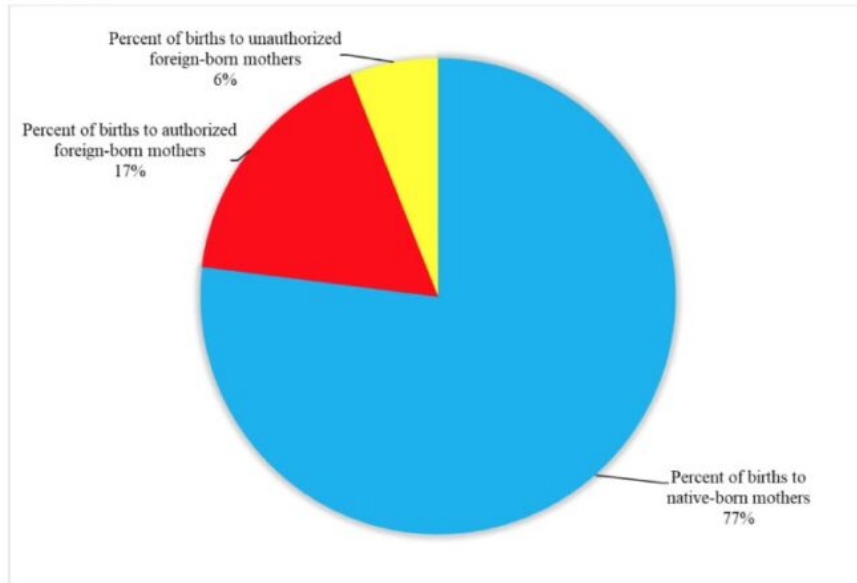
Source: US Center for Disease Control (CDC). Provisional estimates for 2024

* Author's estimates. Data on the proportion of US births to unauthorized foreign-born mothers are not compiled: the figures in the table are based on the assumption that these proportions are similar to the annual proportions of unauthorized migrants among the total foreign-born population.

The exact number of births to unauthorized foreign-born mothers is unknown. However, with a few reasonable assumptions (detailed in the footnotes to Table 2), an annual average total of around 213,000 can be estimated over the period, possibly ranging between 180,000 births in 2021 and a high of 245,000 in 2016.

Those annual estimates also provide an indication of the distribution of births among native-born and foreign-born mothers. Over the past 11-year period, approximately 77% of the births in America were to native-born women and 23% were to foreign-born mothers, 17% to authorized foreign-born mothers and 6% to unauthorized foreign-born mothers (Figure 1).

Figure 1. Average percent distribution of births in the U.S. to native- and foreign-born mothers, 2014-2024



Source: U.S. Center for Disease Control (CDC) and author's calculations.

Conclusions

As a result of President Trump's recent executive order, birthright citizenship has developed into a major political and legal struggle for America. The outcome of that struggle is now playing out in US courts. While the legal outcome is currently uncertain, its major demographic consequence is already clear.

If birthright citizenship is restricted, as President Trump has ordered, up to 225,000 children born to unauthorized foreign-born mothers each year – around 6% of America's annual births – will not be granted US citizenship.

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