

Birthright Citizenship 101

What is birthright citizenship?

[The Fourteenth Amendment to the Constitution](#) states that “[a]ll 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.” This provision is known as the Citizenship Clause, and it guarantees that all persons born or naturalized in the United States are automatically citizens.

Why was the Citizenship Clause added to the Constitution?

In the 1857 case *Dred Scott v. Sandford*, the Supreme Court held that Black people could not be citizens of the United States. The Civil War was fought in part to reverse this terrible error and to secure citizenship for all persons born on U.S. soil, regardless of race, color, or ancestry. After the war, responding to discrimination against newly emancipated enslaved people, immigrant communities, and ethnic minorities, the authors of the Fourteenth Amendment recognized that the promise of equality and liberty in the original Constitution needed to be permanently established for all Americans.

Does the Citizenship Clause apply to the children of immigrants?

Yes. The language of the Citizenship Clause is unequivocal—it applies to “[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof.” All means all. Where a person’s parents were born and whether they are citizens is irrelevant.

Why does the Citizenship Clause only apply to those “subject to the jurisdiction” of the United States?

The phrase “subject to the jurisdiction” of the United States simply exempts from the Clause’s coverage individuals such as the children of foreign diplomats who are immune from prosecution. All other persons born in the United States are subject to the jurisdiction of the United States and are thus citizens under the Clause.

Can Congress or the president, on their own, end birthright citizenship?

No. Neither Congress nor the President can end birthright citizenship because it is guaranteed by the Constitution. The only way to end birthright citizenship would be to [amend](#) the Constitution.

Further Reading:

Elizabeth Wydra, [Birthright Citizenship: A Constitutional Guarantee, American Constitution Society \(May 2009\)](#).

Elizabeth Wydra, [OP-ED: Those who deny birthright citizenship get the Constitution wrong, Washington Post \(2018\).](#)

Hiroshi Motomura, [Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States. Oxford University Press \(2006\).](#)

Hiroshi Motomura, [Immigration and Citizenship: Process and Policy. West Academic \(2021\).](#)

Telemundo: [Trump, Vance y estos congresistas latinos quieren acabar con la ciudadanía por nacimiento. ¿Pueden hacerlo?](#)

CNN: [Inside the Trump team's plans to try to end birthright citizenship](#)