

SUPREME COURT RULING ON BIRTHRIGHT CITIZENSHIP

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Did You Know...



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Supreme Court Ruling On Birthright Citizenship

Executive Summary

On June 30, 2026, the Supreme Court ruled 6-3 in *Trump v. Barbara* to extend the 14th Amendment—which grants citizenship to everyone “born... in the United States, and subject to the jurisdiction thereof”—to children born on U.S. soil whose parents are illegal immigrants or temporary residents. The decision strikes down President Trump’s Executive Order from January 2025 which barred citizenship for any such child.

Chief Justice John Roberts wrote the majority opinion, arguing that any child born in the U.S. is “subject to the jurisdiction” of this country. Justice Clarence Thomas authored the longest dissent, in which he argued that the majority opinion contravenes the original intention of the 14th Amendment, which was to provide citizenship to freed black slaves.

While *Barbara* is a setback for the Trump administration, it has not stymied its efforts to curtail illegal immigration and birth tourism. Now, the administration aims to recall hundreds of thousands of workers currently covered by Temporary Protected Status, and administration officials have floated ideas such as barring pregnant women from entering the country. In Congress, Republican allies are pursuing legislative avenues to mitigate the ruling’s impact: voting for a constitutional amendment, defining illegal aliens as “foreign invaders” to disqualify their children from birthright citizenship, and forbidding unmarried pregnant women entrance into the U.S.

What Was The Decision?

- *Barbara* struck down President Trump’s January 2025 Executive Order [14160](#), “Protecting the Meaning and Value of American Citizenship,” which barred citizenship for children born of parents whose immigration status is not “lawful” or “permanent.” The EO states “[T]he Fourteenth Amendment has never been interpreted to extend citizenship universally to everyone born within the United States.”
- *Barbara* [started](#) in the U.S. District Court for the District of New Hampshire, where in July 2025 a judge blocked EO 14160 from preventing individuals from receiving means-tested public benefits.
- On June 30, 2026, SCOTUS ruled 6-3 to uphold birthright citizenship for children born of illegal immigrants or temporary residents on U.S. soil. The ruling was based on an expansive interpretation of the 14th Amendment, which grants citizenship to “[a]ll persons born... in the United States, and subject to the jurisdiction thereof.”
- During [oral arguments](#) heard in April, Solicitor General D. John Sauer argued that the phrase “subject to the jurisdiction thereof” requires not merely birth in the U.S., but also that parents possess lawful domicile and permanent allegiance to the country. Conversely, the ACLU argued that the 14th Amendment does not admit Sauer’s interpretation, nor does the Amendment’s longstanding interpretation, upheld in the Court’s 1898 decision in [United States v. Wong Kim Ark](#).
- Chief Justice John Roberts authored the majority opinion, and was joined by Sotomayor, Kagan, Barrett and Jackson. Roberts drew on the precedent of *Wong Kim Ark*, which protected birthright

citizenship for the son of Chinese parents who were lawful and long-term residents, as well as the historically-rooted common law principle of *jus soli* (“right of soil”).

- Justice Kavanaugh concurred that EO 14160 was illegal, but on different grounds. While the Executive Order does not contradict the 14th Amendment, he argued, the Executive Order is incompatible with the [Immigration and Nationality Act \(INA\)](#), which provides that “a person born in the United States, and subject to the jurisdiction thereof” is a citizen “at birth.”
- Justice Thomas, joined by Justice Gorsuch, [wrote](#) a lengthy dissenting opinion in which he argued that the ruling “adds to the sad history of the Fourteenth Amendment,” which was originally intended to repudiate *Dred Scott v. Sandford* (1857) and provide citizenship for descendants of enslaved African Americans. Now it “has instead been repurposed for political projects that the Reconstruction Congress did not support.”
- Justice Alito [called](#) the ruling “a serious mistake,” contending that the 14th amendment “confers citizenship on only those children who, at birth, owe allegiance solely to this country.”

Responses To The Decision

- President Trump [posted](#) on Truth Social: “The Supreme Court upheld Birthright Citizenship, which is too bad for our Country.”
- Speaker Mike Johnson [said](#) that he is “very disappointed in that outcome,” and that the decision “subjects the country to serious challenges going forward.”
- A popular media narrative before and after the SCOTUS decision espoused the notion that birthright citizenship itself was at stake, rather than simply its scope. A [Reuters](#) poll from April 2026 asked participants whether the U.S. should “end birthright citizenship,” and a [New York Times](#) report from the day of the ruling said that “[t]he Supreme Court rejected President Trump’s attempt to end birthright citizenship, and the justices reaffirmed the long-held principle that nearly all children who are born on U.S. soil are American citizens.”
- In July 2026, Napolitan News Service [released](#) a poll in which 58% of respondents said that “anyone born in the United States” should “automatically be made a U.S. citizen,” with only 32% opposing citizenship for children of illegal immigrants.
- In July 2026, constitutional law scholar Robert Natelson [wrote](#) that “all sides got it wrong” when it came to the concept of allegiance. While the Trump administration rooted its case in a theory of domicile rather than allegiance, the majority opinion’s “version of allegiance grants an undeserved primacy to mere place of birth.”
- In a July 2026 piece entitled “Three Cheers For Barbara!”, Akhil Reed Amar, professor of law and political science at Yale, and Vikram Amar, professor of law at UC Davis, [lauded](#) the Court’s decision because it was a “complete repudiation of President Donald Trump’s lawless executive order 14160” and “the court based its ruling on the right document.” They note multiple points of overlap between Roberts’ opinion and Akhil’s own amicus brief from February 2026.

Impacts Of The Decision

- According to the pro-immigration [National Immigration Forum](#), the ruling “reinforced the principle that citizenship is determined by the Constitution—not by changes in executive policy.”

- According to the [Center for Immigration Studies](#), “aliens unlawfully present or seeking a more permanent residence will now have an incentive to have as many children as possible, and the taxpayer will foot the bill for many of those births.”
- In the face of defeat, the Trump administration is [considering](#) alternative strategies to fight illegal immigration and birth tourism.
 - A DOJ memo released the day of the ruling [directs](#) “all United States Attorneys and the Criminal Division to work with the Department of Homeland Security to prioritize the investigation and prosecution of birth tourism schemes.”
 - The administration is doubling down on efforts to [deport](#) immigrants under Temporary Protected Status and parole. In July 2026, Homeland Security [told](#) employers to dismiss hundreds of thousands of workers from Haiti, Ethiopia, Myanmar, Somalia, South Sudan, Syria and Yemen whose Temporary Protected Status is soon to expire.
 - An anonymous administration official told [Politico](#) that the Trump administration can use section 212(f) of the Immigration and Nationality Act, which allows the President to “suspend the entry of all aliens” if he “finds that the entry of any aliens... would be detrimental to the interests of the United States.”
 - Other sources [argued](#) that the ruling does not prevent the administration from placing a ban on pregnant women entering the U.S.

Prospective Legislation

- In June 2026, Senator Eric Schmitt (R-MO) [announced](#) that he will be introducing a constitutional amendment to “protect American citizenship” by limiting “the scope of birthright citizenship to only the children of U.S. citizens and legal permanent residents.” He called the Court’s interpretation of the Constitution “erroneous.”
- In June 2026, Senator Mike Lee (R-UT) [wrote](#) on social media in reaction to the Court’s ruling, “We’re going to need a constitutional amendment.” Lee also [posted](#) that “Congress should pass a bill limiting today’s birthright-citizenship ruling.”
- In July 2026, Senator Jim Banks (R-IN) [introduced](#) the Citizenship Act of 2026, which proposes that children born to illegal immigrants are the legal equivalent of children born to “foreign invaders,” and are therefore not entitled to birthright citizenship. Banks [called](#) the SCOTUS ruling “an unprecedented assault on American sovereignty.”
- In July 2026, Representative John McGuire (R-VA) [introduced](#) the Birthright Citizenship Clarification Act of 2026, which excludes children born of illegal immigrants or temporary residents from those “born subject to the jurisdiction of the United States.”
- Others used the SCOTUS ruling as an opportunity to [promote](#) legislation they had introduced before:
 - Senator Rand Paul (R-KY) [posted](#) that he “filed a constitutional amendment early this year instead of waiting around to see how the courts would rule.”
 - Senator Tom Cotton (R-AR) [said](#), “Following today’s ruling, Congress should pass my Constitutional Citizenship Act to ensure only the children of those here lawfully are granted citizenship.”
 - Senator Rick Scott (R-FL) [pointed](#) to his SAFE KIDS Act “to combat the exploitation of U.S. surrogacy laws for birthright citizenship.”

- Senator John Cornyn (R-TX) [said](#) that “a good first step” would be passing his Barring American Citizenship by Keeping Out Foreign Fraudsters (BACK OFF) Act, which would “put a stop to the practice of birth tourism by adversaries like China and Russia.”