

Skilled Legal Workers Find They, Too, Are Targets of Trump Citizenship Order

The executive order would ban citizenship for children born in the United States to foreign workers on visas that often lead to permanent residency.



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By Miriam Jordan

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Shraavya and Sumukh, two Indian-born engineers who work in California, are thrilled to be expecting their first child.

They know they are having a boy and that he is due on Feb. 19.

What they are far less certain of is whether their firstborn will be a U.S. citizen, after President Trump issued an executive order that seeks to end the Constitution's guarantee of birthright citizenship.

The order has injected a dose of anxiety and uncertainty into an otherwise exciting, joyful time for the couple who are in the country legally with long-term work visas.

"You already have a lot of things to be stressed about," said Shraavya, 31, the mother to be. "Then this came into the picture."

The birthright citizenship order, issued in Mr. Trump's first hours back in the White House, has prompted a wave of legal challenges and a succession of sharp critiques from the federal courts. Judges in Maryland and Washington have issued nationwide injunctions halting any action to carry out the directive, and another in New Hampshire took similar action on Monday.

Legal experts emphasize that birthright citizenship cannot be revoked through an executive order, like the one issued by Mr. Trump on Inauguration Day. Ending birthright citizenship would require an amendment to the Constitution, which must be approved by two-thirds of both chambers of Congress and subsequently ratified by the legislatures of three-fourths of the states. Mr. Trump has not pursued such a change to the Constitution, but his order and the intense legal blowback is nonetheless sowing confusion and stress among many immigrant families.

Under the order, citizenship would be denied to newborns who do not have at least one parent who is a U.S. citizen or legal permanent resident. Children born in the United States to people who violated the law by entering the country without permission, namely by crossing the southern border, would not be U.S. citizens.

Given Mr. Trump's focus on combating illegal immigration, it was not surprising that the order targeted the undocumented population. However, its effect on people living in the country legally caught many of them off guard.

According to the order, children of people on visas to study and work in the United States for years would be ineligible for automatic citizenship.

Shraavya and her husband, Sumukh, who spoke on condition that their last names be withheld because of the sensitivity surrounding the citizenship issue, are among the immigrant parents now facing that possibility.

"I was under the impression that there would be orders targeting folks who are undocumented," said Sumukh, 32. "When the order included those who are on long-term work visas, it was a bit of a shock."

Birthright citizenship has long been considered a foundational principle of the United States. Eliminating it for the offspring of foreign workers could make working in the country less attractive, particularly for highly skilled and highly educated people who are in demand by many companies and must already navigate a byzantine, backlogged immigration system.

Currently, there is no provision in the law for babies born in the United States to be anything but citizens.

“It’s that, or they are undocumented,” said Margaret Stock, an immigration lawyer who has published numerous articles on birthright citizenship.

“It appears the Trump administration is trying to stop immigration, period, because nobody in their right mind would want to come here on a work visa if they thought their kid born here would be undocumented,” Ms. Stock said.

More than 30 million immigrants were part of the U.S. labor force in 2022, according to the Pew Research Center. The majority, or 22.2 million, were lawful immigrants; 8.3 million were undocumented.

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“They are inquiring about what status to expect for their baby and whether to induce labor so that the baby arrives before the executive order potentially takes effect,” she said.

“Many of them have been living in the U.S. for years,” Ms. Sostrin added. “They are physicians, researchers, university professors who own homes, have other American children and aren’t going anywhere.”

Ratified after the Civil War, the 14th Amendment of the Constitution was intended to guarantee citizenship for all, reversing a court decision that had deprived Black people born in the United States of that right. The provision states that “all persons born or naturalized in the United States, and subject to the jurisdiction thereof” are Americans.

More than 150 years later, Mr. Trump is arguing for a different interpretation of “jurisdiction,” which would exclude children of those “unlawfully present” or whose residence is “lawful but temporary.”

Mr. Trump and his allies have argued that birthright citizenship has motivated people to cross the border or travel to the United States as tourists to give birth to “anchor babies” who can receive public assistance and sponsor their parents for residency after turning 21.

Most Indian immigrants are in the United States on work visas, recruited by companies for their specialized skills. Technology giants, such as Meta; retailers, such as Walmart; and major banks hire them to develop software and manage their computer systems.

These employers often then sponsor the workers for permanent U.S. residency. Because the wait for green cards can span decades, the executive order eliminating birthright citizenship can make it difficult to plan for children.

Although Shraaya and Sumukh have a green card application in the pipeline, they had not decided, even before the order, whether they would remain in the United States, they said. Now they have even less incentive to stay.

Sumukh said he did not understand how he and his wife could be seen as not “subject to the jurisdiction” of the United States if they had been paying federal and state income taxes, and for Social Security and Medicare benefits down the road.



Kay, a native of Hong Kong, moved to the United States with her husband and 5-year-old son in 2023.
Jenn Ackerman for The New York Times

Kay, 30, a native of Hong Kong, moved to the United States with her husband and 5-year-old son in 2023 after she accepted a job at a charter school outside Minneapolis that has a Chinese-language immersion program. She teaches math and chemistry on a skilled-worker visa.

She has grown to love her students, and her family loves their community, she said.

During the presidential campaign, she stayed attentive to the many promises that Mr. Trump made. Ending birthright citizenship was not one she expected would materialize or affect her. Then, on his first day in office, he signed the executive

order.

It came after the school had decided to sponsor Kay for permanent residency, which would also extend to her husband and their child. They had decided that they would put down roots in Minnesota.

But after the order, they began to worry. What status would their children have? Would they have to hire a lawyer to get them green cards?

The family put their plans on hold.

“We can’t see the future,” she said. “There is just too much uncertainty.”

Sheelagh McNeill contributed research.

Miriam Jordan reports from a grass roots perspective on immigrants and their impact on the demographics, society and economy of the United States. More about Miriam Jordan