

U.S. Birthright Citizenship and Korean Americans

Korean American Institute Policy Brief

Published May 2026

1. Why this matters.

Birthright citizenship is the rule that any child born on American soil is a U.S. citizen. That constitutional understanding has been the settled reading of the Fourteenth Amendment since [United States v. Wong Kim Ark](#) (1898) for 128 years. President Trump's [executive order](#) would change that.

Arguments about whether this is lawful or a good idea usually focus on unauthorized immigrants from Mexico, Central America, and Haiti. Asian immigrants rarely come up. **Korean immigrants almost never do.**

Yet Korean American families would be among the most directly affected. That is not only because there are plenty of Koreans in America **without legal status**, but also because a huge number of Koreans are here on **temporary legal status – as students, exchange scholars, workers, and investors – that the executive order also targets.**

This Policy Brief prepared by the Korean American Institute explains the law before the order, what the order does, what the most careful demographic projection finds, and why Korean Americans are unusually exposed.

2. The settled rule.

For 128 years, the United States Supreme Court has read the Fourteenth Amendment of the United States Constitution to mean exactly what it says: if you are born on U.S. soil, you are an American citizen.

The [Fourteenth Amendment](#), ratified in 1868 after the Civil War, declares that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens.” Congress later [codified that rule in a federal statute, in 1940 and again in 1952](#). And the Court first applied the rule to the U.S.-born child of non-citizen parents in [United States v. Wong Kim Ark](#), decided in 1898.

Wong Kim Ark was born in San Francisco in 1873. His parents were Chinese immigrants — lawfully present, running a business, and settled in the United States. But [federal naturalization law](#) prevented them from ever becoming American citizens because they were neither White nor of African descent. When Wong Kim Ark returned from a trip to China, immigration authorities prevented him from landing, arguing that he was not a U.S. citizen.

The Supreme Court disagreed, 6 to 2. Born on U.S. soil meant citizen, with only narrow exceptions: members of sovereign tribal nations, children of foreign diplomats, and children of enemy occupying forces. None of these exceptions covers the children the current executive order targets.

Every federal court that has so far reviewed the executive order has read Wong Kim Ark as controlling. The Trump administration, however, argues that the case reached only the children of permanently settled lawful non-citizens, not the children of people without papers or those with temporary status.

3. What the executive order does.

On January 20, 2025, President Trump signed [Executive Order 14160](#), “Protecting the Meaning and Value of American Citizenship.” The order has two prongs. Public debate focuses almost entirely on the first. Most readers do not know of the second.

- **Prong 1: Children of Undocumented Mothers.** A child born in the United States is not a citizen if the mother is “unlawfully present” (and the father is not a U.S. citizen or green-card holder).
- **Prong 2: Children of Lawful Temporary Residents.** A child born in the United States is not a citizen if the mother is in a “lawful but temporary” immigration status, for example, as a student, exchange scholar, worker, investor, or tourist (and the father is not a U.S. citizen or green-card holder).

Together, these two prongs require at least one parent who is either a citizen or a legal permanent resident (green card holder). But focus on Prong 2, what most people miss.

It denies citizenship to U.S.-born children of **foreign students, foreign exchange scholars and postdoctoral researchers, foreign professionals on work visas, foreign business owners on investor visas, and foreign tourists**. These are people who are in the United States entirely *legally*.

Every federal court that has reviewed the executive order has blocked it. The Supreme Court heard oral argument in [Trump v. Barbara](#) on April 1, 2026, with President Trump personally attending oral argument. A ruling is expected by July.

4. The surprising numbers.

The most careful projection of the order's effects is a 2026 study by demographers [Jennifer Van Hook and A. Nicole Kreisberg in the journal *Demography*](#). The study projects that the executive order would deny U.S. citizenship to about **6.4 million children** born in the United States between 2025 and 2050. Not surprisingly, most of those children – roughly 78 percent – would be Latino.

More unexpected is the impact on Asian families. The study projects that **757,000 Asian children** would be denied citizenship over the same period. And about **80 percent** of them – roughly 613,000 – would be denied citizenship not because their parents are undocumented but because their parents are in lawful temporary statuses.

The driver is Prong 2 (Children of Lawful Temporary Residents), the half of the executive order that most of us do not know about.

5. Why Korean Americans are especially exposed.

Korean immigration to the United States runs heavily through the lawful temporary-status categories that Prong 2 targets. Four channels carry most of that exposure.

- **Student visas.** According to the [Open Doors Report](#), Korea is the third-largest source of international students in the United States, after India and China. Roughly [43,000 Korean students](#) were enrolled in U.S. institutions in 2023–24. Many spend a decade or more in the country across undergraduate, graduate, and post-doctoral programs. Children born during that long stay would not be citizens under Prong 2.
- **Exchange scholars and postdocs.** Korean academics, postdoctoral researchers, and visiting scholars routinely come to U.S. universities on J-1 exchange visitor status, often staying for several years. Their U.S.-born children would not be citizens under Prong 2.
- **The green-card waiting room.** Korean professionals admitted in H-1B status typically spend several years between the start of the green-card process and its completion. Throughout that wait they remain in a “temporary” status under federal law, even though federal regulations themselves contemplate the wait,

allow them to renew the status, and recognize the eventual transition to permanent residence. Children born during the wait would not be citizens under Prong 2, even though the family is on a clear, lawful path to becoming permanent residents and citizens.

- **E-2 treaty investor visas.** According to the State Department, [South Korea is consistently among the top three E-2 countries](#) in the world. About **6,800** E-2 visas were issued to Korean nationals in fiscal year 2024, second only to Japan (and roughly tied with Canada). The E-2 lets foreign nationals run businesses in the United States, but it has no built-in path to a green card. Korean E-2 holders routinely live here for decades, hire Americans, pay taxes, and remain legally classified as “temporary.” Their U.S.-born children would not be citizens under Prong 2.

Do not forget Prong 1. None of this is to suggest that the undocumented prong of the order leaves Korean Americans untouched. Roughly **150,000 to 175,000 Koreans** live in the United States without legal status, according to estimates from the [Migration Policy Institute](#) and the [Pew Research Center](#).

Korea is a meaningful source country for unauthorized immigration to the United States, and the children of undocumented Korean parents would be denied citizenship under Prong 1, the same as the children of any other undocumented parents. This Policy Brief emphasizes Prong 2 because it is the under-noticed half of the order, not because Koreans escape the other half.

6. What would follow.

If the order survives Supreme Court review and takes effect:

- **A new generation of Koreans would be born in the United States without American citizenship,** often without a meaningful tie to Korea or to any other country. They may live in the U.S. for over a decade without quite realizing that they are legally Korean, not American.
- **Children classified as non-citizens would face concrete barriers.** At an individual level, these children could get no federal financial aid for college, no lawful employment, and very limited access to safety-net programs.
- **Reinforce perpetual foreigner stereotypes.** At a societal level, this policy risks reinforcing the stereotype that Asians in America are perpetually foreign, not truly American.

- **Chilling talent.** High-skilled Korean immigrants, including in STEM fields, would find moving to the United States far less attractive.

The headline projection is striking. Under the executive order, an estimated **757,000 Asian children** will be born without U.S. citizenship between 2025 and 2050, and roughly four-fifths of them will be the children of parents in lawful temporary statuses. Although exact numbers can't be computed, Korean American families, concentrated in exactly those categories, would account for a meaningful share of that number.

Deeper uncertainty: The order says its new rule applies only to children born 30 or more days after January 20, 2025. But that promise of prospective-only enforcement appears in the order's policy section. The order's substantive section does something larger: it reinterprets the Fourteenth Amendment's Citizenship Clause itself, with no temporal limit. **If the Supreme Court endorses that reinterpretation**, the new reading becomes what the Constitution has always meant, and **adults born decades ago on U.S. soil**, who have long believed themselves to be U.S. citizens, but who happen to have been born to parents in temporary statuses, **could have to prove up that they are in fact Americans**. The Solicitor General told the Supreme Court at oral argument that any ruling could be confined to future births (citing [Sessions v. Morales-Santana](#), a 2017 equal-protection case). That argument is contestable as a matter of legal doctrine, and even if honored, prospective-only enforcement would be a matter of Executive Branch grace, not entitlement.

6. Conclusion

People disagree, in good faith, about how the United States should structure citizenship. The Constitution, the federal statute, and 128 years of Supreme Court precedent point one way; the current administration argues the other. That debate involves not only legal interpretation but also competing visions of a multi-racial America, including Korean Americans, that data alone cannot settle.

What the data can do is correct a misperception. In the public conversation, birthright citizenship is mostly framed as a Latino issue and a southern-border issue. But the order's reach extends deep into Asian American communities, and given their immigration patterns, Korean Americans would be among the hardest hit.

Appendix: Primary Sources and Further Reading

Constitutional and Statutory Texts

- ✓ [U.S. Const. amend. XIV, § 1](#)
- ✓ [Immigration and Nationality Act of 1952](#)
- ✓ [8 U.S.C. § 1401](#) (codifying birthright citizenship)
- ✓ [Executive Order 14160 \(Jan. 20, 2025\)](#)

Cases

- ✓ [United States v. Wong Kim Ark, 169 U.S. 649 \(1898\)](#)
- ✓ [Trump v. CASA, Inc. \(2025\)](#)
- ✓ [Trump v. Barbara et al. \(cert. petition\)](#)
- ✓ [State of Washington v. Trump \(9th Cir. 2025\)](#)
- ✓ [Sessions v. Morales-Santana, 582 U.S. 47 \(2017\)](#)

Empirical Anchor

- ✓ Van Hook, J. & Kreisberg, A.N., [Ending Birthright Citizenship Would Have Disparate Impacts on U.S.-born Children of Asian and Latino Immigrants](#), Demography (2026).
- ✓ Van Hook, Fix & Gelatt, [Repealing Birthright Citizenship Would Significantly Increase the Size of the U.S. Unauthorized Population](#), Migration Policy Institute (May 2025).

Asian American Advocacy Organizations on the Case

- ✓ [Asian Law Caucus](#)
- ✓ [Asian American Legal Defense & Education Fund \(AALDEF\)](#)
- ✓ [National Asian Pacific American Bar Association \(NAPABA\)](#)
- ✓ [Asian Americans Advancing Justice – AAJC](#)
- ✓ [The Asian American Foundation \(TAAF\)](#)
- ✓ [APIAVote](#)

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