



## Recent Executive Branch Actions on Immigration (Part 2)

May 1, 2025

Since taking office on January 20, 2025, President Trump and his Administration have issued numerous executive actions and initiatives related to the enforcement of federal immigration laws. This Legal Sidebar provides an overview of select executive actions and directives issued to date that are related to interior immigration enforcement, public safety and national security, and eligibility for U.S. citizenship. It is the second in a two-part series. The first Sidebar is available [here](#).

### Interior Immigration Enforcement

On January 20, 2025, President Trump issued an executive order, “[Protecting the American People Against Invasion](#),” revoking several [Biden Administration executive orders](#) related to immigration enforcement policies and priorities and stipulating that “it is the policy of the United States to faithfully execute the immigration laws against all inadmissible and removal aliens, particularly those aliens who threaten the safety or security of the American people.” The executive order directs DHS officials to implement new civil enforcement priorities and to prioritize enforcing final orders of removal and immigration law provisions related to the illegal entry and unlawful presence of aliens in the United States. The executive order also directs the Attorney General, Secretary of State, and DHS Secretary to prioritize prosecuting criminal offenses related to the unauthorized entry and presence of aliens in the United States. The order directs all unregistered aliens to comply with the registration obligations under [8 U.S.C. § 1302](#) and aliens who fail to do so to be categorized as enforcement priorities.

The executive order also calls for expanding expedited removal “to the fullest extent authorized by Congress.” Individuals subject to [expedited removal](#) bypass administrative removal proceedings and the opportunity to present their cases in front of immigration judges. The order would potentially make expedited removal available in removing any alien found to have been physically present in the country for less than two years if that alien either did not obtain valid entry documents or procured admission through fraud or misrepresentation. This reflects a return to the expansive expedited removal policy adopted by the first Trump Administration in [2019](#). The Biden Administration had [rescinded](#) this policy, reverting back to the pre-Trump Administration application of expedited removal to individuals apprehended within 100 miles of the border and within 14 days of entering the United States. On January

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21, 2025, DHS [announced](#) it would implement its expedited removal authority “to the fullest extent authorized by Congress.”

The executive order also directs the DHS Secretary to expand detention facilities and to ensure that aliens arrested for violating immigration laws are placed in detention facilities while awaiting the outcome of their removal proceedings and their removal from the country. In addition, the order directs the DHS Secretary to take necessary action, under [8 U.S.C. § 1357\(g\)](#), to authorize state and local officials to perform the functions of immigration officers under the supervision of the DHS Secretary. This [includes authorization](#), through agreements known as “[287\(g\) agreements](#),” for state and local officials to perform functions similar to immigration officers in relation to “investigation, apprehension, and detention of aliens in the United States.”

The order directs federal authorities to facilitate and encourage unlawfully present aliens to voluntarily depart the country as soon as possible and instructs the Secretaries of DHS and State to implement any necessary sanctions under [8 U.S.C. § 1253\(d\)](#) to ensure that foreign states accept their nationals who are removed from the United States.

The executive order includes a provision that seeks to limit access of federal funds to “[sanctuary jurisdictions](#)”—a term not defined by the order but frequently used in reference to state or local jurisdictions that opt not to cooperate with federal immigration enforcement efforts. The order directs the DHS Secretary and Attorney General to “evaluate and undertake any other lawful actions, civil or criminal,” against any jurisdiction that interferes with the enforcement of federal immigration law. The order further instructs the DHS Secretary to issue guidance to ensure compliance with [8 U.S.C. §§ 1373 and 1644](#), which generally prevent states and localities from restricting their officers from sharing certain immigration-related information with the federal government.

Some of the initiatives announced in the President’s January 20, 2025, executive order have prompted litigation. For example, a [lawsuit](#) filed on January 22, 2025, argues that DHS’s [expansion](#) of expedited removal violates the due process rights of aliens within the United States under the Fifth Amendment, violates certain federal statutes, and fails to comply with requirements under the Administrative Procedure Act. The U.S. Court of Appeals for the D.C. Circuit previously [upheld](#) an expedited removal policy similar to the one contained in the executive order. The court considered only whether the expansion was consistent with the governing statute; the court [did not address](#) the plaintiff’s arguments that expedited removal procedures were constitutionally deficient when applied to persons living in the United States. The January 2025 lawsuit filed before the U.S. District Court for the District of Columbia remains pending.

Additionally, on March 12, 2025, DHS’s U.S. Citizenship and Immigration Services (USCIS) issued an [interim final rule](#) that refers to the President’s January 20, 2025, executive order and imposes a general registration requirement for all unregistered aliens regardless of their status, effective as of April 11, 2025. Following a [lawsuit](#) by advocacy organizations seeking to block implementation of the rule, a federal district court [ruled](#) on April 10, 2025, that the plaintiffs lacked [standing](#) to bring their claim.

With respect to federal funding for “sanctuary jurisdictions,” legal challenges have also been brought as a result of the President’s January 20, 2025, executive order and an implementing February 5, 2025, [memorandum](#) from the Attorney General that directs the Department of Justice to end funding to “sanctuary jurisdictions” and to pause funding to nongovernmental organizations “that support or provide services to removable or illegal aliens” pending review of whether such organizations used funds “to promote or facilitate the violation of Federal immigration law.” Multiple lower courts [rejected](#) an effort by the first Trump Administration to condition a state or local government’s eligibility for certain federal grants upon its cooperation with federal immigration enforcement efforts. More recently, in February 2025, various cities and counties brought [suits](#) in separate [cases](#) against the Trump Administration, arguing, among other things, that it lacks authority to impose conditions on the receipt of federal funds

allocated by Congress, that its actions unconstitutionally compel state and local governments to enforce federal immigration policies, and that the withholding of funds violates the Administrative Procedure Act. On April 24, 2025, a federal district court [granted](#) a preliminary injunction in one of the lawsuits. Meanwhile, on February 6, 2025, the Department of Justice [sued](#) the City of Chicago and others, asserting, among other things, that its “sanctuary city” policies violate federal immigration law and the Supremacy Clause of the Constitution. That case remains pending.

On April 28, 2025, the President issued an executive order titled “[Protecting American Communities from Criminal Aliens](#),” which directs the Attorney General, in coordination with the Secretary of DHS, to “publish a list of States and local jurisdictions that obstruct the enforcement of Federal immigration laws (sanctuary jurisdictions),” to “update this list as necessary,” and to “notify each sanctuary jurisdiction regarding its defiance of Federal immigration law enforcement and any potential violations of Federal criminal law.” The order also directs federal agency heads, in coordination with the director of the Office of Management and Budget, to “identify appropriate Federal funds to sanctuary jurisdictions, including grants and contracts, for suspension or termination, as appropriate.” With regard to “sanctuary jurisdictions” that “remain in defiance of Federal law,” the order requires the Attorney General and the Secretary of DHS to “pursue all necessary legal remedies and enforcement measures to end these violations and bring such jurisdictions into compliance with the laws of the United States.”

## Public Safety and National Security

On January 20, 2025, President Trump issued an executive order titled “[Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists](#).” The order identifies certain international cartels and other transnational organizations, including the Tren de Aragua and MS-13 gangs, as national security threats and declares a national emergency under the [International Emergency Economic Powers Act](#) to address those threats. The order also directs the Secretary of State (in consultation with other agency heads) to recommend the designation of any cartel or other transnational organization as a [Foreign Terrorist Organization](#) pursuant to [8 U.S.C. § 1189](#) and/or a [Specially Designated Global Terrorist](#) pursuant to [50 U.S.C. § 1702](#) and [Executive Order 13224](#). The January 20, 2025, order also directs the Attorney General and Secretary of DHS (in consultation with the Secretary of State) to make preparations for any future presidential order that invokes the [Alien Enemy Act](#) to address “any qualifying invasion or predatory incursion against the territory of the United States,” including the preparation of facilities used to expedite the removal of aliens designated under that order.

In a separate January 20, 2025, executive order, “[Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats](#),” President Trump directed the Secretary of State (in consultation with the Attorney General, Secretary of DHS, and director of national intelligence) to adopt enhanced vetting and screening procedures for aliens seeking admission to the United States or applying for immigration benefits, including those who are already present in the United States. The President, among other things, also directed the Secretary of State, Attorney General, Secretary of DHS, and director of national intelligence to jointly submit a report that identifies countries that have deficient vetting information that warrants suspending the entry of nationals of those countries under [8 U.S.C. § 1182\(f\)](#) (discussed above) and the number of nationals from those countries who have entered the United States since January 20, 2021.

In another January 20, 2025, executive order, “[Restoring the Death Penalty and Protecting Public Safety](#),” President Trump, among other things, ordered the Attorney General to pursue the death penalty for all federal “crimes of severity demanding its use” and, in particular, for every [federal capital crime](#) committed by an unlawfully present alien.

In a January 29, 2025, executive order titled “[Additional Measures to Combat Anti-Semitism](#),” the President reaffirmed a [policy](#) “to combat anti-Semitism vigorously, using all available and appropriate

legal tools, to prosecute, remove, or otherwise hold to account the perpetrators of unlawful anti-Semitic harassment and violence,” and announced “additional measures,” including working with institutions of higher education to identify students or staff who may be removable on national-security-related grounds. Subsequently, citing the President’s executive orders on Additional Measures to Combat Anti-Semitism and [Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats](#) (discussed above), USCIS [announced](#) that it would “begin considering aliens’ antisemitic activity on social media” to deny them immigration benefits. These executive actions have most directly impacted students on nonimmigrant visas, leading to [multiple lawsuits](#) on the subject. [Reportedly](#), over a thousand students have had their student visas revoked or their legal status otherwise terminated on certain grounds, including based on criminal offenses or other activities deemed contrary to national interests. During the ensuing litigation, following the issuance of temporary restraining orders (TROs) barring the Trump Administration’s efforts to terminate students’ nonimmigrant status, the Administration has temporarily [restored](#) many students’ legal status pending development of policy guidance concerning the termination of student nonimmigrant visas.

Additionally, on January 29, 2025, President Trump issued a [memorandum](#) to the Secretaries of DHS and Defense, instructing them to take all “appropriate actions to expand the Migrant Operations Center at Naval Station Guantanamo Bay to full capacity to provide additional detention space for high-priority criminal aliens unlawfully present in the United States.” Aliens transferred there [are to be detained](#) at the Migrant Operations Center until their removal can be effectuated to their countries of origin or other appropriate destinations. [Lawsuits](#) have been [filed](#) challenging the transfer of aliens to Guantanamo Bay, including based on claims that such transfer lacks statutory authority and violates detainees’ right to due process. [Reportedly](#), the Trump Administration has [removed](#) immigration detainees from Guantanamo Bay pending the outcome of the litigation.

Further, on March 15, 2025, President Trump issued a [proclamation](#) under the [Alien Enemy Act](#) directing that all Venezuelan citizens 14 years of age or older (other than naturalized U.S. citizens and lawful permanent residents) present in the United States who are members of the Tren de Aragua gang (which had been [designated](#) by the Secretary of State as a [Foreign Terrorist Organization](#)) are “subject to immediate apprehension, detention, and removal.” Venezuelan nationals detained pursuant to the proclamation [have brought separate legal challenges contesting](#) the legality of their detention and the President’s authority to remove them under the Alien Enemy Act. In one case, the D.C. District Court provisionally certified a class of “all noncitizens in U.S. custody who are subject to the Mar. 15, 2025 Presidential Proclamation” and issued [TROs](#) barring the removal of the named plaintiffs in the case as well as any members of the provisionally certified class of aliens until they had an opportunity to challenge the implementation of the proclamation against them. The D.C. Circuit on March 26, 2025, [denied](#) the government’s emergency motion to stay the orders. On April 7, 2025, the Supreme Court [granted](#) the government’s request to vacate the TROs, ruling that the plaintiffs, who were detained in Texas, could bring their claims only through a [petition for writ of habeas corpus](#) filed in the district of their confinement. On May 1, 2025, the U.S. District Court for the Southern District of Texas [held](#) that the executive branch cannot rely on the Alien Enemy Act to detain and remove the petitioners in the case or other located within the Southern District.

## Citizenship Under the Fourteenth Amendment

The principle of “birthright citizenship” derives from the Fourteenth Amendment to the Constitution and complementary [statutes](#) and [regulations](#). [Section 1 of the Fourteenth Amendment](#) provides 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.” Since the Supreme Court’s decision in the 1898 case [United States v. Wong Kim Ark](#), the predominant legal view has been that all persons born in the United States are constitutionally guaranteed citizenship at birth unless their parents are [foreign diplomats](#),

members of occupying foreign forces, or members of recognized Indian tribes. Some legal scholars have argued, however, that “subject to the jurisdiction thereof” in the Fourteenth Amendment’s Citizenship Clause requires “something in addition to mere birth on U.S. soil.”

On January 20, 2025, President Trump issued “[Protecting the Meaning and Value of American Citizenship](#),” an executive order addressing eligibility for U.S. citizenship at birth. The order declares that the Fourteenth Amendment “has always excluded from birthright citizenship persons who were born in the United States but not ‘subject to the jurisdiction thereof.’” It further declares that birthright citizenship does not extend to a person born in the United States “(1) when that person’s mother was unlawfully present in the United States and the person’s father was not a United States citizen or lawful permanent resident at the time of said person’s birth, or (2) when that person’s mother’s presence in the United States was lawful but temporary, and that person’s father was not a United States citizen or lawful permanent resident at the time of said person’s birth.” “Mother” is defined in the order to mean “[immediate female progenitor](#),” and “father” is defined as “[immediate male biological progenitor](#).”

Through the executive order, President Trump directed federal departments and agencies to decline to issue documents recognizing U.S. citizenship for these individuals or to accept documents issued by state, local, or other government entities “purporting to recognize U.S. citizenship” of persons covered by the executive order. The executive order provides that this provision applies to persons who are born within the United States more than 30 days after the date of order’s issuance.

Numerous lawsuits have been brought challenging the executive order on the grounds that it conflicts with the constitutional guarantees of the Fourteenth Amendment and federal law. Federal district courts in [Maryland](#), [Massachusetts](#), and [Washington](#) issued nationwide injunctions, rejecting the government’s narrower interpretation of “subject to the jurisdiction thereof” in the Citizenship Clause of the Fourteenth Amendment. The [First](#), [Fourth](#), and [Ninth](#) Circuits denied the government’s motions to stay the injunctions pending consideration of its appeals of those decisions. The government has [requested](#) a partial stay of the injunctions before the Supreme Court, seeking to limit the scope of the injunctions to cover only the specific parties in those cases. The Supreme Court [has agreed](#) to hear oral arguments on May 15, 2025, on the government’s request for a partial stay.

## Author Information

Alejandra Aramayo  
Legislative Attorney

Hillel R. Smith  
Legislative Attorney

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