

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY;  
COMMONWEALTH OF MASSACHUSETTS;  
STATE OF CALIFORNIA; STATE OF  
COLORADO; STATE OF CONNECTICUT;  
STATE OF DELAWARE; DISTRICT OF  
COLUMBIA; STATE OF HAWAI'I; STATE OF  
MAINE; STATE OF MARYLAND;  
ATTORNEY GENERAL DANA NESSEL FOR  
THE PEOPLE OF MICHIGAN; STATE OF  
MINNESOTA; STATE OF NEVADA; STATE  
OF NEW MEXICO; STATE OF NEW YORK;  
STATE OF NORTH CAROLINA; STATE OF  
RHODE ISLAND; STATE OF VERMONT;  
STATE OF WISCONSIN; and CITY &  
COUNTY OF SAN FRANCISCO,

*Plaintiffs,*

v.

DONALD J. TRUMP, in his official capacity as  
President of the United States; U.S.  
DEPARTMENT OF STATE; MARCO RUBIO,  
in his official capacity as Secretary of State; U.S.  
DEPARTMENT OF HOMELAND SECURITY;  
BENJAMINE HUFFMAN, in his official  
capacity as Acting Secretary of Homeland  
Security; U.S. DEPARTMENT OF HEALTH  
AND HUMAN SERVICES; DOROTHY FINK,  
in her official capacity as Acting Secretary of  
Health and Human Services; U.S. SOCIAL  
SECURITY ADMINISTRATION; MICHELLE  
KING, in her official capacity as Acting  
Commissioner of U.S. Social Security  
Administration, and UNITED STATES OF  
AMERICA,

*Defendants.*

No. 1:25-cv-10139

MEMORANDUM OF LAW IN SUPPORT  
OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

## **TABLE OF CONTENTS**

	<u>Page(s)</u>
INTRODUCTION .....	1
BACKGROUND .....	2
A.    Terms of the Executive Order.....	2
B.    The Impacts of the Order .....	3
ARGUMENT	
I.    Plaintiffs Have Standing to Bring Suit.....	8
II.    Plaintiffs Are Highly Likely to Succeed on The Merits .....	9
A.    The Order Violates the Fourteenth Amendment.....	9
B.    The Order Independently Violates Federal Law.....	14
III.    The Equities Compel Preliminary Relief.....	15
CONCLUSION.....	20

## **TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Norris ex rel. A.M. v. Cape Elizabeth Sch. Dist.</i> , 969 F.3d 12 (1st Cir. 2020).....	8
<i>City &amp; Cnty. of S.F. v. USCIS</i> , 408 F. Supp. 3d 1057 (N.D. Cal. 2019) .....	16
<i>CMM Cable Rep., Inc. v. Ocean Coast Props.</i> , 48 F.3d 618 (1st Cir. 1995).....	15
<i>Concord Hosp., Inc. v. NH Dep’t of Health &amp; Hum. Servs.</i> , ____ F. Supp. 3d ___, 2024 WL 3650089 (D.N.H. Aug. 5, 2024).....	15
<i>Crowe &amp; Dunlevy, P.C. v. Stidham</i> , 640 F.3d 1140 (10th Cir. 2011) .....	15
<i>Does 1-6 v. Mills</i> , 16 F.4th 20 (1st Cir. 2021).....	17
<i>DraftKings Inc. v. Hermalyn</i> , 118 F.4th 416 (1st Cir. 2024).....	18, 19
<i>Dred Scott v. Sandford</i> , 60 U.S. 393 (1857).....	1, 13
<i>E. Bay Sanctuary v. Covenant v. Trump</i> , 932 F.3d 742 (9th Cir. 2018) .....	15
<i>Elk v. Wilkins</i> , 112 U.S. 94 (1884).....	11
<i>In re Fin. Oversight &amp; Mgmt. Bd. for P.R.</i> , 110 F.4th 295 (1st Cir. 2024).....	8
<i>Gonzalez-Alarcon v. Macias</i> , 884 F.3d 1266 (10th Cir. 2018) .....	3
<i>Gustavsen v. Alcon Labs, Inc.</i> , 903 F.3d 1 (1st Cir. 2018).....	8
<i>Hamdi v. Rumsfeld</i> , 542 U.S. 507 (2004).....	12

<i>HIAS v. Trump</i> , 985 F.3d 309 (4th Cir. 2021) .....	19
<i>Inglis v. Trustees of Sailor's Snug Harbour</i> , 28 U.S. 99 (1830).....	11
<i>INS v. Rios-Pineda</i> , 471 U.S. 444 (1985).....	12
<i>Kentucky v. Biden</i> , 57 F.4th 545 (6th Cir. 2023) .....	15
<i>Massachusetts v. U.S. Dep't of Health &amp; Hum. Servs.</i> , 923 F.3d 209 (1st Cir. 2019).....	8
<i>McBrairy v. Miller</i> , 93 F.4th 513 (1st Cir. 2024).....	8
<i>Miles v. Apex Marine Corp.</i> , 498 U.S. 19 (1990).....	14
<i>Nken v. Holder</i> , 556 U.S. 418 (2009).....	17
<i>Plyler v. Doe</i> , 457 U.S. 202 (1982).....	1, 11, 12, 19
<i>Pub. Int. Rsch. Grp. v. FCC</i> , 522 F.2d 1060 (1st Cir. 1975).....	9
<i>Rio Grande Cnty. Health Ctr., Inc. v. Rullan</i> , 397 F.3d 56 (1st Cir. 2005).....	15
<i>Savino v. Souza</i> , 459 F. Supp. 3d 317 (D. Mass. 2020) .....	17
<i>Schooner Exchange v. McFaddon</i> , 11 U.S. 116 (1812).....	10
<i>Sindi v. El-Moslimany</i> , 896 F.3d 1 (1st Cir. 2018).....	20
<i>Tennessee v. Dep't of Education</i> , 104 F.4th 577 (6th Cir. 2024) .....	16
<i>Texas v. Yellen</i> , 105 F.4th 755 (5th Cir. 2024) .....	15

<i>Trump v. Int'l Refugee Assistance Project,</i> 582 U.S. 571 (2017).....	18
<i>United States v. Abreu,</i> 106 F.4th 1 (1st Cir. 2024).....	14
<i>United States v. Wong Kim Ark,</i> 169 U.S. 649 (1898).....	1, 10, 11, 12, 14, 18, 19
<i>Whitman-Walker Clinic, Inc., v. HHS,</i> 485 F.Supp.3d 1 (D.D.C. 2020).....	16
<b>Statutes and Regulations</b>	
5 U.S.C. § 706.....	9, 15
8 U.S.C. § 1356.....	7
8 U.S.C. § 1401.....	1, 14, 15
8 U.S.C. § 1611.....	4, 6
8 U.S.C. § 1612.....	4
8 U.S.C. § 1641.....	6
20 U.S.C. § 1400.....	5
20 U.S.C. § 1412.....	5
22 U.S.C. § 254.....	11
42 U.S.C. § 405.....	14
42 U.S.C. § 1396b.....	4
42 U.S.C. § 1396d.....	4
20 C.F.R. § 422.103(c)(2).....	13
20 C.F.R. § 422.107(d) .....	13
42 C.F.R. § 435.406.....	4
88 Fed. Reg. 81090 .....	4

## Other Authorities

Christopher L. Eisgruber, <i>Birthright Citizenship and the Constitution</i> 72 N.Y.U. L. Rev. 54 (1997) .....	11
James C. Ho, <i>Defining “American:” Birthright Citizenship &amp; the Original Understanding of the 14th Amendment</i> 9 Green Bag 2d 367 (2006).....	13
Jocelyn Kane, et al., <i>Health Care Experiences of Stateless People in Canada</i> 1 J. Migration & Hum. Security (2023).....	3
Margaret Stock, <i>Is Birthright Citizenship Good for America</i> 32 CATO J. 139 (Winter 2012) .....	3
Michael Ramsey, <i>Originalism and Birthright Citizenship</i> 109 Geo. L.J. 405 (2020) .....	11
Noah Webster, <i>An American Dictionary of the English Language</i> 635 (George & Charles Merriam 1860) .....	9
Omar Martinez, et al, <i>Evaluating Impact of Immigration Policies on Health Status Among Undocumented Immigrants: A Systematic Review</i> J. Immigrant Minority Health 947 (2015).....	3
Polly J. Price, <i>Stateless in the United States: Current Reality and a Future Prediction</i> , 46 Vand. J. Transnat'l L. 443 (March 2013) .....	3
U.S. Department of Justice, <i>Legislation Denying Citizenship at Birth to Certain Children Born in the United States</i> , 19 Op. O.L.C. 340 (1995) .....	13, 18, 20
1 William Blackstone, <i>Commentaries on the Laws of England</i> 366 (6th ed., Co. of Booksellers, Dublin 1775) .....	12

## **INTRODUCTION**

Few principles are stitched deeper into the American fabric than birthright citizenship—and few principles have clearer grounding in law. From the earliest days of this Nation’s history, America followed the common law tradition of *jus soli*, that those born within the United States’s sovereign territory are subject to its laws and citizens by birth. That tradition continued unimpeded until the Supreme Court’s notorious pronouncement in *Dred Scott* that descendants of slaves were not citizens despite their birth in this country. But that aberration was short-lived: in the wake of the Civil War, our Nation adopted the Fourteenth Amendment to ensure citizenship for all who are born here. The Citizenship Clause thus promises “[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 its adoption, Congress has codified that guarantee, and the Supreme Court has twice confirmed that it means what it says. *See* 8 U.S.C. § 1401(b); *United States v. Wong Kim Ark*, 169 U.S. 649 (1898); *Plyler v. Doe*, 457 U.S. 202 (1982). For more than 150 years, the promise of the Citizenship Clause has never been undermined—until now.

This Court should step in to protect the centuries-old status quo from unprecedented attack. The President’s decision last night to direct federal agencies to refuse to recognize children newly born in this country as citizens based on the immigration status of their parents is inconsistent with the Constitution and federal statutes alike. Indeed, because the Supreme Court has repeatedly held that the Citizenship Clause “affirms the ancient and fundamental rule of citizenship by birth within the territory,” *Wong Kim Ark*, 169 U.S. at 693, this lawsuit is not just likely to succeed before this Court—is it all but certain. And this unlawful order works tremendous and irreparable harms, not only on more than 150,000 American babies born each year who will be deprived of the privileges of citizenship, but also on the Plaintiffs themselves: the order, which takes effect in 29 days, will

cause Plaintiffs to suffer direct losses of federal funds that turn on residents' citizenship and incur significant expenses to account for this radical change, none of which is remediable at the end of this case. Preliminary relief before February 19, 2025, including nationwide relief, is thus essential to protect the status quo from these profound and irretrievable injuries.

The President has no power to deny citizenship that the Fourteenth Amendment and federal statutes guarantee. This Court should grant a preliminary injunction.

## **BACKGROUND**

### **A. Terms of the Executive Order.**

Within hours of taking office, President Trump issued an Executive Order, "Protecting the Meaning and Value of American Citizenship," (Ex. W) ("Order") to strip American-born children of citizenship. The Order declares that birthright citizenship does not extend to anyone born to (i) a mother who is unlawfully present or who is lawfully present on a temporary basis, and (ii) a father who is neither a citizen nor lawful permanent resident. Based on this declaration, the Order announces a new policy: no federal agency "shall issue documents recognizing United States citizenship, or accept documents ... purporting to recognize United States citizenship" for such children born after February 19, 2025 ("Affected Children"). Order, § 2. The Order instructs all executive departments and agencies to implement this policy and specifically directs the Social Security Administration and the Departments of State, Justice, and Homeland Security to "ensure that the regulations and policies of their respective departments and agencies are consistent with this order, and that no officers, employees, or agents of their respective departments and agencies act, or forbear from acting, in any manner inconsistent with this order." *Id.*, § 3(a).

Not only does the Order strip the Affected Children of their citizenship, but the Order does not confer on them any lawful status and renders their presence in the United States unauthorized. Because the Order instructs all federal agencies to refuse to issue or accept any written recognition

of an Affected Child’s citizenship, it leaves the Affected Children ineligible for a range of federal services and programs that are unavailable to unauthorized individuals. As a result, in less than 30 days, Plaintiffs will begin to lose significant federal funding for various critical health and welfare services that they provide to newborns who will now be considered unauthorized.

## **B. The Impacts Of The Order.**

“Citizenship is unique”; “it is nothing less than the right to have rights.” *Gonzalez-Alarcon v. Macias*, 884 F.3d 1266, 1277 (10th Cir. 2018). The Order will deny this fundamental right to millions across the Nation, creating a class of American-born children who are excluded from most federal public benefits, who live under a constant, destabilizing threat of deportation, and who, as they age, will be unable to work lawfully or to participate in American political life as voters or officeholders. Margaret Stock, *Is Birthright Citizenship Good for America*, 32 CATO J. 139, 150 (Winter 2012). The impacts on their health and well-being will be profound. Not only will they be ineligible for many public services to which U.S. citizens and even “qualified aliens” are entitled, but they may be dissuaded from accessing services for which they are eligible based on a “fear of deportation and harassment from authorities.” Omar Martinez, et al, *Evaluating Impact of Immigration Policies on Health Status Among Undocumented Immigrants: A Systematic Review*, J. Immigrant Minority Health 947, 964 (2015) (describing resultant impacts on public health); *see also* Jocelyn Kane, et al., *Health Care Experiences of Stateless People in Canada* 1 J. Migration & Hum. Security 272-73 (2023). Further, as compared to U.S. citizens, undocumented immigrants are more likely to live in poverty and less likely to have a high school diploma. *See* Wong Decl. (Ex. T). And this newly subordinated class of American babies may be rendered stateless—unable to naturalize and potentially denied citizenship by any other nation. Stock, *supra*, at 148-49; *see also* Polly J. Price, *Stateless in the United States: Current Reality and a Future Prediction*, 46 Vand. J. Transnat'l L. 443, 492-99 (March 2013). Our Nation will also suffer, losing the “the constructive

economic energies” of these American children: “engagement in [authorized] work, establishment of businesses, provision of services, [and] innovation.” Price, *supra*, at 503.

In addition to the profound long-term impacts on these children, the Order will impose financial injury on Plaintiffs, principally by causing them to assume a greater fiscal responsibility for providing critical services and assistance to tens of thousands of their residents. The federal government has long provided funding to States to support provision of low-cost health insurance, certain educational services, and child welfare services. But eligibility for federal funding depends on the citizenship and immigration status of the children who are served. *See, e.g.*, 8 U.S.C. §§ 1611(a), (c)(1)(B), 1612(b)(3)(C); 42 U.S.C. § 1396b; 42 C.F.R. § 435.406. To comply with federal and state laws, as well as to maintain the health and safety of their overall communities, Plaintiffs must continue to provide services to the Affected Children, but will now solely bear the costs of doing so. Plaintiffs will also lose funding for their agencies as a direct effect of the Order’s instruction to SSA to adopt the new citizenship policy. Consider the following examples:<sup>1</sup>

Healthcare. Medicaid and CHIP, created by federal law, provide low-cost health insurance to U.S. citizens or “qualified aliens” whose family incomes fall below certain thresholds, 42 C.F.R. § 435.406; 8 U.S.C. § 1611(a), (c)(1)(B). States administer the programs, but the federal government covers a substantial portion of the costs—between 50 and 75 percent for children across the States. *See* Adelman Decl. (Ex. A) at ¶15; 42 U.S.C. § 1396d(b); 88 Fed. Reg. 81090. But U.S. law prohibits federal reimbursement for non-emergency costs incurred on behalf of “an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.” 42 U.S.C. § 1396b(v). To ensure that all children within

---

<sup>1</sup> While this brief focuses on the fiscal impacts the Order will have on States, the City and County of San Francisco’s declaration spells out the impacts on localities as well. *See* Ex. V.

their jurisdictions have access to comprehensive health insurance, several Plaintiff States offer fully state-funded health insurance to unauthorized children who meet the income eligibility requirements for Medicaid or CHIP. *See Ex. A at ¶¶5-11* (describing state program); Harrington Decl. (Ex. K) at ¶17. These programs expand access to preventative healthcare, limit the spread of communicable illnesses, and minimize the financial burdens on healthcare providers. *See Ex. A at ¶¶12-14; Ex. K at ¶16-17*. As a direct result of the Order, however, the federal government will refuse to recognize Affected Children as eligible for Medicaid or CHIP, so they will have to be enrolled in state-funded health insurance instead, a shift in coverage that will cost the Plaintiff States tens of millions of dollars. *See Ex. A at ¶29; Boyle Decl. (Ex. E) at ¶¶9-11; Ex. K at ¶36; Armenia Decl. (Ex. O) at ¶¶23-25; Hadler Decl. (Ex. R) ¶¶26-27*. Meanwhile, in Plaintiff States that do not provide such coverage to undocumented children, the loss of Medicaid and CHIP eligibility will place a financial strain on their public healthcare facilities, which will experience greater levels of uncompensated care. *See Groen Decl. (Ex. J) at ¶¶19*.

Special Needs Education. The same loss of Medicaid eligibility also has direct impacts on public health agencies and local schools, which must provide certain early intervention and special education services to infants, toddlers, and students with disabilities under the Individuals with Disabilities in Education Act (IDEA). *See 20 U.S.C. §§ 1400(d)(1)(A), 1412(a)(1)*. States and local school districts receive partial Medicaid reimbursement from the federal government for providing such services to Medicaid-enrolled children. Ehling Decl. (Ex. B) at ¶10; Baston Decl. (Ex. C) at ¶¶17-18; Heenan Decl. (Ex. L) at ¶12. Because the Order will eliminate this funding for Affected Children with special needs, the Plaintiffs will suffer direct financial harms.

Child Welfare. The Order will cause state child welfare agencies to lose significant federal Title IV-E funding, which covers a sizeable portion of States' expenses for foster care, adoption,

and guardianship assistance. *See, e.g.*, Jamet Decl. (Ex. D) at ¶¶14-15; Sesti Decl. (Ex. H) at ¶¶4-6. Plaintiff States incur costs to provide Affected Children with child welfare services as required by state law, and federal funds are used for both direct payments to families caring for children in foster care and to help cover States' administrative expenses. *See, e.g.*, Ex. D at ¶12; Ex. H at ¶5. But because this funding, too, is limited to citizens or "qualified aliens," *see* 8 U.S.C. §§ 1611(a), (c)(1)(B), 1641, States would lose access to Title IV-E funding for Affected Children and have to cover the costs themselves. *See, e.g.*, Ex. D at ¶15; Ex. H at ¶¶8-9; Avenia Decl. (Ex. Q) at ¶¶17-20. And the impacts do not stop there: to help keep children with their parents, some child welfare agencies provide targeted assistance for basic necessities to the families they serve. *See, e.g.*, Ex. D at ¶18; Ex. Q at ¶20. Here, too, the Order has a direct impact: because the quantum of assistance the State must provide to keep a child with their parents turns on the child's eligibility for federal programs like SNAP, TANF, and SSI, and the federal programs are again available to U.S. citizens and qualified aliens, the States would have to increase their assistance to families whose Affected Children are otherwise at risk of requiring foster care. *See, e.g.*, Ex. D at ¶18; Ex. Q at ¶20.

SSN Funding. The Order will also strip States of federal funding from the Social Security Administration (SSA). Pursuant to SSA's Enumeration At Birth ("EAB") program—under which 99% of newborns obtain their SSNs—participating States transmit SSN applications for newborns to SSA and receive \$4.82 per SSN issued. *See, e.g.*, Ex. C at ¶¶10-11; Duncan Decl. (Ex. I) at ¶19; Nguyen Decl. (Ex. M) at ¶¶22-23. Consistent with the Order, however, SSA will issue fewer SSNs to newborns, because it can no longer recognize the citizenship of Affected Children—and thereby cost the States tens of thousands of dollars they use to support the work of their vital statistics and records agencies. *See, e.g.*, Ex. C at ¶¶12-16; Ex. E at ¶19; Ex. I at ¶¶20-21; Ex. M at ¶30; Villamil-Cummings Decl. (Ex. N) at ¶18; Gauthier Decl. (Ex. S) ¶19.

Administrative/Operational Expenses. Finally, the Order will impose direct administrative and operational burdens on Plaintiffs. Plaintiffs maintain systems to verify residents' eligibility for federally-funded programs such as Medicaid, CHIP, Title IV-E, TANF, and SNAP. *See, e.g.*, Ex. A at ¶17; Ex. D at ¶¶19-20; Ex. H at ¶¶7-8; Ex. K at ¶23. Before the Order, there was an easily administrable way to verify the citizenship of American-born children: confirming that they were born in America. *See, e.g.*, Ex. D at ¶21; Ex. J at ¶15. But because a child's birth in this country will no longer suffice as proof, Plaintiffs will have to develop new systems that incorporate information about the child's parents to determine eligibility for federally funded programs; identify and determine the kinds of evidence sufficient to prove citizenship; design and implement new systems for processing applications and tracking citizenship status; train staff, partner organizations, and healthcare providers on the new system and procedures; and revise existing guidance and manuals regarding eligibility. *See* Ex. A at ¶¶32-35 (detailing costs); Ex. D at ¶¶22-25 (same); Ex. H at ¶¶12-15 (same); Ex. K at ¶¶44-45 (same); Ex. O at ¶¶31-33 (same); Ex. R at ¶¶25-28 (same). Moreover, Plaintiffs—as well as public healthcare facilities—will face increased administrative burdens trying to secure SSNs for newborn children through the EAB program. *See* Ex. C at ¶14-16; Ex. M at ¶¶31-32. Here, again, state facilities will no longer be able to count on the fact of the child's birth at their facility—and will incur new costs to verify their parents' immigration statuses. Ex. C at ¶16.

The federal government's own practices confirm the substantial cost Plaintiffs will incur to determine a child's citizenship based on their parents' own immigration status. USCIS charges \$1,335 *per application* to determine whether a child (who was not born in the United States) is entitled to U.S. citizenship because one of their parents is a U.S. citizen—an amount that was set “at a level that will ensure recovery of the full costs of providing … services.” 8 U.S.C. § 1356(m);

see USCIS, Form G-1055, Fee Schedule, at 34-35 (ed. Jan. 17, 2025).

## **ARGUMENT**

“When assessing a request for a preliminary injunction, a district court must consider ‘(1) the movant’s likelihood of success on the merits; (2) the likelihood of the movant suffering irreparable harm; (3) the balance of equities; and (4) whether granting the injunction is in the public interest.’” *Norris ex rel. A.M. v. Cape Elizabeth Sch. Dist.*, 969 F.3d 12, 22 (1st Cir. 2020). All four factors overwhelmingly support granting a preliminary injunction.

### **I. PLAINTIFFS HAVE STANDING TO BRING SUIT.**

Plaintiffs have standing to challenge this unprecedeted Order because they will suffer an “injury in fact” that is “fairly traceable” to the Order and “may be redressed by” a judicial order enjoining its implementation. *McBrairy v. Miller*, 93 F.4th 513, 518 (1st Cir. 2024). Plaintiffs can show standing based on a “substantial risk” that they will suffer proprietary harms, including fiscal injuries. *Massachusetts v. U.S. Dep’t of Health & Hum. Servs.*, 923 F.3d 209, 222 (1st Cir. 2019) (State “established standing under a traditional Article III analysis” via its “demonstration of fiscal injury”); *In re Fin. Oversight & Mgmt. Bd. for P.R.*, 110 F.4th 295, 308 (1st Cir. 2024) (agreeing financial losses are “a quintessential injury in fact”); *Gustavsen v. Alcon Labs, Inc.*, 903 F.3d 1, 7 (1st Cir. 2018) (“out-of-pocket loss of \$500 to \$1000 per year” is Article III injury). Even “small economic loss … is enough to confer standing.” *Massachusetts*, 923 F.3d at 222.

Plaintiffs have more than cleared that bar here. As detailed both above and in the attached declarations, Plaintiffs have demonstrated that the Order will impose financial injuries directly on them: the loss of federal health funds and concomitant state healthcare expenses, *supra* at 4-5; loss of federal funding and concomitant expenses for special needs youth, *supra* at 5; loss of federal funding and concomitant governmental expenses for foster care, adoption, guardianship, and child

welfare assistance, *supra* at 5-6; loss of SSA reimbursements under the EAB, *supra* at 6; and major operational disruptions and administrative burdens across agencies and facilities, *supra* at 6-7. Each financial injury flows from the Order, which requires all federal agencies to comply with its unprecedented approach to citizenship, and would thus be redressed by a swift injunction.

## **II. PLAINTIFFS ARE HIGHLY LIKELY TO SUCCEED ON THE MERITS.**

Plaintiffs are exceptionally likely to succeed on their claims that the Order contravenes the Constitution and a series of federal statutes, including the Immigration and Nationality Act (INA), and that any actions an executive agency takes to implement it would violate the APA. *See, e.g.*, *Pub. Int. Rsch. Grp. v. FCC*, 522 F.2d 1060, 1064 (1st Cir. 1975) (Executive is bound by “the twin external standards of statutory law and constitutional right”); 5 U.S.C. § 706(2) (requiring court invalidate agency action that is contrary to law). The President’s decision to eliminate birthright citizenship contravenes the plain text of the Fourteenth Amendment, directly on-point Supreme Court decisions, centuries of history and practice, and a decades-old federal statute.

### **A. The Order Violates the Fourteenth Amendment.**

Begin with the Fourteenth Amendment. The Citizenship Clause is clear: “All persons born ... in the United States, and subject to the jurisdiction thereof, are citizens of the United States.” U.S. Const. amend. XIV, § 1. The Constitution does not qualify this guarantee of citizenship, nor does it empower the President, or even Congress, to do so. The sole textual question is thus whether a child born in the United States to non-citizen parents is “subject to the jurisdiction” of the United States. That question admits of an easy answer: prior to the adoption of the Citizenship Clause in 1868, it was established that persons physically present in the United States, including non-citizens and their children, were subject to its sovereign power and control. *See, e.g.*, Noah Webster, *An American Dictionary of the English Language* 635 (George & Charles Merriam 1860) (Ex. X) (explaining legal term of art “subject to the jurisdiction” refers to the sovereign’s “[p]ower of

governing or legislating” or “power or right of exercising authority” over the person); *Schooner Exchange v. McFaddon*, 11 U.S. 116, 136 (1812) (Marshall, C.J.) (“The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself.”); *Wong Kim Ark*, 169 U.S. at 693 (emphasizing “[i]t can hardly be denied that an alien is completely subject to the political jurisdiction of the country in which he resides”).

The Supreme Court has twice held, in no uncertain terms, that children born in the United States to non-citizen parents fall within the Citizenship Clause’s textual guarantee—regardless of their parents’ immigration status. In *Wong Kim Ark*, decided 127 years ago, the Court forcefully rejected a challenge to the citizenship of an American born in California to parents of Chinese descent. 169 U.S. at 705. The Court reviewed the text of the Fourteenth Amendment, canvassed the history of birthright citizenship, and found that the Citizenship Clause “affirms the ancient and fundamental rule of citizenship by birth within the territory” and expressly “includ[es] all children here born of resident aliens.” *Id.* at 693; As the Court explained:

The amendment, in clear words and in manifest intent, includes the children born within the territory of the United States of all other persons, of whatever race or color, domiciled within the United States. Every citizen or subject of another country, while domiciled here, is within the allegiance and the protection, and consequently subject to the jurisdiction, of the United States.

*Id.* In short, the Court held, to “exclude[] from citizenship the children born in the United States of citizens or subjects of other countries, would be to deny citizenship to thousands of persons ... who have always been considered and treated as citizens of the United States.” *Id.* at 694.

The four circumscribed exceptions to birthright citizenship that *Wong Kim Ark* identified only confirm the Citizenship Clause extends broadly to those born in the United States and subject to U.S. authority. The exceptions are for children: (1) of active “members of the Indian tribes,” (2) of “foreign sovereigns or their ministers,” (3) “born on foreign public ships,” and (4) of “enemies

within and during a hostile occupation of part of our territory.” *Wong Kim Ark*, 169 U.S. at 693. Each describes individuals who are not fully subject to U.S. jurisdiction, that is, to U.S. law and governance, despite physical presence in the country. “[C]hildren of members of the Indian tribes” who maintain their tribal affiliations, *id.*, are subject to tribal law. *See Elk v. Wilkins*, 112 U.S. 94, 102 (1884). (Congress ultimately granted children of tribal members citizenship by statute in 1924. *See* 8 U.S.C. § 1401(b).) Children of foreign sovereigns and their ministers, and children born on foreign government ships, enjoy immunity from U.S. law, conferred by common law, *see Wong Kim Ark*, 169 U.S. at 658, 684-85; conferred by statute, *see* 22 U.S.C. §§ 254a–254e; or both. And children of foreign enemies “during and within [a] hostile occupation” are governed by martial law. *Wong Kim Ark*, 169 U.S. at 655; *see Inglis v. Trustees of Sailor’s Snug Harbour*, 28 U.S. 99, 156 (1830) (Story, J., dissenting) (explaining common-law rule that “children of enemies, born in a place … then occupied by them by conquest, are still aliens”); Michael Ramsey, *Originalism and Birthright Citizenship*, 109 Geo. L.J. 405, 444 (2020) (“It was common ground that hostile armies were not subject to U.S. jurisdiction when within U.S. territory as a result of their practical condition as beyond U.S. civil authority”). The children born to foreign visitors or resident aliens fit none of these; they are bound by U.S. law, enjoying no immunity from its reach. *See* Christopher L. Eisgruber, *Birthright Citizenship and the Constitution*, 72 N.Y.U. L. Rev. 54, 65 (1997) (“[T]he children of illegal aliens are certainly ‘subject to the jurisdiction of the United States’ in the sense that they have no immunity from American law.”).

The Supreme Court unanimously reached the same conclusion eight decades later in *Plyler v. Doe*, 457 U.S. 202 (1982). Although that case involved the threshold question of which persons fall “within [the United States’s] jurisdiction” for purposes of the Fourteenth Amendment’s Equal Protection Clause, U.S. Const. Amend XIV, § 1, the Supreme Court acknowledged that the phrase

bore the same meaning across the Amendment. *See Wong Kim Ark*, 169 U.S. at 687 (finding it “is impossible to construe the words ‘subject to the jurisdiction thereof,’ in the [Citizenship Clause], as less comprehensive than the words ‘within its jurisdiction,’ in the [Equal Protection Clause]”); *Plyler*, 457 U.S. at 211 n.10 (same). And in construing the term, the Court agreed that immigrants who are physically present in this country, regardless of their immigration status, fall within the Nation’s “jurisdiction.” *Compare Plyler*, 457 U.S. at 211 & n.10 (majority) (finding “no plausible” basis to distinguish “resident aliens whose entry into the United States was lawful, and resident aliens whose entry was unlawful,” for purposes of who falls “within” U.S. “jurisdiction”), *with id.* at 243 (Burger, C.J., dissenting) (agreeing equal protection “applies to aliens who, after their illegal entry into this country, are indeed physically ‘within the jurisdiction’ of a state”).<sup>2</sup>

Not only is this Court bound by *Wong Kim Ark* and *Plyler*, but these longstanding decisions follow inexorably from the history and original understanding of the Citizenship Clause. Prior to the Fourteenth Amendment, the Constitution referenced U.S. citizenship, *see, e.g.*, U.S. Const. art. I, §§ 2-3; *id.* art. IV, § 2, including the concept of citizenship by birth, *see id.* art. II, § 1, but left its precise scope to the common law. *See Slaughter-House Cases*, 83 U.S. 36, 72 (1872); Ramsey, *supra*, at 410-15. With respect to the acquisition of citizenship at birth, the prevailing view in the early nineteenth century was that the United States adopted “the English idea of subjectship by birth within the nation’s territory (*jus soli*)”, *id.* at 413, that “[n]atural-born subjects are such as are born within the dominions of the crown of England,” 1 William Blackstone, *Commentaries on the Laws of England* 366 (6th ed., Co. of Booksellers, Dublin 1775) (Ex. Y); *accord Wong Kim*

---

<sup>2</sup> Nor was *Plyler* the last word: the Supreme Court has repeatedly acknowledged that children born in this country to noncitizens are citizens themselves. *See INS v. Rios-Pineda*, 471 U.S. 444, 446 (1985) (unanimously noting undocumented resident “had given birth to a child, who, born in the United States, was a citizen of this country”); *Hamdi v. Rumsfeld*, 542 U.S. 507, 510 (2004).

*Ark*, 169 U.S. at 654-64 (detailing common law *jus soli* rule and surveying U.S. decisions holding that birth within United States sovereign territory conveys U.S. citizenship). And when the Supreme Court infamously declared that this citizenship right was unavailable to the descendants of slaves, *Dred Scott v. Sandford*, 60 U.S. 393, 404-05 (1857), the post-Civil War Nation adopted the Citizenship Clause “to establish a clear and comprehensive definition” of citizenship, *Slaughter-House Cases*, 83 U.S. at 73, by returning the Nation to the citizenship doctrine that had long prevailed. *See* Cong. Globe, 39th Cong., 1st Sess., 2890 (Ex. Z) (Sen. Howard of Michigan, introducing Citizenship Clause proposal and explaining “[t]his amendment … is simply declaratory of what I regard as the law of the land already, that every person born within the limits of the United States, and subject to their jurisdiction, is … a citizen of the United States”); *id.* at 2890-91 (Sen. Cowan) (opposing provision *because* it would ensure birthright citizenship); James C. Ho, *Defining “American:” Birthright Citizenship & the Original Understanding of the 14th Amendment*, 9 Green Bag 2d 367, 370 (2006) (canvassing Citizenship Clause debates and finding “[t]his understanding was universally adopted by other Senators,” including by its opponents).

Beyond text, precedent, and history, centuries of practice are in accord. The Department of Justice’s Office of Legal Counsel has found that “the text and legislative history of the citizenship clause as well as consistent judicial interpretation” all “place the right to citizenship based on birth within the jurisdiction of the United States beyond question.” *Legislation Denying Citizenship at Birth to Certain Children Born in the United States*, 19 Op. O.L.C. 340, 1995 WL 1767990, at \*1-2 (1995) (“OLC Op.”). And federal agencies have long accepted a U.S. birth certificate as evidence of citizenship. *See, e.g.*, 20 C.F.R. § 422.107(d) (“[A]n applicant for an original or replacement social security number card may prove that he or she is a U.S. citizen by birth by submitting a birth certificate … that shows a U.S. place of birth.”); 20 C.F.R. § 422.103(c)(2) (same for issuance of

SSNs to newborns through State's birth registration process); Ex. U (State Department's Foreign Affairs Manual, involving issuance of passports, noting “[a]ll children born in and subject, at the time of birth, to the jurisdiction of the United States acquire U.S. citizenship at birth even if their parents were in the United States illegally at the time of birth”). Plaintiffs know of no contrary precedent, history, or practice that would undermine this bedrock principle.

#### **B. The Order Independently Violates Federal Law.**

Not only does the Order thus violate the Fourteenth Amendment, but it is contrary to the INA as well. The INA, enacted in 1952, parrots the Citizenship Clause's language by providing that any “person born in the United States, and subject to the jurisdiction thereof” is a “citizen[] of the United States at birth.” Pub. L. No. 82-414, §301(a)(1), 66 Stat. 163, 235 (codified at 8 U.S.C. § 1401(a)). “Under controlling precedent, [this Court] interpret[s] a statute's words based on their plain and ordinary meaning at the time of the statute's enactment.” *United States v. Abreu*, 106 F.4th 1, 12 (1st Cir. 2024). And by 1952, the meaning of the term of art “subject to the jurisdiction thereof” was clear: it followed the “fundamental rule of citizenship by birth within the territory,” and “includ[ed] all children here born of resident aliens.” *Wong Kim Ark*, 169 U.S. at 693. So even if the federal government urges the Supreme Court to abandon its interpretation of the Citizenship Clause—notwithstanding its plain text, unanimous precedent, preexisting common law, originalist evidence, and a century of practice—the meaning of the law Congress enacted in 1952 would stay the same. *See, e.g., Miles v. Apex Marine Corp.*, 498 U.S. 19, 32 (1990) (“We assume that Congress is aware of existing law when it passes legislation.”). In abrogating birthright citizenship for the first time since the Civil War, the Order is unconstitutional and *ultra vires* alike.<sup>3</sup>

---

<sup>3</sup> Actions federal agencies will have to take in order to implement this Order likewise violate their governing laws, and so those actions must thus be enjoined on those bases too. For example, SSA is statutorily required to issue SSNs to persons eligible to apply for federal benefits, 42 U.S.C.

### III. THE EQUITIES COMPEL PRELIMINARY RELIEF.

This Court should grant preliminary relief to protect the centuries-old status quo before the Order strips American children of citizenship in 30 days, not only because the Order is unlawful, but because relief is necessary to avoid irreparable harm and protect the equities and public interest. *See, e.g., CMM Cable Rep., Inc. v. Ocean Coast Props.*, 48 F.3d 618, 620 (1st Cir. 1995) (noting salutary “purpose of a preliminary injunction is to preserve the status quo” and “freez[e] an existing situation” to avoid injuries while court engages in “full adjudication”); *Rio Grande Cnty. Health Ctr., Inc. v. Rullan*, 397 F.3d 56, 76 (1st Cir. 2005) (asking if challengers would suffer “irreparable harm” because injuries “cannot adequately be compensated for either by a later-issued permanent injunction, after a full adjudication on the merits, or by a later-issued damages remedy”).

Absent relief from this Court before the Order takes effect, Plaintiffs’ injuries here will be immediate and irreparable. *See, e.g., Concord Hosp., Inc. v. NH Dep’t of Health & Hum. Servs.*, \_\_\_ F. Supp. 3d \_\_\_, 2024 WL 3650089, at \*24 (D.N.H. Aug. 5, 2024) (emphasizing financial costs cannot be recouped where the public defendant is protected from damages claims); *Crowe & Dunlevy, P.C. v. Stidham*, 640 F.3d 1140, 1157 (10th Cir. 2011); *Texas v. Yellen*, 105 F.4th 755, 774 (5th Cir. 2024); *Kentucky v. Biden*, 57 F.4th 545, 556 (6th Cir. 2023). As the record confirms, approximately 153,000 babies are born in this country to two undocumented parents every year—such that, on average, at least 420 Affected Children would be born, stripped of their citizenship,

---

§ 405(c)(2)(B), which necessarily includes Affected Children pursuant to the Citizenship Clause and 8 U.S.C. § 1401(a). SSA therefore cannot implement this Order and start categorically refusing to recognize as proof of citizenship documents showing that a child was born in the United States without running afoul of that statute and, consequently, the APA. *See* 5 U.S.C. §§ 706(2)(B)-(D); *E. Bay Sanctuary v. Covenant v. Trump*, 932 F.3d 742, 770-71 (9th Cir. 2018) (finding agency action implementing executive order is reviewable under the APA).

every day after the Order takes effect in a month. *See* Lapkoff Decl. (Ex. F), Ex. 2 at 1.<sup>4</sup>

Plaintiffs must thus contend with the operational chaos and financial losses that this Order imposes as soon as it takes effect—indeed they must start planning for its disruption now. *See City & Cnty. of S.F. v. USCIS*, 408 F. Supp. 3d 1057, 1122 (N.D. Cal. 2019) (recognizing “burdens on … ongoing operations” for public entities constitute irreparable harm); *Tennessee v. Dep’t of Education*, 104 F.4th 577, 613 (6th Cir. 2024) (same); *cf. Whitman-Walker Clinic, Inc., v. HHS*, 485 F.Supp.3d 1, 56 (D.D.C. 2020) (finding irreparable harm based upon “financial and operational burdens” imposed by a regulatory action). For Affected Children, Plaintiffs could no longer use their existing and longstanding procedures for verifying eligibility for federal funding for health and welfare programs. *See, e.g.*, Ex. D at ¶16 (noting, as immediate example in which verification is needed, that hundreds of New Jersey children unfortunately enter state care in first year of their lives, some of whom will be Affected Children); Ex. A at ¶30-31 (noting many States enroll low-income children in public health insurance immediately upon birth, likewise requiring verification). Instead of relying on a U.S. hospital’s registration to confirm the newborn’s eligibility for federal funding, Plaintiffs would need to develop eligibility verification systems that document and track the immigration status of the newborn’s parents—an immediate change that demands significant expenditures and diversion of resources. *See* Ex. A at ¶¶31-35; Ex. D at ¶¶22-24; *see also* Stock, *supra*, at 152 (“Proving one’s parents’ citizenship or immigration status at the moment of one’s birth can be difficult … apart from the simple birthright citizenship rule.”); USCIS, Form G-1055, at 34-35 (\$1,335 per application to certify citizenship based upon parentage). This disruption will be compounded if Plaintiffs prevail, despite having spent weeks

---

<sup>4</sup> This is a conservative estimate of the number of Affected Children, because it does not account for Affected Children whose parents are lawfully present on a temporary basis or whose fathers at birth are conditional permanent residents. *See* Order, § 2(a).

redesigning and reimplementing their system, as they would then have to expend resources to revert to the pre-existing system. A court order preserving the status quo that has been in effect since 1868 would prevent this chaos and harm.

Beyond the chaos for residents and Plaintiffs alike, the many financial harms laid out above are likewise imminent and irreparable. As explained above, many States enroll their low-income children in public health insurance immediately upon birth. *See, e.g.*, Ex. A at ¶30. That matters not only for basic operations, but for funding too: Federal Medicaid and CHIP funding are provided through an upfront quarterly grant. Ex. A at ¶17. States utilize these funds throughout the quarter—for example, New Jersey draws from the funds on a weekly basis—to fund health care expenditures for enrolled children. *Id.* ¶18. Once the Order takes effect, more and more Affected Children will be enrolled in state-funded health care rather than Medicaid or CHIP with each passing day, and States will be unable to use the federal funds to pay for their care—funds they would have received but for the Order. *Id.* ¶¶28-29. And the same is true for EAB funding associated with SSNs, which will also prove irreparable immediately upon the Order taking effect. Once any newborn leaves a hospital without securing an SSN through the EAB program, States will likely lose the opportunity to secure an EAB payment. And Title IV-E funding, for its part, is provided quarterly, meaning States must submit to the federal government their next reimbursement claims for eligible children soon after the end of the first quarter in 2025. *See, e.g.*, Ex. D at ¶12. There is no basis to require States to incur these costs where their legal success is so certain.

The equities and public interest overwhelmingly demand temporary and preliminary relief too. *See, e.g.*, *Does 1-6 v. Mills*, 16 F.4th 20, 37 (1st Cir. 2021) (noting the balance of equities and the public interest “merge when the [g]overnment is the opposing party” (quoting *Nken v. Holder*, 556 U.S. 418, 435 (2009)); *Savino v. Souza*, 459 F. Supp. 3d 317, 331 (D. Mass. 2020) (adding the

factors merge “in the immigration context”). The public interest could scarcely be clearer: today’s Order undermines “the ancient and fundamental rule of citizenship by birth within the territory,” *Wong Kim Ark*, 169 U.S. at 693, a doctrine that reflects the post-*Dred Scott* lesson that “our country should never again trust to judges or politicians the power to deprive from a class born on our soil the right of citizenship,” and that ensures there will “be no inquiry into whether or not one came from the right caste, or race, or lineage, or bloodline in establishing American citizenship,” *OLC Op.* at \*6. Without the fundamental citizenship to which their birth entitles them, Affected Children risk deportation before their right to citizenship may be adjudicated, even in the weeks and months in which this case is pending. Even if they are not removed during the pendency of this litigation, in many States, they will be unable to access non-emergency healthcare during the first few months of their lives on account of ineligibility for federal benefits like CHIP and Medicaid. Add to that the federal funds Plaintiffs will irreparably lose and the time and resources that their agencies must expend as they rush to redesign benefits eligibility systems to accord with the Executive Branch’s new definition of citizenship, *supra* at 2-3, and the equities call powerfully for averting all these harms by preserving the status quo prior to February 19, 2025, while this litigation proceeds.

Consistent with the extraordinary nature of this case, the emergency relief this Court orders should apply nationwide. District court judges have discretion “to design ‘the scope of injunctive relief’ so that it is tailored to the ‘specific harm alleged.’” *DraftKings Inc. v. Hermalyn*, 118 F.4th 416, 423 (1st Cir. 2024) (affirming nationwide preliminary injunction enjoining ex-employee from competing with former employer anywhere in the country). Because there are times in which any narrower relief “would entirely undercut th[e] injunction’s effectiveness,” *id.* at 424, courts have found nationwide injunctions of federal policies can be appropriate if a more limited preliminary injunction would fail to remedy the irreparable harm. *See, e.g., Trump v. Int’l Refugee Assistance*

*Project*, 582 U.S. 571, 579, 581 (2017) (declining to stay nationwide injunction insofar as it barred enforcement of travel ban “against foreign nationals who have a … relationship with a person or entity in the United States,” given “the hardships identified by the courts below” that would flow to such persons absent nationwide preliminary relief); *HIAS v. Trump*, 985 F.3d 309, 326-27 (4th Cir. 2021) (affirming nationwide injunction when state agencies “place[d] refugees throughout the country” and demonstrated irreparable harm from the order taking effect in other jurisdictions).

Such relief is appropriate here. Initially, the issue has already been settled for this Nation: the Supreme Court has twice, in decisions that apply to every State, expressly confirmed that the Constitution ensures birthright citizenship for all American-born children subject to our sovereign laws. *See Wong Kim Ark*, 169 U.S. 649; *Plyler*, 457 U.S. 202. Indeed, other than in the post-*Dred Scott* Civil War, that has been the clear status quo for the entire Nation since before the Fourteenth Amendment and in the 157 years since. And any order that grants narrower relief than established by *Wong Kim Ark* and *Plyler*—in which birthright citizenship would exist in some States but not others—would fail to fully remedy Plaintiffs’ harms. After all, if children born in Plaintiff States acquire citizenship regardless of their parents’ immigration status, but children born in other States do not, then Plaintiffs’ agencies would still have to recalibrate how they determine eligibility for federal programs, and incur related administrative costs, due to the reality that infants born in other States can move to Plaintiff States and ultimately seek services. Ex. A at ¶36; Ex. D at ¶25. That is, given the reality that families move across state lines, Plaintiff States faced with any patchwork judicial order would still have to redesign and implement eligibility verification systems to account for this possibility—one of the irreparable harms laid out above, *see supra* at 7—which would “undercut th[e] injunction’s effectiveness.” *DraftKings*, 118 F.4th at 424.

There are further reasons that a patchwork court order fails “to provide complete relief” to

Plaintiffs. *Sindi v. El-Moslimany*, 896 F.3d 1, 31 (1st Cir. 2018). In addition to the operational chaos that would persist, if the challenged policies are enjoined within the Plaintiff States but not throughout the rest of the country, then Plaintiff States will still incur increased costs for providing state-funded healthcare and foster care to infants who move into their States after being born in non-Plaintiff States. For example, Plaintiff States provide foster care to infants regardless of the child's state of birth or of the parents' citizenship or immigration status, but they only receive Title IV-E matching funds for providing foster care to U.S. citizens or qualifying noncitizens. *See supra* at 5-6; Ex. D at ¶11. And many Plaintiff States likewise fund health care for children without regard to their immigration status or to the State in which they were born. *See supra* at 4-5. Without nationwide preliminary relief, Plaintiff States would have to spend more of their own funds providing foster care and healthcare to children born to undocumented parents in this country but outside of the Plaintiff States. Given the unprecedented and extraordinary nature of this Order, this court should preserve the centuries-old status quo to protect babies' fundamental citizenship rights and avoid profound irreparable harms while this case proceeds.

As the Department of Justice has acknowledged, “[t]o have citizenship in one's own right, by birth upon this soil, is fundamental to our liberty as we understand it.” *OLC Op.* at \*7. Although other Nations make other choices, “for us, for our nation, the simple, objective, bright-line fact of birth on American soil is fundamental.” *Id.* at \*6. Simply put, “All who have the fortune to be born in this land inherit the right, save by their own renunciation of it, to its freedoms and protections.” *Id.* at \*7. This Court should enjoin this assault on our fundamental American tradition.

## **CONCLUSION**

This Court should grant the motion for a preliminary injunction.

January 21, 2025

**MATTHEW J. PLATKIN**  
ATTORNEY GENERAL OF NEW JERSEY

/s/ Jeremy M. Feigenbaum  
Jeremy M. Feigenbaum \*  
Solicitor General  
Shankar Duraiswamy\*  
Deputy Solicitor General  
Viviana M. Hanley\*  
Shefali Saxena\*  
Elizabeth R. Walsh\*  
Deputy Attorneys General  
Office of the Attorney General  
25 Market Street  
Trenton, NJ 08625  
(609) 376-3377  
Jeremy.feigenbaum@njoag.gov

*Counsel for the State of New Jersey*

**ROB BONTA**  
ATTORNEY GENERAL OF CALIFORNIA

/s/ Denise Levey  
Denise Levey\*  
Deputy Attorney General  
Michael Newman  
Senior Assistant Attorney General  
Marissa Malouff\*  
Irina Trasovan\*  
Supervising Deputy Attorneys General  
Lorraine López\*  
Delbert Tran\*  
Annabelle Wilmott\*  
Deputy Attorneys General  
Office of the Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013-1230  
(213) 269-6269  
Denise.Levey@doj.ca.gov

*Counsel for the State of California*

Respectfully submitted.

**ANDREA JOY CAMPBELL**  
ATTORNEY GENERAL OF MASSACHUSETTS

/s/ Gerard J. Cedrone  
Gerard J. Cedrone (BBO No. 699674)  
Deputy State Solicitor  
Jared B. Cohen (BBO No. 689217)  
Assistant Attorney General  
Office of the Attorney General  
One Ashburton Place, 20th Floor  
Boston, MA 02108  
(617) 963-2282  
gerard.cedrone@mass.gov  
jared.b.cohen@mass.gov

*Counsel for the Commonwealth of Massachusetts*

**PHIL WEISER**  
ATTORNEY GENERAL OF COLORADO

/s/ Shannon Stevenson  
Shannon Stevenson  
Solicitor General  
Office of the Colorado Attorney General  
1300 Broadway, #10  
Denver, CO 80203  
(720) 508-6000  
Shannon.Stevenson@coag.gov

*Counsel for the State of Colorado*

**WILLIAM M. TONG**  
ATTORNEY GENERAL OF CONNECTICUT

*/s/ William M. Tong*  
William M. Tong\*  
*Attorney General*  
Janelle Rose Medeiros\*  
*Assistant Attorney General*  
Office of the Attorney General  
165 Capitol Avenue  
Hartford, CT 06106  
(860)-808-5020  
Janelle.Medeiros@ct.gov

*Counsel for the State of Connecticut*

**BRIAN L. SCHWALB**  
ATTORNEY GENERAL FOR THE DISTRICT OF  
COLUMBIA

*/s/ Nicole S. Hill*  
Nicole S. Hill\*  
*Assistant Attorney General*  
Public Advocacy Division  
Office of the Attorney General for the District  
of Columbia  
400 Sixth Street, N.W.  
Washington, D.C. 20001  
(202) 727-4171  
nicole.hill@dc.gov

*Counsel for the District of Columbia*

**KATHLEEN JENNINGS**  
ATTORNEY GENERAL OF DELAWARE

*/s/ Vanessa L. Kassab*  
Vanessa L. Kassab\*  
*Deputy Attorney General*  
Delaware Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 683-8899  
vanessa.kassab@delaware.gov

*Counsel for the State of Delaware*

**ANNE E. LOPEZ**  
ATTORNEY GENERAL OF HAWAI‘I

*/s/ Kaliko ‘onālani D. Fernandes*  
*Solicitor General*  
425 Queen Street  
Honolulu, Hawai‘i 96813  
(808) 586-1360  
kaliko.d.fernandes@hawaii.gov

*Counsel for the State of Hawai‘i*

**AARON M. FREY**  
ATTORNEY GENERAL OF MAINE

/s/ Sean D. Magenis  
Sean D. Magenis  
*Assistant Attorney General*  
Office of the Attorney General  
6 State House Station  
Augusta, ME 04333-0006  
(207) 626-8800  
Sean.d.magenis@maine.gov

*Counsel for the State of Maine*

**DANA NESSEL**  
ATTORNEY GENERAL OF MICHIGAN

/s/ Toni L. Harris  
Toni L. Harris\*  
Stephanie Service\*  
Neil Giovanatti\*  
*Assistant Attorneys General*  
Michigan Department of Attorney General  
525 W. Ottawa  
Lansing, Michigan 48909  
(517) 335-7603  
harrist19@michigan.gov  
ServiceS3@michigan.gov  
GiovanattiN@michigan.gov

*Counsel for Attorney General Dana Nessel on  
behalf of the People of Michigan*

**ANTHONY G. BROWN**  
ATTORNEY GENERAL OF MARYLAND

/s/ Jessica M. Finberg  
Jessica M. Finberg\*  
*Assistant Attorney General*  
Office of the Attorney General  
200 Saint Paul Place, 20th Floor  
Baltimore, Maryland 21202  
jfinberg@oag.state.md.us  
410-576-6921

*Counsel for the State of Maryland*

**KEITH ELLISON**  
ATTORNEY GENERAL OF MINNESOTA

/s/ John C. Keller  
John C. Keller\*  
*Chief Deputy Attorney General*  
445 Minnesota Street, Suite 1200  
St. Paul, MN 55101-2130  
651-757-1355  
john.keller@ag.state.mn.us

*Counsel for the State of Minnesota*

**AARON D. FORD**  
ATTORNEY GENERAL OF NEVADA

/s/ Heidi Parry Stern

Heidi Parry Stern\*  
*Solicitor General*  
Office of the Nevada Attorney General  
1 State of Nevada Way, Ste. 100  
Las Vegas, NV 89119  
(702) 486-5708  
HStern@ag.nv.gov

*Counsel for the State of Nevada*

**LETITIA JAMES**  
ATTORNEY GENERAL OF NEW YORK

/s/ Zoe Levine  
Zoe Levine\*  
*Special Counsel for Immigrant Justice*  
28 Liberty Street  
New York, NY 10005  
zoe.levine@ag.ny.gov  
(212) 416-8329

*Counsel for the State of New York*

**RAÚL TORREZ**  
ATTORNEY GENERAL OF NEW MEXICO

/s/ James W. Grayson

James W. Grayson\*  
*Chief Deputy Attorney General*  
New Mexico Department of Justice  
408 Galisteo St.  
Santa Fe, NM 87501  
(505) 218-0850  
jgrayson@nmdoj.gov

*Counsel for the State of New Mexico*

**JEFF JACKSON**  
ATTORNEY GENERAL OF NORTH CAROLINA

/s/ Daniel P. Mosteller  
Daniel P. Mosteller\*  
*Associate Deputy Attorney General*  
Laura Howard  
*Chief Deputy Attorney General*  
Associate Deputy Attorney General  
North Carolina Department of Justice  
PO Box 629  
Raleigh, NC 27602  
919-716-6026  
dmosteller@ncdoj.gov

*Counsel for State of North Carolina*

**PETER F. NERONHA**  
ATTORNEY GENERAL OF RHODE ISLAND

*/s/ Katherine Connolly Sadeck*  
Katherine Connolly Sadeck (MA Bar No. 681501)  
*Solicitor General*  
Rhode Island Office of the Attorney General  
150 South Main Street  
Providence, RI 02903  
Tel: (401) 274-4400, Ext. 2480  
Fax: (401) 222-2995  
ksadeck@riag.ri.gov

*Counsel for the State of Rhode Island*

**JOSHUA L. KAUL**  
ATTORNEY GENERAL OF WISCONSIN

*/s/ Gabe Johnson-Karp*  
Gabe Johnson-Karp\*  
*Assistant Attorney General*  
Wisconsin Department of Justice  
17 West Main Street  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-8904  
johnsonkarpg@doj.state.wi.us

*Counsel for the State of Wisconsin*

**CHARITY R. CLARK**  
ATTORNEY GENERAL OF VERMONT

*/s/ Julio A. Thompson*  
Julio A. Thompson\*  
*Co-Director, Civil Rights Unit*  
109 State Street  
Montpelier, VT 06509  
(802) 828-5519  
julio.thompson@vermont.gov

*Counsel for State of Vermont*

**DAVID CHIU\***  
CITY ATTORNEY, CITY AND COUNTY OF SAN FRANCISCO

*/s/ David Chiu*  
Yvonne R. Meré\*  
*Chief Deputy City Attorney*  
Sara J. Eisenberg\*  
*Chief of Complex and Affirmative Litigation*  
Mollie M. Lee\*  
*Chief of Strategic Advocacy*  
David S. Louk\*  
*Molly J. Alarcon\**  
*Deputy City Attorneys*  
Fox Plaza  
1390 Market Street, 6th Fl.  
San Francisco, California 94102-5408  
(415) 505-0844  
David.Louk@sfcityatty.org

*Counsel for City and County of San Francisco*

\*Application for pro hac vice admission forthcoming

## **TABLE OF EXHIBITS**

Exhibit	Description
A	Declaration of Sarah Adelman, Commissioner of New Jersey Department of Human Services
B	Declaration of Kathy Ehling, Assistant Commissioner for the Division of Educational Services in the New Jersey Department of Education
C	Declaration of Kaitlan Baston, Commissioner of the New Jersey Department of Health
D	Declaration of Laura Jamet, Assistant Commissioner of New Jersey Department of Children and Families
E	Declaration of Sharon C. Boyle, General Counsel of the Massachusetts Executive Office of Health and Human Services (EOHHS)
F	Declaration of Shelley Lapkoff, Senior Demographer at NDC
G	Declaration of Michael F. Rice, Superintendent of Public Instruction within the Michigan Department of Education (MDE)
H	Declaration of Kelly Sesti, Director for the Bureau of Administration within the Children's Services Administration (CSA) of the Michigan Department of Health and Human Services (MDHHS)
I	Declaration of Jeffrey Duncan, State Registrar and the Director of the Division of Vital Records and Health Statistics (VRHS) within the Michigan Department of Health and Human Services (MDHHS)
J	Declaration of Meghan Groen, Senior Deputy Director for Behavioral and Physical Health and Aging Services within the Michigan Department of Health and Human Services (MDHHS).
K	Declaration of Lindy Harrington, Assistant State Medicaid Director at the California Department of Health Care Services (DHCS)
L	Declaration of Rachel A. Heenan, Director of the Special Education Division at the California Department of Education (CDE)
M	Declaration of Rita Nguyen, Assistant Public Health Officer for the State of California at the California Department of Public Health (CDPH)
N	Declaration of Elizabeth Villamil-Cummings, New York State Registrar and the Director of the Bureau of Vital Records at the New York Department of Health (DOH)
O	Declaration of Gabrielle Armenia, Director of the Division of Eligibility and Marketplace Integration in the Office of Health Insurance Programs of the New York Department of Health (DOH)
P	Declaration of Jonathan Fanning, Director of Fiscal Management of the New York Department of Health (DOH)
Q	Declaration of Jennifer Avenia, Director of Immigration Practice for the Connecticut Department of Children and Families (DCF)
R	Declaration of Peter Hadler, Deputy Commissioner for the Connecticut Department of Social Services (DSS)
S	Declaration of Yvette Gauthier, State Registrar of Vital Records of the Connecticut Department of Public Health

T	Declaration of Tom Wong, Associate Professor at the University of California, San Diego (UCSD)
U	State Department's Foreign Affairs Manual
V	Declaration of Peri Weisberg, Principal Administrative Analyst in the Planning Unit of the City and County of San Francisco's Human Services Agency
W	Executive Order, "Protecting the Meaning and Value of American Citizenship," (Jan. 20, 2025)
X	Noah Webster, <i>An American Dictionary of the English Language</i> 635 (George & Charles Merriam 1860) (excerpt)
Y	1 William Blackstone, <i>Commentaries on the Laws of England</i> 366 (6th ed., Co. of Booksellers, Dublin 1775) (excerpt)
Z	Cong. Globe, 39th Cong., 1st Sess. (excerpts)

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, *et al.* :  
Plaintiffs, :  
v. :  
DONALD J. TRUMP, *et al.* :  
Defendants. :  
: Civil Action No.: 25-cv-10139

## DECLARATION OF SARAH ADELMAN

I, Sarah Adelman, hereby declare:

1. I am the Commissioner of the New Jersey Department of Human Services (“DHS”). I have been employed as Commissioner since January 2021.
2. As Commissioner of DHS, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.
3. I am providing this declaration to explain certain impacts on the State of New Jersey’s health insurance programs of an executive order titled “Protecting the Meaning and Value of American Citizenship,” issued on January 20, 2025 (the “Executive Order”), which revokes birthright citizenship for children born after February 19, 2025 to (i) a mother who is

unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

NJ FamilyCare and Eligibility Rules

4. Within DHS, the Division of Medical Assistance and Health Services (“DMAHS”), administers several programs that enable qualifying New Jersey residents to access free or low-cost healthcare coverage. These are referred to as “NJ FamilyCare” programs.
5. NJ FamilyCare is publicly funded health insurance. It includes New Jersey’s partially federally funded Medicaid program (“Federal-State Medicaid”), New Jersey’s partially federally funded Children’s Health Insurance Program (“CHIP”), and New Jersey’s Cover All Kids Phase II initiative. As of December 2024, 1,673,856 New Jersey residents are enrolled in Federal-State Medicaid, of which 639,212 were children. An additional 161,577 children are enrolled in CHIP.
6. NJ FamilyCare provides comprehensive healthcare coverage for a wide range of services, including primary care, hospitalization, laboratory tests, x-rays, prescriptions, mental health care, dental care, preventive screenings, and more.
7. Health insurance provided through NJ FamilyCare, including programs that rely in part on federal funding and those funded entirely by the state, are generally administered through managed care organizations (“MCOs”) that receive a monthly capitation payment from the State for each member enrolled in a particular MCO plan.
8. Eligibility for NJ FamilyCare health insurance programs, including eligibility for Federal-State Medicaid and CHIP, depends in part on age, immigration status, and household income.
9. In general, children under the age of 18 (i) meet the income eligibility requirement for Federal-State Medicaid in New Jersey if their household’s modified adjusted gross income

(“MAGI”) is less than 147% of the federal poverty level (“FPL”), and (ii) meet the income eligibility requirement for CHIP in New Jersey if their household’s MAGI is less than 355% of the FPL.

10. To be eligible for Federal-State Medicaid or CHIP, a child must also be a U.S. citizen or “lawfully residing,” as that term is defined by federal law. “Lawfully residing” individuals are “lawfully present” and include qualified immigrants such as lawful permanent residents, asylees, refugees, and trafficking victims, as well as nonimmigrant visa holders and humanitarian status classes such as Temporary Protected Status and Special Immigrant Juvenile Status. Children who are not citizens or “lawfully residing” are commonly referred to as undocumented. This eligibility requirement is subject to certain narrowly-defined exceptions for some emergency services, which Federal-State Medicaid may cover for individuals who are neither citizens nor “lawfully residing” if they meet the Federal-State Medicaid income eligibility guidelines.
11. Pursuant to Cover All Kids Phase II, all New Jersey children under age 19 who meet the income eligibility requirements for Federal-State Medicaid or CHIP but are not U.S. citizens or “lawfully residing” are eligible for health insurance through NJ FamilyCare that is fully funded by the State.
12. New Jersey implemented Cover All Kids Phase II because access to healthcare, particularly to primary care, makes children and communities healthier, and it is a fiscally responsible investment in the future of New Jersey children.
13. The increased enrollment of children in NJ FamilyCare via Cover All Kids Phase II has had a positive impact on public health in the state. Children enrolled in NJ FamilyCare are more likely to receive preventative care services. This reduces the need for more intensive health

care treatments, including emergency care, as illnesses develop. It also reduces the financial burden on health care providers from providing care to uninsured individuals and ensures that families are not left with medical bills that they are unable to pay. In addition, sick children with health insurance coverage are more likely to see a health care provider and receive treatment, limiting the spread of infectious illnesses across the state.

14. Having insurance coverage also makes it less likely that children will have to visit an emergency room to treat preventable illnesses because it is more likely that they will receive medical care before a treatable medical issue becomes an emergency. This reduces the resource strain and uncompensated care burden on hospitals.

#### Federal Funding

15. For children covered by the Federal-State Medicaid program, the federal government generally reimburses for 50 percent of New Jersey's health care expenditures. For children covered by CHIP, the federal government generally reimburses for 65 percent of New Jersey's health care expenditures.
16. By contrast, with the exception of certain limited emergency medical services that may be covered by Federal-State Medicaid, NJ FamilyCare coverage for undocumented children is fully funded by New Jersey, without any federal funding assistance.
17. Federal funding for NJ FamilyCare's Medicaid and CHIP programs is provided through an advance quarterly grant from the federal Centers on Medicare and Medicaid Services ("CMS") to the State of New Jersey, with a post-quarter reconciliation. This quarterly process begins with the State submitting to CMS a CMS-37 report, which estimates the reimbursable expenditures the State expects to make for the upcoming quarter, six weeks before the quarter begins. Those estimates are based on current enrollment figures. For the

January to March 2025 quarter, the State submitted the report on or about October 15, 2024.

The next CMS-37 report is expected to be submitted in mid-February.

18. CMS then issues quarterly federal grants the week before the start of the quarter. During the quarter, the State draws down from this grant award what is needed to make weekly batch payments to partially fund its expenditures for Medicaid and CHIP. Within 30 days after the end of a quarter, the State sends to CMS a CMS-64 report, which reports all reimbursable expenditures for the quarter. If the initial federal grant was less than final reimbursable expenditures, CMS will typically transmit an additional reconciling grant four to five months after the end of the relevant quarter.

#### Healthcare Coverage for Newborns

19. All children born in the United States and residing in New Jersey whose family income is at or below 355% of the Federal Poverty Level are eligible for NJ FamilyCare.

20. Before the Executive Order, all children born in New Jersey were considered U.S. citizens.

Thus, NJ FamilyCare coverage for newborns in New Jersey was partially funded by the State and partially funded by the federal government, either through Federal-State Medicaid or CHIP.

21. Most healthy newborns remain in the hospital for two or three days after delivery. During this time, they receive routine postnatal care, including a vitamin K injection, antibiotic eye ointment, screening tests (e.g., heel-prick blood test, hearing screening), and hepatitis B vaccination.

22. Additionally, the American Academy of Pediatrics recommends that newborns see a doctor or nurse for a “well-baby visit” six times before their first birthday, including within the first

3-5 days, the first month, the second month, the fourth month, the sixth month, and the ninth month after birth.

23. Within the first year of life, babies may also need to visit a doctor when they appear ill and may require testing or prescription medication.

24. Children ages 1-18 typically have a range of health care needs that require services from various health care providers. For example, children in New Jersey must receive certain immunizations prior to starting school, unless they have an exemption for medical or religious reasons.

#### Fiscal Impact of Revoking Birthright Citizenship

25. NJ FamilyCare currently pays \$248.35 per member, per month (totaling \$2,980.20 per year) for the vast majority of children enrolled in NJ FamilyCare health insurance programs. As noted above, the federal government generally covers 50 percent of these costs for children enrolled in Federal-State Medicaid and 65 percent for children enrolled in CHIP.

26. However, if a child were not eligible for Federal-State Medicaid or CHIP, New Jersey would not receive that federal assistance, and would cover the full cost of health insurance coverage for the newborn.

27. The Medical Emergency Payment Program (“MEPP”) provides limited emergency Medicaid coverage that is partially federally-funded to adults ages 19 or older who meet income eligibility guidelines regardless of citizenship or immigration status. MEPP covers labor and delivery services for undocumented women giving birth in New Jersey, but does not cover post-delivery health care for their newborn children. Instead, those newborns have, until now, been eligible for Federal-State Medicaid because they meet the income eligibility guidelines and are U.S. citizens.

28. In each of the last three calendar years, there have been between 7,000 and 8,000 births per year to pregnant women whose labor and delivery was covered by MEPP. DHS has been advised of estimates indicating that approximately 58 percent of these children likely had a second parent who was undocumented. Thus, a reasonable approximation of the number of children born to undocumented parents who would have been eligible for Federal-State Medicaid but will not be due to the Executive Order—and instead will receive health insurance through New Jersey’s state-funded health insurance program—is 4,060 to 4,640 children per year. This is an underestimate to some degree because it does not include children who have one parent who is not undocumented but who nonetheless does not meet the immigration status requirements of the Executive Order to confer citizenship on their child born in the United States.

29. New Jersey spends close to \$3,000 per member per year on children enrolled in Federal-State Medicaid, and the federal government covers 50 percent of these costs. If between 4,060 and 4,640 children are enrolled in fully state-funded health insurance rather than Federal-State Medicaid in a given year because of the Executive Order, this will cost the State between approximately \$6 to \$7 million per year. This estimate does not include the loss of federal funding that New Jersey would experience from children who are eligible for CHIP but not Federal-State Medicaid being shifted to fully state-funded health insurance.

#### Eligibility Verification Process For Federally-Funded Medicaid and CHIP

30. When a child is born to parents who lack private health insurance, the healthcare facility at which the child is born typically submits information to DHS for a determination of the child’s eligibility for public health insurance through NJ FamilyCare. The application is processed by either a state vendor or the county social services agency in the individual’s

county of residence. Approximately half of all Medicaid enrollees are enrolled through the vendor and another half through the counties.

31. The vendor and counties utilize an eligibility verification system to determine whether the applicant is eligible for Federal-State Medicaid or CHIP, and if not, if they are eligible for fully state-funded health insurance. The vendor uses its own eligibility verification system, while the counties use a system designed by DHS. Both systems currently rely on the fact that a newborn was born in a New Jersey healthcare facility as proof of citizenship to qualify the newborn for Federal-State Medicaid or CHIP.
32. Because of the Executive Order, the state vendor and DHS will have to develop a new eligibility verification system to determine whether newborn children are eligible for Federal-State Medicaid or CHIP because they can no longer rely on the fact that a child was born in the United States to confirm citizenship status. Although some newborn children, pursuant to a federal regulation, may be deemed eligible for Federal-State Medicaid until the age of one because their mother was covered by MEPP, this does not ensure coverage for all newborn children who are otherwise eligible for Federal-State Medicaid or CHIP.
33. DHS and the state vendor would incur significant costs to re-design their eligibility verifications systems to address changes in citizenship rules for newborn children. The re-design would require significant planning to understand the new rules governing U.S. citizenship for newborn children born in the United States, to identify and determine the kinds of evidence that would suffice as proof of citizenship, and to modify the IT systems that are used to process applications and verify eligibility. The state vendor would almost certainly seek to pass on to the State any costs that it incurred.

34. In addition, DHS would incur significant costs to train staff, partners, and healthcare providers on the new eligibility system and procedures, and to revise existing guidance documents and manuals regarding eligibility rules and procedures. DHS currently relies on 1,471 county caseworkers and 173 vendor employees to handle eligibility determinations for NJ FamilyCare.
35. It will likely take in the range of six months to develop and implement a new eligibility system and undertake the necessary training to ensure that it can be deployed effectively.
36. Children residing in New Jersey are eligible for NJ FamilyCare health insurance programs, including the fully state-funded program regardless of where they were born. Children residing in New Jersey who moved into the state from other states, including neighboring states like Pennsylvania or New York, are frequently enrolled in NJ FamilyCare health insurance programs. Presently, the eligibility verification systems used by DHS's vendor and county agencies have no reason to track the state of birth of U.S.-born children who apply for NJ FamilyCare. If the rules governing birthright citizenship varied by state of birth, these eligibility verification systems will have to start tracking state of birth so that they can accurately determine whether a child is a citizen and therefore eligible for Federal-State Medicaid or CHIP, or whether they are not a citizen and thus only eligible for fully state-funded health insurance. This will further complicate the process of redesigning eligibility verification systems described above, requiring additional expenditure of DHS's time and resources.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21<sup>st</sup> day of January, 2025, in Trenton, New Jersey.



---

Sarah Adelman, Commissioner  
New Jersey Department of Human Services

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :  
Plaintiffs, :  
v. :  
DONALD J. TRUMP, et al. :  
Defendants. :  
Civil Action No.: 25-cv-10139

## **DECLARATION OF KATHLEEN EHLING**

I, Kathleen Ehling, hereby declare:

1. I am the Assistant Commissioner for the Division of Educational Services within the New Jersey Department of Education (“NJDOE”), a position I have held since 2021. As Assistant Commissioner, I oversee the Offices of Special Education, including the Special Education Medicaid Initiative (“SEMI”) program, Supplemental Educational Programs, Fiscal and Data Services, Student Support Services, Performance Management and the Marie H. Katzenbach School for the Deaf. I am also responsible for overseeing implementation of the federal Every Student Succeeds Act, the federal Individuals with Disabilities Education Act (“IDEA”), the New Jersey Tiered Systems of Support, and the development and release of the annual School Performance Reports. Prior to holding this position, I served in various positions throughout my 20-year tenure with NJDOE including as the Director of the Office

of Fiscal and Data Services in which I oversaw the administration of over \$4 billion in federal and state grant funds for NJDOE. Prior to this role, I served as the Manager of the Bureau of Governance and Fiscal Support, Office of Special Education Policy and Procedure within NJDOE. In this capacity, I oversaw the implementation of administrative policy for the office, including development of regulations, model individualized education programs (“IEPs”), and the Parental Rights in Special Education booklet. I also oversaw the dispute resolution system, the complaint investigation process, the approval and monitoring of approved private schools for students with disabilities and clinics and agencies, the SEMI program, and the IDEA Part B grant process. Prior to assuming the role of Manager, I worked as a Special Assistant to the Director of the Office of Special Education Programs, a Complaint Investigator, and a Mediator with the Office of Special Education.

2. As Assistant Commissioner, I have personal knowledge of the matters set forth below, or I have knowledge of the matters below based on my review of information, information provided by other state agencies, including the New Jersey Department of the Treasury, and information gathered by my staff.
3. I am providing this declaration to explain certain impacts on the State of New Jersey and its local education agencies of an executive order entitled “Protecting the Meaning and Value of American Citizenship” issued on January 20, 2025 (the “Executive Order”). The Executive Order revokes birthright citizenship for children born after February 19, 2025, to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

New Jersey Department of Education

4. NJDOE's mission is to support schools, educators, and districts to ensure all of New Jersey's 1.4 million public school students have equitable access to high quality education and achieve academic excellence.
5. Pursuant to *Plyler v. Doe*, 457 U.S. 202 (1982), local education agencies ("LEAs") within the State serve all school-age children, regardless of their immigration status. An LEA is a public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through grade 12 public educational institutions.
6. Within NJDOE, the Division of Finance and Business Services administers federal and state funds to LEAs to support crucial education initiatives and provide essential services to students.

Special Education Medicaid Initiative

7. School-based health services ("SBHS") refer broadly to medical services provided to all students in a school setting, such as on-site school nurses, behavioral health counselors, and preventative health screenings for visual and auditory acuity.
8. All New Jersey LEAs are required to provide certain SBHS free of charge to all students, regardless of their immigration or insurance status.
9. In State Fiscal Year 2024, \$2,466,759,247 of State funds were provided to LEAs for special education services. This is the total amount for special education categorical aid, extraordinary aid for special education costs, and the estimated portion of equalization aid that is calculated for special education costs.
10. Since 1988, Section 1903(c) of the Social Security Act has authorized the federal Medicaid program to reimburse LEAs for medically necessary SBHS provided to Medicaid-eligible students with disabilities ("special education SBHS") pursuant to the IDEA, 20 U.S.C. §

1400 et seq., provided the services were delineated in the student's individualized education program ("IEP") (or similar plan) and covered in the State plan for Medicaid. IDEA requires LEAs to develop an IEP for children found eligible for special education and related services. An IEP identifies certain special education and related services, and program modifications and supports, that the LEA will provide a child with a disability.

11. Currently, New Jersey's State plan for Medicaid provides coverage for certain special education SBHS, such as occupational or speech therapy, that are specified in a student's IEP.
12. The Medicaid reimbursement program for special education SBHS in New Jersey is called the Special Education Medicaid Initiative ("SEMI"), which is jointly operated by NJDOE and New Jersey's Departments of Human Services and Treasury.
13. New Jersey has contracted with a vendor for administrative support in managing SEMI and matching reimbursement claims to Medicaid-eligible students.
14. Approximately 408 LEAs in New Jersey were required under State law to participate in SEMI in State Fiscal year 2025 because they had more than 40 Medicaid-eligible classified students. LEAs with 40 or fewer Medicaid-eligible classified students may request a waiver from the executive county superintendent not to participate in SEMI. Approximately 185 such LEAs did not seek a waiver and therefore participated in SEMI in State Fiscal year 2025.
15. Under SEMI, over the course of a school year, LEAs receive interim reimbursement payments through a fee-for-service process for costs associated with providing special education SBHS to Medicaid-eligible students.

16. The federal reimbursement funds are split between the State Treasury and LEAs. In State Fiscal Year 2024, the federal government paid 50% of the costs submitted for interim reimbursement for special education SBHS. The State retained 65% of the federal reimbursement and passed on 35% of the federal reimbursement to the relevant LEA.
17. At the end of the fiscal year, New Jersey engages in a cost settlement process to verify that LEAs are accurately reimbursed for the costs of providing SBHS by comparing interim reimbursements with reported annual expenditures.
18. In State Fiscal Year 2024, New Jersey LEAs submitted interim fee-for-service reimbursement claims to the federal government for claims valued at \$220,734,493, of which federal Medicaid reimbursed 50%, or \$110,367,246.60. The State retained 65% of the federal reimbursement, a total of \$71,755,196.95, and passed on the remaining 35%, a total of \$38,612,049, to the LEAs. These sums reflect the pre-cost settlement interim dollar amount, as the cost settlement process has not been completed.
19. To be eligible for a partially federally-funded Medicaid program, a student must be a U.S. citizen, a “qualified non-citizen,” or “lawfully present.”
  - a. Qualified non-citizens include lawful permanent residents, asylees, refugees, and trafficking victims, among others.
  - b. Individuals who are lawfully present include those with humanitarian statuses (such as Temporary Protected Status and Special Immigrant Juvenile Status) as well as asylum applicants, among others.
  - c. Children who are neither “qualified non-citizens” nor “lawfully present” are commonly referred to as undocumented.

20. Thus, undocumented children are not eligible for partially federally-funded Medicaid. LEAs are still required to provide special education SBHS to undocumented children, but cannot receive federal reimbursement dollars for those services.
21. In 2024, New Jersey's SEMI vendor identified approximately 88,000 students with disabilities who were enrolled in partially federally-funded Medicaid in New Jersey.
22. Because of the Executive Order, students with disabilities who are born in the United States to two undocumented parents, or whose birthright citizenship will otherwise be revoked by the Executive Order, will lose eligibility for federally-funded Medicaid for which they otherwise would have qualified. LEAs will thus not receive any SEMI reimbursement funds for provision of SBHS to those students, increasing the State's net costs.
23. The Executive Order will also increase the population of undocumented children, some percentage of whom will very likely have disabilities that require SBHS and would be eligible for partially federally-funded Medicaid but for their immigration status. The costs of providing those services will be borne by the State and LEAs without any federal Medicaid reimbursement.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21<sup>st</sup> day of January, 2025, in Trenton, New Jersey.



---

Kathleen Ehling, Assistant Commissioner  
Division of Educational Services, New  
Jersey Department of Education

# **EXHIBIT C**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :

Plaintiffs, :

v. :

DONALD J. TRUMP, et al. :

Defendants. :

Civil Action No.: 25-cv-10139

**DECLARATION OF KAITLAN BASTON**

I, Kaitlan Baston, MD, MSc, DFASAM, hereby declare the following:

1. I am the Commissioner of the New Jersey Department of Health (“DOH”) and have been employed as the Commissioner since August of 2023. I am dual boarded in Family Medicine and Addiction Medicine, obtained a master’s degree in Neuroscience from Kings College, London, and graduated from Jefferson Medical College in Philadelphia, Pennsylvania. Prior to becoming DOH’s Commissioner, I built and led the Cooper Center for Healing, an integrated pain, addiction, and behavioral health center and was an Associate Professor of Medicine at Cooper Medical School of Rowan University. Prior to my position with Cooper, my work ranged from public health projects in Rwanda, to public maternity and trauma

hospitals in the Dominican Republic, to providing full spectrum family planning services and working in a bilingual community health center in Seattle, Washington.

2. The information in the statements set forth below were compiled through personal knowledge, through DOH personnel who have assisted in gathering this information from our agency, as well as information from experts outside of DOH provided to me.

New Jersey Department of Health

3. DOH's mission is to protect public health, promote healthy communities, and continue to improve the quality of health care in New Jersey. To support that goal, DOH performs many functions, including regulating healthcare facilities and overseeing the registration of vital events, such as births, through the Department's Office of Vital Statistics and Registry ("OVSR").

Registration and Birth Certificates of Newborns

4. Healthcare facilities coordinate with OVSR to collect information to register a child's birth.
5. When a child is born in a healthcare facility, a medical attendant to the birth is statutorily obligated to register the birth. They provide the newborn's parents with a Birth Certificate Worksheet ("the Worksheet"). The Worksheet does not inquire about the parents' immigration status.
6. After the newborn's parents complete and sign the Worksheet, the healthcare facility enters the information from the Worksheet into an electronic birth system (VERI) maintained by OVSR. The local registrar in the municipality where the child is born then reviews the birth record in VERI, and if accepted, the birth certificate is created and registered with OVSR.
7. A newborn's completed birth certificate does not indicate whether the parents have a Social Security Number ("SSN"). The only information provided on a birth certificate regarding the

child's parents is the mother's legal name, the father's full name (if provided), their places and dates of birth, residence, and mailing addresses. Currently, it is not possible to determine a foreign-born parent's immigration status from their child's birth certificate.

8. In 2024 there were approximately 95,792 births registered in the State of New Jersey.

Application for Social Security Number of Newborns

9. While registering a newborn for a birth certificate at a healthcare facility, parents may also indicate on the Worksheet whether they would like to request an SSN for their child through a Social Security Administration ("SSA") program called Enumeration at Birth ("EAB").
10. The EAB program is voluntary for families, but according to SSA, about 99 percent of SSNs for infants are assigned through this program. If parents indicate on the Worksheet that they want an SSN for their child, healthcare facilities transmit these requests electronically to OVSR, which then transmits the requests to SSA.
11. New Jersey receives federal funding from the SSA EAB process on a quarterly basis for each SSN that is issued through the EAB process. The State receives \$4.82 per SSN issued through the EAB program, or approximately \$90,000 to \$110,000 per quarter. The State generally receives payment a month after the quarter ends and is thus expecting its next payment in April 2025. OVSR uses those funds to support the payment of administrative and operational costs.

Effects of the Executive Order on Registration and EAB Process

12. I have been advised that an executive order titled "Protecting the Meaning and Value of American Citizenship" was issued on January 20, 2025 (the "Executive Order") stating that children born to (i) a mother who is unauthorized or who is lawfully present but only on a temporary basis, and (ii) a father who is neither a U.S. citizen nor a lawful permanent

resident, shall not be recognized as citizens by the federal government, rendering them ineligible to receive an SSN. DOH has been advised that approximately 6,200 children per year are born in New Jersey with two undocumented parents. This is an underestimate to some degree because it does not include children who have one parent who is not undocumented but who nonetheless does not meet the immigration status requirements of the Executive Order to confer citizenship on their child born in the United States.

13. If SSA will not issue an SSN to those children, OVSR estimates approximately 6,200 fewer SSNs will be issued annually in New Jersey. If approximately 6,200 fewer SSNs are issued through the EAB process under the Executive Order, this will result in an annual loss of EAB funding to New Jersey of approximately \$30,000.
14. If, as a result of the Executive Order, the newborn registration process has to be amended to provide for verification of the parents' citizenship and/or immigration status either to obtain an SSN for the newborn, issue a birth certificate to the newborn, or to indicate on the birth certificate whether the newborn child is eligible for birthright citizenship based on their parents' status, this will impose material administrative burdens on OVSR and healthcare facilities, including University Hospital, which is an acute care hospital that is an instrumentality of the State providing obstetric services.
15. OVSR and healthcare facilities would have to develop a system for ascertaining, documenting, and verifying the parents' immigration status, and they would have to train staff on how to implement and use this system. Assuming this burden would further lead to delays in registration and issuance of the newborn's birth certificate, which must be completed within five days of the birth under state law.

16. Because of the Executive Order, SSA will presumably require proof of parents' lawful status to issue an SSN. Healthcare facilities providing obstetric services, including University Hospital, will be forced to consult with, and assist, families with obtaining the paperwork necessary to prove their lawful status. It is likely that the electronic system and guidelines for submitting SSN applications through that system—which are currently detailed in a 59-page SSA manual—will have to be revised. This will likely require healthcare facilities to train, and potentially hire, staff to work with parents in obtaining, and then verifying, the requisite documents to establish lawful immigration status. It will also require OVSR to expend resources to modify its systems for obtaining information from healthcare facilities and transmitting that information to SSA, and to train staff on these changes.

#### Early Intervention Services for Children

17. Under the federal Individuals with Disabilities Act (“IDEA”), states are required to provide Early Intervention Services (“EIS”), such as speech or occupational therapy, to children up to three years old with certain disabilities and developmental delays. In New Jersey, DOH administers and provides EIS for families.

18. Direct services for children enrolled in EIS are principally funded by the State, but the federal government covers 50 percent of the costs for children enrolled in the federal-state Medicaid program (“Federal-State Medicaid”). Children are eligible for Federal-State Medicaid if they are U.S. citizens or “qualified aliens” and their family income is below certain thresholds.

19. There are currently 37,075 children in New Jersey receiving EIS, of which approximately 46 percent, or 17,220 are enrolled in Federal-State Medicaid.

20. For EIS direct services furnished in State fiscal year 2024, New Jersey appropriated approximately \$118 million, had approximately \$180 million in EIS Medicaid claims, and the federal government reimbursed approximately \$90 million of those claims.

21. Before the Executive Order, children born in New Jersey were U.S. citizens by birthright regardless of their parents' immigration status and would be eligible for Federal-State Medicaid provided they met certain income requirements. If those children were enrolled in Federal-State Medicaid and needed EIS in the first three years of life, DOH would provide those services and receive a 50 percent cost reimbursement from the federal government. If those children needed EIS, but were ineligible for Federal-State Medicaid, DOH would still be required to provide EIS, but would not receive any reimbursement from the federal government and instead would have to rely on State-appropriated funds.

22. DOH has been advised of estimates that in the last three calendar years, there have been between 7,000 and 8,000 births per year to undocumented pregnant women whose labor and delivery were covered by emergency Medicaid services. Undocumented patients may qualify for emergency Medicaid that covers certain emergency medical services if they meet all Federal-State Medicaid eligibility requirements except for immigration status.

23. DOH has further been informed that approximately 58 percent of children born to undocumented mothers covered by emergency Medicaid likely had a second parent who was undocumented. Thus, a reasonable approximation of the number of children born to undocumented parents who have been eligible for Federal-State Medicaid prior to the Executive Order is 4,060 to 4,640 children per year.

24. Of this number, it is highly likely some will require EIS. The State will lose the federal reimbursement funds it would have otherwise received and will then have to absorb the cost of those lost reimbursement funds.

I declare under penalty of perjury that I am authorized to sign this certification, that there is no single official or employee of the DOH who has personal knowledge of all such matters; that the facts stated above have been assembled by employees of DOH as well as provided by experts outside of DOH, and I am informed that the information set forth above are in accordance with the information available to me and records maintained by the DOH and are true and accurate. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Executed this 21<sup>st</sup> day of January, 2025, in Trenton, New Jersey.



---

Kaitlan Baston, MD, MSc, DFASAM  
Commissioner  
New Jersey Department of Health

# **EXHIBIT D**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.

6

Plaintiffs,

10

V.

10

DONALD J. TRUMP, et al.

2

## Defendants.

2

Civil Action No.: 25-cv-10139

## **DECLARATION OF LAURA JAMET**

I, Laura Jamet, hereby declare:

1. I am Assistant Commissioner of the New Jersey Department of Children and Families (“DCF”), a position I have held since 2023. As Assistant Commissioner, I oversee the Division of Child Protection and Permanency (“DCPP”), New Jersey’s division responsible for child protective services and permanency, including foster care and public adoptions. Prior to holding this position, I served in an acting capacity as Assistant Commissioner since 2022, and I served as Deputy Director of Operations for DCPP since 2021, along with other clinical and administrative roles in the New York City Administration for Children’s Services.

2. As Assistant Commissioner for DCF, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.
3. I am providing this declaration to explain certain impacts on the State of New Jersey's child welfare programs of an executive order entitled "Protecting the Meaning and Value of American Citizenship," issued on January 20, 2025 (the "Executive Order"). The Executive Order revokes birthright citizenship for children born in the United States after February 19, 2025, to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

Division of Child Protection and Permanency

4. DCF is devoted to serving and supporting at-risk children and families. Within DCF, the DCPP is New Jersey's child protection and child welfare agency. DCPP is responsible for investigating allegations of child abuse and neglect and, if necessary, arranging for a child's protection.
5. DCPP contracts with community-based agencies throughout the State to provide services for children and families. Services include counseling, substance abuse treatment, in-home services, and residential placement.
6. If a child has been harmed or is at risk of harm, DCPP may ask the county family court to place the child in foster care. Foster homes are provided by caring individuals who have completed extensive licensing and care training.
7. DCPP provides foster care services to children regardless of their immigration status.

8. The average daily population of children in foster care in New Jersey in State Fiscal Year 2024 was 3,753. The total number of children in foster care in New Jersey in Calendar Year 2024 was 4,547.
9. Children often enter DCPP's care within the first year of their lives. In 2023, 268 children entered DCPP's care within three months of birth, 308 within six months of birth, and 364 within 12 months of birth.

Federal Funding Tied to a Child's Citizenship

Title IV-E Funding

10. Under Title IV-E of the federal Social Security Act, the federal government provides grants to State foster care agencies with approved Title IV-E plans, including DCF, to assist those agencies with the costs of foster care maintenance for eligible children, as well as for adoption, guardianship, prevention services, and other support services.
11. Federal funding under Title IV-E is available only for services provided to children who are United States citizens or "qualified aliens." As DCF understands the Title IV-E limitations, undocumented children are not "qualified aliens," *cf.* 8 U.S.C. § 1641, and thus DCF does not receive any federal reimbursement for foster care expenditures by DCF for undocumented children.
12. Federal funding under Title IV-E covers maintenance payments for eligible children and a portion of the State's administrative expenses. Maintenance payments include foster care assistance, adoption assistance, and guardianship assistance, and cover the cost of basic necessities, including food, clothing, shelter, daily supervision, and school supplies, for eligible children in DCF's care. Federal funding is provided on a quarterly basis after the

State submits claims for eligible expenditures associated with eligible children. New Jersey submits claims for reimbursement within eight weeks of the close of a quarter.

13. Partial reimbursement of administrative expenses is calculated by using the State's "penetration rate," which is the percentage of children in foster care who are eligible for Title IV-E funding. DCF calculates a penetration rate for each quarter. For federal Fiscal Years 2023 and 2024, the penetration rate was between 55 and 60 percent.
14. In Federal Fiscal Year 2024, DCF received \$205.3 million in Title IV-E federal funding, including \$138.9 million for administrative expenses and \$66.4 million for maintenance payments for eligible children. This federal funding constitutes a substantial share of DCF's budget. For example, DCF spent approximately \$170 million on maintenance payments during the last fiscal year. Federal funding covered approximately 40 percent of these maintenance expenditures.
15. DCF must, consistent with state law, continue to provide children born in the United States whose birthright citizenship is not recognized by the federal government with foster care services as needed. However, because these children are now ineligible for Title IV-E funding, DCF will not receive any reimbursement under Title IV-E for providing those services.
16. DCF does not keep records of the immigration status of the parents of children that DCF works with. Based on DCF's experience and understanding of general demographics in New Jersey, it is very likely that DCF serves U.S. citizen children whose birthright citizenship would not be recognized by the federal government pursuant to the Executive Order. DCF has been advised that there were around 95,792 registered births in New Jersey in 2024, and that an estimated 6,200 children are born each year in New Jersey to two undocumented

parents. This is a conservative underestimate of the number of children affected by the Executive Order because it does not include children who have one parent who is not undocumented but who nonetheless does not meet the immigration status requirements of the Executive Order to confer citizenship on their child born in the United States. Given that 364 children entered foster care within the first year of their lives in 2023, it is likely that some number of these children had two undocumented parents or a mother with temporary lawful status and a father who was neither a U.S. citizen nor lawful permanent resident. DCF reasonably expects that some number of children born within the 12-month period after February 19, 2025 will enter DCF's care. As a result of the Executive Order, DCF will lose material amounts of federal funding that it would use for foster care maintenance payments for those children, as well as reimbursement for administrative expenses associated with their care.

#### Medicaid Funding

17. Under New Jersey law, all foster children, regardless of immigration status, are eligible for public health insurance through NJ FamilyCare. Children in foster care who are U.S. citizens or have a qualifying immigration status are eligible for the federal-state Medicaid program that is partially funded by the federal government. However, except for certain limited emergency care that is covered by the federal-state emergency Medicaid program, undocumented children in foster care are eligible only for health insurance that is fully funded by the State. Because of the Executive Order, the State will lose federal health insurance for such children and incur greater health care costs.

#### Other Federal Benefits Programs

18. DCF provides targeted financial and resource assistance to families with children who are at risk of familial crisis, including for necessities such as rent, baby supplies, and groceries, to ensure that children receive adequate care. DCF's goal is to keep families together, so that children do not experience the disruption and trauma of being removed from their home. In fiscal year 2024, DCF spent \$13.3 million on this assistance. Many families with at-risk children also receive assistance for their children through federal programs, including SNAP, TANF, and SSI, for which their children are eligible because of their citizenship status. DCF determines the need for providing targeted assistance only after considering whether federal assistance to these families is sufficient to ensure that the basic needs of their children are met. Children with two undocumented parents, or whose birthright citizenship will otherwise be revoked by the Executive Order, will not be recognized as eligible for such federal assistance. DCF will be forced to increase its expenditures to ensure that these at-risk children receive adequate care.

#### Costs of Ascertaining Citizenship and Immigration Status

19. In order to determine whether children in its care are eligible for Title IV-E funding, DCF needs to determine the citizenship or immigration status of the children it serves.
20. In addition, DCF is responsible for applying for certain federal assistance for which a child in its care may be eligible, including Medicaid and SSI benefits. These federal benefits are not available to children who are not citizens or have a qualifying immigration status. Thus, as part of the application process, DCF must submit proof that a child is a citizen or has a qualifying immigration status.

21. Presently, DCF relies on a birth certificate as evidence of U.S. citizenship. This is administratively simple, especially with respect to newborns that DCPP caseworkers may interact with shortly after birth.
22. The Executive Order complicates DCF's ascertainment of whether a child is eligible for Title IV-E funding and the process for applying for certain federal assistance for children in its care.
23. To ascertain eligibility for these programs, DCPP caseworkers must now develop a new system for determining the citizenship and immigration status of children in its care. That system will likely require DCPP to take steps to determine, verify, and document the immigration status of the parents of children who come into foster care. This may be especially difficult in certain circumstances where parents are unwilling to engage with DCF. It will cost considerable time and resources to implement such a system.
24. DCPP will have to expend considerable resources to develop and implement a system to determine, verify, and document the citizenship and immigration status of children whose citizenship could not be presumed on the basis of a birth certificate showing their birth in the United States. DCPP will also incur significant costs to train DCPP caseworkers to implement that system. While the precise costs are difficult to estimate without further guidance from the federal government on how states must determine citizenship status for Title IV-E eligibility, it may easily cost millions of dollars. Because quarterly submissions to the federal government for reimbursements are due within 30 days of the end of a quarter, DCF must develop and begin implementing such a system within a matter of months. As a result of the Executive Order, DCF must immediately begin planning the development of a

new system for determining, verifying, and documenting the citizenship and immigration status of children born in the United States.

25. DCF provides services for children residing in New Jersey regardless of where they were born. With respect to U.S.-born children, DCF commonly provides services for children residing in New Jersey who moved into the state from other states, including neighboring states like Pennsylvania or New York. Presently, DCF does not and has no reason to track the state of birth of U.S.-born children in its care. If rules governing birthright citizenship varied by state of birth, DCF would have to start tracking state of birth so that DCF could accurately determine the citizenship and immigration status of children in its care for the purpose of determining Title IV-E eligibility. Without uniformity around such eligibility, DCF must also design, implement, and train staff on an eligibility determination system that accounts for differential rules based on a child's state of birth. This introduces additional complexity into any eligibility determination process for children in DCF's care, and will require additional expenditure of DCF's time and resources.

\* \* \*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21<sup>st</sup> day of January, 2025, in Trenton, New Jersey.



Laura Jamet, MSW  
Laura Jamet, Assistant Commissioner  
New Jersey Department of Children and Families

# **EXHIBIT E**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW JERSEY, *et al.*,

*Plaintiffs,*

v.

No. 1:25-cv-10139

DONALD J. TRUMP, *et al.*,

*Defendants.*

**DECLARATION OF SHARON C. BOYLE**

I, Sharon C. Boyle, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

**I. Background**

1. I am the General Counsel of the Massachusetts Executive Office of Health and Human Services (EOHHS), a position I have held since 2016. EOHHS is a cabinet-level secretariat in Massachusetts that directly manages the MassHealth program and oversees eleven state agencies charged with promoting the health, resilience, and independence of the Commonwealth's residents. EOHHS's public-health programs serve nearly one in three Massachusetts residents, touching every city and town in the Commonwealth.

2. Between 2003 and 2016, before assuming my current role, I held several titles within the EOHHS general counsel's unit, including First Deputy General Counsel and Chief MassHealth Counsel. From 1995 to 2003, I worked as an assistant general counsel in the Division of Medical Assistance.

3. As EOHHS General Counsel, I have personal knowledge of the rules, regulations, and processes governing EOHHS and its agencies. I have personal knowledge, or knowledge based

on review in my capacity as General Counsel of information and records gathered by EOHHS and agency staff, of the matters set forth below.

## **II. MassHealth Programs**

### **A. Overview, Eligibility, and Funding**

4. EOHHS administers several publicly funded programs that enable qualifying Massachusetts residents to access free or low-cost healthcare coverage. These programs include the Medicaid plan, Children’s Health Insurance Program (CHIP), and the 1115 Demonstration Project—collectively known in Massachusetts as “MassHealth.” Jointly funded by state and federal dollars, MassHealth provides coverage for a wide range of health services to children, the elderly, families, and individuals with disabilities. MassHealth benefits may vary depending on, among other things, a person’s citizenship and immigration status and household income.

5. Depending on household income, children who are U.S. Citizens or who have qualifying immigration status are eligible for MassHealth’s more comprehensive health benefits. For example, children whose household income is no more than 200% of the federal poverty level (for children under 1) or 150% of the federal poverty level (for children 1 through 18) are eligible for MassHealth Standard benefits. These MassHealth plans, which are funded in part by federal dollars, cover comprehensive medical and behavioral health care, primary and specialty physician services, inpatient and outpatient hospital services, long-term services and supports, comprehensive dental and vision care, lab tests, and pharmacy services.

6. Under federal law, children who are undocumented or who lack a qualifying immigration status are not eligible for the comprehensive plans discussed in the preceding paragraph. Instead, the only Medicaid coverage available for children who are undocumented or who lack qualifying immigration status is emergency services—known in Massachusetts as “MassHealth Limited.” The household income thresholds for MassHealth Limited are 200% of the

federal poverty level for children under 1 and 150% of the federal poverty level for children aged 1 through 18.

7. To provide more comprehensive coverage for children who are ineligible for the comprehensive MassHealth plans discussed in paragraph 5, Massachusetts allows individuals under age 19 to enroll in the state's Children's Medical Security Plan (CMSP). A child whose household income is at or below 200% of the federal poverty level does not pay for CMSP coverage. CMSP is funded primarily by the Commonwealth of Massachusetts; the federal government does not provide matching funds for CMSP as it does for the comprehensive MassHealth programs.<sup>1</sup> Stated otherwise, Massachusetts children under age 19 who meet the income eligibility requirements for federally funded comprehensive Medicaid or CHIP programs, but who are not eligible for those programs because they are not U.S. citizens or qualified immigrants, are eligible for more comprehensive health coverage through CMSP at the state's expense.

8. For most MassHealth programs, the "Federal Medical Assistance Percentage"—*i.e.*, the amount that the federal government reimburses the Commonwealth for its spending—is 50%. For spending on children in CHIP, the Federal Medical Assistance Percentage is 65%. By contrast, and as just discussed, CMSP coverage for undocumented children, who are not eligible for federal-state Medicaid or CHIP, is primarily funded by the Commonwealth.

## **B. Fiscal Impact from Elimination of Birthright Citizenship**

---

<sup>1</sup> The federal government provides limited funding for CMSP through the "Health Services Initiative," but that funding is subject to an annual cap which the program regularly exceeds, meaning that the state will shoulder the cost of any increased enrollment in the CMSP.

9. Today, any child born in Massachusetts is automatically deemed a U.S. citizen. Thus, any child born in Massachusetts to Massachusetts residents who meets income-eligibility criteria is eligible, as a citizen, for comprehensive federally funded MassHealth programs.

10. Massachusetts currently spends an average of approximately \$4,800 per year per child enrolled in a comprehensive federally funded MassHealth program. As noted above, the federal government currently reimburses at least 50–65% of those costs.

11. On January 20, 2025, the President issued an Executive Order entitled “Protecting the Meaning and Value of American Citizenship,” which purports to revoke birthright citizenship for certain children born in the United States after February 19, 2025. If the Executive Order is given effect, children covered by the Executive Order would not be eligible for any federally funded MassHealth program beyond MassHealth Limited. Instead, those children, if they meet income and other eligibility criteria, would receive CMSP from birth. Accordingly, other than emergency services, Massachusetts would cover the increased cost of health coverage for those children without federal reimbursement. This will be a significant number of children. MassHealth covers approximately 40% of the births in Massachusetts. Babies whose mothers are on MassHealth are deemed eligible for MassHealth for their first year.

### **C. Administrative Burdens from Elimination of Birthright Citizenship**

12. Today, MassHealth’s process for determining a newborn’s eligibility for health care coverage operates on the premise that birth in a Massachusetts healthcare facility is, without more, proof that the newborn is a citizen.

13. If the Executive Order goes into effect, MassHealth would have to develop new eligibility processes because EOHHS could no longer rely on the fact that a child was born in the United States to confirm citizenship status.

14. EOHHS would incur significant costs to train eligibility staff and customer service workers on the new procedures and to revise existing guidance documents and manuals regarding eligibility rules and procedures.

### **III. Enumeration at Birth Program**

15. Massachusetts is a participant in the Social Security Administration's "Enumeration at Birth" (EAB) program. EAB allows new parents to request a Social Security Number (SSN) during the birth registration process, eliminating the need for them to gather documents and submit a separate application to the Social Security Administration.

16. EAB involves collaboration between the federal government and state agencies. When a state participates in the program, the state's vital-statistics agency—in Massachusetts, the Registry of Vital Records and Statistics (RVRS) in the Department of Health (DPH)—electronically sends birth registration information to the Social Security Administration. The Administration then assigns an SSN, issues a card, and automatically updates its records with proof of birth. The federal government provides funding to the state for each SSN assigned this way.

17. According to the Social Security Administration, approximately 99% of SSNs for infants are assigned through this program. Parents born outside the United States can apply for and receive an SSN for their child without including their own SSNs on the application. Currently, because children born in the United States are U.S. citizens, they are eligible for SSNs regardless of their parents' immigration status.

18. Massachusetts receives federal funding from the federal government in connection with the EAB program on a quarterly basis. The funding rate for the June 2024–June 2025 time period is \$4.82 per SSN issued through Massachusetts's EAB participation. Massachusetts's current contract with the Social Security Administration provides for up to 87,860 SSNs to be

issued through the program in Massachusetts in that time—resulting in up to \$423,485.20 in federal payments to the Commonwealth.

19. If birthright citizenship were revoked pursuant to the Executive Order, children covered by the order would no longer be citizens and would therefore be ineligible for an SSN, and Massachusetts would lose the federal funding associated with issuance of those SSNs.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21st day of January, 2025.

A handwritten signature in black ink, appearing to read "Sharon C. Boyle". The signature is fluid and cursive, with "Sharon" on the left and "Boyle" on the right, separated by a small gap.

Sharon C. Boyle  
*General Counsel, Massachusetts Executive  
Office of Health and Human Services*

# **EXHIBIT F**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

## **DECLARATION OF SHELLEY LAPKOFF**

I, Shelley Lapkoff, hereby declare:

1. I am a Senior Demographer at National Demographics Corporation (NDC), which I joined in 2023. Founded in 1979, NDC is a firm dedicated to providing research and analysis services on demographic, districting, and redistricting issues to a variety of governmental and non-governmental clients. At NDC, as I have for more than 30 years, I specialize in conducting demographic and political redistricting analyses. Within the field of demography, my area of expertise is applied demography, which includes the analysis of client and third-party data, such as Census Bureau counts and estimates, data from state, federal and local governments, and data from other research organizations.
2. Prior to joining NDC, I earned a Ph.D. in Demography in 1988 and an M.A. in Economics from the University of California, Berkeley in 1984. I received a B.A. with Honors in Economics from the University of Maryland, College Park, in 1976. While in graduate school, I founded my own demographic consulting firm, Lapkoff Demographic Research (LDR), in 1985, which provided consulting services and demographic analyses to government and non-governmental clients. In 1992, LDR subsequently became Lapkoff & Gobalet Demographic

Research, Inc. (LDGR). And just recently, in 2023, LDGR merged with NDC. Additionally, I have taught Applied Demography and presented seminars in the U.C. Berkeley Demography Department. I have also been active in the Population Association of America (PAA) and have been Chair of the PAA Committee on Applied Demography.

3. I served as one of the principals of LDGR from its inception until joining NDC. As President of LGDR and as a Senior Demographer with NDC, I have conducted and overseen many demographic research projects. As a consultant and practitioner of applied demographics, I help diverse types of clients. The work includes developing new methods (including mathematical models) to forecast population and housing occupancy; assembling and analyzing demographic data; evaluating demographic trends; preparing written reports on the findings; and making presentations on a variety of matters.
4. At LGDR and now NDC, I have worked with more than 20 school districts, including the large San Francisco and Oakland Unified School Districts, many cities, special districts, and county boards of supervisors. National-level clients have included non-profits (Girl Scouts of the United States, United Way Worldwide) and the U.S. Department of Justice. These projects have often used client and third-party data, such as Census Bureau American Community Survey data, data from state and federal government (especially birth data from the National Center for Health Statistics), and from research organizations like Pew Research Center.
5. I have worked with dozens of clients providing political redistricting services after the 1990, 2000, 2010, and 2020 decennial Censuses. These types of demographic and redistricting analyses have required expert use of Census data, including the American Community Survey, and Geographic Information Systems (GIS) software.
6. Over the years, I have served as an expert witness in several cases that involved demographic analyses, including cases regarding racial and disability discrimination, housing discrimination against households with children, evaluations of school desegregation plans, political redistricting that conforms to civil rights legislation and court decisions, and developer fee justifications for school districts, among others.

7. Attached as **Exhibit 1** is a copy of my curriculum vitae listing my full experience, prior publications, and cases where I have submitted a declaration or participated as a consultant.

Scope of Work and Findings

8. For purposes of determining the possible impact of a revocation of birthright citizenship, NDC was retained by the States of New Jersey and California to estimate the annual number of births to women who are unauthorized immigrants in New Jersey, California, and Massachusetts, as well as the entire United States, and if possible, the number of births in which both the mother and father were unauthorized immigrants. Under my direction and supervision, NDC prepared the analysis and report attached as **Exhibit 2**, which reflects NDC's estimate of the number of such births. The report details NDC's estimate, the methodology used, and the data sources and additional materials consulted and relied upon.
9. As explained in our report, we estimate that in 2022, the last year for which complete data are available:
  - a. There were approximately 255,000 births to unauthorized mothers in the United States. That represents 31 percent of births to all foreign-born mothers and 7 percent of all births to United States residents. We further estimate that there were approximately 153,000 births in which both parents were unauthorized, representing 18 percent of births to all foreign-born mothers, and 4 percent of all births to United States residents.
  - b. There were approximately 7,800 births to unauthorized mothers in Massachusetts. That represents 33 percent of births to all foreign-born mothers and 11 percent of all births to Massachusetts residents. We further estimate that there were approximately 4,200 births in which both parents were unauthorized, representing 18 percent of births to all foreign-born mothers, and 6 percent of all births to Massachusetts residents.
  - c. There were approximately 10,700 births to unauthorized mothers in New Jersey. That represents 28 percent of births to all foreign-born mothers and 10 percent of

all births to New Jersey residents. We further estimate that there were approximately 6,200 births in which both parents were unauthorized, representing 16 percent of births to all foreign-born mothers, and 6 percent of all births to New Jersey residents.

- d. There were approximately 40,200 births to unauthorized mothers in California. That represents 29 percent of births to all foreign-born mothers and 10 percent of all births to California residents. We further estimate that there were approximately 24,500 births in which both parents were unauthorized, representing 18 percent of births to all foreign-born mothers, and 6 percent of all births to California residents.
10. In conducting our analysis, we reviewed data from a variety of independent sources as well as official federal and state government databases in an effort to best estimate using reliable sources the number of births to unauthorized mothers and parents in New Jersey, Massachusetts, California, and the United States. Our methodology, data sources, and full analysis are explained further in our attached report.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21<sup>st</sup> day of January, 2025, in Glendale, California.

  
\_\_\_\_\_  
Shelley Lapkoff  
Shelley Lapkoff, Senior Demographer  
National Demographics Corporation

# **EXHIBIT 1**

## **Curriculum Vitae for Shelley Lapkoff**

**Shelley Lapkoff, Ph.D.  
Demographer**

National Demographics Corporation/Lapkoff & Gobalet Demographic Research, Inc.  
SLapkoff@NDCResearch.com

Senior Demographer at National Demographics Corporation since 2023. President and Principal, Lapkoff & Gobalet Demographic Research, Inc., since 1992, and founder and owner of Lapkoff Demographic Research before that. In 2023, National Demographics Corporation and Lapkoff & Gobalet Demographic Research, Inc. merged.

Lecturer, *University of California, Berkeley*, Demography Department, 1995 and 2001.

### **Education and Honors**

Ph.D. Demography, *University of California, Berkeley*, 1988

M.A. Economics, *University of California, Berkeley*

A.B. Economics, With Honors, *University of Maryland*

Guest Lecturer, Business School, University of California, Berkeley

NICHHD Training Grant, University of California, Berkeley, 1984-86

University of California Graduate Fellowship, 1982-84

### **Professional Experience**

Dr. Lapkoff has provided demographic services to school districts since 1985. In 1989 she founded Lapkoff Demographic Research, and since 1992 she has been the President and a Principal of Lapkoff & Gobalet Demographic Research, Inc. In 2023, she became Senior Demographer at National Demographics Corporation.

She has provided consulting and research services to public K-12 school districts throughout the San Francisco Bay Area and California, as well as to community colleges, cities, voting jurisdictions, the Department of Housing and Urban Development, and the Department of Justice. She has provided expert testimony in several court cases involving political redistricting, school desegregation, developer fee challenges, and housing discrimination. Dr. Lapkoff is recognized as a national leader in the field of school district demography, and she is a past Chair of the Applied Demography Committee of the Population Association of America.

## **Papers and Professional Presentations**

### ***Political Districting***

"Who Must Elect by District in California? A Demographer's Perspective on Methods for Assessing Racially Polarized Voting," with Shelley Lapkoff. Chapter 18 in *Emerging Techniques in Applied Demography*, Hoque, M. Nazrul, Potter, Lloyd B. (Eds.), 2015.

"How much is enough and how much is too much? Measuring Hispanic political strength for redistricting purposes," with Jeanne Gobalet, 2012 Population Association of America Annual Meeting.

"Voting Rights Act Issues in Political Redistricting," with Jeanne Gobalet, 1993 Population Association of America Annual Meeting.

Invited Speaker, "Demographers and the Legal System," International Conference on Applied Demography, Bowling Green University, 1992.

"Changing from At-large to District Election of Trustees in Two California Community College Districts: A Study of Contrasts," with Jeanne G. Gobalet, *Applied Demography*, August 1991.

### ***School and Child Demography***

"Who Attends Private Schools?" with Magali Barbieri and Jeanne Gobalet, 2014 Applied Demography Conference, San Antonio, TX.

"Measuring Variations in Private School Enrollment Rates Using ACS Estimates," with Magali Barbieri and Jeanne Gobalet, 2014 American Community Survey Users Conference, Washington, DC.

"Five Trends for Schools," Educational Leadership, March 2007, Volume 64, No. 6, Association for Supervision and Curriculum Development (with Rose Maria Li).

"Studies in Applied Demography," Session Organizer at the 2006 Population Association of America Annual Meeting.

"California's Changing Demographics: How New Population Trends Can Affect Your District," 2004 California School Boards Association Annual Meeting.

Panelist, "School Demography" session, 2004 Southern Demographic Association Annual Meeting.

"Where Have All the Children Gone?" Poster, 2004 Population Association of America Annual Meeting.

"Using Child-Adult Ratios for Estimating Census Tract Populations," 1996 Population Association of America Annual Meeting.

"How to Figure Kids," *American Demographics*, January 1994.

"Neighborhood Life Cycles," 1994 Population Association of America Annual Meeting.

"Enrollment Projections for School Districts," *Applied Demography*, Spring 1993.

"Projecting Births in a California School District," 1993 Population Association of America Annual Meeting.

"School District Demography," Session Organizer and Chair, 1994 Population Association of America Annual Meeting.

"School District Demography," Roundtable Luncheon Organizer, 1992 Population Association of America Annual Meeting.

"National Demographic Trends," presentation to the National Association of Business Economists, 1990.

"Demographic Trends and Long-range Enrollment Forecasting," presentation at the Redwood Leadership Institute, Sonoma County, California, 1990.

"Projections of Student Enrollment in the Pleasanton Unified School District," 1989 Population Association of America Annual Meeting.

### ***General Demography***

"Forecast of Emeritus Faculty/Staff Households on a University Campus," with Jeanne Gobalet, 2000 Population Association of America Annual Meeting.

"Communicating Results: Practical Approaches Suited to Decision-Oriented Audiences," Panelist. 2000 Population Association of America Annual Meeting.

"Fiscal Impacts of Demographic Change: Focus on California," Session Organizer and Chair. 1995 Population Association of America Annual Meeting.

Discussant for "Evaluating the Accuracy of Population Estimates and Projections," 1992 Population Association of America Annual Meeting.

"Intergenerational Flows of Time and Goods: Consequences of Slowing Population Growth," with Ronald Lee, *Journal of Political Economy*, March 1988.

"A Research Note on Keyfitz' 'The Demographics of Unfunded Pension'," *European Journal of Population*, July 1991.

"Pay-as-you-go Retirement Systems in Nonstable Populations," Working Paper, U.C. Berkeley Demography Group, 1985.

"Assessing Long-run Migration Policy as a Solution to the Old Age Dependency Problem," paper presented at the 1985 Population Association of America Annual Meeting

# **EXHIBIT 2**

# **Estimating Births to Unauthorized Immigrants in the United States, Massachusetts, New Jersey, and California**

Prepared by National Demographics Corporation, January 19, 2025

## **Executive Summary**

National Demographics Corporation (NDC) was asked to estimate the annual number of births to women who are unauthorized immigrants, and if possible, the number of births in which both the mother and father were unauthorized immigrants. We were asked to do so for the United States, New Jersey, Massachusetts, and California. The body of the report discusses the methodology as it presents results for the United States. Tables in the body of the report are provided for each state in Appendices C, D and E.

For 2022, the year for which the most recent set of data is available, we estimate that:

For the United States

- There were approximately 255,000 births to unauthorized mothers, representing 31 percent of births to all foreign-born mothers and seven percent of all births in the United States.
- There were approximately 153,000 births in which both parents were unauthorized, representing 18 percent of births to all foreign-born mothers, and four percent of all births in the United States.

For Massachusetts

- There were approximately 7,800 births to unauthorized mothers, representing 33 percent of births to all foreign-born mothers and 11 percent of all births in Massachusetts.
- There were approximately 4,200 births in which both parents were unauthorized, representing 18 percent of births to all foreign-born mothers, and six percent of all births in Massachusetts.

For New Jersey

- There were approximately 10,700 births to unauthorized mothers, representing 28 percent of births to all foreign-born mothers and 10 percent of all births in New Jersey.
- There were approximately 6,200 births in which both parents were unauthorized, representing 16 percent of births to all foreign-born mothers, and six percent of all births in New Jersey.

## For California

- There were approximately 40,200 births to unauthorized mothers, representing 29 percent of births to all foreign-born mothers and 10 percent of all births in California.
- There were approximately 24,500 births in which both parents were unauthorized, representing 18 percent of births to all foreign-born mothers, and six percent of all births in California.

While these estimates do not perfectly predict the number of unauthorized births in 2025, they currently provide the best approximation of the likely magnitude of unauthorized births in 2025.

The starting point for these estimates is a report by the Center for Immigration Studies (CIS) providing the number of births by state and mothers' nativity for the year 2014. We considered two factors to update the 2014 estimate: 1) The trend in births to all foreign-born mothers; and 2) The trend in the unauthorized total population.

For estimating the number of births in which *both* parents were unauthorized immigrants, we used survey results about married couples from the Migration Policy Institute (MPI).

Additionally, we used other sources to make alternative estimates to confirm the primary estimates provided.

## CIS-Estimated Births to Unauthorized Mothers in 2014

CIS estimated 297,073 births to unauthorized mothers in the United States in 2014, representing 7.5 percent of the nation's total births (Table 1).<sup>1</sup> To our knowledge, the CIS report is the only published estimate of the number of births to unauthorized immigrant mothers that includes birth counts for all 50 states, in addition to the national estimate.

Pew Research Center (Pew) estimated births to unauthorized immigrants for the entire United States, but not by state. Their analysis showed approximately 275,000 total births to unauthorized immigrants in the U.S. in 2014, representing about 7.0 percent of all births (Passel and Cohn, 2016).

---

<sup>1</sup> CIS defines "unauthorized" immigrants, based on the definition used by the Department of Homeland Security's Office of Immigration Statistics, as foreign-born non-citizens who are not legal residents of the United States. This includes persons who are beneficiaries of Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA), or other forms of prosecutorial discretion, or who are residing in the United States while awaiting removal proceedings in immigration court. *See* Camarota, S., Ziegler, K., and Richwine, J. (2018). Births to Legal and Illegal Immigrants in the U.S.: A look at health insurance coverage among new mothers by legal status at the state and local level. Center for Immigration Studies; note 2, pages 7 and 8. This definition does not include naturalized citizens, persons granted lawful permanent residence, persons granted asylum, persons admitted as refugees, and persons admitted as resident nonimmigrants (i.e., students and temporary workers, as opposed to tourists) who have unexpired authorized periods of admission. *See* Glossary, Office of Homeland Security Statistics, available at: <https://ohss.dhs.gov/glossary>.

**Table 1. Estimated U.S. Births, by Mother's Nativity, 2014 Mother's Nativity**

	<b>Births</b>	<b>Percent</b>
<b>Unauthorized Foreign-born</b>	297,073	7.5%
<b>Authorized Foreign-born</b>	493,509	12.4%
<b>Native Born</b>	3,180,564	80.1%
<b>Total</b>	<b>3,971,146</b>	<b>100%</b>

The methodology used by CIS is reasonable. Their 2014 estimates were based on data from the Census Bureau's 2012-2016 American Community Survey (ACS), for which 2014 is the middle year. The authors used a variation of the residual method to estimate the size of the unauthorized immigrant population from the ACS. This method of estimation is commonly used by researchers, including those at the Pew Research Center and the Center for Migration Studies (CMS). To determine which foreign-born ACS respondents may be unauthorized immigrants, CIS first eliminated those who are least likely to be unauthorized. The resulting subset of respondents was then weighted based on known characteristics of unauthorized immigrants (such as age, gender, region, and country of origin) as reported by the Department of Homeland Security (DHS).

## Updating the CIS Estimate for 2022

Since the publication of their 2014 estimates, CIS has not released subsequent estimates. Our calculations update those 2014 estimates using more recent data on births to foreign-born mothers and an analysis of the share of the foreign-born population that is unauthorized.

We considered multiple methodologies to estimate the number of births to unauthorized mothers for more recent years. We chose the methodology detailed below because it is the most reliable method based on the available data. Because CIS did not publish the specific fields and calculations used in their 2014 estimates, there is no way to reliably recreate their methodology with more recent ACS data without engaging in guesswork. We instead updated their data based on 2014 to 2022 population trends.

In this report, we build on the CIS 2014 birth count and consider two additional factors to estimate how the number of births changed over time:

1. **Change in the number of births to foreign-born mothers.** While data are not available on the number of births to unauthorized women, there are reliable data on the number of births to all foreign-born women. If the number of births to foreign-born mothers increased from 2014 to 2022, we would expect the number of births to unauthorized foreign-born mothers to also increase, all else equal.
2. **Change in the unauthorized share of the foreign-born population.** To evaluate whether the trend in the number of births to unauthorized mothers is expected to mirror the trend in the number of births to foreign-born mothers, we considered whether the total foreign-born

population increased or decreased to the same extent as the total unauthorized population. The simplest way to do so is to calculate the share of the foreign-born population that is unauthorized and how that share has changed over time.

Each of these factors is discussed in detail below.

Secondarily, we use two different methods to estimate the share of unauthorized mothers with unauthorized partners. These methods are also discussed below.

### Change in the Number of Births to Foreign-Born Mothers

While official data on the number of births to *unauthorized* foreign-born mothers are not available, data are readily available for *all* foreign-born mothers. A standard U.S. birth certificate includes the birthplace of the mother. The most reliable data on mothers' immigrant status is available from the National Center for Health Statistics (NCHS), which collects data from every state. According to the NCHS data, between 2014 and 2022, the number of births to foreign-born women in the U.S. decreased by 4.5 percent. All else equal, we would expect births to unauthorized women to also decrease by 4.5 percent during that period.

**Table 2. Births to Foreign-Born Mothers in the U.S.**

Year	NCHS Births to Foreign-Born
2014	872,256
2022	832,728
Difference	-39,528
Percent Change	-4.5%

### Change in the Unauthorized Share of the Foreign-Born Population

As shown in Table 2 above, the number of births to foreign-born mothers decreased by 4.5 percent over the nine-year period from 2014 to 2022. Unauthorized mothers are a subset of all foreign-born mothers. However, the unauthorized population may have a different birth trend than all foreign-born mothers. To evaluate that possibility, we consider one additional factor.

As mentioned above, data are not available on the growth in the number of births to unauthorized mothers. But estimates of the *total population* of the foreign-born and estimates of the unauthorized *total population* are readily available. These data allow us to compare how similar the population trends are between the unauthorized population and the overall foreign-born population.

Table 3 shows how the foreign-born population changed between 2014 and 2022, while Table 4 shows how the unauthorized population changed during the same period. As Table 3 shows, between 2014 and 2022, the foreign-born population grew by nearly 10 percent.

**Table 3. Estimates of the U.S. Foreign-Born Population**

	2012-2016 ACS	2022 ACS	Change
<b>Foreign-Born Total Population</b>	42,194,354	46,182,177	9.5%

Source: Census Bureau 2012-2016 5-Year ACS dataset and 2022 1-Year ACS dataset

Although the ACS does not directly estimate the *unauthorized* total population, three organizations provide estimates of that count—the Pew Research Center, the U.S. Department of Homeland Security (DHS), and the Center for Migration Studies (CMS). They estimate the unauthorized population changed by a rate between 0.2 and -4.1 percent from 2014 to 2022, as shown in Table 4. Averaging the three estimates yields an estimated -1.6 percent growth rate for the unauthorized population over that period.

**Table 4. Estimates of the U.S. Unauthorized Immigrant Population**

	2014	2022	Change
<b>DHS</b>	11,460,000	10,990,000	-4.1%
<b>Pew</b>	11,100,000	11,000,000	-0.9%
<b>CMS</b>	10,912,300	10,939,004	0.2%
<b>Average of Change Estimates for 2014-2022</b>			<b>-1.6%</b>

Sources: DHS estimates from Baker and Warren (2024), Pew estimates from Passel and Krogstad (2024), CMS estimates from CMS (2022) and Warren (2024)

Thus, the total foreign-born population grew by 9.5 percent while we estimate that the unauthorized population decreased in size by less than two percent. Since the unauthorized population has not grown while the overall foreign-born population increased in size, we assume that the number of births to unauthorized mothers changed at a lower rate than for all foreign-born mothers.

Using the same data from Tables 3 and 4, we calculate the unauthorized population as a share of the total foreign-born population. Detailed calculations are shown in Table 5. The percentage change in the unauthorized share of the foreign-born population is -10.1 percent, from 2014 to 2022. This percentage change, shown in column D, is used to generate a multiplier, shown in column E, to adjust our final estimate of births to unauthorized mothers in 2022.

**Table 5. Unauthorized Immigrant Population Compared to Foreign-Born Population**

Source	(A) Unauthorized Share of Foreign- Born, 2014	(B) Unauthorized Share of Foreign- Born, 2022	(C) Change in Share, 2014 to 2022 (B-A)	(D) Percent Change in Share (C/A)	(E) Multiplier for Birth Estimates (1-D)
DHS	27.2%	23.8%	-3.4%	-12.4%	87.6%
Pew	26.3%	23.8%	-2.5%	-9.5%	90.5%
CMS	25.9%	23.7%	-2.2%	-8.4%	91.6%
Average	<b>26.4%</b>	<b>23.8%</b>	<b>-2.7%</b>	<b>-10.1%</b>	<b>89.9%</b>

### NDC's Estimate of Births to Unauthorized Mothers

Based on the above analysis, we make two updates to the CIS 2014 estimate of births to unauthorized mothers:

1. First, we adjust the number of births to reflect the change in the number of births to foreign-born mothers between 2014 and 2022.
2. Next, we adjust the number of births to reflect the change in the unauthorized share of the total foreign-born population from 2014 to 2022.

As shown in Table 6, we estimate 255,012 U.S. births to unauthorized mothers in 2022. This takes into account the overall change in births to foreign-born women between 2014 and 2022, as well as the change in the unauthorized population share during that period.

**Table 6. Calculating U.S. Births to Unauthorized Mothers in 2022**

Statistic	2014 Births	Change in Foreign-Born Births, 2014- 2022	Adjustment for Change in Unauthorized Share, 2014-2022	2022 Births
Estimate	297,073	-4.5%	89.9%	255,012

Rounding 255,012 to reflect the imprecision in the data sources, we arrive at an estimate of 255,000 births to unauthorized mothers in 2022.

### Estimating Births to Two Unauthorized Parents

One question we were asked to investigate is how many births to unauthorized immigrant mothers are likely to also have *unauthorized immigrant fathers*. In general, there is much less information collected about fathers. Information about fathers is optional on many states' birth certificates. We

found no published estimates of births to unauthorized mothers that also report the father's legal status.

However, we found one source of data on married couples and their unauthorized status. The Migration Policy Institute (MPI, 2019) estimated that 60 percent of unauthorized individuals who are married have an unauthorized spouse.<sup>2</sup> As that is the best available estimate, we calculate that 60 percent of children born to unauthorized mothers also have unauthorized fathers. The other 40% of the births to unauthorized mothers occur in mixed-status relationships, with an unauthorized mother and a legal resident or U.S. citizen father.

Available data on the marital status of women giving birth in the U.S. lend credence to this approach. Using data from the ACS, we see that 70 percent of all women (native and foreign-born) who reported giving birth in 2022 were married. Notably, an even higher percentage of foreign-born mothers (75 percent) are married. This supports the use of MPI's marriage data as a proxy for the immigration status of fathers when estimating births to unauthorized foreign-born mothers.

Using this approach, NDC estimates about 153,000 births in 2022 in which neither parent was an authorized immigrant or U.S. citizen, as shown in Table 7.

**Table 7. Calculating U.S. Births to Unauthorized Parents in 2022**

<b>NDC estimate of births to unauthorized mothers</b>	<b>Estimated share with unauthorized father</b>	<b>Estimated births with unauthorized mother and father</b>
255,012	60.0%	153,007

Rounding 153,007 to reflect the imprecision in the data sources, we arrive at an estimate of 153,000 births with unauthorized mothers and unauthorized fathers in 2022.

### **Alternative Authorized-Spouse Percentage**

It is possible that couples with children differ from all married couples, or that unmarried mothers are even more likely to have an unauthorized spouse than married women. Extrapolating from a variety of secondary sources, NDC estimates that approximately 66 percent of births to unauthorized mothers may have an unauthorized father. See Appendix A for detailed calculations.

Using the 66 percent figure would increase the estimated number of births in which both parents were unauthorized immigrants to about 170,000 births annually. This suggests that the 60 percent figure from the MPI survey, and the resulting estimate of 153,000 births to two unauthorized immigrants, is conservative.

---

<sup>2</sup> MPI's estimates are based on a methodology that imputes unauthorized status using U.S. Census Bureau 2015-19 American Community Survey (ACS) and 2008 Survey of Income and Program Participation (SIPP) data, weighted to 2019 unauthorized immigrant population estimates provided by Jennifer Van Hook of The Pennsylvania State University.

## **Summary**

NDC reviewed data from a variety of independent sources as well as official federal and state government databases in a search for counts of the unauthorized population and the number of births to unauthorized mothers each year. As described in detail above, our best estimate uses the following data sources:

- National Center for Health Statistics (NCHS) counts of births per year to foreign-born mothers;
- The United States Census Bureau American Community Survey (ACS) estimates of the foreign-born population;
- The Center for Immigration Studies (CIS) estimate of the number of births to unauthorized mothers in 2014;
- The Pew Research Center, Department of Homeland Security (DHS), and Center for Migration Studies (CMS) estimates of the total unauthorized population; and,
- Migration Policy Institute (MPI) estimates of the marital status of unauthorized immigrants.

Our best estimate from these data is that in 2022 there were approximately 255,000 babies born to unauthorized mothers in the United States, of whom at least 153,000 also have an unauthorized father.

## **Individual States**

We used the same methodology to provide information for individual states. Rather than repeating the discussion of methodology for each one, we simply include the corresponding tables and conclusion for each state in an attached appendix. Appendix C provides tables for California; Appendix D provides tables for Massachusetts; and Appendix E provides tables for New Jersey.

## References

Baker, B. and Warren, R. (2024, April). *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2018 - January 2022*. Office of Homeland Security Statistics, U.S. Department of Homeland Security. [https://ohss.dhs.gov/sites/default/files/2024-06/2024\\_0418\\_ohss\\_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%25E2%2580%2593january-2022.pdf](https://ohss.dhs.gov/sites/default/files/2024-06/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%25E2%2580%2593january-2022.pdf)

Camarota, S., Ziegler, K., and Richwine, J. (2018). *Births to Legal and Illegal Immigrants in the U.S.: A look at health insurance coverage among new mothers by legal status at the state and local level*. Center for Immigration Studies. <https://cis.org/Report/Births-Legal-and-Illegal-Immigrants-US>

Center for Migration Studies (CMS). (2022). *Democratizing Data Initiative: Undocumented Immigrants in the United States, by State, Sex, and Year, 2010-2019* [Data set]. <https://www.cmsny.org/data-undocumented-state-sex-2010-to-2019>

Migration Policy Institute (MPI). (2019). *Profile of the Unauthorized Population: United States* [Data set]. <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>

Migration Policy Institute (MPI). (2022). *State Immigration Data Profile: United States* [Data set]. <https://www.migrationpolicy.org/data/state-profiles/state/demographics/US>

Passel, J.S. and Cohn, D. (2016, October 26). *Number of babies born to unauthorized immigrants in U.S. continues to decline*. Pew Research Center. <https://www.pewresearch.org/short-reads/2016/10/26/number-of-babies-born-to-unauthorized-immigrants-in-u-s-continues-to-decline/>

Passel, J.S. and Krogstad, J.M. (2024, July 22). *What we know about unauthorized immigrants living in the U.S.* Pew Research Center. <https://www.pewresearch.org/short-reads/2024/07/22/what-we-know-about-unauthorized-immigrants-living-in-the-us/>

Warren, R. (2024). After a Decade of Decline, the US Undocumented Population Increased by 650,000 in 2022. *Journal on Migration and Human Security* 12(2): 85-95. <https://doi.org/10.1177/23315024241226624>

## Appendix A: Alternative Calculations of the Legal Status of Fathers

Some of the children born to unauthorized mothers have authorized fathers (either citizen or otherwise authorized). To our knowledge, no one has surveyed or estimated the number or percent of births to unauthorized mothers that also have an unauthorized father. In the report above, we estimate this figure at 60 percent from a survey of married couples.

An alternative approach described here is to consider the composition of households with at least one unauthorized member. The percentage of unauthorized adults in such households is used to estimate the probability that an unauthorized mother would have an unauthorized partner. For example, if all households were 100 percent filled with unauthorized members, an unauthorized mother would have a 100 percent probability of being in partnership with an unauthorized man. If roughly half the members of the household were unauthorized, she would have a roughly 50 percent probability of being in partnership with an unauthorized man.

Data estimates are available on the number of authorized and unauthorized people in households that contain at least one unauthorized person. However, these data include children. In our calculations below, we subtract children from both the authorized and unauthorized populations to obtain a count of adults living in households with at least one unauthorized person. As Table A-1 shows, 67 percent of adults in households that contain at least one unauthorized member are unauthorized.

**Table A-1. Composition of Households with at Least One Unauthorized Member**

Source	Unauthorized Population	Authorized Population	Total Population	Percent Unauthorized
<b>Total Population</b>	10,990,000	10,160,000	21,150,000	52%
<b>Children</b>	1,454,051	5,470,000	6,924,051	21%
<b>Adults</b>	9,535,949	4,690,000	14,225,949	67.0%

Sources: Household member counts from fwd.us (Connor, 2024); Share of citizen children in household from MPI (Capp, Fix, and Zong, 2016); Unauthorized Population estimates from DHS (Baker and Warren, 2024)

We need to make one small mathematical adjustment to the 67 percent figure in Table A-1 to obtain the probability that an unauthorized mother would have an unauthorized partner. The 67 percent figure includes the mothers themselves who are, by definition, unauthorized. We need to subtract these women from both the numerator and denominator, so they are not in the probability calculation. Table A-2 shows these calculations assuming there are 255,000 unauthorized mothers – our estimate for 2022. This changes the percent unauthorized from 67.0 percent to 66.4 percent.

**Table A-2. Probability Calculation**

Source	Unauthorized Population	Authorized Population	Total Population	Percent Unauthorized
<b>Adults</b>	9,535,949	4,690,000	14,225,949	67.0%
<b>Unauthorized Mothers</b>	255,000	0	255,000	100%
<b>Adults Excluding Mothers</b>	9,280,949	4,690,000	13,970,949	66.4%

Table A-3 shows the estimated number of births in which both parents are unauthorized. With 255,000 mothers and 66.4 percent probability of being in partnership with an unauthorized man, we calculate 169,397 births in which both parents are unauthorized.

**Table A-3. Alternative Estimate of Both Parents being Unauthorized**

	Unauthorized Population
<b>2022 Births to Unauthorized Mothers</b>	255,000
<b>Probability of the Father Being Unauthorized</b>	66.4%
<b>2022 Births with Both Parents Unauthorized</b>	169,397

## Conclusion

Just as our original estimate methodology looked only at married couples, for this methodology we make the assumption that the mother and father live together, as we have no data to adjust the numbers to account for situations where the mother and father do not live together.

We conclude that approximately 170,000 is an alternative estimate for the number of births where neither the mother nor the father is authorized.

## References

Baker, B. and Warren, R. (2024, April). *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2018 - January 2022*. Office of Homeland Security Statistics, U.S. Department of Homeland Security. [https://ohss.dhs.gov/sites/default/files/2024-06/2024\\_0418\\_ohss\\_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%25E2%2580%2593january-2022.pdf](https://ohss.dhs.gov/sites/default/files/2024-06/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%25E2%2580%2593january-2022.pdf)

Capps, R., Fix, M., and Zong, J. (2016, January). *A Profile of U.S. Children with Unauthorized Immigrant Parents*. Migration Policy Institute Fact Sheet.

<https://www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents>

Connor, P. (2024, January 18). *Immigration reform can keep millions of mixed-status families together*. fwd.us.

## Appendix B: Sources of Data on Immigrants

For this report, NDC collected data from academic studies, government agencies, and independent organizations. Each source is described in detail below.

### Government Agencies

Data from official government sources is regarded as authoritative and reliable.

- **National Center for Health Statistics (NCHS)**

NCHS serves as the principal health statistics agency in the United States and operates under the umbrella of the Centers for Disease Control and Prevention (CDC). NCHS collects birth data from all 50 states and the District of Columbia through the Vital Statistics System, which includes birth certificates filed with state health departments. The NCHS uses standardized forms and methods for collecting birth data, ensuring consistency and comparability across States and over time.

- **American Community Survey (ACS)**

The American Community Survey (ACS) is an ongoing survey conducted by the U.S. Census Bureau that collects detailed demographic, social, economic, and housing information about the U.S. population. The ACS employs a scientifically designed sampling method that ensures the data collected is representative of the entire U.S. population. Each year, about 3.5 million households participate in the survey, providing a broad and diverse data set. By collecting data annually, the ACS is particularly useful for tracking changes in demographic trends over time.

- **Office of Immigration Statistics (OIS)**

The Office of Immigration Statistics is housed within the Department of Homeland Security (DHS), the federal agency responsible for immigration enforcement. The OIS often collaborates with academic institutions to enhance the quality and utility of its data. This collaboration can involve peer review processes that further validate findings.

### Independent Organizations

These organizations are widely regarded as authorities on immigration and their research is cited frequently in legal proceedings and policy debates.

- **Center for Immigration Studies (CIS)**

Founded in 1985, CIS is a nonprofit research organization that focuses on immigration policy issues, often advocating for reduced immigration levels in the United States. Critics of CIS often argue that it has a political agenda that promotes anti-immigration views.

### **Dr. Steven Camarota, Director of Research, Center for Immigration Studies**

Dr. Camarota holds a Ph.D. in American Government from the University of Virginia. He is currently the Director of Research at the Center for Immigration Studies, where he has

authored numerous reports analyzing U.S. Census Bureau data as it relates to issues of immigration and citizenship.

Dr. Camarota's research has been cited in high profile cases, including *Arizona v. United States* (2012). He has experience testifying before congressional committees<sup>3</sup> and providing expert testimony in legal proceedings.<sup>4</sup>

- **Pew Research Center**

Founded in 2004, the Pew Research Center is a nonpartisan, nonprofit research organization based in Washington, D.C., known for its data-driven studies on a broad range of topics, including demographics and immigration. The Center does not take policy positions or advocate for specific policies.

**Dr. Jeffrey S. Passel, Senior Demographer, Pew Research Center**

Dr. Passel is widely recognized for his demographic expertise and as one of the nation's premier experts on immigration. He developed demographic methods for estimating the unauthorized immigrant population that are widely used by scholars in many fields. As a senior demographer at the Pew Research Center, he authored and contributed to significant reports on the size and characteristics of the undocumented immigrant population, which are frequently cited in legal and academic discussions. Dr. Passel previously held positions at the Urban Institute and the U.S. Census Bureau. He holds a Ph.D. from Johns Hopkins University.

Dr. Passel has testified before congressional committees and federal agencies.<sup>5</sup> His research has been cited in high profile cases including *Arizona v. United States* (2012). Dr. Passel has also provided expert testimony in court cases over the past four decades.<sup>6</sup>

- **Migration Policy Institute (MPI)**

Founded in 2001, MPI is a nonpartisan research organization based in Washington, D.C., on the study of migration and immigration policy in the United States and globally. The institute conducts in-depth research, produces reports, and provides analysis on a wide range of immigration-related topics, including legal and illegal immigration. The institute employs a team of experienced researchers, demographers, and policy analysts who produce high-quality, rigorous studies.

**Dr. Randy Capps, Director of Research for U.S. Programs, Migration Policy Institute**

---

<sup>3</sup> *The Fiscal Costs of the President's Executive Actions on Immigration*, Hearing Before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (Mar. 17, 2015).

<sup>4</sup> *Fish v. Kobach*, 309 F.Supp.3d 1048 (2018).

<sup>5</sup> *Issues Facing Hispanics in the Federal Workplace*, Meeting of the Equal Employment Opportunities Commission. (October 23, 2008).

<sup>6</sup> *Cuomo v. Baldridge*, 674 F. Supp. 1089 (1987).

Dr. Capps is a prominent researcher and demographer known for his work on immigration and migration policy for the Migration Policy Institute. He has provided research cited in legal proceedings.<sup>7</sup> Dr. Capps holds a Ph.D. from the University of California, Berkeley.

- **Center for Migration Studies (CMS)**

Founded in 1964 and affiliated with the Catholic Church, CMS is a nonprofit research organization based in New York City that focuses on issues related to immigration. The Center collaborates with academic institutions and researchers, which adds to its credibility. Many of its staff and affiliated researchers are respected scholars in the field of migration studies.

**Dr. Robert Warren, Senior Visiting Fellow, Center for Migration Studies**

Dr. Warren served as a demographer for 34 years with the United States Census Bureau and the former Immigration and Naturalization Service (INS). He is now a Senior Visiting Fellow at the Center for Migration Studies of New York.

Dr. Warren has authored and coauthored numerous reports focusing on the size and characteristics of the undocumented immigrant population in the U.S. His work is often referenced in policy debates and legal proceedings. Dr. Warren's contributions to immigration research have made him a respected authority in the field. He holds a Ph.D. from Columbia University.

- **FWD.us**

FWD.us is a nonprofit organization founded in 2013 by a group of technology leaders, including Mark Zuckerberg (Meta Platforms and Facebook), Reid Hoffman (LinkedIn), and others, with the aim of advocating policies that benefit the tech industry, including immigration reform that makes it easier for skilled workers to enter and remain in the U.S.

**Dr. Phillip Connor, Senior Demographer, FWD.us**

Formerly a researcher at the Pew Research Center, Dr. Connor now serves as Senior Demographer for FWD.us. He holds a Ph.D. from Princeton University and has published peer-reviewed studies on immigration.

---

<sup>7</sup> *Rodriguez v. Finan*, Civil Action No.: 2:15-CV-2317-BHH (2016).

## Appendix C: Massachusetts

We estimate in 2022 in Massachusetts 7,800 births to unauthorized mothers, of which we estimate 4,200 also had unauthorized fathers.<sup>8</sup> Our calculations are shown in the following tables:

**Table 1. Estimated 2014 Massachusetts Births, by Mother's Nativity**

Mother's Nativity	Births	Percent
<b>Unauthorized Foreign-born</b>	5,349	7.1%
<b>Authorized Foreign-born</b>	15,344	20.3%
<b>Native Born</b>	55,024	72.7%
<b>Total</b>	<b>75,717</b>	<b>100%</b>

Source: Camarota, Ziegler, and Richwine, Center for Immigration Studies (2018)

**Table 2. Births to Foreign-Born Mothers in Massachusetts**

Year	NCHS Births to Foreign-Born
2014	20,739
2022	23,628
<b>Difference</b>	<b>2,889</b>
<b>Percent Change</b>	<b>13.9%</b>

**Table 3. Estimate of Massachusetts's Foreign-Born Total Population**

	2012-2016 ACS	2022 ACS	Change
<b>Foreign-Born Total Population</b>	1,061,461	1,259,871	18.7%

Source: Census Bureau 2012-2016 5-Year ACS dataset and 2022 1-Year ACS dataset

<sup>8</sup> Our estimates are rounded to the nearest hundred.

**Table 4. Estimates of Massachusetts's Unauthorized Foreign-Born Total Population**

	2014	2022	Change
DHS	NA	NA	NA
Pew	210,000	325,000	54.8%
CMS	146,700	216,635	47.7%
<b>Average of Change Estimates for 2014-2022</b>			<b>51.2%</b>

Sources: DHS estimates from Baker (2017) and Baker and Warren (2024).

Pew estimates from Passel and Krogstad (2024).

CMS estimates from CMS (2022) and Warren (2024).

**Table 5. Estimates of Massachusetts's Unauthorized Population Compared to Foreign-Born Population**

Source	(A) Unauthorized Share of Foreign- Born, 2014	(B) Unauthorized Share of Foreign- Born, 2022	(C) Change in Share, 2014 to 2022 (B-A)	(D) Percent Change in Share (C/A)	(E) Adjustment for Calculations (1-D)
DHS	NA	NA	NA	NA	NA
Pew	19.8%	25.8%	6.0%	30.4%	130.4%
CMS	13.8%	17.2%	3.4%	24.4%	124.4%
Average	16.8%	21.5%	4.7%	27.4%	127.4%

**Table 6. Calculating Massachusetts Births to Unauthorized Mothers in 2022**

Statistic	2014 Births	Change in Foreign-Born Births, 2014-2022	Adjustment for Change in Unauthorized Share, 2014- 2022	2022 Births
Estimate	5,349	13.9%	127.4%	7,764

**Table 7. Calculating Massachusetts Births to Unauthorized Parents in 2022**

NDC estimate of births to unauthorized mothers	Estimated share with unauthorized father	Estimated births with unauthorized mother and father
7,764	53.7%	4,166

Note: data are not available for the alternative calculations of births when both parents are unauthorized. (Tables A-1, A-2, and A-3)

## Appendix D: New Jersey

We estimate in 2022 in New Jersey 10,700 births to unauthorized mothers, of which we estimate 6,200 also had unauthorized fathers.<sup>9</sup> Our calculations are shown in the following tables:

**Table 1. Estimated 2014 New Jersey Births, by Mother's Nativity**

Mother's Nativity	Births	Percent
<b>Unauthorized Foreign-born</b>	11,372	11.0%
<b>Authorized Foreign-born</b>	24,000	23.1%
<b>Native Born</b>	68,476	65.9%
<b>Total</b>	<b>103,848</b>	<b>100%</b>

Source: Camarota, Ziegler, and Richwine, Center for Immigration Studies (2018)

**Table 2. Births to Foreign-Born Mothers in New Jersey**

Year	NCHS Births to Foreign-Born
2014	37,609
2022	37,949
<b>Difference</b>	340
<b>Percent Change</b>	<b>0.9%</b>

**Table 3. Estimate of New Jersey's Foreign-Born Total Population**

	2012-2016 ACS	2022 ACS	Change
<b>Foreign-Born Total Population</b>	1,943,338	2,181,082	12.2%

Source: Census Bureau 2012-2016 5-Year ACS dataset and 2022 1-Year ACS dataset

<sup>9</sup> Our estimates are rounded to the nearest hundred.

**Table 4. Estimates of New Jersey's Unauthorized Foreign-Born Total Population**

	2014	2022	Change
DHS	450,000	490,000	8.9%
Pew	500,000	475,000	-5.0%
CMS	452,100	494,824	9.5%
<b>Average of Change Estimates for 2014-2022</b>		<b>4.4%</b>	

Sources: DHS estimates from Baker (2017) and Baker and Warren (2024).

**Table 5. Estimates of New Jersey's Unauthorized Population Compared to Foreign-Born Population**

Source	(A) Unauthorized Share of Foreign- Born, 2014	(B) Unauthorized Share of Foreign- Born, 2022	(C) Change in Share, 2014 to 2022 (B-A)	(D) Percent Change in Share (C/A)	(E) Adjustment for Calculations (1-D)
DHS	23.2%	22.5%	-0.7%	-3.0%	97.0%
Pew	25.7%	21.8%	-4.0%	-15.4%	84.6%
CMS	23.3%	22.7%	-0.6%	-2.5%	97.5%
Average	24.0%	22.3%	-1.7%	-6.9%	93.1%

**Table 6. Calculating New Jersey Births to Unauthorized Mothers in 2022**

Statistic	2014 Births	Change in Foreign-Born Births, 2014- 2022	Adjustment for Change in Unauthorized Share, 2014- 2022	2022 Births
Estimate	11,372	0.9%	93.1%	10,679

**Table 7. Calculating New Jersey Births to Unauthorized Parents in 2022**

NDC estimate of births to unauthorized mothers	Estimated share with unauthorized father	Estimated births with unauthorized mother and father
10,679	58.1%	6,208

**Table A-1: Composition of New Jersey Households with at Least One Unauthorized Member**

Source	Unauthorized Population	Authorized Population	Total Population	Percent Unauthorized
<b>Total Population</b>	490,000	430,000	920,000	53%
<b>Children</b>	63,797	240,000	303,797	21%
<b>Adults</b>	426,203	190,000	616,203	69.2%

**Table A-2: Probability Calculation**

Source	Unauthorized Population	Authorized Population	Total Population	Percent Unauthorized
<b>Adults</b>	426,203	190,000	616,203	69.2%
<b>Unauthorized Mothers</b>	10,700	0	10,700	100%
<b>Adults Excluding Mothers</b>	415,503	190,000	605,503	68.6%

**Table A-3: Alternative Estimate of Both Parents being Unauthorized**

	Unauthorized Population
<b>2022 Births to Unauthorized Mothers</b>	10,700
<b>Probability of the Father Being Unauthorized</b>	68.6%
<b>2022 Births with Both Parents Unauthorized</b>	7,342

## Appendix E: California

We estimate in 2022 in California 40,200 births to unauthorized mothers, of which we estimate 24,500 also had unauthorized fathers.<sup>10</sup> Our calculations are shown in the following tables:

**Table 1. Estimated 2014 California Births, by Mother's Nativity**

Mother's Nativity	Births	Percent
Unauthorized Foreign-born	65,391	13.5%
Authorized Foreign-born	107,685	22.2%
Native Born	311,681	64.3%
<b>Total</b>	<b>484,757</b>	<b>100%</b>

Source: Camarota, Ziegler, and Richwine, Center for Immigration Studies (2018)

**Table 2. Births to Foreign-Born Mothers in California**

Year	NCHS Births to Foreign-Born
2014	190,174
2022	136,635
Difference	-53,539
Percent Change	-28.2%

**Table 3. Estimate of California's Foreign-Born Total Population**

	2012-2016 ACS	2022 ACS	Change
Foreign-Born Total Population	10,437,630	10,428,025	-0.1%

Source: Census Bureau 2012-2016 5-Year ACS dataset and 2022 1-Year ACS dataset

<sup>10</sup> Our estimates are rounded to the nearest hundred.

**Table 4. Estimates of California's Unauthorized Foreign-Born Total Population**

	2014	2022	Change
DHS	2,730,000	2,600,000	-4.8%
Pew	2,350,000	1,800,000	-23.4%
CMS	2,597,600	2,197,797	-15.4%
<b>Average of Change Estimates for 2014-2022</b>		<b>-14.5%</b>	

Sources: DHS estimates from Baker (2017) and Baker and Warren (2024).

Pew estimates from Passel and Krogstad (2024).

CMS estimates from CMS (2022) and Warren (2024).

**Table 5. Estimates of California's Unauthorized Immigrant Population Compared to Foreign-Born Population**

Source	(A) Unauthorized Share of Foreign-Born, 2014	(B) Unauthorized Share of Foreign-Born, 2022	(C) Change in Share, 2014 to 2022 (B-A)	(D) Percent Change in Share (C/A)	(E) Adjustment for Calculations (1-D)
DHS	26.2%	24.9%	-1.2%	-4.7%	95.3%
Pew	22.5%	17.3%	-5.3%	-23.3%	76.7%
CMS	24.9%	21.1%	-3.8%	-15.3%	84.7%
Average	<b>24.5%</b>	<b>21.1%</b>	<b>-3.4%</b>	<b>-14.4%</b>	<b>85.6%</b>

**Table 6. Calculating California Births to Unauthorized Mothers in 2022**

Statistic	2014 Births	Change in Foreign-Born Births, 2014- 2022	Adjustment for Change in Unauthorized Share, 2014- 2022	2022 Births
Estimate	65,391	-28.2%	85.6%	40,197

**Table 7. Calculating California Births to Unauthorized Parents in 2022**

NDC estimate of births to unauthorized mothers	Estimated share with unauthorized father	Estimated births with unauthorized mother and father
40,197	60.9%	24,468

**Table A-1: Composition of California Households with at Least One Unauthorized Member**

Source	Unauthorized Population	Authorized Population	Total Population	Percent Unauthorized
<b>Total Population</b>	2,600,000	1,680,000	4,280,000	61%
<b>Children</b>	271,139	1,020,000	1,291,139	21%
<b>Adults</b>	2,328,861	660,000	2,988,861	77.9%

**Table A-2: Probability Calculation**

Source	Unauthorized Population	Authorized Population	Total Population	Percent Unauthorized
<b>Adults</b>	2,328,861	660,000	2,988,861	77.9%
<b>Unauthorized Mothers</b>	40,200	0	40,200	100%
<b>Adults Excluding Mothers</b>	2,288,661	660,000	2,948,661	77.6%

**Table A-3: Alternative Estimate of Both Parents being Unauthorized in California**

	Unauthorized Population
<b>2022 Births to Unauthorized Mothers</b>	40,200
<b>Probability of the Father Being Unauthorized</b>	77.6%
<b>2022 Births with Both Parents Unauthorized</b>	31,202

# **EXHIBIT G**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :

Plaintiffs, :

v. :

DONALD J. TRUMP, et al. :

Defendants. :

Civil Action No.: 25-cv-10139

---

**DECLARATION OF MICHAEL F. RICE, Ph.D.**

I, Michael F. Rice, Ph.D., hereby declare:

1. I am the Superintendent of Public Instruction within the Michigan Department of Education (“MDE”), a position I have held since 2019. As State Superintendent, I oversee the entire Michigan Department of Education, including the Division of Business, Health, and Library Services; the Division of Assessment, School Improvement, and Systems Support; and the Division of Educator Excellence, Career and Technical Education, Special Education and Administrative Law.
2. As State Superintendent, I have knowledge of the matters set forth below or have knowledge of the matters based on my review of information, information provided by other state agencies, and information gathered by my staff.

Michigan Department of Education

3. MDE’s vision is that every learner in Michigan’s public schools will have an inspiring, engaging, and caring learning environment that fosters creative and critical thinkers who believe in their ability to positively influence Michigan and the world beyond. MDE supports

schools, educators, and districts to ensure all of Michigan's nearly 1.4 million public school students have equitable access to high quality education and achieve academic excellence.

4. Pursuant to *Plyler v. Doe*, 457 U.S. 202 (1982), local education agencies (LEAs) within the state serve all school-age children, regardless of their immigration status. An LEA is a public authority that provides control of and direction for kindergarten through grade 12 public educational institutions. Michigan intermediate school districts (ISDs) are government agencies organized at the county or multi-county level that assist LEAs in providing programs and services.
5. Within MDE, the Division of Business, Health, and Library Services administers federal and state Medicaid funds to ISDs. ISDs work in cooperation with LEAs to support crucial education initiatives and provide essential services to students including the Michigan Medicaid School Services Program.
6. School-based health services (SBHS) refer broadly to medical services provided to all students in a school setting. Michigan covers the following services provided to all students enrolled in Medicaid, regardless of whether the services are provided at no cost to other students, and allows for Medicaid reimbursement for services delivered outside of an individualized education program (IEP), individualized family service plan (IFSP), or non-public service plan (NPSP): evaluations and tests; nursing services; occupational therapy; physical therapy; speech therapy; personal care; physician services; psychiatrist services; psychological, counseling, social work and behavioral health; specialized transportation; and targeted case management.
7. All Michigan LEAs are required to provide certain SBHS free of charge to eligible students, regardless of their immigration or insurance status.

8. Since 1988, Section 1903(c) of the Social Security Act has authorized the federal Medicaid program to reimburse LEAs for medically necessary SBHS provided to Medicaid-eligible students with disabilities (“special education SBHS”) pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., provided the services were delineated in the student’s individualized education program (IEP) (or similar plan) and covered in the State plan for Medicaid. IDEA requires LEAs to develop an IEP for children found eligible for special education and related services. An IEP identifies certain special education and related services, and program modifications and supports, that the LEA will provide a child with a disability. In December 2014, the Centers for Medicare & Medicaid Services (CMS) issued a [letter to state Medicaid directors](#) to announce a policy shift that allowed states more flexibility in their school-based Medicaid programs: Schools could seek reimbursement for all covered services provided to all children enrolled in Medicaid, regardless of whether the services are provided at no cost to other students.
9. Currently, Michigan’s state plan for Medicaid provides coverage for eligible students receiving SBHS that are specified in a student’s IEP/IFSP/NPSP, or individual plan of care (POC).
10. The Medicaid reimbursement program for SBHS in Michigan is called the Michigan Medicaid School Services Program (SSP) and is jointly operated by MDE and the Michigan Department of Health and Human Services. Michigan’s SSP includes Direct Services Claiming (DSC), which covers eligible services for special education students, and Caring4Students (C4S), which covers eligible services for general education students.
11. Michigan has contracted with a vendor for administrative support in managing SSP and matching reimbursement claims to Medicaid-eligible students.

12. All Michigan ISDs, the Michigan School for the Deaf, and Detroit Public Schools Community District participate in the SSP. Under the SSP, over the course of a school year, ISDs receive interim reimbursement payments for costs associated with providing SBHS to Medicaid-eligible students. Payment for Michigan's SSP is a cost-based, provider-specific, annually reconciled, and cost-settled reimbursement methodology. CMS also requires Michigan SSP providers to submit procedure-specific direct medical services claims for all Medicaid allowable services. These claims do not generate a payment but are required by CMS to monitor the services provided and the eligibility of the student, and to provide an audit trail. Interim payments are tied to the submission of the direct medical services claims.
13. The federal reimbursement funds are split between the Michigan Department of Health and Human Services and the ISDs. In State Fiscal Year 2024, the federal government paid 65.3% of the costs submitted for interim reimbursement for SBHS. In State Fiscal Year 2024, the State of Michigan retained 40% of the federal reimbursement for DSC and passed on 60% to the relevant ISDs. The state retained 5% of the federal funds for C4S and passed on 95%.
14. At the end of the fiscal year, Michigan engages in a cost settlement process to verify that LEAs are accurately reimbursed for the costs of providing SBHS by comparing interim reimbursements with reported annual expenditures. In State Fiscal Year 2023, Michigan ISDs received \$160,499,516 in reimbursement for SBHS delivered to eligible students.
15. To be eligible for a partially federally funded Medicaid program, a student must be a U.S. citizen, a "qualified non-citizen," or "lawfully present."
  - a. Qualified non-citizens include lawful permanent residents, asylees, refugees, and trafficking victims, among others.

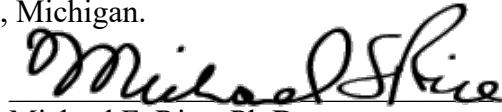
- b. Individuals who are lawfully present include those with humanitarian statuses (such as Temporary Protected Status and Special Immigrant Juvenile Status) as well as asylum applicants, among others.
- c. Children who are neither “qualified non-citizens” nor “lawfully present” are commonly referred to as undocumented.

16. Undocumented children are not eligible for partially federally funded Medicaid. LEAs are still required to provide eligible SBHS to undocumented children but cannot receive federal reimbursement dollars for those services.

17. In June 2024, 946,314 children in Michigan were enrolled in Medicaid. Following the Executive Order, which revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident, eligible students with parents who meet these criteria—who would have otherwise qualified for federally funded Medicaid—would lose that eligibility. ISDs would thus not receive any SSP reimbursement funds for provision of SBHS to those students, which would increase the State’s net costs.

18. The Executive Order will also increase the population of affected children, some percentage of whom would very likely require SBHS and would be eligible for partially federally funded Medicaid but for their immigration status. The costs of providing those services would be borne by the state and ISDs without any federal Medicaid reimbursement.

Executed this 21st day of January, 2025, in Lansing, Michigan.



---

Michael F. Rice, Ph.D.  
Superintendent of Public Instruction  
Michigan Department of Education

# **EXHIBIT H**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :

Plaintiffs, :

v. :

DONALD J. TRUMP, et al. :

Defendants. :

Civil Action No.: 1:25-cv-10139

---

**DECLARATION OF KELLY SESTI**

I, KELLY SESTI, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct:

1. I am the Director for the Bureau of Administration within the Children's Services Administration (CSA) of the Michigan Department of Health and Human Services (MDHHS). In this role, I am responsible for oversight of policy, technology, human resources, budget, continuous quality improvement efforts and data management for CSA. I also oversee the Title IV-E program for Michigan.

2. Through my role, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my staff.

3. I am providing this declaration to explain certain impacts on the State of Michigan's Title IV-E program of the executive order titled "Protecting the

Meaning and Value of American Citizenship,” issued on January 20, 2025 (the “Executive Order”), which revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or permitted into the United States on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident..

Michigan’s Title IV-E program, eligibility requirements, and federal funding

4. Michigan currently serves a monthly average of 8,668 children through the Title IV-E foster care program, 15,740 children through the Title IV-E adoption assistance program, 527 children through the Title IV-E guardianship program, and 8,516 children with Title IV-E prevention services. These numbers do not include the number of children who are already supported through state, county, and tribal funds. All children who are eligible receive equitable access to these services regardless of their citizenship status. Currently, MDHHS ensures that all children in need of services are supported through a combination of state, county, and tribal funds if they are not eligible for Title IV-E or other federal support. If children in the Michigan foster care system are stripped of citizenship status pursuant to the Executive Order, MDHHS would, consistent with state law and policy, continue to provide these children with foster care services as needed. However, because those children would be ineligible for Title IV-E funding, MDHHS would not receive any federal reimbursement under Title IV-E for providing these services.

5. Michigan’s Title IV-E program also supports many programs through administrative claims. Staffing for foster care, adoption, guardianship, and

prevention cases are supported in part through Title IV-E funds. Child and parent legal representation and the Foster Care Review Board through the State Court Administrative Office are also supported through Title IV-E funds. Statewide training initiatives for current MDHHS, contracted private agencies, and tribal social services receive Title IV-E funding. The Title IV-E Child Welfare Fellowship program, contracted through the University of Michigan and subcontracted to several other Michigan public universities, is supported through Title IV-E funds. These programs rely on the Title IV-E penetration rate to determine the matching funds to meet the Title IV-E requirements. Partial reimbursement of administrative expenses is calculated by using the State's Title IV-E penetration rate, which is based in part on the percentage of children in foster care who are eligible for Title IV-E payments. MDHHS calculates the penetration rate for each quarter. For federal Fiscal Years 2023 and 2024, the penetration rate was between 31 and 32 percent.

6. Due to the expansive programming that MDHHS has implemented with Title IV-E support, a small drop in the Title IV-E penetration rate causes a significant increase in the amount that the State, counties, and tribes must contribute. For example, a one percent increase in the penetration rate in each quarter of fiscal year 2024 would have resulted in an estimated \$2,950,941.59 more Title IV-E reimbursement to the state.

7. Children who are eligible for Title IV-E are categorically eligible for Medicaid per federal requirements. Children placed with MDHHS who are not

eligible for Medicaid because they are not a U.S. citizen or qualified alien, however, continue to incur medical and dental expenses. Those expenses are paid by state funds to ensure children have access to appropriate medical and dental care. Any increase in the number of children who are not Title IV-E or Medicaid eligible due to a change in citizenship determination will result in substantial increases in the medical and dental costs to the state, starting with birth expenses for a child who enters care as a newborn.

**Fiscal Impact of Revoking Birthright Citizenship**

8. The federal government's policy of ending birthright citizenship for children born in the United States based on their parent(s)' non-citizen/immigration status will have a variety of widespread impacts on Michigan's foster care, adoption, guardianship, and prevention system programs, including a decrease in receipt of federal Title IV-E funding for children born in Michigan and increased operational and administrative costs for Michigan.

9. For fiscal year 2024, Michigan claimed \$30,824,969 in maintenance expenses for foster care expenses, \$113,843,897 for adoption assistance maintenance expenses, \$3,662,817 for guardianship maintenance expenses, and \$5,831,968 for prevention services. For fiscal year 2024, Michigan claimed a total of \$61,455,039 in administrative and training expenses for foster care, \$21,808,189 in administrative expenses for adoption assistance, \$159,385 in administrative expenses for guardianship, and \$9,296,981 in administrative expenses for prevention administration and training.

### Administrative Burden

10. In addition, MDHHS expects burdensome increases in administrative and training costs for Title IV-E program as a result of the Executive Order.

11. MDHHS currently determines Title IV-E eligibility by meeting several factors, one of which is being determined to be a United States citizen or qualified alien. Per federal guidance, the *Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV-E of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, published in the Federal Register on November 17, 1997 (62 Fed. Reg. 61344) by the Department of Justice, requirements were incorporated into MDHHS policies to ensure that the citizenship and qualified alien requirements are being met. There are checks and balances built into MDHHS's policy, processes, and electronic case records system to ensure that this eligibility requirement is met. Prior to the Executive Order there were no federal requirements for the child's parents' citizenship to be factored into the eligibility decision. That information is not gathered by MDHHS, nor readily available. Obtaining this information from the Michigan Vital Records Department would most likely require legislative changes if the parent does not voluntarily provide the documentation. This delay in determining if this child is Title IV-E eligible due to their citizenship would cause the child's payments to be made from a combination of state and county funds—rather than Title VI-E funds. This process will add additional research onto those working with the family and the child welfare funding specialists. Those delays in making a determination will force the

state, county, and/or tribe to fully support those children in the interim time needed for this additional research.

12. Estimates on the number of children who will be impacted is difficult to determine as the citizenship and immigration status of parents is not something that is currently tracked. The shift will impact the processes for all children who enter care and were born after the implementation date of the Executive Order. In fiscal year 2024, 824 children under one-year-old entered foster care. It is estimated a similar number of newborns will enter foster care in 2025. For children born after February 19, 2025, they will all require additional research into their parents' citizenship to determine if they meet the new citizenship details in the Executive Order.

13. There is federal guidance regarding Social Security Numbers and their impact to both Title IV-E and Medicaid eligibility as follows: Changes brought about by the Deficit Reduction Act of 1984 (DEFRA) (Public Law 98-369) resulted in an Office of Human Development Services (OHDS) Policy Announcement which stated that otherwise eligible children are not required to apply for or furnish a Social Security Number (SSN) in order to be eligible for the Title IV-E Foster Care Maintenance Payments Program or the Adoption Assistance Program. However, Title XIX program regulations, 42 C.F.R. § 435.910, were amended to require, effective April 1, 1985, that each individual (including children) requesting Medicaid services furnish his/her SSN as a condition of eligibility for Medicaid. Children who are eligible for Title XIX Medicaid on the basis of their eligibility

under Title IV-E must furnish an SSN as a condition of eligibility for Medicaid, even though an SSN is not required under title IV-E.

14. The changes to citizenship documentation will require policy updates and changes to the electronic case records system. Changes to the system come at a large expense and will involve several different departments within MDHHS. Training will be needed for all case managers within MDHHS, contracted private agencies, and tribal social services agencies. Training of the courts in collaboration with the State Court Administrative Office (SCAO) would be needed as well. The Child Welfare Funding Specialists will require additional training regarding how to now determine a child's citizenship and how to manually track the changes until updates can be made to the electronic case records system.

15. The cost of care for children who are not eligible for Title IV-E is paid for with a combination of state, county, and tribal funds. Each of Michigan's 83 counties and twelve federally recognized tribes will need to turn to their local communities for additional funding to support the expected increase in their contributions due to this Executive Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Dated: January 21, 2025

---

Kelly Sesti  
Director, Bureau of Administration  
Children's Services, MDHHS

# **EXHIBIT I**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :

Plaintiffs, :

v. :

DONALD J. TRUMP, et al. :

Civil Action No.: 25-cv-10139

Defendants. :

:\\

---

I, JEFFREY DUNCAN, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct:

1. I am the State Registrar and the Director of the Division of Vital Records and Health Statistics (VRHS) within the Michigan Department of Health and Human Services (MDHHS). In this role, I am responsible for administration of Michigan's state vital records and statistics functions, including the civil registration of births, deaths, marriages, and divorces. I also administer contracts under which VRHS has to provide services to the Social Security Administration and the National Center for Health Statistics, a Center in the U.S. Centers for Disease Control and Prevention (CDC). In addition, I am the President-Elect of the National Association for Public Health Statistics and Information Systems, the organization of state and territorial vital statistics registrars.

2. As Michigan's State Registrar, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.

3. I am providing this declaration to explain certain impacts on the State of Michigan of the executive order titled "Protecting the Meaning and Value of American Citizenship," issued on January 20, 2025 (the "Executive Order"), which revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in permitted into the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

4. The VRHS is responsible for the civil registration of births, deaths, marriages, and divorces, as well as issuing certified copies of these events to the public. VRHS contracts with the National Center for Health Statistics (NCHS) to contribute data toward national vital statistics, and with the Social Security Administration for Enumeration at Birth (EAB).

#### Registration and Birth Certificates of Newborns

5. Healthcare facilities throughout Michigan coordinate with VRHS to collect and submit information to register each child's birth.

6. When a child is born in a healthcare facility, a medical attendant to the birth is statutorily obligated to register the birth. They provide the newborn's parents with a Birth Certificate Worksheet that asks for several pieces of

information, including the parents' place of birth and Social Security Numbers (SSNs). The Worksheet does not inquire about the parents' immigration status.

7. After the newborn's parents complete and sign the Worksheet, hospital staff enter the information from the Worksheet into an electronic birth system (VERA) maintained by VRHS. Local registrars, typically county clerks in Michigan, log in to VERA to accept and register each birth certificate and file it with VRHS. Upon registration, VRHS subsequently extracts statistical information from birth certificates and transmits weekly to the NCHS. Daily, VRHS extracts data from newly registered birth records and submits to Social Security for EAB.

8. A newborn's completed birth certificate does not indicate whether the parents have an SSN. The only information on the parents is the mother's legal name, the father's full name (if provided), their places and dates of birth, residence, and mailing addresses. Currently, it is not possible to determine a foreign-born parent's immigration status from their child's birth certificate.

9. Healthcare facilities do not routinely ask patients, including new parents, for their immigration status. Generally, hospitals learn that information only when assessing a patient's eligibility for public benefits, which may depend on immigration status. If hospitals obtain immigration status information for patients, it is recorded in their health records and becomes protected health information that is shielded from disclosure under the Health Insurance Portability and Accountability Act (HIPAA).

10. If the newborn registration process had to be amended to provide for verification of the parents' citizenship and/or immigration status, this would impose material administrative burdens on healthcare facilities throughout Michigan. During the newborn registration process, hospitals ask parents for their SSNs and places of birth, but do not directly inquire about immigration status. Currently, healthcare facilities do not verify the accuracy of the information provided. If healthcare facilities were required to confirm the accuracy of the parents' places of birth, SSNs, or immigration status, they would incur significant new administrative costs to implement a system to substantiate the information and hire and train staff. This burden would likely further lead to delays in registration and issuance of birth certificates for all children.

Application for Social Security Number of Newborns

11. While registering a newborn for a birth certificate at a healthcare facility, parents may also request an SSN for their child through a Social Security Administration (SSA) program called Enumeration at Birth (EAB).

12. The EAB process is voluntary for families, but according to SSA, about 99% of SSNs for infants are assigned through this program.

13. The EAB application is included as part of the Birth Certificate Worksheet parents complete at the facility. For EAB purposes the Worksheet asks for the parents' SSNs. Parents born outside the United States can apply for and receive an SSN for their child without including their own SSNs on the application. Currently, because children born in the United States are U.S. citizens, they are

eligible for SSNs regardless of their parents' immigration status. Parents check a box on the Worksheet indicating their permission to share information with SSA to obtain a social security number for their newborn child.

14. EAB information collected on the Worksheet is keyed into VERA and submitted to the VRHS electronically at the same time the birth is filed. VRHS extracts and submits EAB information to SSA daily to support timely enumeration. VRHS only sends EAB records to SSA for enumeration of infants born within the past 12 months.

15. Michigan receives federal funding from the SSA EAB process on a quarterly basis for each SSN that is issued through the EAB process. The State receives \$4.82 per SSN issued through the EAB process, or approximately \$100,000 to \$115,000 per quarter. VRHS uses those funds to support the payment of administrative and operational costs.

16. If birthright citizenship were revoked pursuant to the Executive Order for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in permitted into the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident, such children would no longer be citizens and would therefore be ineligible for an SSN. Assuming that SSA would not issue an SSN to such children , VRHS estimates approximately 6,615 to 6,673 fewer SSNs would be issued. This estimate is based on the number of births for which the parents

identified a foreign place of birth and did not provide an SSN on the Birth Certificate Worksheet in 2023 (6,673 births) and in 2024 (6,615 births).

17. If approximately 6,600 to 6,800 fewer SSNs were issued through the EAB process due to the revocation of birthright citizenship, this would result in an annual loss of EAB funding to Michigan of approximately \$31,812 to \$32,776.

18. In addition to the loss in funding, healthcare facilities in Michigan would incur new administrative costs by expending resources to verify parents' immigration status before applying for a newborn's SSN through the EAB process as SSA will presumably require proof of parents' lawful status to issue an SSN. Healthcare facilities will be forced to consult with, and assist, families with obtaining the paperwork necessary to prove their lawful status. It is likely that Michigan's VERA system and guidelines for submitting SSN applications through to SSA—which are currently detailed in a 59-page SSA manual—would have to be revised. This would likely require healthcare facilities to train, and potentially hire, staff to work with parents in obtaining, and then verifying, the requisite documents to establish lawful immigration status.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 21, 2025

Jeffrey Duncan

Jeffrey Duncan  
State Registrar  
Director, State Vital Records Office  
MDHHS

# **EXHIBIT J**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.

Plaintiffs,	:	
	:	
v.	:	
	:	Civil Action No.: <a href="#">25-cv-10139</a>
DONALD J. TRUMP, et al.	:	
	:	
Defendants.	:	
	:	
	:	
	:	

---

I, MEGHAN GROEN, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct:

1. I am the Senior Deputy Director for behavioral and physical health and aging services within the Michigan Department of Health and Human Services (MDHHS). I became the Senior Deputy Director for behavioral and physical health and aging services in May 2023. I am responsible for executive level oversight and administration of Medicaid and the HMP (Healthy Michigan Plan) (together commonly referred to as Medicaid), as well as CHIP (Children's Health Insurance Program), policy and the related eligibility and determination process. In this capacity, I also serve as the Michigan Medicaid Director.

2. I am providing this declaration to explain certain impacts on Michigan's health assistance programs of an Executive Order titled "Protecting the Meaning and Value of American Citizenship," issued on January 20, 2025 (the "Executive Order"), which revokes birthright citizenship for children born in the

United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

**Michigan's Medicaid and CHIP programs, eligibility requirements, and federal funding**

3. Medicaid is a comprehensive health care coverage program for low-income Michiganders. To qualify, individuals must generally fall into one of the following categories:

- Elderly adults
- Blind or disabled adults
- Pregnant women Families/Caretakers of dependent children
- Very low income children (generally under 110% of the federal poverty level)

4. HMP is Michigan's Medicaid Expansion program, which provides comprehensive health care coverage for individuals who:

- Are age 19-64 years
- Have income at or below 133% of the federal poverty level\* (\$16,000 for a single person or \$33,000 for a family of four)
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application, and
- Are residents of the State of Michigan.

5. CHIP is a health coverage program funded jointly by the state and federal government to provide health care coverage to eligible children in families that make too much to be eligible for Medicaid, but too low to afford private coverage. Michigan's primary CHIP program is known by the name of MIChild. Children enrolled in MIChild are considered Medicaid beneficiaries and are entitled to all Medicaid covered services. The MIChild program provides health care coverage for children who:

- Are age 0 through 18
- Have income above traditional Medicaid eligibility levels but at or below 212% of the Federal Poverty Level under the Modified Adjusted Gross Income (MAGI) methodology
- Do not have other comprehensive medical insurance (this includes insurance that covers inpatient and outpatient hospital services, laboratory, x-ray, pharmacy, and physician services)
- Do not qualify for other MAGI related Medicaid programs, and
- Are residents of the State of Michigan.

6. Medicaid, HMP, and MIChild offer a full array of health benefits, including physical health, behavioral health, dental, vision, and long-term care coverage. Medicaid, HMP, and MIChild are federal-state partnership programs with both a federal and state share funding the overall program costs. Michigan is able to draw 65% federal match for Medicaid, 90% federal match for HMP, and 76% federal match for MIChild.

7. Non-citizens are generally eligible for coverage of Emergency Services Only (ESO) Medicaid. ESO Medicaid provides a very limited benefit for aliens who are not otherwise eligible for full Medicaid because of immigration status. Aliens who are not otherwise eligible for full Medicaid because of immigration status may be eligible for Emergency Services Only (ESO) Medicaid. For the purpose of ESO coverage, federal Medicaid regulations define an emergency medical condition (including emergency labor and delivery) as a sudden onset of a physical or mental condition which causes acute symptoms, including severe pain, where the absence of immediate medical attention could reasonably be expected to:

- Place the person's health in serious jeopardy, or
- Cause serious impairment to bodily functions, or
- Cause serious dysfunction of any bodily organ or part.

ESO Medicaid coverage is limited to those services necessary to treat emergency conditions. The following services are not covered under this benefit today:

- preventative services
- follow-up services related to emergency treatment (e.g., removal of cast, follow-up laboratory studies, etc.)
- treatment of chronic conditions (e.g., chemotherapy, etc.)
- sterilizations performed in conjunction with delivery
- organ transplants pre-scheduled surgeries
- postpartum care
- non-emergency newborn care

8. In order to get Medicaid or HMP coverage, most non-citizens have a five-year waiting period before they can get full Medicaid or HMP coverage. Certain noncitizens, like refugees or asylees, are exempt from the five-year waiting period.

9. The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) allows states to provide full coverage to pregnant women and children who are lawfully residing in the United States. Michigan Medicaid allows lawfully residing pregnant women to receive full coverage through the entirety of both their pregnancy and their 12-month postpartum period. After the end of their postpartum period, they will revert to ESO coverage if applicable. Lawfully residing children receive full coverage until they reach age 21 and then revert to ESO coverage if applicable. Individuals who are not considered lawfully present pursuant to section 1903(v)(4) and 2107(e)(l)(J) of the Social Security Act would not qualify for this option and instead receive limited coverage through ESO Medicaid only.

10. During state fiscal year 2024, 3.3 million Michiganders, including 1.22 million children, were provided with health care coverage through Michigan's Medicaid and CHIP programs. An average of 979,727 children under the age of 18 and 42,735 pregnant women were covered each month over the course of the fiscal year.

11. Under federal law, Medicaid and CHIP coverage is provided to citizens and qualified noncitizens whose citizenship or qualifying immigration status is verified and who are otherwise eligible. Individuals may apply via MI Bridges, Michigan's online application platform, via phone, or in person by completing an

application. With the exception of individuals who apply for ESO Medicaid coverage only, citizenship is considered to be an eligibility factor for Medicaid and CHIP coverage and is verified by MDHHS. There are multiple ways that MDHHS verifies citizenship to determine eligibility.

12. Citizenship is generally verified through a data matching process leveraging Social Security Administration and/or MDHHS vital records data. In instances where citizenship cannot be verified through those automatic means, the applicant is contacted to provide supporting documentation, including, but not limited to, a passport, Certificate of Naturalization, or Certificate of Citizenship, military record of service. If verification of this manner cannot be provided, MDHHS will request third level evidence of U.S. citizenship.

13. Third level evidence is usually a non-government document established for a reason other than to establish U.S. citizenship and showing a U.S. place of birth. This includes an extract of a hospital record on hospital letterhead established at the time of birth that was created at least five years before the initial application date that indicates a U.S. place of birth; life, health or other insurance record showing a U.S. place of birth that was created at least five years before the initial application date; religious record recorded in the U.S. within three months of birth showing the birth occurred in the U.S. and showing either the date of the birth or the individual's age at the time the record was made; or an early school record showing a U.S. place of birth.

14. If third level evidence cannot be supplied, MDHHS policy stipulates that fourth level evidence can be used only in the rarest of circumstances. When this is necessitated, a written affidavit completed by the applicant or recipient and at least two additional individuals of whom one is not related to the applicant/recipient and who have personal knowledge of the event(s) establishing the person's claim of citizenship can be considered. Individuals making the affidavit must be able to provide proof of their own citizenship and identity. The affidavit is signed under penalty of perjury by the person making the affidavit and must include information explaining why other documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be obtained.

15. A child born to a woman receiving Medicaid in Michigan is considered a U.S. citizen. No further documentation of the child's citizenship is required. Following the child's birth, he or she would be automatically enrolled in Medicaid for the first 12 months after birth. This coverage provides full Medicaid benefits and permits the hospital and other providers to bill Medicaid for the child's covered services such as newborn testing and screenings, vaccination, pediatrician visit, and the hospital stay. The Executive Order is likely to have serious impacts on public health and inflict harm on hospitals and other safety-net providers that will be left with the costs of now uncompensated, but required, health care services and supports. Hospitals across the country and in Michigan have suspended labor and delivery units and adding uncompensated costs as a result of this order may

exacerbate growing access concerns over access to labor and delivery services for pregnant women regardless of their insurer.

16. I understand that the President has issued an Executive Order ending birthright citizenship. The federal government's policy of ending birthright citizenship for children born in the United States based on their parent(s)' non-citizen/immigration status will have a variety of widespread impacts on Michigan's medical benefits programs, including a decrease in receipt of proper medical care for children born in Michigan and increased operational and administrative costs for Michigan. In addition, the change of policy will have a direct impact on Michigan's administration of its Medicaid and CHIP programs and result in a loss of federal funding Michigan receives to reimburse medical expenses in Michigan. As a result, uncompensated care costs will increase for hospitals and safety net providers in Michigan.

#### Fiscal Impact of Revoking Birthright Citizenship

17. The Executive Order will result in a direct loss of federal funding for both the undocumented mothers and their children that were eligible for the Maternity Outpatient Medical Services program (MOMS).

18. MOMS is a health coverage program in Michigan. The MOMS program provides health coverage for pregnant or recently pregnant women who are eligible for ESO Medicaid. MOMS provides coverage for outpatient prenatal services and pregnancy-related postpartum services for two months after the pregnancy ends including but not limited to inpatient labor and delivery, radiology and ultrasound,

laboratory service, doula and home visiting, behavioral health and substance use disorder services. MOMS also covers family planning services for the mother during the postpartum period.

19. In state fiscal year 2024, 5,500 women were covered through the MOMS program for at least a portion of their pregnancy and postpartum period and 1,907 babies were born to women covered by this program. If the pregnant women covered through MOMS became ineligible due to a loss of citizenship for their unborn child, that would result in a loss of \$13.2 million in federal reimbursements to Michigan and, assuming the State covers MOMS program expenses for those individuals with State funds, a corresponding increase to State expenditures of the same amount. If the babies born to these women were no longer considered citizens and ineligible for Medicaid as a result of this status change, that would result in a loss of approximately \$11.6 million in federal reimbursements to Michigan and a corresponding increase to State expenditures of the same amount.

20. The Executive Order will also result in a direct loss of federal funding for children that are born in Michigan to undocumented parents and were eligible for CHIP.

#### Administrative Burden

21. In addition, MDHHS expects increased administrative and training costs for these programs relative to resources for training and potentially systems/policy implementation as a result of the Executive Order. Additional administrative costs will be incurred by hospitals and other safety-net providers.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 20, 2025

Meghan E. Groen

Meghan E. Groen  
Senior Deputy Director  
Behavioral and Physical Health and  
Aging Services Administration  
MDHHS

# **EXHIBIT K**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.

:

Plaintiffs,

:

v.

:

DONALD J. TRUMP, et al.

Civil Action No.: 25-cv-10139

:

Defendants.

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

**DECLARATION OF LINDY HARRINGTON**

I, Lindy Harrington, hereby declare:

1. I am a resident of the State of California. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am currently employed by the California Department of Health Care Services (DHCS) as the Assistant State Medicaid Director. I have held the Assistant State Medicaid Director position since 2023. As Assistant State Medicaid Director my responsibilities include assisting the State Medicaid Director in overseeing all aspects of the Medicaid and Children's Health Insurance Programs (CHIP) as governed by state and federal rules. My experience includes over 17 years of various executive leadership roles within DHCS, including over 7 years as the Deputy Director, Health Care Financing where I was responsible for the development, promotion, and implementation of financing for California's Medicaid program (Medi-Cal) prior to my appointment as Assistant State Medicaid Director.

3. The organizational purpose of DHCS is to provide equitable access to quality health care leading to a healthy California for all. In that effort, DHCS oversees the provision of healthcare for citizen and noncitizen low-income families, children, women, seniors, and persons with disabilities within the Medi-Cal and CHIP programs.

4. DHCS is the single state agency authorized to administer California's Medicaid program under Title XIX of the federal Social Security Act, referred to in California as "Medi-Cal" and California's Children's Health Insurance Program (CHIP) under Title XIX and XXI of the federal Social Security Act.

5. I am providing this declaration to explain certain impacts on the State of California's health insurance programs of the Executive Order titled "Protecting the Meaning and Value of American Citizenship," issued on January 20, 2025 (the "Executive Order"), which revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

6. As described below, this Executive Order will inflict significant harm upon DHCS' efforts to provide Californians with equitable access to quality health care.

### **Medicaid and CHIP**

7. California's Medi-Cal and CHIP programs are federal/state partnerships that provide comprehensive healthcare to individuals and families who meet defined eligibility requirements.

8. There are several ways to be eligible for Medi-Cal, but in general, children born in the United States and residing in California whose household modified adjusted gross income (MAGI) is at or below 266 percent of the Federal Poverty Level (FPL) are eligible for Medi-Cal.

9. DHCS also leverages Medi-Cal resources to extend meaningful coverage to a wide range of children. This is accomplished in part with federal funds available under Titles XIX and XXI (Children's Health Insurance Program or CHIP).

10. The vast majority of the State's Title XXI allotment is used to expand Medicaid coverage to children in working families whose parent(s) or guardians(s) exceed the income eligibility thresholds for traditional Title XIX based Medi-Cal. DHCS uses Title XXI funds to further extend coverage to children with income up to 322 percent of the FPL in San Francisco, Santa Clara, and San Mateo Counties.

11. In addition, DHCS has elected to use Medi-Cal resources to make pregnancy health services accessible to the largest number of individuals possible. Medi-Cal includes coverage for eligible pregnant individuals up to 213 percent of the FPL. Pregnancy-related services include prenatal care, all Medi-Cal services for conditions that might complicate pregnancy (such as high blood pressure and diabetes) and postpartum care. Labor and delivery are provided under emergency services. Additionally, these services directly affect maternal and child health outcomes.

12. As part of California's CHIP State Plan, pregnant individuals and individuals up to 12 months post-partum who have income between 213 percent of the FPL and up to 322 percent of the FPL may be eligible for the Medi-Cal Access Program (MCAP), which includes the From-Conception-to-the-End-of-Pregnancy (FCEP) Option, which offers comprehensive coverage for no-cost with no copayments or deductibles for its covered services. Eligible pregnant individuals that meet the State's residency requirements may qualify for the MCAP, regardless of immigration status.

13. Newborns whose mothers are enrolled in Medi-Cal or MCAP and give birth in participating hospitals or clinics can be automatically enrolled into Medi-Cal or the Medi-Cal Access Infant Program (MCAIP) at the time of birth using a simplified application. Medi-Cal deemed eligible newborns and MCAIP infants will receive full-scope, no-cost Medi-Cal until their first birthday.

14. Under federal law, individuals who are undocumented and do not have a lawful, qualifying immigration status, are not eligible for federal Medicaid, CHIP, or other benefits. The limited exception involves the federal program for undocumented or non-qualified individuals otherwise eligible for Medicaid, known as Emergency Medicaid. Thus, except for emergency, pregnancy-related services, and postpartum services, California fully funds health insurance for individuals who meet the income eligibility guidelines for federally-funded Medicaid or CHIP, but do not qualify for those programs because they are not United States citizens or “qualified aliens.”

15. Under the CHIP State Plan, DHCS elected the From-Conception-to-End-of-Pregnancy Option, which provides full-scope coverage of services for pregnant individuals, regardless of immigration status, up to 322 percent of the FPL. This option provides the DHCS authority to cover pregnancy-related and postpartum services for undocumented or non-qualified individuals.

16. DHCS recognizes that meaningful access to affordable and quality healthcare requires statewide efforts to increase coverage for more Californians.

17. Thus, to better address the State’s coverage needs, in 2015, California expanded full-scope, State-funded Medi-Cal eligibility to all low-income children through age eighteen, regardless of immigration status, and subsequently, expanded coverage to additional age groups

until, beginning in 2024, California became the second state to expand comprehensive coverage to all income-eligible residents, regardless of immigration status.

### **Federal Funding**

18. As of the State Fiscal Year 2024-25 enacted budget, DHCS has an annual budget of more than \$160 billion, the vast majority of which relates to Medi-Cal and CHIP, which supports the health care of more than 14 million Californians.

19. The amount contributed by the federal government, known as the Federal Medical Assistance Percentage (FMAP), is based on a formula that uses a state's per capita income. California receives a 50 percent FMAP for Medi-Cal, which generally means that for every dollar California spends on Medi-Cal services, the federal government matches it with a dollar. For CHIP, the FMAP is 65 percent.

20. However, Medi-Cal coverage for undocumented children who are not eligible for federal Medicaid or CHIP because of their immigration status, is fully funded by California, without any federal funding assistance.

21. The only exception to this is Emergency Medicaid which is available to all income-eligible individuals who have a medical emergency or need pregnancy-related or postpartum services.

22. In order to receive Medicaid matching funds from the federal government for healthcare expenditures by California, DHCS needs to verify that the expenditures submitted for federal matching were for care provided to citizens or qualifying noncitizens, or for emergency, pregnancy-related, or postpartum services.

23. As of 2024, DHCS administers Medicaid and CHIP funded coverage for more than five million children in California. DHCS estimates that coverage on a per-child basis costs

approximately \$3,445 per year. For this coverage, California estimates it expended approximately \$17 billion in total and received approximately \$8 billion in reimbursement from the federal government under Medicaid and CHIP.

24. Federal funding for California's Medi-Cal program is provided through an advance quarterly grant from the federal Centers on Medicare and Medicaid Services ("CMS") to California, with a post-quarter reconciliation. This quarterly process begins approximately six weeks before the quarter begins, with the State submitting to CMS a CMS-37 report, which estimates the reimbursable expenditures California expects to make for the upcoming quarter. For instance, for the January to March 2025 quarter, California submitted the CMS-37 report on approximately November 15, 2024.

25. Federal funding for California's CHIP program is provided through an annual allotment. The allotment amount is calculated by CMS as defined in Section 2104(m)(10) of the Social Security Act. Funds from this allotment are released to California based on the quarterly budget submission to CMS. For the January through March 2025 quarter, the State submitted the reports on approximately November 15, 2024. Initial CHIP allotment funds for Federal Fiscal Year 2025 were released to California previously.

26. CMS then issues a quarterly federal grant no later than the week before the start of the quarter. The State draws from this grant award during the quarter to partially fund its expenditures for Medicaid and CHIP.

#### **Healthcare Coverage for Newborns**

27. Presently, all children born in California are U.S. citizens.

28. Thus, at present, Medi-Cal coverage for newborns in California is partially funded by the State and partially funded by the federal government, either through Medicaid or CHIP.

However, if a child were not eligible for federally-funded Medicaid or CHIP, California would not receive that federal assistance, and would cover the full cost of health insurance coverage for the newborn, with the exception of federal funding for emergency services.

29. CHIP and Medi-Cal are especially important for children under 21 years of age with disabilities enrolled in California's Children's Services (CCS) program which provides diagnostic and treatment services, medical case management, and physical and occupational therapy health care services to children with CCS-eligible conditions (e.g., severe genetic diseases, chronic medical conditions, infectious diseases producing major sequelae, and traumatic injuries) from families unable to afford catastrophic health care costs. CCS currently serves approximately 182,000 children in California, approximately 90 percent of whom receive this service through CHIP and Medi-Cal benefits.

#### **Impact of Executive Order**

30. Medi-Cal is the pillar of the State's health care safety net, providing access and meaningful coverage to millions of low-income Californians. If implemented, the Executive Order will not only interfere with the administration of Medi-Cal and other health programs operated by DHCS, reducing California's health care coverage gains, but it will also reduce the amount of federal funding California receives to reimburse medical expenses for children in California.

31. California's current Medicaid and health benefits programs are structured around the significant reimbursements from the federal government, and any loss of funding would have serious consequences for DHCS and those individuals it serves.

32. The Executive Order revoking birthright citizenship for certain children born in the United States will result in some babies being born in California as non-citizens with no legal

status. That will result in the direct loss of federal reimbursements to the State for coverage provided to those children because eligibility for federally matched programs such as Medicaid and CHIP depends on the individual's eligibility under federal law, which necessarily depends on their citizenship or immigration status.

33. In particular, federally matched coverage for many children that would have been provided under Medicaid or CHIP will very likely be lost, since those programs are not available to unauthorized individuals aside from Emergency Medicaid coverage. This will necessarily result in a shift to the State of funding responsibility for this group of children.

34. Further under California's CHIP State Plan, California covers pregnant individuals regardless of immigration status, with incomes at or below 322 percent of the FPL for prenatal care so even though the mother may not have a legal immigration status, the child will be born a U.S. citizen and is therefore eligible under CHIP from conception through birth. After the child is born, the child (as a U.S. citizen) can remain covered under CHIP, while the mother is no longer covered under the federal CHIP program. If these children are no longer deemed citizens at birth, DHCS will lose federal funding for all non-emergency services for these children.

35. This poses an immediate risk to DHCS's federal funding stream used to provide healthcare coverage to vulnerable California newborns and children.

36. In 2022, DHCS estimates there were approximately 41,000 births to undocumented pregnant individuals whose labor and delivery was covered by emergency Medicaid. Assuming that a similar number of undocumented pregnant individuals give birth within one year of the Executive Order, and that many of those children would have been

eligible for federal Medicaid and CHIP but for their new non-citizen status, DHCS estimates that it will lose several millions in federal funding in the first year, compounding annually.

37. Further, to the extent that the Executive Order will sow confusion about immigrants and their children's ability to access essential health benefits, for which they remain eligible under state law, the Executive Order undermines the substantial progress that DHCS has made to increase access to healthcare, harming families and communities, weakening the public health, and creating public distrust in the State's social welfare institutions.

38. Because the Executive Order will cause families and caregivers of children, especially infants, to avoid the preventive care and treatment provided by these programs, it will have long-term consequences for the health outcomes of those children.

39. Currently, these programs all follow the American Academy of Pediatrics Bright Futures recommendations, a series of evidence-based preventive care and treatment recommendations shown to improve the health outcomes of children. Beyond health outcomes like avoiding childhood diseases, avoiding long-term risk of chronic diseases in adulthood and promoting age-appropriate development, these services are also critical for ensuring the success of children in other domains like engagement in school, literacy and appropriate social development. These programs are also where any issues, especially related to development, child welfare and congenital or infectious diseases are first identified and treated early. Lack of utilization of these programs will pose long-term risk to the health of all Californians, increased risk for future pandemics, and overall impact to California's health and economy.

40. In addition, if implemented the Executive Order likely will interfere with and complicate DHCS' administration of programs.

41. DHCS will need to immediately begin planning for the potential loss of federal funding. This includes reassigning staff from other priorities, hiring contractor support, and expanding existing financial and programmatic support contracts to encompass the new scope of work this would entail.

42. DHCS would also incur significant costs to train staff, partners, and healthcare providers on any updated eligibility system and procedures, and to revise existing guidance documents and manuals regarding eligibility rules and procedures. DHCS will have an enormous administrative burden in training workers across 58 counties on processing Medi-Cal eligibility based on new immigration rules, which is a significant overhaul to Medi-Cal's current enrollment policies.

43. DHCS will need to revise all eligibility determination policies around Medi-Cal at application, annual renewal, and changes of circumstances relating to citizenship and immigration status verifications, which can take as many as several years to complete and operationalize due to complexity. This includes significant updates to the Medicaid application and its requisite online applications in two eligibility systems, including reconstructing how verifications of immigration status will work to output an accurate Medi-Cal determination. None of these changes will be immediate due to the complexity, breadth, and depth of these fundamental policies for verification of citizenship status.

44. Because so many changes will need to be made to implement Medicaid and CHIP under this new citizenship rule, DHCS is unable to currently predict how many millions of dollars it will cost to implement these changes. The changes that would need to be made both at the state and federal level could take years to update to the new citizenship rule.

45. Further, children residing in California are eligible for Medi-Cal, including the fully state-funded program, regardless of whether they were born in California. Children residing in California who moved into the State from other states, are frequently enrolled in Medi-Cal. Presently, the eligibility verification systems used by DHCS's vendor and county agencies does not track the state of birth of U.S.-born children who apply for Medi-Cal. If the rules governing birthright citizenship varied by state of birth, these eligibility verification systems need to be modified to track state of birth and parentage in order to determine whether a child relocating from another State is a citizen and therefore eligible for Federal-State Medicaid or CHIP. This would add further complexity to the process of updating eligibility verification systems described above, requiring additional expenditure of DHCS's time and resources.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 20th day of January, 2025, in Sacramento, CA.



---

Lindy Harrington  
Assistant State Medicaid Director  
California Department of Health Care Services

# **EXHIBIT L**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :

Plaintiffs, :

v. :

DONALD J. TRUMP, et al. :

Defendants. :

Civil Action No.: 25-cv-10139

---

**DECLARATION OF RACHEL A. HEENAN**

I, Rachel A. Heenan, declare as follows:

1. I am a resident of the State of California. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am currently employed by the California Department of Education (CDE) as the Director of the Special Education Division. I have been in this position for one year. I have more than 7 years of experience as District Special Education Director and Special Education Local Plan Area Director and more than 19 years of experience in Special Education administration.

3. As the Director of Special Education, I oversee the implementation of federal and state special education laws including the Individuals with Disabilities Education Act. I also oversee a total budget of \$6,300,000,000 in state and federal funds that are allocated to Local Educational Agencies (LEAs) to meet the needs of 850,000 students with disabilities.

4. CDE's mission is to innovate and collaborate with educators, schools, parents, districts, and community partners to ensure that all of California's 5.8 million public school students—across more than 9,000 schools—have access to a world-class education. Our aim is to prepare students to live, work, and thrive in a multicultural, multilingual, and highly connected world.

5. Pursuant to *Plyler v. Doe*, 457 U.S. 202 (1982), LEAs within the State serve all school-age children, regardless of their immigration status. An LEA—such as a school district—is a public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through grade 12 public educational institutions.

6. The children of immigrant families are a vital part of our school communities, and they are a part of what makes our schools so vibrant and diverse.

7. I understand that the President issued the Executive Order "Protecting the Meaning and Value of American Citizenship" on January 20, 2025 (the "Executive Order"). It is my understanding that the Executive Order revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

8. As described below, it is my understanding that an Executive Order ending birthright citizenship would inflict significant harm upon CDE's efforts to provide a free and appropriate public education to all children by restricting the federal funding made available to LEAs and public schools in California to serve students with disabilities.

## **Special Education**

9. The Individuals with Disabilities Education Act (IDEA) provides that schools are responsible for providing a free appropriate public education (FAPE) to students with disabilities. 20 U.S.C. § 1412(e).

10. Funding for special education is meant to cover the additional costs that are associated with educating students with disabilities due to their disability. In California, there are three main sources of special education funding: (1) the federal government, as part of the IDEA; (2) the State; and (3) school district and charter school LEAs. For the school year 2024-25, California received \$1.5 billion in special education funding from the federal government, the State allocated \$4.8 billion for special education, and LEAs, using unrestricted funds, covered the remaining approximately \$8 billion in special education costs.

11. Medicaid responsibility precedes that of the LEA for a Medicaid (called Medi-Cal in California) covered service in the student's Individualized Education Plan (IEP). 20 U.S.C. § 1412(a)(12)(A)(i); 42 U.S.C. § 1396b(c). Section 1396b(c) states: "Nothing in this subchapter shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the IDEA [20 U.S.C. 1411 et seq.] or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part C of such Act [20 U.S.C. 1431 et seq.]." The IDEA provisions regarding LEA responsibilities for a FAPE do not alter the Medicaid responsibility for Medicaid-covered services in the IEP. 20 U.S.C. § 1412(e).

12. CDE receives funding under three provisions of IDEA. Since 1988, Section 1903(c) of the Social Security Act has authorized the federal Medicaid program to reimburse LEAs for covered services provided to Medicaid-eligible students with disabilities, pursuant to the IDEA, 20 U.S.C. § 1400 et seq., provided the services were delineated in the student's IEP (or similar plan) and covered in the state plan for Medicaid.

13. IDEA requires LEAs to develop an IEP for children found eligible for special education and related services. An IEP identifies certain special education and related services, and program modifications and supports, that the LEA will provide a child with a disability. If the IEP identifies Medicaid-covered services necessary to provide supports for the child with a disability, the IDEA requires LEAs to provide those Medicaid-covered services pursuant to the IEP.

14. Thus, LEAs and public schools in California may provide certain Medicaid-covered services to special needs students under an IEP, such as (but not limited to): audiological services, occupational therapy, physical therapy, psychological and mental health services, behavioral intervention services, as well as speech and language therapy.

15. In school year 2023-24, one of the largest school districts in the state (serving approximately 10,000 students with disabilities) received \$5,000,000 in Medi-Cal reimbursements. Smaller districts sampled received approximately \$1.5-\$1.8 million in reimbursement for these services. On average, LEAs with between 4,000-6,000 students with disabilities receive more than \$1,000,000 per LEA. In the State, there are 30 LEAs that serve more than 4,000 students with disabilities, thus receiving approximately \$30,000,000 in Medi-Cal reimbursement.

16. It is my understanding that if birthright citizenship is terminated, students with disabilities with undocumented parents—who would otherwise be citizens and qualify for federally-funded Medicaid but for the Order—will not be eligible for federally-funded Medicaid.

17. LEAs would thus not receive any federal Medicaid reimbursements for their provision of health services to those special needs students under their IEPs. In the absence of those federal reimbursements, LEAs would have to draw upon state funds to maintain those IEP-required services for the affected special needs students, reducing the State's overall funds and diverting those funds from other educational services.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025, at Clearwater, Florida.

/s/ Rachel A. Heenan

# **EXHIBIT M**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.

:

Plaintiffs,

:

v.

:

DONALD J. TRUMP, et al.

Civil Action No.: 25-cv-10139

:

Defendants.

:

:

:

---

**DECLARATION OF RITA NGUYEN, M.D.**

I, Rita Nguyen, declare as follows:

1. I am a resident of the State of California. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am currently employed by the California Department of Public Health (CDPH) as the Assistant Public Health Officer for the State of California, a role I have served in since February 2022. I was previously the Assistant Health Officer at the San Francisco Department of Public Health from 2017-2022 where I supported chronic disease and cancer prevention efforts for the City and County of San Francisco. Prior to that, I was Assistant Clinical Professor at UCSF with a focus on nutrition security, public health, and providing clinical care to hospitalized patients. I received my M.D. at Johns Hopkins University School of Medicine and B.A. from Stanford University. I completed Internal Medicine Residency Training at Brigham and Women's Hospital.

3. I oversee CDPH's Population Health Pillar which entails providing policy, program, and administrative oversight of the Centers for Healthy Communities, Family Health, Environmental Health, and Health Statistics and Informatics. As the Assistant Public Health Officer, I also assist and support the Director and State Public Officer with pressing and/or emerging public health issues.

4. CDPH aims to optimize the health and wellbeing of all people in California. CDPH works with local health departments, as well as public and private partners, to implement policies and programs that advance public health.

5. I am familiar with the Executive Order "Protecting the Meaning and Value of American Citizenship" issued on January 20, 2025 (the "Executive Order"). It is my understanding that the Executive Order revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

6. I anticipate that the Executive Order will harm California by: (1) directly impacting the federal funding that CDPH and California receive to facilitate Social Security Number applications for newborn babies; and (2) imposing new administrative burdens upon CDPH that require it to expend and divert resources.

#### **Registration and Birth Certificates of Newborns**

7. As part of its functions, CDPH maintains birth, death, fetal death/still birth, marriage, and divorce records for California. CDPH issues certified copies of California vital records and registers and amends vital records as authorized by law.

8. Within CDPH, the Center for Health Statistics and Informatics (CHSI) is responsible for collecting and maintaining data regarding births in California.

9. California has the largest proportion and highest number of births in the United States, representing about one out of every eight births in the nation.

10. In 2022, 420,543 babies were born in California.

11. Hospitals and other healthcare facilities in California coordinate with CHSI to collect information to register a child's birth.

12. When a child is born in a healthcare facility, a medical attendant to the birth is statutorily obligated to register the birth. They provide the newborn's parents with a Birth Certificate form that asks for several pieces of information, including the parents' place of birth and Social Security Numbers (SSNs). The form does not inquire about the parents' immigration status.

13. If the parents do not have an SSN, or do not wish to share it, they can leave that field blank. Their omission of that information does not affect the newborn's ability to obtain a birth certificate.

14. After the newborn's parents complete and sign the form, hospital staff enter the information from the form into the Electronic Birth Registration System (EBRS) maintained by CHSI. Hospital staff then submit the record to the Local Registration District (usually affiliated with the county health department) who then registers the record (i.e., local registration). Once the record has been locally registered, it is then state registered by CHSI.

15. A newborn's completed birth certificate only includes the parents' SSNs at the bottom of the confidential section if the parents provided an SSN. The mother's residence address is also provided in the confidential section. The mother's birth name, the father's birth

name (if provided), and their places and dates of birth are provided in the public section of the certificate.

16. Currently, it is not possible to determine a parent's immigration status from their child's birth certificate.

#### **Application for Social Security Number of Newborns**

17. CHSI also helps facilitate parents' applications for an SSN for their newborn baby through a Social Security Administration program called Enumeration at Birth.

18. Under the Enumeration at Birth Program, the healthcare facility provides parents with an application form to request an SSN for their child.

19. The Enumeration at Birth application form asks for the parents' SSNs. However, parents can leave that information field blank in the application, for various reasons. In 2023-2024, 22 percent of all Enumeration at Birth applications in California did not include either parents' SSN.

20. After a healthcare facility receives a completed SSN application from the parents, it submits the information from the application through EBRS, which then transmits that information and request to SSA after state registration.

21. Although the Enumeration at Birth Program is voluntary, the vast majority of families apply for SSNs for their newborns through this Program. In California, approximately 98 percent of families participated in the Enumeration at Birth Program in 2024.

22. CDPH receives federal funding from the Social Security Administration's Enumeration at Birth Program for each SSN that is issued through this process.

23. CDPH receives \$4.82 in federal funding per SSN issued to a newborn baby in California. For the upcoming year, CDPH estimates that it will receive up to \$2,885,599 through federal funding for CDPH's administration of the Enumeration at Birth Program in California.

24. Prior to the Executive Order, the Social Security Administration accepted nearly all Enumeration at Birth applications sent by CDPH, including those that did not contain either parent's SSN. CDPH receives a report from the Social Security Administration every day indicating how many SSN applications the Social Security Administration received from CDPH, the number of applications rejected, and the reason for rejection. In 2023 and 2024, CDPH received no rejections of SSN applications sent through the Enumeration at Birth Program due to a lack of parental SSN.

25. In 2023, parents in California submitted 393,897 applications for SSNs for newborn babies through the Enumeration at Birth Program, resulting in \$1,898,583.54 in federal funding.

26. In 2024, parents in California submitted 390,966 applications for SSNs for newborn babies through the Enumeration at Birth Program, resulting in \$1,884,456.12 in federal funding.

27. If the Executive Order revokes the citizenship of newborn babies born to undocumented parents, or to newborn babies born to one undocumented parent where the other parent is unknown, those babies would no longer be eligible for an SSN.

28. If the Social Security Administration declines to issue SSNs to babies born to two undocumented parents, CDPH estimates approximately 24,500 babies would be affected.

29. This estimate is based on figures provided to me by the State's demographer approximating the number of births to California residents who are undocumented in 2022. This

is an underestimate to some degree because it does not include children who have one parent who is not undocumented but who nonetheless does not meet the immigration status requirements of the Executive Order.

30. If approximately 24,500 newborn babies were denied SSNs due to the revocation of birthright citizenship, this would result in an annual loss of Enumeration at Birth funding to California of approximately \$118,090.

31. In addition to the loss in funding, CDPH would incur new administrative costs if required to expend resources to verify parents' immigration status before facilitating an application for a newborn's SSN through the Enumeration at Birth Process. If required to obtain proof of parents' lawful status before facilitating an SSN application for newborns, CDPH or state-run facilities will be forced to consult with, and assist, families with obtaining the paperwork necessary to prove lawful status.

32. CDPH would also need to update and revise its electronic system, along with its guidelines for submitting SSN applications through that system. This would likely require CDPH and state healthcare facilities to train, and potentially hire, staff to work with parents in obtaining, and then verifying, the requisite documents to establish lawful immigration status.

### **Conclusion**

33. CDPH's mission is to protect and advance the public health of California's residents. But the Executive Order impairs this mission in two main ways.

34. First, by stripping away the citizenship of newborn babies, the Order threatens to deny CDPH and the State of California more than a hundred thousand dollars per year in federal funding through the Enumeration at Birth Program.

35. Second, the Executive Order imposes administrative burdens and costs upon CDPH. CDPH would incur administrative costs if required to verify parents' immigration status before facilitating an application for a newborn's SSN through the Enumeration at Birth Process, including the expenditure of resources revising CDPH's electronic system, submission guidelines, and the necessary training, hiring, and technical expertise to accomplish these changes.

36. In sum, the Executive Order directly reduces the federal funding that CDPH receives, imposes administrative burdens, and diverts resources from public health programs that protect the health of families and their children.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 20, 2025, at Walnut Creek, California.



---

Rita Nguyen, M.D.

# **EXHIBIT N**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :

Plaintiffs, :

v. :

DONALD J. TRUMP, et al. :

Defendants. :

Civil Action No.: 25-cv-10139

---

**Declaration of Elizabeth Villamil-Cummings**

I, Elizabeth Villamil-Cummings, hereby declare:

1. I am the New York State Registrar and the Director of the Bureau of Vital Records at the New York Department of Health (“DOH”). I have held this position since June 2023. As the State Registrar, I oversee all of the Bureau’s operations including the filing of vital records and the processing of applications and court order for copies of, and amendments to, such records, in New York State, outside of New York City. Before this position, I was the Director of Data Management and Analytics in the Bureau of Vital Records.
2. As the State Registrar, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.
3. I am providing this declaration to explain certain impacts of the Executive Order “Protecting the Meaning and Value of American Citizenship” (January 20, 2025) (the “Executive Order”), which revokes birthright citizenship for certain newly-born children of immigrants in the United States, on the State of New York’s vital records programs.

4. DOH's mission is to protect and promote health and well-being for all, building on a foundation of health equity. To support that goal, DOH performs many functions, including regulating healthcare facilities and overseeing the registration of vital events such as births.

#### Registration and Birth Certificates of Newborns

5. Healthcare facilities coordinate with New York State Bureau of Vital Records<sup>1</sup> to collect information to register a child's birth.
6. When a child is born in a healthcare facility, a medical attendant to the birth is statutorily obligated to register the birth with the institution's registrar. They provide the newborn's parents with a Birth Certificate Work Booklet that asks for several pieces of information, including the parents' place of birth and Social Security Numbers (SSNs).<sup>2</sup> The Work Booklet does not inquire about, or require proof of, the parents' immigration status. A copy of the Birth Certificate Work Booklet is attached hereto, as Exhibit A.
7. After the newborn's parents complete and sign the Work Booklet, hospital staff enter the information from the Work Booklet into an electronic birth registration system maintained by the Bureau of Vital Records.
8. When a record is complete, the hospital prints out a short-form birth certificate, which contains only that portion of the birth information contained on the legal record. Once the physician or hospital administrator has signed the certificate, the record is filed with the local registrar, who in turn sends the state's copy of the certificate to the state.

---

<sup>1</sup> Through a cooperative agreement, the DOH Bureau of Vital Records receives data on vital events recorded in New York City from the New York City Department of Health and Mental Hygiene's Bureau of Vital Statistics.

<sup>2</sup> Parents of children born in New York State are provided with a Work Booklet by the New York State Bureau of Vital Records, and parents of children born in New York City are provided with a Work Booklet by the New York City Department of Health and Mental Hygiene's Bureau of Vital Statistics.

9. A newborn's completed birth certificate does not indicate whether the parents have an SSN.

The only information provided on a birth certificate regarding the child's parents is the birthing parent's legal name, the second parent's full name (if provided), their places and dates of birth, residence, and mailing addresses. Currently, it is not possible to determine a foreign-born parent's immigration status from their child's birth certificate.

10. Healthcare facilities do not routinely ask patients, including new parents, for their immigration status and do not collect proof of citizenship or immigration status.

#### Application for Social Security Number of Newborns

11. Through the birth certificate registration process at a healthcare facility, parents have the opportunity to apply for an SSN for their newborn through a Social Security Administration ("SSA") program called Enumeration at Birth ("EAB").

12. The EAB program is voluntary for families, but according to SSA, about 99 percent of SSNs for infants are assigned through this program.<sup>3</sup>

13. To obtain an SSN through the EAB program, newborn parents can indicate on the Work Booklet that they allow the furnishing of information from the Work Booklet to SSA to issue their child an SSN.

14. The EAB application asks for the parents' SSNs. Parents born outside the United States can apply for and receive an SSN for their child without including their own SSNs on the application. Because children born in the United States are entitled to U.S. citizenship, they are eligible for SSNs regardless of their parents' immigration status.

---

<sup>3</sup> SOCIAL SECURITY ADMINISTRATION – BUREAU OF VITAL STATISTICS, STATE PROCESSING GUIDELINES FOR ENUMERATION AT BIRTH (2024), <https://perma.cc/UK22-ZQSS>.

15. Healthcare facilities transmit these requests electronically to the Bureau of Vital Records, which then transmits the request to SSA.
16. New York receives federal funding from the SSA EAB process on a quarterly basis for each SSN that is issued through the EAB process. The State receives \$4.82 per SSN issued through the EAB process, or approximately \$111,000 per quarter. The state generally receives payment a month after the quarter ends, and is thus expecting its next payment in April 2025.

#### Effects of the Executive Order on Registration and EAB Process

17. Following the Executive Order, children born in the United States to two undocumented parents, among others, will no longer be considered citizens and will therefore be deemed ineligible for an SSN. The State of New York will lose revenue from the SSA, because fewer children born in the U.S. will be eligible for SSNs. The State of New York also anticipates a chilling effect, wherein fewer parents will opt in to the EAB program, out of concerns about sharing their information with the federal government. This, too, will result in reduced revenue to the State of New York.
18. In addition to the loss in funding, the State of New York would need to update its information technology infrastructure and train health care staff in how to document the information necessary to determine whether a child born in New York is eligible for an SSN. In addition, the Bureau of Vital Records would need to differentiate the births between those born to U.S. citizens or lawful permanent residents, or those born in the U.S. This would result in two different birth certificates, enhanced information gathering on parents' citizenship and technology advancements to capture the new workflow, data modifications and verification processes.

19. The State of New York also anticipates that it is likely that the electronic system and guidelines for submitting SSN applications through that system—which are currently detailed in a 59-page SSA manual—would have to be revised. This would likely require healthcare facilities to train, and potentially hire, staff to work with parents in obtaining, and then verifying, the requisite documents to establish lawful immigration status.
20. If, as a result of the Executive Order, the newborn registration process has to be amended to provide for verification of the parents' citizenship and/or immigration status, this would impose material administrative burdens on the State to communicate with and train staff in healthcare facilities. There are 121 maternity hospitals across the State of New York, and it is a huge undertaking to communicate with these hospitals and birthing centers about changes to what the Department of Health requires for newborn registration.
21. During the newborn registration process, hospitals ask parents for their SSNs and places of birth, but do not directly inquire about immigration status. Currently, healthcare facilities do not verify the accuracy of the information provided. If healthcare facilities were required to confirm the accuracy of the parents' places of birth, SSNs, or immigration status, they would incur significant new administrative costs to implement a system to substantiate the information. This burden will lead to delays in registration and issuance of the newborn's birth certificate, which must be completed within five days under state law. The lack of that birth certificate, in turn, can prevent a parent from securing health insurance coverage for the infant, leading to otherwise preventable lapses in early pediatric care.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21 day of January, 2025, in Menands, NY.

Elizabeth Villamil-Cummings

Elizabeth Villamil-Cummings

New York State Registrar and Director of the

Bureau of Vital Records

New York Department of Health

# **EXHIBIT A**

Mother's Name:

Mother's Med. Rec. Number:

## New York State Birth Certificate and Statewide Perinatal Data System Work Booklet

A child's birth certificate is a very important document. It is the official record of the child's full name, date of birth and place of birth. Throughout the child's lifetime, it provides proof of identity and age. As a child grows from childhood to adulthood, information in the birth certificate will be needed for many important events such as: entrance to school, obtaining a work permit, driver's license or marriage license, entrance in the Armed Forces, employment, collection of Social Security and retirement benefits, and for a passport to travel in foreign lands.

Because the birth certificate is such an important document, great care must be taken to make certain that it is correct in every detail. By completing this work booklet carefully, you can help assure the accuracy of the child's birth certificate.

**Please Note:** The Certificate of Live Birth serves as medical documentation of a birth event. Therefore, the sex of the infant (Male, Female, Unknown/ Undetermined – a synonym for intersex) is captured as a medical fact by attending personnel. The Department of Health has an administrative interest in retaining the medically designated sex at birth on the Certificate of Live Birth to ensure the proper tracking of the health and development of this child. Therefore, the gender designation of 'X (Non-Binary)' will not be permitted on the original Certificate of Live Birth.

### New York State Birth Certificate:

**PARENTS, for the birth certificate, you must complete the unshaded portions of this work booklet, see pages 3 - 5, 10 - 12 & 14 (the shaded portions will be completed by hospital staff).**

Information that is not labeled "QI", "IMM", 'HS', or "NBS" in the work booklet will be used to prepare the official birth certificate. The completed birth certificate is filed with the Local Registrar of Vital Statistics of the municipality where the child was born within five (5) business days after the birth and with the New York State Department of Health. When the filing process is completed, the mother will receive a Certified Copy of the birth certificate. This is an official form that may be used as proof of age, parentage, and identity. Receiving it confirms that the child's birth certificate is officially registered in the State of New York. Additional copies of the birth certificate may be obtained from the Local Registrar or the New York State Department of Health, P.O. Box 2602, Albany, New York 12220-2602. For further information about obtaining copies, please call (518) 474-3077 or visit the New York State Department of Health web site at: [www.health.ny.gov/vital\\_records/](http://www.health.ny.gov/vital_records/).

All information (including personal/identifying information) is shared with the County Health Departments or other Local Health Units where the child was born and where the mother resides, if different. County Health Departments and Local Health Units may use this data for Public Health Programs. The Social Security Administration receives a minimal set of data ONLY when the parents have indicated, in this work booklet, that they wish to participate in the Social Security Administration's Enumeration at Birth program.

While individual information is important, public health workers will use medical and demographic data in their efforts to identify, monitor, and reduce maternal and newborn risk factors. This information also provides physicians and medical scientists with the basis to develop new maternal and childcare programs for New York State residents.

### Statewide Perinatal Data System (SPDS) – Quality Improvement (QI), Immunization Registry (IMM), Hearing Screening (HS) and Newborn Screening Program (NBS) Information:

The information labeled "QI" will be used by medical providers and scientists to perform data analyses aimed at improving services provided to pregnant women and their babies. "IMM" information will be used by New York State's Immunization Information System (NYSIIS). A birthing hospital's obligation to report immunizations for newborns can be met by recording the information in SPDS, including the manufacturer and lot number as required by law. "HS" information will be used to improve the Newborn Hearing Screening program. Information labeled "NBS" will result in significant improvements in the Newborn Screening Program such as better identification and earlier treatment of infants at risk for a variety of disorders.

Mother's Name:

Mother's Med. Rec. Number:

**ATTENTION HOSPITAL STAFF:**

This work booklet has been designed to obtain information relating to the pregnancy and birth during the 72-hour period immediately following the birth of a live born child in New York State. Hospital staff should complete the shaded portions of the work booklet.

New York State Public Health Law provides the basis for the collection of the birth certificate data. For pertinent information about the New York State Public Health Laws refer to sections 206(1)(e), 4102, 4130.5, 4132 and 4135. These laws are also described in the New York State Birth Certificate Guidelines. The Guidelines are available to SPDS users on the **Help** tab of the SPDS Core Module.

Please Note: If the parent or legal guardian wishes to change the gender identification of the child to "X (Non-Binary)", the Parent/Legal Guardian Notarized Affidavit of Gender Error for a Person 16 Years of Age or Under and Parent/Legal Guardian Application for Correction of Certificate of Birth for Gender Designation for a Minor forms must be completed. If, at the age of 17 years or older, an individual would like to change their gender identification to "X (Non-Binary)", the Application for Correction of Certificate of Birth for Gender Designation for an Adult forms must be completed. If requested, parents or legal guardians can be directed to the NYS Bureau of Vital records website for more information: Birth Certificates - New York State Department of Health (ny.gov)

Mother's Name:

Mother's Med. Rec. Number:

## Help for Parents Completing This Work Booklet

**Page 4: Last Name on Mother's Birth Certificate**

This is commonly referred to as "maiden name." If the mother was adopted, it would be the last name on her birth certificate *after* the adoption.

**Page 4: Infant's Pediatrician/Family Practitioner**

Enter the name of the doctor who will care for the infant after he/she is released from the hospital. This may or may not be the same as the doctor who cared for the infant while in the hospital.

**Page 11: Last Name on Father's / Second Parent's Birth Certificate**

- **Father:** This is usually the same as his current last name. In the event that a man has changed his last name through marriage, the name on his birth certificate should be entered here. This may or may not be the same as his current last name depending on whether his name was changed by marriage only or changed through a court proceeding which resulted in an amendment to his birth certificate.
- **Mother (Second Parent):** This is commonly referred to as maiden name and is the name on her birth certificate.
- **In either case:** If the parent was adopted it would be the last name on his or her birth certificate *after* the adoption.

Mother's Name:		Mother's Med. Rec. Number:		
<b>New Birth Registration</b>				
Parents  <b>Mother</b>	Mother's First Name:		Mother's Middle Name:	
	Mother's Current Last Name :		Last Name on Mother's Birth Certificate:	
	Social Security Number: - - -	Mother's Date of Birth: (MM/DD/YYYY) / / /		
	Infant's First Name:		Infant's Middle Name:	
Infant's Last Name:			Infant's Name Suffix (e.g. Jr., 2 <sup>nd</sup> , III):	
Infant	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Undetermined		Plurality:	
	Date of Birth: (MM/DD/YYYY) / /		Time of Birth: (HH:MM) : <input type="checkbox"/> am <input type="checkbox"/> pm <input type="checkbox"/> military (24-hour time)	
Parents  <b>Infant</b>	Was child born in this facility? <input type="checkbox"/> Yes <input type="checkbox"/> No If child was <b>not</b> born in this facility, please answer the following questions:			
	In what type of place was the infant born?  <input type="checkbox"/> Freestanding Birth Center <input type="checkbox"/> Home (unknown intent) (regulated by DOH) <input type="checkbox"/> Clinic / Doctor's Office <input type="checkbox"/> Home (intended) (not regulated by DOH) <input type="checkbox"/> Home (unintended) <input type="checkbox"/> Other		If New York State Birthing Center, enter its name:	
	In what county was the child born?			
Parents  <b>Birthplace</b>	<b>Institution</b>			
	Site of Birth, If <b>Other</b> Type of Place:		Street Address – if other than Hospital / Birthing Center:	
	If place of infant's birth was other than Hospital or Birthing Center: City, town or village where birth occurred: Zip / Postal Code:			
Infant's Pediatrician/Family Practitioner: <span style="float: right;">NBS</span>				
Attendant	<b>Attendant's Information:</b>			
	License Number:	Name: First	Middle	Last
Title: (Select one) <input type="checkbox"/> Medical Doctor <input type="checkbox"/> Doctor of Osteopathy <input type="checkbox"/> Licensed Midwife (CNM) <input type="checkbox"/> Licensed Midwife (CM) <input type="checkbox"/> Other				
Certifier	<b>Certifier's Information:</b>			
	<input type="checkbox"/> Check here if the Certifier is the same as the Attendant (otherwise enter information below)			
License Number: Name: First Middle Last Title: (Select one) <input type="checkbox"/> Medical Doctor <input type="checkbox"/> Doctor of Osteopathy <input type="checkbox"/> Licensed Midwife (CNM) <input type="checkbox"/> Licensed Midwife (CM) <input type="checkbox"/> Other				
Parents  <b>Payor</b>	<b>Primary Payor for this Delivery:</b>			
	Select one: <input type="checkbox"/> Medicaid / Family Health Plus <input type="checkbox"/> Private Insurance <input type="checkbox"/> Indian Health Service <input type="checkbox"/> CHAMPUS / TRICARE <input type="checkbox"/> Other Government / Child Health Plus B <input type="checkbox"/> Other <input type="checkbox"/> Self-pay			
If Medicaid is not the primary payor, is it a secondary payor for this delivery? <input type="checkbox"/> Yes <input type="checkbox"/> No		Is the mother enrolled in an HMO or other managed care plan? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Mother's Name: <i>First</i>	<i>Middle</i>	<i>Last</i>	Mother's Med. Rec. Number:
Father / Second Parent Name: <i>First</i>	<i>Middle</i>	<i>Last</i>	<i>Suffix</i>
Infant's Name: <i>First</i>	<i>Middle</i>	<i>Last</i>	<i>Suffix</i>
			Date of Birth

**To the hospital:**

1. Obtain the parent(s) signature(s).
2. File the original Release Form in the mother's hospital record.  
Note: It is not necessary to file the remainder of the Work Booklet.
3. Provide a copy to the parent(s).
4. Do **not** send copies to the New York State Department of Health or to any Social Security office, unless specifically requested by such agency.

**To the parent(s):**

1. Please read the following notice about the collection and use of Social Security Numbers on your child's birth certificate.
2. Please check "Yes" or "No" to indicate if you wish to participate in the Social Security Administration's Enumeration at Birth program.

**NOTICE REGARDING COLLECTION OF PARENTS' SOCIAL SECURITY NUMBERS:** The collection of parents' Social Security Numbers on the New York State Certificate of Live Birth is mandatory. They are required by Public Health Law Section 4132(1) and may be used for child support enforcement, public health related purposes, when requested by State, federal and municipal governments for official purposes, when required by Public Health Law Section 4173 or 4174, and when otherwise required or authorized by law.

**Social Security Release**

The Social Security Administration offers the parents of newborns an opportunity to apply for a Social Security Number for their child through the birth certificate registration process. This is referred to by the Social Security Administration as Enumeration at Birth (EAB). If you participate in the EAB, the New York State Department of Health will forward to the Social Security Administration information from your child's birth certificate. Please note that the Social Security Administration will not process your EAB request unless, the birth certificate includes your child's full name. If you participate in the EAB, disclosure of parents' Social Security Numbers is mandated by 42 U.S.C. 405(c)(2). The Social Security Number(s) will be used by the Internal Revenue Service (IRS) solely for the purpose of determining Earned Income Tax Credit compliance. If you wish to participate in the Social Security Administration EAB program check "Yes" below.

**May the Social Security Administration be furnished with information from this form to issue your child a social security number?**

Yes

No

Mother's Signature ► \_\_\_\_\_ Date \_\_\_\_\_

Father's or Second  
Parent's Signature ► \_\_\_\_\_ Date \_\_\_\_\_

Either parent's signature applies to the above release.  
If neither box is checked for the release, a 'No' response will be assumed.

Hospital Name:

Signature of Hospital Representative:

Date:

**THIS PAGE LEFT BLANK  
FOR 2-SIDED PRINTING**

Mother's Name:		Mother's Med. Rec. Number:	
<b>Infant</b>			
<b>Infant</b>	<b>If Multiple Births:</b> Number of Live Births:      Number of Fetal Deaths:		<b>Birth Weight:</b> grams      lbs.      oz.
	If birth weight < 1250 grams (2 lbs. 12 oz.), reason(s) for delivery at a less than level III hospital: (Only if applicable)		
	<input type="checkbox"/> None <input type="checkbox"/> Unknown at this time <b>QI</b> <b>Select all that apply:</b> <input type="checkbox"/> Rapid / Advanced Labor <input type="checkbox"/> Bleeding <input type="checkbox"/> Fetus at Risk <input type="checkbox"/> Severe pre-eclampsia <input type="checkbox"/> Woman Refused Transfer <input type="checkbox"/> Other (specify) _____		
<b>Birth Information</b>	Infant Transferred: <input type="checkbox"/> Within 24 hrs <input type="checkbox"/> After 24 hrs. <input type="checkbox"/> Not transferred		NYS Hospital Infant Transferred To: _____
			State/Terr./Province: _____
<b>Newborn Screening</b>	Apgar Scores 5 minutes: _____      10 minutes: _____ 1 minute: _____		Is the Infant Alive? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Infant Transferred / Status Unknown
			Clinical Estimate of Gestation: (Weeks) _____
<b>Hepatitis B</b>	<b>Newborn Blood-Spot Screening</b> Screening Lab ID Number: (9-digits) _____ - _____ - _____ - _____ - _____ - _____ - _____ - _____ - _____		
	<b>Reason if Lab ID is not submitted:</b> <input type="checkbox"/> No NBS Lab ID because infant died prior to test <input type="checkbox"/> No NBS Lab ID because infant transferred prior to test <input type="checkbox"/> Lab ID is unknown / illegible <input type="checkbox"/> Refused NBS		
<b>Hearing Screening</b>	<b>Hepatitis B Inoculation</b> Immunization Administered: <input type="checkbox"/> Yes <input type="checkbox"/> No  Date: (MM/DD/YYYY)   _____ / _____ / _____ Mfr: _____ <b>IMM</b>  Lot: _____ <b>IMM</b>		Immunoglobulin Administered: <input type="checkbox"/> Yes <input type="checkbox"/> No  Date: (MM/DD/YYYY)   _____ / _____ / _____ Mfr: _____ <b>IMM</b>  Lot: _____ <b>IMM</b>
	<b>Newborn Hearing Screening</b> <input type="checkbox"/> Screening Performed (one or both ears) <input type="checkbox"/> Not Performed – Facility Related <input type="checkbox"/> Not Performed – Medical Exclusion (both ears) <input type="checkbox"/> Not Performed – Parent Refused		<b>Equipment Type</b> <input type="checkbox"/> AABR <input type="checkbox"/> Unknown <input type="checkbox"/> ABR <input type="checkbox"/> TEOAE <input type="checkbox"/> DPOAE
Date: (MM/DD/YYYY)   _____ / _____ / _____ - Enter date final hearing screening was conducted prior to discharge			
<b>Abnormal Conditions of the Newborn</b>	<b>Abnormal Conditions of the Newborn:</b> <input type="checkbox"/> None <input type="checkbox"/> Unknown at this time <b>Select all that apply</b> <input type="checkbox"/> Assisted ventilation required immediately following delivery <input type="checkbox"/> NICU Admission <input type="checkbox"/> Antibiotics received by the newborn for suspected neonatal sepsis <input type="checkbox"/> Significant birth injury (skeletal fx, peripheral nerve injury, soft tissue/solid organ hemorrhage which requires intervention)		
	<input type="checkbox"/> Assisted ventilation required for more than six hours <input type="checkbox"/> Newborn given surfactant replacement therapy <input type="checkbox"/> Seizures or serious neurologic dysfunction		

Mother's Name:

Mother's Med. Rec. Number:

### Congenital Anomalies

**QI**

<input type="checkbox"/> None of the listed <input type="checkbox"/> Unknown at this time <b>Select all that apply</b>		<b>Diagnosed Prenatally?</b>		<b>If Yes, please indicate all methods used:</b>		
<b>Congenital Anomalies</b>	Yes No <input type="checkbox"/> <input type="checkbox"/>	Anencephaly	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> MSAFP / Triple Screen <input type="checkbox"/> Other	<input type="checkbox"/> Amniocentesis <input type="checkbox"/> Unknown	
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Meningomyelocele/Spina Bifida	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> MSAFP / Triple Screen <input type="checkbox"/> Other	<input type="checkbox"/> Amniocentesis <input type="checkbox"/> Unknown	
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Cyanotic Congenital Heart Disease	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound	<input type="checkbox"/> Other <input type="checkbox"/> Unknown	
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Congenital Diaphragmatic Hernia	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound	<input type="checkbox"/> Other <input type="checkbox"/> Unknown	
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Omphalocele	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound	<input type="checkbox"/> Other <input type="checkbox"/> Unknown	
<b>Congenital Anomalies</b>	Yes No <input type="checkbox"/> <input type="checkbox"/>	Gastroschisis	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> Other <input type="checkbox"/> Unknown		
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Limb Reduction Defect	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> Other <input type="checkbox"/> Unknown		
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Cleft lip with or without Cleft Palate	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> Other <input type="checkbox"/> Unknown		
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Cleft Palate Alone	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> Other <input type="checkbox"/> Unknown		
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Down Syndrome <input type="checkbox"/> Karyotype confirmed <input type="checkbox"/> Karyotype pending	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> MSAFP / Triple Screen <input type="checkbox"/> CVS <input type="checkbox"/> Other <input type="checkbox"/> Unknown		
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Other Chromosomal Disorder <input type="checkbox"/> Karyotype confirmed <input type="checkbox"/> Karyotype pending	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> MSAFP / Triple Screen <input type="checkbox"/> CVS <input type="checkbox"/> Other <input type="checkbox"/> Unknown		
	Yes No <input type="checkbox"/> <input type="checkbox"/>	Hypospadias	Yes No <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Level II Ultrasound <input type="checkbox"/> Other <input type="checkbox"/> Unknown		

### Labor & Delivery

<b>Labor &amp; Delivery</b>	Mother Transferred in Antepartum: <input type="checkbox"/> Yes <input type="checkbox"/> No	NYS Facility Mother Transferred From:	State/Terr./Province:
	Mother's Weight at Delivery: <i>lbs.</i>		
<b>Method of Delivery</b>	Fetal Presentation: (select one) <input type="checkbox"/> Cephalic <input type="checkbox"/> Breech <input type="checkbox"/> Other		
	Route & Method: (select one) <input type="checkbox"/> Spontaneous <input type="checkbox"/> Forceps – Mid <input type="checkbox"/> Forceps – Low / Outlet <input type="checkbox"/> Vacuum <input type="checkbox"/> Cesarean <input type="checkbox"/> Unknown		
	Cesarean Section History: <input type="checkbox"/> Previous C-Section   Number <input type="text"/>		
	Attempted Procedures:		
	Was delivery with forceps attempted but unsuccessful? <input type="checkbox"/> Yes <input type="checkbox"/> No Was delivery with vacuum extraction attempted but unsuccessful? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Mother's Name:	Mother's Med. Rec. Number:
----------------	----------------------------

<b>Labor &amp; Delivery</b>			
<b>Method of Delivery</b>	<p><b>Trial Labor:</b>          If Cesarean section, was trial labor attempted? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Indications for C-Section:</b></p> <p><input type="checkbox"/> Unknown <b>QI</b></p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Failure to progress <input type="checkbox"/> Malpresentation <input type="checkbox"/> Previous C-Section  <input type="checkbox"/> Fetus at Risk / NFS <input type="checkbox"/> Maternal Condition – Not Pregnancy Related <input type="checkbox"/> Maternal Condition – Pregnancy Related  <input type="checkbox"/> Refused VBAC <input type="checkbox"/> Elective <input type="checkbox"/> Other</p>		
	<p><b>Indications for Vacuum:</b></p> <p><input type="checkbox"/> Unknown <b>QI</b></p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Failure to progress <input type="checkbox"/> Fetus at Risk <input type="checkbox"/> Fetus at Risk</p>		
	<p><b>Indications for Forceps:</b></p> <p><input type="checkbox"/> Unknown <b>QI</b></p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Failure to progress <input type="checkbox"/> Other <input type="checkbox"/> Fetus at Risk</p>		
	<p><b>Onset of Labor</b></p> <p><input type="checkbox"/> None <input type="checkbox"/> Unknown at this time</p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Prolonged Rupture of Membranes -- (12 or more hours) <input type="checkbox"/> Premature Rupture of Membranes -- (prior to labor) <input type="checkbox"/> Precipitous Labor -- (less than 3 hours)  <input type="checkbox"/> Prolonged Labor (20 or more hours)</p>		
<b>Characteristics</b>	<p><b>Characteristics of Labor &amp; Delivery</b></p> <p><input type="checkbox"/> None <input type="checkbox"/> Unknown at this time</p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Induction of Labor – AROM <input type="checkbox"/> Induction of Labor – Medicinal <input type="checkbox"/> Augmentation of Labor  <input type="checkbox"/> Steroids <input type="checkbox"/> Antibiotics <input type="checkbox"/> Chorioamnionitis  <input type="checkbox"/> Meconium Staining <input type="checkbox"/> Fetal Intolerance <input type="checkbox"/> External Electronic Fetal Monitoring  <input type="checkbox"/> Internal Electronic Fetal Monitoring</p>		
	<p><b>Maternal Morbidity</b></p> <p><input type="checkbox"/> None <input type="checkbox"/> Unknown at this time</p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Maternal Transfusion <input type="checkbox"/> Perineal Laceration (3<sup>rd</sup> / 4<sup>th</sup> Degree) <input type="checkbox"/> Ruptured Uterus  <input type="checkbox"/> Unplanned Hysterectomy <input type="checkbox"/> Admit to ICU <input type="checkbox"/> Unplanned Operating Room Procedure  <input type="checkbox"/> Postpartum transfer to a higher level of care <b>QI</b> <input type="checkbox"/> Following Delivery</p>		
<b>Anesthesia / Analgesia</b>	<p><b>Anesthesia / Analgesia</b></p> <p><input type="checkbox"/> None <input type="checkbox"/> Unknown at this time</p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Epidural (Caudal) <input type="checkbox"/> Local <input type="checkbox"/> Spinal  <input type="checkbox"/> General Inhalation <input type="checkbox"/> Paracervical <input type="checkbox"/> General Intravenous  <input type="checkbox"/> Pudendal</p>		
	<p><b>Was an analgesic administered?</b></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<b>Procedures</b>	<p><b>Other Procedures Performed at Delivery</b></p> <p><input type="checkbox"/> None <input type="checkbox"/> Unknown at this time</p> <p><b>Select all that apply</b></p> <p><input type="checkbox"/> Episiotomy and Repair <input type="checkbox"/> Sterilization</p>		

Mother's Name:

Mother's Med. Rec. Number:

**Mother**

	Medical Record Number:		
<b>Mother's Demographics</b>	<p>Mother's Education: (select one)</p> <p><input type="checkbox"/> 8<sup>th</sup> grade or less      <input type="checkbox"/> Some college credit, but no degree      <input type="checkbox"/> Master's degree  <input type="checkbox"/> 9<sup>th</sup> – 12<sup>th</sup> grade; no diploma      <input type="checkbox"/> Associate's degree      <input type="checkbox"/> Doctorate degree  <input type="checkbox"/> High school graduate; or GED      <input type="checkbox"/> Bachelor's degree</p>		
	City of Birth:		State/Terr./Province of Birth:
<b>Mother's Demographics</b>	<p>Hispanic Origin: Select all that apply</p> <p><input type="checkbox"/> No, not Spanish/Hispanic/Latina      <input type="checkbox"/> Yes, Mexican, Mexican American, Chicana      <input type="checkbox"/> Yes, Puerto Rican  <input type="checkbox"/> Yes, Cuban      <input type="checkbox"/> Yes, Other Spanish/Hispanic/Latina</p> <p>Specify: _____</p>		
	<p>Race: Select all that apply</p> <p><input type="checkbox"/> White/Caucasian      <input type="checkbox"/> Black or African American      <input type="checkbox"/> Asian Indian  <input type="checkbox"/> Chinese      <input type="checkbox"/> Filipino      <input type="checkbox"/> Japanese  <input type="checkbox"/> Korean      <input type="checkbox"/> Vietnamese      <input type="checkbox"/> Native Hawaiian  <input type="checkbox"/> Guamanian or Chamorro      <input type="checkbox"/> Samoan</p> <p><input type="checkbox"/> American Indian or Alaska Native      Tribe: _____</p> <p><input type="checkbox"/> Other Asian      Specify: _____</p> <p><input type="checkbox"/> Other Pacific Islander      Specify: _____</p> <p><input type="checkbox"/> Other      Specify: _____</p>		
<b>Parents</b>	<p><b>Residence Address</b></p> <p>Street Address: _____</p> <p>State/Terr./Province: _____      County: _____      City, Town or Village: _____</p> <p>Zip/Postal Code: _____      Mother's Country of Residence, if not USA: _____      U.S./Canadian Phone Number: (      )      –</p>		
	<p><b>Mailing Address – Most Recent</b></p> <p><input type="checkbox"/> Check here if the mailing address is the same as the residence address (otherwise enter information below)</p> <p>Mailing Address: _____</p> <p>City, Town or Village: _____      State/Terr./Province: _____      Country, if not USA: _____      Zip/Postal Code: _____</p>		
<b>Employment</b>	<p><b>Employment History</b></p> <p>Employed while Pregnant: <input type="checkbox"/> Yes <input type="checkbox"/> No      Current / Most Recent Occupation: _____      Kind of Business / Industry: _____</p>		
	Name of Company or Firm: _____		Address: _____
	City: _____		State/Territory/Province: _____

Mother's Name:	Mother's Med. Rec. Number:
----------------	----------------------------

**Father or Second Parent**

Will the mother and father be executing an Acknowledgement of Parentage?  Yes  No  Not required What type of certificate is required?  Mother / Father  Mother / Mother

Parent's First Name: Parent's Middle Name:

Parent's Current Last Name: Last Name on Parent's Birth Certificate:

Parent's Name Suffix  
(e.g. Jr., 2<sup>nd</sup>, III): Social Security Number: — — —

**Demographics**

Parent's Date of Birth: (MM/DD/YYYY)  / /	Education: (select one)  <input type="checkbox"/> 8 <sup>th</sup> grade or less <input type="checkbox"/> Some college credit, but no degree <input type="checkbox"/> Master's degree <input type="checkbox"/> 9 <sup>th</sup> – 12 <sup>th</sup> grade; no diploma <input type="checkbox"/> Associate's degree <input type="checkbox"/> Doctorate degree <input type="checkbox"/> High school graduate; or GED <input type="checkbox"/> Bachelor's degree
--	---

City of Birth: State/Terr./Province of Birth: Country of Birth, if not USA:

Hispanic Origin:  
Select all that apply  
 No, not Spanish/Hispanic/Latino  Yes, Mexican, Mexican American, Chicano  Yes, Puerto Rican  
 Yes, Cuban  Yes, Other Spanish/Hispanic/Latino  
Specify: \_\_\_\_\_

Race:  
Select all that apply  

<input type="checkbox"/> White/Caucasian	<input type="checkbox"/> Black or African American	<input type="checkbox"/> Asian Indian
<input type="checkbox"/> Chinese	<input type="checkbox"/> Filipino	<input type="checkbox"/> Japanese
<input type="checkbox"/> Korean	<input type="checkbox"/> Vietnamese	<input type="checkbox"/> Native Hawaiian
<input type="checkbox"/> Guamanian or Chamorro	<input type="checkbox"/> Samoan	
<input type="checkbox"/> American Indian or Alaska Native Tribe: <input type="checkbox"/> Other Asian	Specify: _____	_____
<input type="checkbox"/> Other Pacific Islander	Specify: _____	_____
<input type="checkbox"/> Other	Specify: _____	_____

Residence Address  
 Check here if the parent's residence address is the same as the mother's address  
(otherwise enter information below)

Street Address:

City, Town or Village: State / Territory / Province:

Parent's Country of Residence, if not USA: Zip / Postal Code:

Employment History  
Current / Most Recent Occupation: Kind of Business / Industry:

Name of Company or Firm: Address:

City: State / Territory / Province: Zip / Postal Code:

Parents

Father's or Second Parent's Demographics

Parent's Residence

Employment

Mother's Name:		Mother's Med. Rec. Number:			
<b>Prenatal History</b>					
Parents	Did mother receive prenatal care? <input type="checkbox"/> Yes <input type="checkbox"/> No		Primary Prenatal Care Provider Type: <input type="checkbox"/> MD / DO / C(N)M / HMO <input type="checkbox"/> No Information <input type="checkbox"/> Clinic <input type="checkbox"/> No Provider <input type="checkbox"/> Other		
	Key Pregnancy Dates (MM/DD/YYYY) Date of Last Menses: / /		Estimated Due Date: / /		
			Date of First Prenatal Visit: / /	Date of Last Prenatal Visit: / /	
Prenatal History	<b>Prenatal Visits</b> Total Number of Prenatal Visits:				
	<b>Pregnancy History</b>				
	Previous Live Births: Now Living None or Number <input type="checkbox"/>		Previous Spontaneous Terminations: Less than 20 Weeks None or Number <input type="checkbox"/>	20 Weeks or More None or Number <input type="checkbox"/>	Previous Induced Terminations: None or Number <input type="checkbox"/>
Pregnancy History	First Live Birth: (MM / YYYY)  /	Last Live Birth: (MM / YYYY)  /	Last Other Pregnancy Outcome: (MM / YYYY)  /	Prepregnancy Weight:  lbs.	Height:  ft. in.
<b>Prenatal Care</b>					
Risk Factors	<b>Risk Factors in this Pregnancy</b> <input type="checkbox"/> None <input type="checkbox"/> Unknown at this time <b>Select all that apply</b>				
	<input type="checkbox"/> Prepregnancy Diabetes <input type="checkbox"/> Other Serious Chronic Illnesses <input type="checkbox"/> Other Poor Pregnancy Outcomes	<input type="checkbox"/> Gestational Diabetes <input type="checkbox"/> Previous Preterm Births <input type="checkbox"/> Prelabor Referred for High Risk Care	<input type="checkbox"/> Prepregnancy Hypertension <input type="checkbox"/> Abruptio Placenta <input type="checkbox"/> Other Vaginal Bleeding	<input type="checkbox"/> Gestational hypertension <input type="checkbox"/> Eclampsia <input type="checkbox"/> Previous Low Birthweight Infant	
	<input type="checkbox"/> Pregnancy resulted from infertility treatment (if yes, check all that apply) <input type="checkbox"/> Fertility-enhancing drugs, artificial or intrauterine insemination <input type="checkbox"/> Assisted reproductive technology (e.g. IVF, GIFT) <b>Number of Embryos Implanted:</b> (if applicable) <input type="checkbox"/>				
Infections	<b>Infections Present and/or Treated During Pregnancy</b> <input type="checkbox"/> None <input type="checkbox"/> Unknown at this time <b>Select all that apply</b>				
	<input type="checkbox"/> Gonorrhea <input type="checkbox"/> Hepatitis B <input type="checkbox"/> Bacterial Vaginosis	<input type="checkbox"/> Syphilis <input type="checkbox"/> Hepatitis C	<input type="checkbox"/> Herpes Simplex Virus (HSV) <input type="checkbox"/> Tuberculosis	<input type="checkbox"/> Chlamydia <input type="checkbox"/> Rubella	
Parents Other Risk Factors	<b>Other Risk Factors</b>				
	<b>List Number of Packs OR Cigarettes Smoked Per DAY</b>				
Smoking Before or During Pregnancy?  <input type="checkbox"/> Yes <input type="checkbox"/> No		3 Months Prior to Pregnancy  Packs OR Cigarettes	First Three Months of Pregnancy  Packs OR Cigarettes	Second Three Months of Pregnancy  Packs OR Cigarettes	Third Trimester of Pregnancy  Packs OR Cigarettes

Mother's Name:		Mother's Med. Rec. Number:	
<b>Prenatal Care</b>			
<b>Other Risk</b>	<b>Other Risk Factors</b>		
	Alcohol Consumed During This Pregnancy? <input type="checkbox"/> Yes <input type="checkbox"/> No	Number of Drinks per Week:	Illegal Drugs Used During This Pregnancy? <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Obstetric Procedures</b>	<b>Obstetric Procedures</b>		
	<input type="checkbox"/> None <input type="checkbox"/> Unknown at this time	<input type="checkbox"/> Cervical Cerclage <input type="checkbox"/> Fetal Genetic Testing <b>Q1</b>	<input type="checkbox"/> Tocolysis
Select all that apply			
If woman was 35 or over, was fetal genetic testing offered? <input type="checkbox"/> Yes <input type="checkbox"/> No, Too Late <input type="checkbox"/> No, Other Reason <b>Q1</b>			
Serological Test for Syphilis? <input type="checkbox"/> Yes <input type="checkbox"/> No		Date of Test: (MM/DD/YYYY)  / /	Reason, if No Test: <input type="checkbox"/> Mother refused <input type="checkbox"/> Religious reasons <input type="checkbox"/> No prenatal care <input type="checkbox"/> Other <input type="checkbox"/> No time before delivery

Mother's Name:		Mother's Med. Rec. Number:	
<b>Interview/Records</b> <span style="font-size: 2em; vertical-align: middle;">Q</span>			
Parents	<b>Survey of Mother (in hospital)</b>		
	Did you receive prenatal care? <input type="checkbox"/> Yes <input type="checkbox"/> No (If 'Yes' please answer question 1. Otherwise skip to question 2.)		
	1. During any of your prenatal care visits, did a doctor, nurse, or other health care worker talk with you about any of the things listed below?		
	Yes	No	
	a. How smoking during pregnancy could affect your baby?	<input type="checkbox"/>	<input type="checkbox"/>
	b. How drinking alcohol during your pregnancy could affect your baby?	<input type="checkbox"/>	<input type="checkbox"/>
	c. How using illegal drugs could affect your baby?	<input type="checkbox"/>	<input type="checkbox"/>
	d. How long to wait before having another baby?	<input type="checkbox"/>	<input type="checkbox"/>
	e. Birth control methods to use after your pregnancy?	<input type="checkbox"/>	<input type="checkbox"/>
	f. What to do if your labor starts early?	<input type="checkbox"/>	<input type="checkbox"/>
g. How to keep from getting HIV (the virus that causes AIDS)?	<input type="checkbox"/>	<input type="checkbox"/>	
h. Physical abuse to women by their husbands or partners?	<input type="checkbox"/>	<input type="checkbox"/>	
2. How many times per week during your current pregnancy did you exercise for 30 minutes or more, above your usual activities?			
3. Did you have any problems with your gums at any time during pregnancy, for example, swollen or bleeding gums?			
4. During your pregnancy, would you say that you were: (select one)			
<input type="checkbox"/> Not depressed at all <input type="checkbox"/> A little depressed <input type="checkbox"/> Moderately depressed <input type="checkbox"/> Very depressed <input type="checkbox"/> Very depressed and had to get help			
5. Thinking back to just before you were pregnant, how did you feel about becoming pregnant?			
<input type="checkbox"/> You wanted to be pregnant sooner <input type="checkbox"/> You wanted to be pregnant later <input type="checkbox"/> You wanted to be pregnant then <input type="checkbox"/> You didn't want to be pregnant then or at any time in the future			
Chart Review (Prenatal and Medical)	<b>Chart Review (Prenatal and Medical)</b>		
	1a. Copy of prenatal record in chart?		
	<input type="checkbox"/> Yes, Full Record <input type="checkbox"/> Yes, Prenatal Summary Only <input type="checkbox"/> No		
	1b. Was formal risk assessment in prenatal chart?		
	<input type="checkbox"/> Yes, with Social Assessment <input type="checkbox"/> Yes, without Social Assessment <input type="checkbox"/> No		
	1c. Was MSAFP / triple screen test offered?		
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No, Too Late		
	1d. Was MSAFP / triple screen test done?		
	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	2. How many times was the mother hospitalized during this pregnancy, not including hospitalization for delivery?		
Admission & Discharge	<b>Admission and Discharge Information</b>		
	Mother		
	Admission Date for Delivery (MM/DD/YYYY)		Discharge Date (MM/DD/YYYY)
	/	/	/
Infant			
Discharge Date (MM/DD/YYYY)		<input type="checkbox"/> Discharged Home <input type="checkbox"/> Infant Still in Hospital <input type="checkbox"/> Infant Transferred Out	
/	/	<input type="checkbox"/> Infant Died at Birth Hospital <input type="checkbox"/> Infant Discharged to Foster Care/Adoption <input type="checkbox"/> Unknown	

# **EXHIBIT O**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW JERSEY, et al.

Plaintiffs,	:	
	:	
v.	:	
	:	
DONALD J. TRUMP, et al.	:	Civil Action No.: <u>25-cv-10139</u>
	:	
Defendants.	:	
	:	
	:	
	:	
	:	

---

**Declaration of Gabrielle Armenia**

I, Gabrielle Armenia, hereby declare:

1. I am the Director of the Division of Eligibility and Marketplace Integration in the Office of Health Insurance Programs of the New York Department of Health (“DOH”), a position I have held since 2024. I have also been New York State’s Children’s Health Insurance Program (CHIP) Director since 2019. As Director of Eligibility and Marketplace Integration, I am responsible for eligibility policy for the Medicaid and Child Health Plus Program, among other things. Prior to holding this position, I was the Director of the Bureau of Child Health Plus policy from April 2008 through October 2013, the Director of the Bureau of Child Health Plus and Marketplace Integration from October 2013 through October 2022, and the Director of the Child Health Plus and Marketplace Consumer Assistance Group from October 2022 through March 2024.
2. As Director of the Division of Eligibility and Marketplace Integration and New York’s CHIP Director, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my staff.

3. I am providing this declaration to explain certain impacts of Executive Order titled “Protecting the Meaning and Value of American Citizenship” January 20, 2025) (the “Executive Order”), which revokes birthright citizenship for certain newly-born children of immigrants in the United States, on the State of New York’s health insurance programs.
4. DOH’s mission is to protect and promote health and well-being for all, building on a foundation of health equity. To support that goal, DOH performs many functions, including regulating healthcare facilities and overseeing the registration of vital events such as births.

#### New York Health Insurance and Eligibility Rules

5. Within DOH, the Office of Health Insurance Programs administers several programs through the NY State of Health Marketplace that enable qualifying New York residents to access free or low-cost healthcare coverage.
6. Publicly-funded health insurance programs in New York include: Medicaid<sup>1</sup>, Child Health Plus<sup>2</sup> (New York’s Children’s Health Insurance Program, which includes federal- and state-

---

<sup>1</sup> The term “Medicaid,” as used throughout, means the New York State- and federally-funded healthcare program for low-income New Yorkers whose income and/or resources are below certain levels. It also includes state-funded Medicaid for individuals who are ineligible for federally funded Medicaid due to their immigration status. Eligible populations include children, pregnant women, single individuals, families, and individuals certified blind or disabled. In addition, certain persons with medical bills may be eligible for Medicaid if paying such bills allows them to spend down their income and resources to meet required Medicaid income levels. Medicaid enrollees do not pay premiums and have little to no out-of-pocket costs for many services. The term “Medicaid” does not include the Essential Plan, Child Health Plus, or Qualified Health Plans.

<sup>2</sup> Eligibility for Child Health Plus begins where Medicaid eligibility ends (223 percent of the federal poverty level for children under 1 year old and 154 percent of the federal poverty level for children age 1 year and older; children are eligible for subsidized coverage with incomes up to 400 percent of the federal poverty level. There is no Child Health Plus premium for children in households with incomes below 223 percent of the federal poverty level, and a sliding scale premium for those in households with incomes above 222 up to 400 percent of the federal poverty level. Households with incomes above 400 percent of the federal poverty level have the option to purchase Child Health Plus at full premium. 96 percent of children enrolled in Child Health Plus are enrolled with no premium or sliding scale premiums, and approximately four percent are enrolled with full premiums.

funded CHIP and New York's state extension), the Essential Plan<sup>3</sup> ("EP") (New York's 1332 State Innovation Waiver), and Qualified Health Plans ("QHP")<sup>4</sup>.

7. As of October 2024, a total of 2,461,497 children in New York were enrolled in federal- and state- funded Medicaid ("Federal-State Medicaid") and Child Health Insurance Program, of whom 571,386 were enrolled in Child Health Plus. Some of the children enrolled in Child Health Plus were enrolled in federal- and state-funded CHIP, and some were enrolled in New York's state extension.
8. In New York, Medicaid and Child Health Plus provide comprehensive healthcare coverage for a wide range of services, including primary care, hospitalization, laboratory tests, x-rays, prescriptions, mental health care, dental care, preventive screenings, and more.
9. Eligibility for New York's publicly funded health insurance programs, including eligibility for Medicaid and Child Health Plus depends on age, New York State residency, household size, immigration status, and household income. Specifically, a child must not be eligible for Medicaid or have other comprehensive insurance or enrollment in or access to state health

---

<sup>3</sup> The Essential Plan covers New Yorkers between the ages of 19-64 who are not eligible for Medicaid and have incomes up to 250-percent of the federal poverty level. The Essential Plan provides comprehensive benefits including free preventive care and dental and vision with no annual deductibles and low copayments. Essential Plan is currently authorized under Section 1332 of the Affordable Care Act as a State Innovation Waiver, which allows states to pursue innovative strategies for providing residents with access to high-quality, affordable health insurance. Section 369-ii of the NY Social Services Law authorizes State action under the Waiver. New York's Section 1332 State Innovation Waiver was approved effective April 1, 2024 to expand Essential Plan eligibility to consumers up to 250 percent of the Federal Poverty Level, and is effective through December 31, 2029. New York received approval of a Waiver Amendment to extend subsidies to certain Qualified Health Plan enrollees under the Waiver, with an effective date of January 1, 2025.

<sup>4</sup> Qualified Health Plans are health plans that have been certified by and are available through the Marketplace in accordance with the Affordable Care Act and federal regulations. 42 § U.S.C. 18021(a). Enrollment in a Qualified Health Plan with financial assistance is available based on income and the cost of available health plans ,for residents who do not have access to other affordable health insurance that meets minimum essential coverage.

benefits coverage (New York State Health Insurance Program or NYSHIP) to be eligible for Child Health Plus.

10. In general, children under the age of 18 (i) meet the income eligibility requirement for Medicaid in New York if their household's modified adjusted gross income ("MAGI") is less than 223% of the federal poverty level (FPL) for children under age 1 and 154% of the FPL for children between the ages of 1 and 18, and (ii) meet the income eligibility requirement for subsidized Child Health Plus coverage if their household's MAGI is less than 400% of the FPL. Children with household income over 400% of the FPL who are otherwise eligible may purchase coverage at the full cost.
11. For a child to be eligible for Federal-State Medicaid or CHIP, they must also be a U.S. citizen or "lawfully residing," as that term is defined by federal law.
12. Most New York children under age 19 who do not qualify for Federal-State Medicaid because they are not U.S. citizens or "lawfully residing" are eligible for Child Health Plus, and the cost of providing that coverage is fully funded by the state.
13. New York implemented Child Health Plus because access to healthcare, particularly to primary care, makes children and communities healthier, and it is a fiscally responsible investment in the future of New York children.
14. The increased enrollment of children in New York through Child Health Plus has had a positive impact on public health in the state. Children enrolled in health insurance are more likely to receive preventative care services, including vaccinations. This reduces the need for more intensive health care treatments, including emergency care, as illnesses develop. It also reduces the financial burden on health care providers from providing care to uninsured individuals and ensures that families are not left with medical bills that they are unable to

pay. In addition, sick children with health insurance coverage are more likely to see a health care provider and receive treatment, limiting the spread of infectious illnesses across the state.

15. Having insurance coverage also makes it less likely that children will have to visit an emergency room to treat preventable illnesses because it is more likely that they will receive medical care before a treatable medical issue becomes an emergency. This reduces the resource strain and uncompensated care burden on hospitals.

#### Healthcare Coverage for Newborns

16. Many children born in the United States and residing in New York whose family income is at or below 400% of the Federal Poverty Level are eligible for New York public health insurance.

17. Presently, all children born in New York are U.S. citizens, regardless of the immigration status of their parent(s).

18. Thus, at present, public health insurance coverage for newborns born in New York State is funded jointly by the state and federal government, either through Medicaid or Child Health Plus.

19. Most healthy newborns remain in the hospital for two or three days after delivery. During this time, they receive routine postnatal care, including a vitamin K injection, antibiotic eye ointment, screening tests (e.g., heel-prick blood test, hearing screening), and hepatitis B vaccination.

20. Additionally, the American Academy of Pediatrics recommends that newborns see a doctor or nurse for a “well-baby visit” six times before their first birthday, including within the first

3-5 days, the first month, the second month, the fourth month, the sixth month, and the ninth month after birth.

21. Within the first year of life, babies may also need to visit a doctor when they appear ill and may require testing or prescription medication.
22. Children ages 1-18 typically have a range of health care needs that require services from various health care providers. For example, children in New York must show proof of certain immunizations within 14 days of starting school, unless they have an exemption for medical reasons.

#### Fiscal Impact of Revoking Birthright Citizenship

23. New York spends on average \$299 per member per month on non-disabled children enrolled in Medicaid. New York currently pays approximately \$272 per member, per month (totaling \$3,264 per member per year) for children enrolled in its Child Health Plus program. As noted above, the federal government generally covers 50 percent of these costs for children enrolled in Federal-State Medicaid and 65 percent for children enrolled in Child Health Plus.
24. However, if a low-income child were not eligible for Federal-State Medicaid or CHIP, New York would not receive that federal assistance, and would cover the full cost of health insurance coverage for the newborn through Child Health Plus.
25. In 2023, approximately 100,000 or approximately 49% of births in New York State are enrolled in Federal-State Medicaid. Assuming that as a result of the Executive Order certain children born in New York will no longer be considered citizens, within one year of the revocation of birthright citizenship, a substantial portion of these children would be eligible for federally participating Federal-State Medicaid but for their new status as non-citizens.

26. DOH would need to immediately begin planning for this potential loss of federal funding and would need to determine how to offset this loss to pay for coverage if newborns were shifted to state only funding through Child Health Plus. This includes reassigning staff from other priorities, hiring contractor support, changing information technology infrastructure, and expanding existing financial and programmatic support contracts to encompass the new scope of work this would entail. These costs increase dramatically the longer it takes CMS and the federal government to issue Medicaid specific impact guidance on this new policy.

Eligibility Verification Process for Children on Federal-State Medicaid and CHIP

27. The State of New York fully funds public health insurance for children who meet the income eligibility guidelines for Federal-State Medicaid or CHIP, but do not qualify for those programs because they are not United States citizens or “qualified aliens.”

28. When a child’s birthing parent is enrolled in Federal-State Medicaid, the DOH automatically enrolls that child in Medicaid, as a “deemed newborn.” This is authorized by 42 C.F.R. § 435.117, which requires States to provide Medicaid coverage from birth to a child’s first birthday if the child’s birthing parent was eligible for and received Federal-State Medicaid at the time of the child’s birth. Newborns are not “deemed” in Child Health Plus and must proactively apply for coverage as it is not automatic.

29. New York State utilizes the hospital newborn reporting system to automatically deem and enroll an eligible child in Federal-State Medicaid. The eligibility system currently relies on the fact that a newborn was born in a New York health care facility provided through the hospital newborn reporting system as proof of citizenship, qualifying the newborn for Federal-State Medicaid.

30. Under the Executive Order, DOH will have to amend its existing processes to determine whether newborn children are eligible for Federal-State Medicaid because they can no longer rely on the fact that a child was born in the United States to confirm citizenship status. For example, the intake process including the booklet the parents complete in the hospital when the child is born would need to be revised to collect the immigration status of the birthing parent. Hospitals would only report children who appear eligible for Federal-State Medicaid through this system. Hospitals would need to be trained about what cases to report. Quality assurance reviews would need to occur to be sure the hospitals appropriately report the births that are Medicaid eligible. Since newborns are not deemed in Child Health Plus as they are for Medicaid, the parent/guardian would be required to apply for coverage on NY State of Health. For purposes of Child Health Plus, as long as a completed application is submitted within 60-days of the date of birth, coverage can be retroactive to the first date of the month of the child's date of birth. This may create a gap in coverage for the child if the application is not completed within this timeframe, thus creating the potential for families to forgo needed care and placing a strain of uncompensated care on the provider community.

31. The DOH would incur significant costs to revise the process hospitals follow for reporting births to address changes in citizenship rules for newborns. This would require significant planning to understand the new rules governing U.S. citizenship for newborn children, to identify and determine the kinds of evidence that would suffice as proof of citizenship, to modify the intake process/booklet the parent completes in the hospital, and to develop and implement guidance and training for Department and State agency staff as well as for hospital staff statewide.

32. DOH would incur significant costs to train staff, partners, and healthcare providers on the new newborn reporting rules and procedures. DOH would also need to revise existing guidance documents and manuals regarding eligibility rules and procedures which will involve significant effort. A quality assurance component would need to be added to ensure hospitals are reporting correctly.

33. It would likely take years to make the necessary updates to the process and perform the necessary training to ensure that it can be deployed effectively.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this twenty-first day of January, 2025, in Niskayuna, NY.



Gabrielle Armenia  
Director, Division of Eligibility and  
Marketplace Integrity  
Office of Health Insurance Programs  
New York Department of Health

# **EXHIBIT P**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.

Plaintiffs,

v.

DONALD J. TRUMP, et al.

Defendants.

Civil Action No.: 25-cv-10139

---

**Declaration of Jonathan Fanning**

I, Jonathan Fanning, hereby declare:

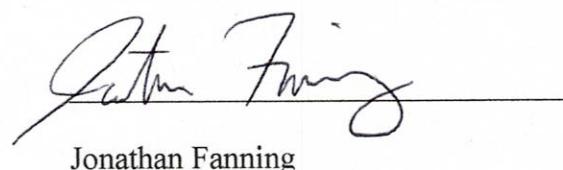
1. I am the Director of Fiscal Management of the New York Department of Health (“DOH”), a position I have held since 2024. As Director of Fiscal Management, I have oversight of the centralized accounting, budgeting and contracting functions for the Department. Prior to holding this position, I was the Director of the Bureau of Budget Management within the Department of Health and worked for the State’s Division of the Budget as well as the Department of Financial Services.
2. As the Director of Fiscal Management, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.
3. I am providing this declaration to explain certain impacts of Executive Order “Protecting the Meaning and Value of American Citizenship” (January 20, 2025) (the “Executive Order”), which revokes birthright citizenship for certain newly-born children of immigrants in the United States, on the State of New York’s health insurance programs.

4. DOH's mission is to protect and promote health and well-being for all, building on a foundation of health equity. To support that goal, DOH performs many functions, including regulating healthcare facilities and overseeing the registration of vital events such as births.
5. The amount of federal funding New York receives for health care it provides children through public health insurance programs varies by federal program, but generally represents between 50% and 65% of New York's total health care expenditures for children. The specific federal program that applies depends on the child's age, household income, immigration status, and the health care service provided.
6. For children covered by federal- and state- funded Medicaid ("Federal-State Medicaid") program, the federal government generally reimburses 50% of New York's health care expenditures. For children covered by CHIP, the federal government generally reimburses 65% of New York's health care expenditures.
7. By contrast, with the exception of certain limited emergency medical services that may be covered by Federal-State Medicaid, health insurance coverage for undocumented children, who are not eligible for Federal-State Medicaid or CHIP, is fully funded by New York under Child Health Plus, without any federal funding assistance.
8. Federal funding for New York's Medicaid program is provided through an advance quarterly grant from the federal Centers on Medicare and Medicaid Services ("CMS") to the State of New York, with a post-quarter reconciliation. This quarterly process begins with the State submitting to CMS a CMS-37 report, which provides an estimate of the State's federal share/matching need for the upcoming quarter, six weeks before the quarter begins. For the January to March 2025 quarter, the State submitted the report on approximately November 15, 2024.

9. CMS then typically issues the quarterly federal grant by the first business day of the first week of the relevant quarter. The State draws from this grant award during the quarter to partially fund its expenditures for Medicaid.
10. At the end of each quarter, the State is responsible for submitting a quarterly expenditure report to CMS (CMS-64 report), which is submitted at 30-day, 60-day and 90-day intervals. The 90-day submission represents the final submission for the quarter. The CMS-64 report reports all federally-claimable expenditures for the quarter. If the initial federal grant was less than final value of the federal share of claimable expenditures for the quarter in question, CMS will transmit the additional funds upon the completion of their quarterly claim review (adjudication). This adjudication typically occurs within approximately 3 months of the submission of the 90-day CMS-64 submission. If the initial federal grant was more than the final federal share claim value, CMS will recoup the shortfall from the advance grant award that the State had received for that quarter.
11. Federal funding for New York's CHIP program is determined on an annual basis by CMS, based (with some adjustments) on the percentage of New York's overall child population relative to that of other states. CMS also uses information the State provides in its quarterly CMS-21B CHIP Budget Report submissions in order to help determine the State's grant award need. CMS subsequently awards the Federal funding for each year to the State in either one or multiple installments per year. At the end of each quarter, the State is responsible for the submission of the CMS-21 quarterly CHIP expenditure report to CMS, which represents the State's Federal share claim for the quarter in question. This report is submitted at 30-day, 60-day and 90-day intervals.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this twenty-first day of January, 2025, in Saratoga Springs, NY.



---

Jonathan Fanning

Director of Fiscal Management

NYS Department of Health

# **EXHIBIT Q**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.,

:

Plaintiffs,

:

v.

:

DONALD J. TRUMP, et al.,

Civil Action No.: 25-cv-10139

:

Defendants.

:

:

:

---

## **DECLARATION OF Jennifer Avenia**

I, Jennifer Avenia, hereby declare:

1. I am over the age of 18, competent to testify as to the matters herein, and make this declaration based on my personal knowledge or have knowledge of the matters herein based on my review of information and records gathered by our staff.
2. I am Director of Immigration Practice for the Connecticut Department of Children and Families (DCF), a position I have held since 2019. As Director of Immigration Practice I provide the following services: ongoing legal and clinical consultation and training for DCF staff and DCF affiliated community agencies concerning migrant children, youth and their families; guidance in developing and implementing DCF policy and operational strategies with regard to immigrants and refugees; certification of U and T Visas; collaboration with immigrant legal aid agencies and attorneys throughout the United States; communication with the federal Office of Refugee Resettlement / Unaccompanied Alien Children Program, the Connecticut Office of Refugee Resettlement and the United States Customs and Immigration Service (USCIS) and its constituent agencies, including Immigration and Customs Enforcement (ICE) as well as the United States State Department and numerous embassies and consulates.
3. Prior to holding this position, I worked in various clinical and administrative capacities at DCF since 1999. I am a licensed clinical social worker and an attorney with a Bachelor of Arts degree in history from Wesleyan University as well as a Master of Social Work degree and a Juris Doctorate from the University of Connecticut. I have a Practitioner's Certificate in Immigration Law from the Connecticut Institute for Refugees and Immigrants and am fluent in Spanish.

4. As Director of Immigration Practice at DCF, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my colleagues at the Connecticut Department of Children and Families.
5. The Connecticut Department of Children and Families is devoted to serving and supporting children at risk for child abuse and neglect as well as their families. DCF is responsible for investigating allegations of child abuse and neglect and, if necessary, arranging for a child's protection.
6. DCF provides extensive clinical and legal consultation to its staff from licensed clinicians and attorneys working in its Regional Resource Groups and Office of Legal Affairs.
7. DCF contracts with community-based agencies throughout the state to provide services for children and families. Services include psychotherapy, mentoring, parent education, substance abuse treatment, intensive in-home case management and clinical services, standard and therapeutic foster care as well as residential and inpatient psychiatric treatment.
8. If a child has been harmed or is at risk of harm, DCF will petition the Superior Court for Juvenile Matters (SCJM) and request court orders requiring parents to comply with services, orders of temporary custody and/or neglect adjudications. Children who are removed from their parents' care are usually placed in homes of licensed relative or fictive kin caregivers or other foster parents who have completed extensive training and are licensed by DCF or a private not-for-profit therapeutic foster care agency to provide foster care.
9. DCF provides foster care services to children regardless of their immigration status.
10. The average daily population of children in foster care in Connecticut in State Fiscal Year 2024 was 2,666. The average daily population of children in foster care in Connecticut in Calendar Year 2024 was 2,704.

11. Children often enter DCF's care within the first year of their lives. The total number of children in foster care for all 12 months of Calendar Year 2023 was 4,165.

Federal Funding Tied to a Child's Citizenship

12. DCF receives several sources of federal funding for providing services to U.S. citizen and "qualified alien" children that DCF does not receive for providing services to undocumented children.

Title IV-E Funding

13. Under Title IV-E of the federal Social Security Act, the federal government provides grants to state foster care agencies with approved Title IV-E plans, including DCF, to assist those agencies with the costs of foster care maintenance for eligible children, as well as for adoption, guardianship, prevention, and other support services.

14. Pursuant to Title IV-E, the federal government partially reimburses DCF for foster care expenditures for children who are removed from home and placed in foster care and who meet the eligibility criteria for the former Aid to Families with Dependent Children (AFDC) program, as it was in effect on July 16, 1996.

15. Under the 1996 AFDC program, federal public benefits are limited to United States citizens and "qualified aliens." As DCF understands the Title IV-E limitations, undocumented children are not "qualified aliens," *cf.* 8 U.S.C. § 1641, and thus DCF does not receive any federal reimbursement for foster care expenditures by DCF for undocumented children.

16. Federal funding under Title IV-E covers foster care maintenance payments for eligible children and a portion of the State's administrative expenses. Foster care maintenance payments cover the cost of basic necessities, including food, clothing, shelter, daily supervision, and school supplies for eligible children in DCF's care. Federal funding is

provided on a quarterly basis after the State submits claims for eligible expenditures associated with eligible children.

17. In Federal Fiscal year 2024, DCF received \$33,837,223 million in Title IV-E federal funding for administrative expenses and foster care maintenance payments for eligible children.
18. If children in the Connecticut foster care system were not granted citizenship, DCF would, consistent with state law, continue to provide these children with foster care services as needed. However, because those children would be ineligible for Title IV-E funding, DCF would not receive any reimbursement under Title IV-E for providing those services.
19. DCF has limited data with regard to the citizenship and immigration status of parents. However, we do know that DCF serves hundreds of U.S. citizen children with undocumented or noncitizen parents. DCF reasonably expects that some number of children born within the next 12 months will enter DCF's care. If those children are purportedly denied birthright citizenship, DCF will lose material amounts of federal funding that it would use for foster care maintenance payments for those children, as well as reimbursement for administrative expenses associated with their care.

#### Other Federal Benefits Programs

20. DCF provides targeted support, resource assistance and referrals to families with at risk children. Many families with at risk children also receive assistance for their children through federal programs, including SNAP, TANF, and HUD vouchers, for which their children are eligible because of their citizenship status. If these children were not eligible for these federal programs, it could give rise to a significant increase in the number of children

entering the foster care system along with a related increase in costs to DCF in order to meet its statutory mandates.

Costs of Ascertaining Citizenship Status

21. In order to determine whether children in its care are eligible for federally funded programs like SNAP, Medicaid, TANF, or HUD vouchers, and in order to accurately obtain quarterly Title IV-E reimbursements for foster care services provided to eligible children, DCF needs to determine the citizenship status of the children it serves.
22. Presently, DCF relies on a birth certificate as evidence of U.S. citizenship. This is administratively simple, especially with respect to newborns that DCF social workers may interact with shortly after birth.
23. If birthright citizenship were purportedly terminated, it would complicate DCF's determination of whether a child in foster care is eligible for Medicaid, SNAP, TANF, or HUD vouchers, or whether certain foster care services are reimbursable under Title IV-E.
24. To ascertain such eligibility, DCF social workers would have to develop a new system for determining the citizenship and immigration status of children in its care. That system would likely require DCF to take steps to determine, verify, and document the citizenship and immigration status of the parents of children who come into foster care. This could be especially difficult in certain circumstances where parents are unwilling to engage with DCF. It would cost considerable time and resources to implement such a system.
25. In addition, DCF must determine the citizenship of the children in foster care in order to assist them with matters related to their immigration status. The system developed to ascertain citizenship of children born to undocumented or noncitizen parents would have to

involve the cooperation of the embassies and consulates of the parents' countries of origin in order to obtain the parents' documentation of citizenship.

26. It is also not uncommon for parents to have problems with ascertaining their own citizenship status in their countries of origin as vital statistics may not be collected. Birth certificates in other countries are sometimes not at all available because people's births were not documented in the first place.
27. Undocumented children in DCF care are primarily from Guatemala, Honduras, El Salvador and Mexico, in that order. The embassies and consulates of Guatemala, Honduras and El Salvador are completely overwhelmed and unable to timely respond to routine requests for birth certificates at this time. We would anticipate further significant delays were birthright citizenship in the United States terminated.
28. The embassies and consulates usually require that both parents request and cooperate with the process of getting birth certificates for their children. If a parent is unavailable or unwilling to do this, it may not be at all possible to get a birth certificate for a child via the embassy or consulate.
29. If it is not possible for children to obtain birth certificates from their parents' countries of origin, then there is a strong likelihood that these children will become stateless if birthright citizenship is not available to them.
30. Stateless people are at vastly increased risk for becoming victims of homelessness, extreme poverty as well as sex and/or labor trafficking. They cannot work legally. Government benefits of any kind are unavailable to them. It is impossible to order their removal to another country because there is no other country that will accept them.

31. DCF would have to expend considerable resources to develop and implement a system to determine, verify, and document the citizenship and immigration status of children whose citizenship could not be presumed on the basis of a birth certificate showing their birth in the United States. It would also incur significant costs to train and provide support services to DCF social workers to implement that system, which would be dependent upon already overburdened embassies and consulates. While the precise costs are difficult to estimate without further guidance from the federal government on how states must determine citizenship status, it would be extensive. This would be an additional burden to a system already struggling with ongoing workforce challenges. Because submissions to the federal government for IV-E reimbursements are due quarterly, DCF would have to develop and begin implementing such a system within a matter of months.
32. Additionally, DCF occasionally takes temporary custody of newborn children who have been abandoned, such as pursuant to Connecticut's Safe Haven Act, CGS § 17a-59 and 17a-60.
33. The parents of such abandoned children may be unknown, and DCF would thus be unable to ascertain their eligibility for the above-mentioned federal programs.
34. Indeed, if a newborn is abandoned pursuant to the Safe Haven Act, Connecticut's Safe Haven law forbids DCF from requiring the person abandoning the child to disclose the biological parent's name or other identifying information. DCF thus would be legally unable to seek the immigration status of the abandoned newborn's parents unless that information were volunteered.
35. Thus, DCF would be unable to establish that abandoned newborns are U.S. citizens eligible for Title IV-E reimbursement for DCF regardless of the actual immigration status of the newborn's parents.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 19th day of January, 2025, in Canton, Connecticut.

*Jennifer Avenia*

Jennifer Avenia

Director of Immigration Practice

Department of Children and Families

250 Hamilton Street

Hartford, Connecticut 06106

# **EXHIBIT R**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.,

:

Plaintiffs,

:

v.

:

DONALD J. TRUMP, et al.,

Civil Action No.: 25-cv-10139

:

Defendants.

:

:

:

---

## **DECLARATION OF PETER HADLER**

I, Peter Hadler, hereby declare as follows:

1. I am over the age of 18, competent to testify as to the matters herein, and make this declaration based on my personal knowledge or have knowledge of the matters herein based on my review of information and records gathered by agency staff.
2. I am the Deputy Commissioner for the Connecticut Department of Social Services (DSS). I have been employed in this position since April 2023 and have been employed by DSS since January 2012. I am responsible for executive level program and policy oversight and administration of eligibility policy and enrollment determinations for the Medicaid program and the Children's Health Insurance Program (CHIP), among other healthcare programs. In my capacity as Deputy Commissioner, I also oversee the state's program and policy administration for the Supplemental Nutrition Assistance Program, the Temporary Assistance for Needy Families block grant, the Low Income Home Energy Assistance block grant and numerous other public assistance programs.
3. I am an attorney with a juris doctor degree from Boston University and am admitted to the bar in both Connecticut and New York.

### **Connecticut HUSKY and Eligibility Rules**

4. Medicaid is the federally matched medical assistance program under Title XIX of the Social Security Act. CHIP is the federally matched medical assistance program under Title XXI of the Social Security Act. The programs operate as a state and federal partnership with states funding a portion of the programs (usually starting at 50%). In Connecticut, Medicaid, CHIP and other medical assistance programs are collectively called "HUSKY Health" or simply "HUSKY." HUSKY provides comprehensive health care coverage to

State residents, including preventative care, inpatient and outpatient services, behavioral health services and many other health care services.

5. DSS is the designated single state agency responsible for administering Connecticut's Medicaid program and Children's Health Insurance Program (CHIP), federal programs regulated by the U.S. Department of Health and Human Services. Medicaid and CHIP are jointly funded by both state and federal dollars, though at different rates, as explained herein. DSS also administers some state funded health care programs, including the State HUSKY program (which provides coverage for children up to 15 years of age who do not qualify for Medicaid or CHIP due to immigration status).
6. "HUSKY" is an umbrella term or "brand name" for all Connecticut State medical assistance programs, including Medicaid, CHIP and state-funded coverage. DSS is Connecticut's Medicaid authority and functions as one of the largest providers of health coverage in Connecticut. It is a leader in ensuring Connecticut residents have access to high-quality, affordable health care, and it is committed to whole-person care, integrating physical and behavioral health services for better results and healthier communities in Connecticut. DSS provides health care for over 1 million state residents annually through HUSKY.
7. The table below illustrates the State Fiscal Year (SFY) 2024 expenditure dollars in the thousands for DSS's programs. Funds are broken out by federal funded (FF) and state funded (SF) expenditures. The Medicaid line in the table includes funds associated with all eligibility groups authorized pursuant to Title XIX of the Social Security Act as well as CHIP funds that cover certain pregnant women and children. The CHIP line in the table includes children covered under Title XXI of the Social Security Act. State-only programs

in Connecticut include State HUSKY for Children and post-partum coverage for noncitizens, among others. States, including Connecticut, use federal funds to support services for noncitizens through Emergency Medicaid. Emergency Medicaid is authorized under Title XIX and expenditures are reflected within the Medicaid line in the below table.

SFY 2024 Expenditures (\$\$ in Thousands)			
	FF	SF	Total
<b>Medicaid</b>	\$4,883,249	\$3,357,225	\$8,240,475
<b>CHIP</b>	\$26,608	\$14,145	\$40,753
<b><i>State-only (State HUSKY)</i></b>	\$ -	\$23,502	\$23,502
<b>Total</b>	\$4,883,249	\$3,394,873	\$8,304,730

8. Within DSS, roughly 1,000 State employees and hundreds of contracted staff are responsible for determining eligibility, providing customer service, and managing policy for the majority of state and federal medical assistance programs serving over 1 million Connecticut residents. In addition to providing direct access to the Medicaid and CHIP programs through HUSKY, DSS administers the Supplemental Nutrition Assistance Program, the Temporary Assistance for Needy Families block grant, and a number of other public assistance programs.
9. Medicaid eligibility is comprised of three income methodologies: Modified Adjusted Gross Income (MAGI) methodology, non-MAGI methodology, and categorical eligibility (for example, SSI recipients or Foster Care/Adoption support coverage). Programs with eligibility determined under MAGI rules include coverage for adults aged 19-64, pregnant women, families, and children. Programs with eligibility determined under non-MAGI rules include coverage for aged, blind, or disabled populations, including long-term services and supports programs. Categorical eligibility means that a person is granted

coverage based on their categorical relationship to the program. For example, a person receiving Supplemental Security Income (SSI) automatically receives Medicaid coverage.

10. Federal Medicaid rules direct states to look at income and residency rules first and then determine whether someone is a citizen or has a qualifying immigration status in order to determine eligibility. Individuals who are undocumented or do not have a lawful, qualifying immigration status are not eligible for Medicaid or most other federally funded DSS administered benefits. The limited exception involves the federal Medicaid program for undocumented or non-qualified non-citizens to receive emergency medical care coverage if they are otherwise eligible for Medicaid. This is also known as Emergency Medicaid. Emergency Medicaid covers emergency health care for a limited set of qualifying emergent medical conditions. Individuals must meet all the income and other requirements of Medicaid. In other words, they must be eligible “but for” their citizenship and immigration status. Individuals who are undocumented or non-qualified can receive Emergency Medicaid services, and the federal matching rate is 50%, meaning that federal funds cover 50% of the cost and state funds cover 50% of the cost.
11. Coverage programs for children are also provided under HUSKY. HUSKY covers all kids through age 15, regardless of immigration status, up to 323% of the Federal Poverty Level (FPL), and covers all citizen children and non-citizens with qualifying immigration statuses up to 323% FPL through age 18. Funding for the coverage depends on a child’s eligibility for different programs that fall under the HUSKY Health branding, i.e. Medicaid, CHIP or State coverage.
12. Below 201% of the FPL, for children who are citizens or qualified immigrants, the funding for this coverage is through Medicaid.

13. Between 201% and 323% of the FPL, for children who are citizens or qualified immigrants, the funding for this coverage comes through CHIP, and some households pay a small premium or copays for coverage. CHIP is a federally matched health coverage program that expands coverage to children above the Medicaid income limit. Connecticut's CHIP offers comprehensive healthcare coverage to children through age 18, who reside in households with incomes between 201% and 323% of the FPL, whereas Medicaid covers eligible children at or below 201% of the FPL.
14. While provided in Connecticut under the name HUSKY, coverage provided under the CHIP program operates separately from Medicaid on the funding side. Historically, CHIP federal match has been 65%. It was increased as high as 88% for a period of time in recent years, but now is at 65%. This means that coverage provided to eligible children under the CHIP funding structure results in federal funds covering a higher portion of the expenses compared to Medicaid, where federal funding normally covers 50% of the expenses.
15. Children who would have been eligible for Connecticut's Medicaid or CHIP-funded coverage programs had they met immigration status requirements receive coverage through the 100% state-funded State HUSKY program. Connecticut law requires such coverage to be provided to all children who apply and are eligible.

#### Healthcare Coverage for Pregnant Women and Newborns

16. HUSKY also covers all pregnant women regardless of immigration status with income at or below 263% of the FPL. This is possible because their unborn children are deemed covered at conception, so even though the mother may not have a qualifying immigration status, the child will be born a U.S. citizen and is therefore eligible for services under CHIP from conception through birth. After the child is born, the child (as a U.S. citizen) can

remain covered under HUSKY, while the mother is no longer covered under any federal healthcare program, but in Connecticut is provided 12 months of state-funded postpartum coverage.

17. As of 2024, DSS administers Medicaid funded coverage for more than 380,000 children annually in Connecticut, and CHIP funded coverage for approximately 39,000 children in Connecticut. DSS estimates that coverage on a per-child basis costs approximately \$3,850 per year on average. For this coverage, Connecticut expended approximately \$1,450,000,000 and received \$744,000,000 in reimbursement from the federal government under Medicaid and CHIP. With respect to State HUSKY, there were over 20,000 children covered and the State expended approximately \$23,000,000 in 2024.
18. Under federal law, DSS must provide Medicaid and CHIP coverage to citizens and qualified noncitizens whose citizenship or qualifying immigration status is verified and who are otherwise eligible. Applications for coverage are processed either through Access Health Connecticut (the state's health insurance marketplace), where eligibility is based on a MAGI determination, or through DSS directly for individuals qualifying under a non-MAGI basis. Citizenship eligibility status is one eligibility factor that DSS must verify for HUSKY coverage. There are multiple ways that DSS verifies citizenship or immigration status to determine eligibility.
19. Generally speaking, for MAGI-based coverage, DSS first uses an individuals' Social Security Number (SSN) along with the individual's name and date of birth to automatically check the SSN with the Social Security Administration (SSA) in order to confirm identity and citizenship or qualifying immigration status through what is called the "federal data services hub." For newborns who do not yet have an SSN, citizenship eligibility is verified

by birth records provided (usually by the hospital or other medical provider) at the time of birth because children born in the United States are citizens. For individuals who declare to be lawfully present and have an SSN, DSS uses the SSN, name, and date of birth to confirm an individual's status with the Department of Homeland Security. For individuals who have an SSN and declare to be a citizen, but for whom citizenship cannot be automatically verified, DSS will request verification from the individual of their citizenship. When an individual is applying for non-MAGI coverage through DSS, SSN and citizenship are automatically verified through an interface with the SSA.

20. In the relatively infrequent instances where citizenship is not or cannot be verified by those automatic means, an individual can be approved for coverage based on their attestation and given a reasonable opportunity to provide verification. On that issue, a declaration of citizenship or qualifying immigration status may be provided in writing, and under penalty of perjury by an adult member of the household, an authorized representative, or someone acting for the applicant. States must provide otherwise eligible individuals with a "reasonable opportunity period" to verify their qualifying immigration status. Individuals making a declaration of a qualifying citizenship or immigration status are furnished at least 90 days of Medicaid coverage while additional verification is collected. If an individual's status is found to be unsatisfactory before the 90 days, their eligibility is determined and their coverage closed.

#### Impact of Purported Revocation of Birthright Citizenship

21. I am aware of an executive order titled "Protecting the Meaning and Value of American Citizenship," issued on January 20, 2025 (the "Executive Order"), which revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother

who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident. This Executive Order will have a variety of widespread harmful impacts on Connecticut's HUSKY programs, including a decrease in receipt of proper medical care for children born in Connecticut and increased operational and administrative costs for the State.

22. In addition to impacts on those subject to such a policy—children who would have been citizens had they been born weeks earlier—it will have a direct impact on DSS's administration of its healthcare programs and the amount of federal funding Connecticut receives to reimburse medical expenses for children residing in Connecticut.
23. Connecticut has made tremendous strides in reducing the number of uninsured individuals. Many immigrants are direct beneficiaries of HUSKY coverage. Connecticut has continued to improve and broaden coverage options for children residing in the State and worked to streamline the application process and make that process as simple as possible for parents seeking coverage for themselves and their children. This is possible using both state and federal Medicaid and CHIP dollars as appropriate. Uninsured individuals suffer significant negative health impacts and the economic impacts of an increase in the uninsured rate could be severe. Individuals with health insurance that provides preventative care are less likely to need more intensive health care treatments, including emergency care. Health insurance reduces the financial burden on Connecticut health care providers who provide care to uninsured individuals, reduces uncompensated care, and ensures families are not left with medical bills that they are unable to pay. Sick children with health insurance coverage are more likely to see a health care provider and receive treatment, limiting the spread of infectious illnesses across the state.

24. Connecticut's current Medicaid, CHIP, and other health coverage programs are structured around the significant reimbursements from the federal government, and any loss of funding would have serious consequences for Connecticut and the individuals served by DSS. The federal government action of taking away birthright citizenship from children born in Connecticut would result in babies being born as non-citizens with no legal status. That will result in direct loss of federal reimbursements to the State for coverage provided to those children because eligibility for federally matched programs such as Medicaid and CHIP depend on the individual's eligibility under federal law, which necessarily depends on their citizenship or immigration status. In particular, federally matched coverage to many children that would have been provided under Medicaid or CHIP will very likely be lost without the clear line of eligibility tied to birth in the United States, because those programs are not available to individuals who have not been verified to be eligible. This will necessarily result in a shift to the State of funding responsibility for this group of children, which poses a direct threat to the ability of the State to provide meaningful healthcare to all in need without interruption. It will also likely result in a significant number of children going uninsured and receiving only emergency care when absolutely necessary, leading to worse health outcomes as they grow up and require more expensive care through emergency procedures due to a lack of access to affordable preventative care.

25. Additionally, there will be substantial uncertainty and administrative burdens for DSS in providing coverage to pregnant women and their unborn children. As noted above, Connecticut is able to provide coverage to all pregnant women, regardless of citizenship status, for prenatal care under the CHIP program because the unborn children are covered under CHIP. If the children are no longer to be citizens at birth, DSS will be left in limbo

to determine whether coverage to those vulnerable pregnant women will be able to be covered, and if so, under what program. This is likely to pose a significant barrier to DSS providing streamlined coverage to State residents in need of medical care for themselves and their future children.

26. The purported removal of birthright citizenship is also likely to cause coverage lapses or, at a minimum, result in direct shifts to the State with respect to the cost of funding healthcare coverage for children who would have otherwise been immediately eligible for Medicaid and/or CHIP at birth. These are not impacts that can be avoided. For example, with respect to emergency care, the State and its providers will be required to absorb costs that would normally be recoverable through federal reimbursements under Medicaid and CHIP. Hospitals must provide emergency medical care under federal law, including the Emergency Medical Treatment and Labor Act and the relevant Emergency Medicaid provisions. They cannot turn patients away as a general rule. Such emergency services, if provided to a child otherwise eligible for Medicaid but for their immigration status, will still be covered in part by the federal government at the 50% match rate for Medicaid. However, if a child is a citizen and covered under CHIP, such services would be covered and reimbursed at the 65% match rate. If that same child is deemed a non-citizen at birth (and thus is ineligible for CHIP), the State will be left to pay for that care. Indeed, Connecticut's state-funded State HUSKY program would provide coverage, as is required under state law. As a result, for each child that would be eligible for CHIP but for their new non-citizen status, the State will lose the 65% federal reimbursement for any care provided—solely because the child, now as a non-citizen, would not be eligible for CHIP.

27. This poses a risk to DSS's federal funding stream used to provide healthcare coverage to vulnerable Connecticut newborns and children. Based on DSS's most recent data for 2024, there were over 5,500 children born who were eligible for HUSKY and born to mothers who qualified for state-funded postpartum coverage because the mother could not qualify for Medicaid due to their immigration status. If the children covered under Medicaid and CHIP became ineligible due to a loss of citizenship and moved to the State-funded coverage, that would result in a loss of over \$10,000,000 in federal reimbursements to Connecticut and a corresponding increase to State expenditures of the same amount.
28. In order to respond and update its practices in light of the federal government's new policy, DSS will also need to develop updated comprehensive training for staff, partners, and healthcare providers. For example, DSS will need to update its training and guidance around which children are citizens and therefore eligible for Medicaid and CHIP programs, and which must be funneled into state-only programs. DSS will also need to change its verification processes, acquire more information from parents, pursue absent parents, change its computer systems, and in so doing significantly increase both the number of staff required to conduct this eligibility work and delay the enrollment process for families. This is a significant burden for the State, children, parents, and healthcare providers. This will require additional eligibility units comprised of eligibility workers and supervisory staff. For every additional eligibility unit that would need to be brought on to support the additional work, it will cost the state approximately \$1,700,000. Because of the burden of revamping a program of this size and complexity, adjusting to the federal government's new policy and ensuring coverage for all needy newborns in Connecticut would likely take one year at a minimum. It may also require additional legislative

solutions at the state level, including the allocation of additional state funds to operationalize this dramatically changed interpretation of citizenship.

Impact on School-Based Health Services

29. In addition, and upon information and belief, local education agencies (LEAs) within the State serve all school-age children, regardless of their immigration status. Within DSS, the Division of Health Services administers federal Medicaid funds to LEAs to support crucial education initiatives and provide essential services to students. Upon information and belief, school-based health services (SBHS) refer broadly to medical services provided to all students in a school setting, such as on-site school nurses, behavioral health counselors, and preventative health screenings for visual and auditory acuity. All Connecticut LEAs are required to provide certain SBHS free of charge to all students, regardless of their immigration or insurance status.
30. Upon information and belief, Section 1903(c) of the Social Security Act has authorized the federal Medicaid program to reimburse LEAs for medically necessary SBHS provided to Medicaid-eligible students with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., provided the services were delineated in the student's individualized education program (IEP) (or similar plan) and covered in the State plan for Medicaid. IDEA requires LEAs to develop an IEP for children found eligible for special education and related services. An IEP identifies certain special education and related services, and program modifications and supports, that the LEA will provide a child with a disability.
31. Upon information and belief, in SFY 2023 there were over 25,000 unique Medicaid recipients identified as obtaining services claimed under Medicaid related to SBHS. For

SFY 2023, and upon information and belief, quarterly statistics submitted by the LEAs to DSS indicate a total of approximately 22,800 Medicaid-eligible special educated students with medical services in their IEP/504 plans. Upon information and belief, in SFY 2022, total LEA gross costs were approximately \$61 million, of which federal Medicaid reimbursed 50%, or approximately \$30.5 million. The State retained 50% of the federal reimbursement, or approximately \$15.25 million, with the remainder passed on to the LEAs.

32. If birthright citizenship was revoked, impacted students with disabilities—who would have otherwise qualified for federally-funded Medicaid—would lose that eligibility and thus there would be no federal matching support. LEAs would thus not receive any reimbursement funds for provision of SBHS to those students, increasing the State's net costs. A change to birthright citizenship would also increase the population of undocumented children, some percentage of whom would very likely have disabilities that require SBHS and would have been eligible for partially federally-funded Medicaid but for their immigration status. The costs of providing those services would be borne by the State of Connecticut and LEAs without any federal Medicaid reimbursement.

I declare under penalty of perjury under the laws of the State of Connecticut and the United States of America that the foregoing is true and correct.

Executed this 21<sup>st</sup> day of January 2025, in New Haven, Connecticut.

 Peter Hadler  
Digitally signed by Peter Hadler  
DN: cn=Peter Hadler, o=DSS, ou=Deputy  
Commissioner, email=peter.hadler@ct.gov, c=US  
Date: 2025.01.21 07:32:04 -05'00'

---

Peter Hadler, Deputy Commissioner  
Connecticut Department of Social Services

# **EXHIBIT S**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al.,

:

Plaintiffs,

:

v.

:

DONALD J. TRUMP, et al.,

Civil Action No.: 25-cv-10139

:

Defendants.

:

:

:

---

## **DECLARATION OF YVETTE GAUTHIER**

I, Yvette Gauthier, hereby declare:

1. I am State Registrar of Vital Records of the Connecticut Department of Public Health, a position I have held since 2022. As State Registrar of Vital Records, I am responsible for the supervision of the State-wide vital records data collection system. Prior to holding this position, I was the Health Program Supervisor of the Office of Vital Records.
2. As Registrar of Vital Records, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.

### Connecticut Department of Public Health

3. Connecticut Department of Public Health's mission is to protect and improve the health and safety of the people of Connecticut by assuring the conditions in which people can be healthy; preventing disease, injury and disability, and promoting the equal enjoyment of the highest attainable standard of health, which is a human right and a priority of the State. To support that goal, Connecticut Department of Public Health performs many functions, including regulating healthcare facilities and overseeing the Office of Vital Records (OVR), which facilitates the registration of vital events such as births.

### Registration and Birth Certificates of Newborns

4. Healthcare facilities coordinate with OVR to collect information to register a child's birth.
5. When a child is born in a healthcare facility, a medical attendant to the birth is statutorily obligated to register the birth. They must provide the newborn's parents with a Birth Certificate Worksheet that asks for several pieces of information, including the parents' place

of birth and Social Security Numbers (SSNs). The Worksheet does not inquire about the parents' citizenship or immigration status.

6. If the parents do not have SSNs, or do not wish to share them, they can leave that field blank. Their omission of that information does not affect the newborn's ability to obtain a birth certificate.
7. After the newborn's parents complete and sign the Worksheet, hospital staff enter the information from the Worksheet into an electronic birth system (ConnVRS) maintained by OVR. Local Registrars in the town of Birth then create and register the birth certificate with the State. Neither OVR nor Local Registrars have a duty to verify the accuracy of the information submitted by the parent(s) on the Worksheet.
8. A newborn's completed birth certificate does not indicate whether the parents have an SSN. The only information on the parents is the mother's legal name and previous name, the father's full name (if provided), their places and dates of birth, mother's residence and mailing address(es). Currently, it is not possible to determine a foreign-born parent's citizenship or immigration status from their child's birth certificate.
9. If the newborn registration process had to be amended to require the Department to verify the parents' citizenship and/or immigration status, this would impose substantial administrative burdens on the Department. Assuming this burden would further lead to delays in registration and issuance of the newborn's birth certificate.
10. Connecticut currently receives funding from the National Center for Health Statistics (NCHS), which is a unit of the Centers for Disease Control and Prevention, for sharing its statistical birth data with NCHS. NCHS annually allocates funds to states based on the number and quality of birth records provided. If the births of children born to two foreign

born parents were not recorded, the State estimates that it would lose approximately 20% of its NCHS funding.

11. The State received \$341,280 from NCHS for its 2023 birth records. A loss of 20% in funding would total \$68,256.

Application for Social Security Number of Newborns

12. While registering a newborn for a birth certificate at a healthcare facility, parents may also complete an application for an SSN for the newborn through a Social Security Administration (SSA) program called Enumeration at Birth (EAB).
13. The EAB process is voluntary for families, but according to SSA, about 99% of SSNs for infants are assigned through this program.
14. Under the EAB process, the healthcare facility provides parents with an application form to request an SSN for their child.
15. The EAB application asks for the parents' SSNs. Parents born outside the United States can apply for and receive an SSN for their child without including their own SSNs on the application. Currently, because children born in the United States are U.S. citizens, they are eligible for SSNs regardless of their parents' citizenship or immigration status.
16. After a healthcare facility receives a completed SSN application, it submits electronically the information from the application and a request for an SSN to OVR, which then transmits that information and request to SSA. OVR only sends EAB records to SSA for enumeration of infants born within the past 12 months. OVR does not have a duty to verify the information submitted by the parent(s) on the EAB application.
17. Connecticut Department of Public Health receives federal funding from the SSA EAB process on a quarterly basis for each SSN that is issued through the EAB process. The

Department receives \$4.82 per SSN issued through the EAB process, or approximately \$45,000 per quarter. OVR uses those funds to support the payment of administrative and operational costs.

18. Assuming that SSA would not issue an SSN to a child born in the United States if the child's parents were undocumented, OVR estimates approximately 7,400 fewer SSNs annually would be issued. This estimate is based on the number of births for which the parents identified a foreign place of birth on the Birth Certificate Worksheet in 2023 (7,380 births) and in 2024 (7,704 births).
19. If approximately 7,400 fewer SSNs were issued through the EAB process due to the revocation of birthright citizenship, this would result in an annual loss of EAB funding to the Connecticut Department of Public Health of approximately \$35,668.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 17th day of January, 2025, in Hartford, Connecticut.

**Yvette  
Gauthier**

Digitally signed by  
Yvette Gauthier  
Date: 2025.01.17  
14:03:37 -05'00'

Yvette Gauthier, State Registrar of Vital  
Records  
Connecticut Department of Public  
Health/Office of Vital Records

# **EXHIBIT T**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, et al. :

Plaintiffs, :

v. :

DONALD J. TRUMP, et al. :

Defendants. :

Civil Action No.: 25-cv-10139

---

**DECLARATION OF TOM WONG**

I, Tom Wong, hereby declare:

1. I am over the age of 18, competent to testify as to the matters herein, and make this declaration based on my personal knowledge. If called to testify as a witness, I could and would testify competently to the matters set forth below.

2. I am a tenured Associate Professor at the University of California, San Diego (UCSD). I work in the Political Science Department, which U.S. News & World Report consistently ranks as one of the top ten political science departments nationally. I first joined the Department at UCSD in 2012 and became an Associate Professor with tenure in 2016. At UCSD, I am the Director of the U.S. Immigration Policy Center (USIPC), which I founded in 2018, and the Director of the Human Rights and Migration Studies Program Minor.

3. Prior to this, I served as an advisor to the White House Initiative on Asian Americans and Pacific Islanders (WHIAAPI), where I co-led on the immigration portfolio, during the 2015-2016 academic year. I received a Ph.D. in Political Science from the University of California, Riverside in 2011.

4. I am an expert on U.S. immigration policy. I have written two peer-reviewed books and dozens of peer-reviewed journal articles, book chapters, and reports on this subject. My most recent article represents one of the first randomized survey experiments done on a sample of undocumented immigrants that sheds light on how local cooperation with federal immigration enforcement officials affects the day-to-day behaviors of unauthorized immigrants.

5. In my work, I regularly estimate the size and the characteristics of the unauthorized immigrant population using U.S. Census American Community Survey (ACS) microdata. This work has been used in my academic publications, reports that I have written for think tanks, white papers written for Congressional offices, and in sworn testimony that I have given to the Senate Judiciary Committee on immigration-related matters. Substantively, this work involves comparing outcomes between U.S. citizens and those without legal status, which is the core of the analysis I present below.

6. I have attached a true and complete copy of my curriculum vitae as **Exhibit 1** to this Declaration, which includes a list of all of my publications over the past ten years.

7. I have been retained by the State of California to analyze data related to possible impacts of denying birthright citizenship to certain children born in the United States. I share my opinions below of how the denial of birthright citizenship will impact children who are born non-citizens, the methodology and analysis I conducted to reach those opinions, and the data used to demonstrate differences across multiple social and economic indicators to compare outcomes for U.S. citizens versus non-citizens.

8. I understand that the federal government has taken action to deny birthright citizenship to certain children born to undocumented parents. In my opinion, denying birthright citizenship to children born in the U.S., but who have undocumented parents, will create a class

of people whose societal and economic integration will be severely impaired throughout the course of their entire lifetimes. One way to evaluate this impact is to compare outcomes between U.S. citizens and those who live in the U.S. without legal status. Indeed, the status quo gives U.S. citizenship to children born in the U.S., but who have undocumented parents. Denying birthright citizenship to these children would make them unauthorized immigrants just like their parents.

9. In the analysis below, I use the Warren (2014) method<sup>1</sup> to estimate likely unauthorized immigrants in the 2023 American Community Survey (ACS) microdata one-year file.<sup>2</sup> I then compare outcomes between U.S. citizens and those who live in the U.S. without legal status across a range of indicators of societal and economic integration. The data show clear patterns, wherein unauthorized immigrants do worse when compared to U.S. citizens across these indicators of societal and economic integration. This confirms the conclusion that denying birthright citizenship to children born in the U.S. to undocumented parents will create a class of people who are excluded from U.S. citizenship and are thus not able to realize their full potential. Not only would this newly created underclass of people stand to lose, but American society and the economy would also be harmed from their lack of societal and economic integration.

### **Indicators of Societal and Economic Integration**

10. Living in the U.S. without legal status means having to live with the constant fear of deportation and the absence of work authorization. But living “in the shadows,” as unauthorized immigrants do, affects societal and economic integration in numerous other ways. One indicator of societal integration is whether a person is in school. Another indicator of

---

<sup>1</sup> Warren, Robert. “Democratizing data about unauthorized residents in the United States: Estimates and public-use data, 2010 to 2013.” *Journal on Migration and Human Security* 2, no. 4 (2014): 305-328.

<sup>2</sup> This represents the most recently available ACS microdata.

societal integration is educational attainment. These two indicators speak to human capital, wherein more people who are in school and more educational attainment mean more human capital accrues to society. Indicators of economic integration are whether a person is employed, income, and poverty. These three indicators speak to economic contributions, wherein higher employment, higher income, and lower poverty, mean higher economic contributions. I discuss each indicator and differences between U.S. citizens and unauthorized immigrants below.

11. **School.** Regarding whether a person is in school, the data show clearly that U.S. citizens are significantly more likely to be in school when compared to likely unauthorized immigrants. For example, for U.S. citizens between the ages of eighteen and twenty-four, 48.2 percent are in school. For likely unauthorized immigrants between the ages of eighteen and twenty-four, only 26.4 percent are in school. This 21.8 percent difference is highly statistically significant. As Table 1 shows, not only are U.S. citizens significantly more likely to be in school when compared to likely unauthorized immigrants, but this pattern holds across all age groups.

**Table 1**

Age Group	% In School – U.S. Citizen	% In School – Likely Unauthorized Immigrant
<b>18-24</b>	48.2%	26.4%
<b>25-34</b>	10.2%	4.6%
<b>35-44</b>	5.1%	2.3%
<b>45-54</b>	3.0%	1.6%
<b>55-64</b>	1.5%	1.0%
<b>65+</b>	0.7%	0.5%

12. **Educational Attainment.** In terms of educational attainment, I analyze differences between U.S. citizens and likely unauthorized immigrants when it comes to whether a person has a high-school diploma. The data show clearly that U.S. citizens are significantly more likely to have a high-school diploma when compared to likely unauthorized immigrants. For example, for U.S. citizens between the ages of eighteen and twenty-four, 77.5 percent have a high-school diploma. For likely unauthorized immigrants between the ages of eighteen and twenty-four, only 59.6 percent have a high-school diploma. This 17.9 percent difference is highly statistically significant. As Table 2 shows, not only are U.S. citizens significantly more likely to have a high-school diploma when compared to likely unauthorized immigrants, but this pattern also holds across all age groups. The gap between the percentage of U.S. citizens who have a high-school diploma and the percentage of likely unauthorized immigrants who have a high-school diploma is widest at the sixty-five and older age group. More specifically, for U.S. citizens who are sixty-five or older, 73.7 percent have a high-school diploma. For likely unauthorized immigrants who are sixty-five or older, only 29.7 percent have a high-school diploma. This 44.0 percent difference is highly statistically significant.

**Table 2**

<b>Age Group</b>	<b>% High-School Diploma – U.S. Citizen</b>	<b>% High-School Diploma – Likely Unauthorized Immigrant</b>
<b>18-24</b>	77.5%	59.6%
<b>25-34</b>	81.3%	55.0%
<b>35-44</b>	76.5%	43.7%
<b>45-54</b>	75.6%	38.0%
<b>55-64</b>	75.8%	38.9%
<b>65+</b>	73.7%	29.7%

13. **Employment.** When it comes to employment, employment rates are largely similar when comparing U.S. citizens to likely unauthorized immigrants. Table 3 shows employment rates for those who are in the labor force for U.S. citizens and likely unauthorized immigrants by age group.

**Table 3**

Age Group	% Employed – U.S. Citizen	% Employed – Likely Unauthorized Immigrant
<b>18-24</b>	91.1%	92.2%
<b>25-34</b>	95.7%	96.6%
<b>35-44</b>	96.5%	96.8%
<b>45-54</b>	97.0%	96.9%
<b>55-64</b>	97.3%	96.5%
<b>65+</b>	97.3%	96.6%

14. **Annual Total Income.** Despite similar employment rates, income varies significantly between U.S. citizens and likely unauthorized immigrants, which demonstrates the gap in earning potential for unauthorized workers. This makes vivid the “undocumented penalty” that comes with living in the U.S. without legal status. Regarding annual total income, the data show clearly that U.S. citizens earn significantly more annual total income when compared to likely unauthorized immigrants. For example, for U.S. citizens between the ages of eighteen and twenty-four, average annual total income is \$24,899.43. For likely unauthorized immigrants between the ages of eighteen and twenty-four, average annual total income is \$23,857.68. This \$1,041.75 difference is highly statistically significant. Despite annual total income being higher

for likely unauthorized immigrants between the ages of twenty-five and thirty-four when compared to U.S. citizens between the ages of twenty-five and thirty-four, the income disadvantage for unauthorized immigrants grows and becomes more significant over time. For U.S. citizens between the ages of thirty-five and forty-four, average annual total income is \$69,623.08. For likely unauthorized immigrants between the ages of thirty-five and forty-four, average annual total income is \$63,236.55. This \$6,386.53 difference is highly statistically significant. Between the ages of forty-five and fifty-four, the income disadvantage for unauthorized immigrants is at its widest. For U.S. citizens between the ages of forty-five and fifty-four, average annual total income is \$75,845.63. For likely unauthorized immigrants between the ages of forty-five and fifty-four, average annual total income is \$52,534.81. This \$23,310.82 difference is highly statistically significant. As Table 4 shows, the income disadvantage for unauthorized immigrants persists for the rest of their working lifetimes.

**Table 4**

<b>Age Group</b>	<b>Annual Total Income – U.S. Citizen</b>	<b>Annual Total Income – Likely Unauthorized Immigrant</b>
<b>18-24</b>	\$24,899.43	\$23,857.68
<b>25-34</b>	\$50,902.85	\$55,784.47
<b>35-44</b>	\$69,623.08	\$63,236.55
<b>45-54</b>	\$75,845.63	\$52,534.81
<b>55-64</b>	\$65,276.56	\$45,249.78
<b>65+</b>	\$48,638.26	\$29,591.35

15. **Poverty.** Lastly, the data show clearly that poverty is more pronounced among likely unauthorized immigrants when compared to U.S. citizens. For example, whereas 15.6 percent of U.S. citizens between the ages of eighteen and twenty-four live at or below the federal poverty line, the commensurate percentage for likely unauthorized immigrants between the ages of eighteen and twenty-four is 18.0 percent. This 2.4 percent difference is highly statistically significant. As Table 5 shows, the poverty disadvantage for unauthorized immigrants persists across all age groups except for likely unauthorized immigrants between the ages of fifty-five and sixty-four. As Table 5 also shows, the poverty disadvantage for unauthorized immigrants is widest for unauthorized immigrants sixty-five years and older. Whereas 10.4 percent of U.S. citizens sixty-five years and older live at or below the federal poverty line, the commensurate percentage for likely unauthorized immigrants sixty-five years and older is 15.9 percent. This 5.4 percent difference is highly statistically significant.

**Table 5**

Age Group	% Poverty – U.S. Citizen	% Poverty – Likely Unauthorized Immigrant
18-24	15.6%	18.0%
25-34	8.5%	9.9%
35-44	8.1%	10.5%
45-54	7.3%	8.2%
55-64	9.5%	7.7%
65+	10.4%	15.9%

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of January, 2025, in Belize.

A handwritten signature in black ink, appearing to read "TKW".

---

Dr. Tom K. Wong

# EXHIBIT 1

**TOM K. WONG, PH.D.**  
Email: [tomkwong@ucsd.edu](mailto:tomkwong@ucsd.edu) | Cell: (951) 907-9989

---

## APPOINTMENTS

2019 - **DIRECTOR, U.S. IMMIGRATION POLICY CENTER (USIPC)**  
University of California, San Diego

2018 - 2021 **APPOINTED MEMBER (GUBERNATORIAL APPOINTMENT)**  
**STATE OF CALIFORNIA CENSUS COMPLETE COUNT COMMITTEE**

2017 - **ASSOCIATE PROFESSOR (W/TENURE), POLITICAL SCIENCE**  
University of California, San Diego

2016 **ADVISOR, IMMIGRATION PORTFOLIO**  
**WHITE HOUSE INITIATIVE ON ASIAN AMERICANS AND PACIFIC ISLANDERS**

2016 - **SENIOR FELLOW**  
**CENTER FOR AMERICAN PROGRESS**

2013 - **DIRECTOR, INTERNATIONAL MIGRATION STUDIES PROGRAM MINOR**  
**CO-DIRECTOR, HUMAN RIGHTS AND MIGRATION PROGRAM MINOR**  
University of California, San Diego

2012 - 2017 **ASSISTANT PROFESSOR, POLITICAL SCIENCE**  
University of California, San Diego

---

## EDUCATION

2011 **PH.D. IN POLITICAL SCIENCE**  
University of California, Riverside

2005 **B.A. IN POLITICAL SCIENCE**  
University of California, Riverside  
*Magna Cum Laude*

---

## BOOKS

(2) Tom K. Wong. 2017. *The Politics of Immigration: Partisanship, Changing Demographics, and American National Identity*. Oxford University Press.  
[NPR](#), [ABC News/Yahoo.com](#), [LA Times](#), [Univision](#), [Monkey Cage](#)

(1) Tom K. Wong. 2015. *Rights, Deportation, and Detention in the Age of Immigration Control*. Stanford University Press.

## JOURNAL ARTICLES

---

(11) Tom K. Wong and Karina Shklyan. 2024. "The Impact of Interior Immigration Enforcement on the Day-to-Day Behaviors of Undocumented Immigrants," *Journal of Race, Ethnicity, and Politics*. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, KS]

(10) Tom K. Wong, Andrea Silva, and Karina Shklyan. 2022. "The Effect of Intergovernmental Policy Conflict on Immigrants' Behavior: Evidence from a Survey Experiment in California," *Publius* vol. 52 no. 1: 107-132. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, AS, KS]

(9) Tom K. Wong, S. Deborah Kang, Carolina Valdivia, Josefina Espino, Michelle Gonzalez, and Elia Peralta. 2021. "How Interior Immigration Enforcement Affects Trust in Law Enforcement," *Perspectives on Politics* vol. 19 no. 2: 357-370. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, SDK, CV, JE, MG, EP]

(8) Justin Gest, Ian M. Keysil, and Tom K. Wong. 2019. "Protecting and Benchmarking Migrants' Rights: An Analysis of the Global Compact for Safe, Orderly and Regular Migration," *International Migration* <https://doi.org/10.1111/imig.12635> [Equal contributions from all authors]

(7) Tom K. Wong, Angela Garcia, and Carolina Valdivia. 2018. "The Political Incorporation of Undocumented Youth," *Social Problems* vol. 66 no. 3: 356-372. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, AG, CV]

(6) Tom K. Wong and Hillary Kosnac. 2017. "Does the Legalization of Undocumented Immigrants in the US Encourage Unauthorized Immigration from Mexico? An Empirical Analysis of the Moral Hazard of Legalization," *International Migration* vol. 55 no. 2: 159-173. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, HK]

(5) Tom K. Wong and Angela Garcia. 2016. "Does Where I Live Affect Whether I Apply? The Contextual Determinants of Applying for Deferred Action for Childhood Arrivals (DACA)," *International Migration Review* vol. 50 no. 3: 699-727. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, AG] [C-Span](#), [Associated Press](#)

(4) Tom K. Wong, Donald Kerwin, Jeanne M. Atkinson, and Mary Meg McCarthy. 2014. "Paths to Lawful Immigration Status: Results and Implications from the PERSON Survey," *Journal of Migration and Human Security* vol. 2 no 4: 287-304. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, DW, JMA, MMM] [NBC News.com](#)

(3) Tom K. Wong. 2014. "The Politics of Interior Immigration Enforcement," *California Journal of Politics and Policy* vol. 6 no 3: 381-399.

(2) Tom K. Wong and Justin Gest. 2013. "Organizing Disorder: Indexing Migrants' Rights and International Migration Policy," *Georgetown Immigration Law Journal* vol. 28 no 1: 257-269. [Equal contributions from all authors]

(1) Tom K. Wong. 2012. "The Politics of Interior Immigration Control in the United States: Explaining Local Cooperation with Federal Immigration Authorities," *Journal of Ethnic and Migration Studies* vol. 38 no. 5: 737-756.

## POLICY REPORTS

---

(23) Tom K. Wong. 2024. *Expanded Legal Pathways to Enter the U.S. Reduce Irregular Migration*. Washington D.C.: Center for American Progress.

(22) Tom K. Wong. 2023. *Lives in Danger: Seeking Asylum Against the Backdrop of Increased Border Enforcement*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego.

(21) Tom K. Wong, Maya Lu, and Lily Amirjavadi. 2022. *New American Voters 2022: Harnessing the Power of Naturalized Citizens*. Chicago, IL and La Jolla, CA: National Partnership for New Americans (NPNA) and U.S. Immigration Policy Center (USIPC) at UC San Diego. [Research Design: TKW; Analysis: TKW, ML, LA; Literature Review: TKW]

(20) Tom K. Wong, et al. 2022. *Survey of DACA Recipients Underscores the Importance of a Pathway to Citizenship*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(19) Tom K. Wong, et al. 2020. *Do TPS Designations Increase Irregular Migration to the United States?* Washington, D.C.: Center for American Progress.

(18) Tom K. Wong, et al. 2020. *Nepali TPS Holders Make Significant Contributions to America*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(17) Tom K. Wong et al. 2020. *Amid Changes to the DACA Program and COVID-19, DACA Recipients are Fired Up and Civically Engaged*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(16) Tom K. Wong. 2020. *COVID-19 and the Remaking of U.S. Immigration Policy? Empirically Evaluating the Myth of Immigration and Disease*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego

(15) Tom K. Wong et al. 2019. *DACA Recipients' Livelihoods, Families, and Sense of Security Are at Stake This November*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(14) Tom K. Wong and Vanessa Ceceña. 2019. *Seeking Asylum: Part 2*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego. [Research Design: TKW; Analysis: TKW; Literature Review: TKW]

(13) Tom K. Wong, Sebastian Bonilla, and Anna Coleman. 2019. *Seeking Asylum: Part 1*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego. [Research Design: TKW; Analysis: TKW; Literature Review: TKW]

(12) Tom K. Wong, Jeremiah Cha, and Erika Villareal-Garcia. 2019. *The Impact of Changes to the Public Charge Rule on Undocumented Immigrants Living in the U.S.* La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, JC]

(11) Tom K. Wong, et al. 2019. *Deterrence, Displacement, and Death: The Impact of the Border Wall on Undocumented Immigration*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(10) Tom K. Wong, et al. 2019. *Fractured Federalism: How Dissonant Immigration Enforcement Policies Affect Undocumented Immigrants*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(9) Tom K. Wong, et al. 2019. *How Interior Immigration Enforcement Affects Trust in Law Enforcement* La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(8) Tom K. Wong. 2018. *Do Family Separation and Detention Deter Immigration?* Washington, D.C.: Center for American Progress.

(7) Tom K. Wong et al. 2018. *Amid Legal and Political Uncertainty DACA Remains More Important Than Ever*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(6) Tom K. Wong et al. 2017. *DACA Recipients' Economic and Educational Gains Continue to Grow*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(5) Tom K. Wong. 2017. *The Effects of Sanctuary Policies on Crime and the Economy*. Washington, D.C.: Center for American Progress.

(4) Tom K. Wong et al. 2016. *New Study of DACA Beneficiaries Shows Positive Economic and Educational Outcomes*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(3) Tom K. Wong et al. 2015. *Results from a Nationwide Survey of DACA Recipients Illustrate the Program's Impact*. Washington, D.C.: Center for American Progress. [Research Design: TKW; Analysis: TKW; Literature Review: TKW, et al.]

(2) Tom K. Wong. 2014. *Statistical Analysis Shows that Violence, Not Deferred Action, Is Behind the Surge of Unaccompanied Children Crossing the Border*. Washington, D.C.: Center for American Progress.

(1) Tom K. Wong. 2013. *Undocumented No More: A Nationwide Analysis of Deferred Action for Childhood Arrivals (DACA)*. Washington, D.C.: Center for American Progress.

## BOOK CHAPTERS

---

(5) James Hollifield and Tom K. Wong. 2022. "The Politics of International Migration." In *Migration Theory: Talking Across Disciplines* (4<sup>th</sup> edition), edited by Caroline B. Brettell and James F. Hollifield. Routledge.

(4) Tom K. Wong. 2014. "Conceptual Challenges and Contemporary Trends in Immigration Control." In *Controlling Immigration: A Global Perspective* (3<sup>rd</sup> edition), edited by James F. Hollifield, Philip Martin, and Pia Orrenius. Stanford University Press.

(3) Tom K. Wong. 2014. "Nation of Immigrants or Deportation Nation? Analyzing Deportations and Returns in the United States, 1892-2010." In *The Nation and Its Peoples: Citizens, Denizens, and Migrants*, edited by John S.W. Park and Shannon Gleeson. Routledge.

(2) James F. Hollifield and Tom K. Wong. 2014. "The Politics of International Migration: How Can We 'Bring the State Back In?'" In *Migration Theory: Talking Across Disciplines* (3<sup>rd</sup> edition), edited by Caroline B. Brettell and James F. Hollifield. Routledge.

(1) Karthick Ramakrishnan and Tom K. Wong. 2010. "Partisanship, Not Spanish: Explaining Municipal Ordinances Affecting Undocumented Immigrants." In *Taking Local Control: Immigration Policy Activism in U.S. Cities and States*, edited by Monica W. Varsanyi. Stanford University Press.

## WORKS UNDER REVIEW/IN PROGRESS (SELECTED LIST)

---

(Book Project) DACA: Undocumented Youth and the Politics of Immigrant Illegality

This project leverages nearly a decade of surveying DACA recipients about their economic, societal, and civic integration. These surveys span the Obama, Trump, and Biden administrations, and include both the periods before and after the rescission of DACA. [NPR](#), [CNN](#), [Washington Post](#), [New York Times](#), [NBC News](#), [CNBC](#), [Atlantic](#), [Vox](#), [Forbes](#), [538](#), [Politifact](#), [WNYC](#), [C-Span](#), [Associated Press](#)

(Book Project) The Impact of Immigration Enforcement on Undocumented Immigrants.

This project draws from a first-of-its-kind probability-based survey of undocumented immigrants. This project includes several survey experiments that uncover how the day-to-day behaviors of undocumented immigrants, as well as the trust that they have in public institutions, is affected by differential levels of local law enforcement cooperation with federal immigration enforcement officials. [Washington Post](#), [NPR](#), [KPBS](#), [USA Today](#), [City Lab](#), [Chicago Tribune](#), [Factcheck.org](#)

(Book Project) Tom K. Wong. "Immigration, White Nationalism, and the Great Replacement Theory: Who Believes, Why do They Believe, and What Can be Done."

The Great Replacement Theory is a conspiracy theory subscribed to be White nationalists that states that immigration is being used to replace the native-born White population in the U.S. with people of color (i.e., "White genocide"). Previously relegated to the fringes of American society, the Great Replacement Theory has emerged as a serious threat to pluralistic values, as recent mass shootings wherein shooters have left manifestos espousing the Great Replacement Theory have made clear. News media and other polling suggest that as many as one-third of Republicans (Washington Post) or one-half of native-born White Americans (SPLC) believe in some variant of the Great Replacement Theory. This book project examines the determinants of belief in the Great Replacement Theory, explores why individuals believe that immigration is being weaponized to replace native-born Whites, the extent to which those who believe are willing to resort to political violence, and what can be done to stop this.

## RESEARCH GRANTS (AS FACULTY MEMBER)

---

- \$800,000, Coulter Foundation, "U.S. Immigration Policy Center," 2021-2024
- \$150,000, Private Donor, "U.S. Immigration Policy Center," 2021-2023
- \$820,000, Multiple Funders, "U.S. Immigration Policy Center," 2019-2021
- \$341,127, Multiple Funders, "U.S. Immigration Policy in the 21<sup>st</sup> Century," 2017-2019
- \$22,500, UCSD USMEX Fellowship, 2016-2017
- \$16,000, UCLA Institute for Research on Labor and Employment, 2015-2016
- \$365,000, MacArthur Foundation, 2015-2017 (partially awarded, terminated after the DAPA program was enjoined by the U.S. Supreme Court)
- \$25,000, UCSD Frontiers of Innovation Scholars Program Grant, 2015-2016
- \$15,000, UCSD Faculty Career Development Program Grant, 2014-2015
- \$30,000, Unbound Philanthropy, 2014
- \$100,000, U.S. Department of Homeland Security (DACA), 2013
- \$30,000, Center for American Progress, 2013
- \$10,000, UCSD Center for International, Comparative, and Area Studies Grant, 2013
- \$10,000, UCSD Academic Senate, 2013
- \$1,500, UCSD Diversity, Equity, and Inclusion Grant, 2013

## TEACHING AT UCSD

---

- Diversity, Equity, and Inclusion Teaching Award, 2014-2015
- The Politics of Immigration (upper-division, 280 students)
- International Human Rights Law: Rights of Migrants (upper-division, 200 students)
- The Politics of Multiculturalism (upper-division, 100 students)
- Immigration Politics and Policy (graduate seminar, 4 students)
- Undergraduate Honors Seminar (upper-division, 15 students)

## INVITED PRESENTATIONS — (LAST UPDATED 6/2018)

---

2018 | “Surveying Undocumented Immigrants.” UC Berkeley, June 12, 2018.

“The Integration of DACA Recipients.” Scripps College, May 3, 2018.

“The Impact of the Trump Administration’s Immigration Policies on Undocumented Immigrants: Evidence from Survey Experiments.” Race, Ethnicity, and Politics Workshop, Northwestern University, April 13, 2018.

“Immigrant Political Incorporation.” UC Migration Conference, UCSD, March 2, 2018.

“The Future of DACA.” Columbia University, February 22, 2018.

“Immigration and DACA in the Age of Uncertainty, Middlebury College, February 20, 2018.

2017 | “The Future of U.S. Immigration Policy in the Age of Trump.” Citizenship and Equality Colloquium, University of Colorado, November 16, 2017.

“The Determinants and Effects of Sanctuary Policies.” Cornell University, November 9-10, 2017.

“The Determinants and Effects of Sanctuary Policies.” Presentation at the 2017 APPAM Fall Research Conference, Chicago, IL, November 2-4, 2017.

“Immigration and the U.S. Constitution.” Seminar at the Robert H. Smith Center for the Constitution at James Madison’s Montpelier, Orange, VA, July 31-August 2, 2017.

“The Determinants of U.S. Immigration Policy.” University of California, Santa Barbara, June 1, 2017.

“Paths to Legal Status for Undocumented Immigrants.” Presentation at the CLINIC annual conference, Atlanta, GA, May 25, 2017.

“The Effects of Sanctuary Policies on Crime and the Economy.” Presentation at the Sanctuary Cities Convening, New York City Council, New York, NY, March 27-28, 2017.

“The Future of U.S. Immigration Policy in the Age of Trump.” Yankelovich Center for Social Science Research, University of California, San Diego, March 15, 2017.

“Child Migration.” World Migration Report workshop, International Organization for Migration (IOM) Geneva, Switzerland, March 9-10, 2017.

“The Politics of Immigration.” American Academy of Arts and Sciences, San Diego Program Committee, University of California, San Diego, February 9, 2017.

**2016 |** “Post-Election Panel.” Center for Comparative Immigration Studies (CCIS), University of California, San Diego, November 21, 2016.

“Mobilizing Immigrant Communities in the Age of Trump.” Tulane University, October 14, 2016.

“Immigrant Integration and the Obama Administration: DACA, DAPA, and Implications for the 2016 Presidential Election.” Institute for Research on Labor and Employment, UCLA, April 28, 2016.

“Mobilizing Low-Propensity Voters of Color: Towards an Electorate That Reflects a Changing America.” Presentation at the Asian Americans Advancing Justice conference, Los Angeles, CA, March 31, 2016.

“Immigrants in American Society.” Presentation at KPBS, San Diego, CA, March 21, 2016.

“Immigration Policy.” Presentation to Mi Familia Vota, Riverside, CA, January 14, 2016.

**2015 |** “The European Refugee Crisis.” Center for Comparative Immigration Studies (CCIS), the European Studies Program, the Lifelong Learning Program of the EU, and the Scholars Strategy Network (SSN), University of California, San Diego, October 27, 2015.

“U.S. Immigration Politics and the 2016 Presidential Election.” Presentation at the Wilson Center, Washington DC, October 26, 2015.

“The Political Incorporation of Undocumented Youth.” Presentation at the “Challenging Borders” conference, University of California, Riverside, October 23, 2015.

“The Consequences of Inequality: Why Does it Matter and How.” Symposium on Capital in the 21st Century with Thomas Piketty, University of California, San Diego, October 22, 2015.

“U.S. Immigration Politics and Policy.” Presentation at the U.S. Consulate in Tijuana, October 13, 2015.

“UC National Summit on Undocumented Students.” University of California Office of the President, May 7-8, 2015.

“Irregular Migration.” Presentation at the “Politics and Policies of International Migration: Europe and the U.S.” conference, Université Libre de Bruxelles, Belgium, April 28-29, 2015.

“Opportunities and Limits of the Executive Actions Proposed by President Obama.” Presentation at the Mexican Ministry of Foreign Affairs, Mexico City, Mexico, April 13-14, 2015.

“Administrative Relief Implementation and Impact Project.” Presentation at the Center for Migration Studies (CMS), New York, NY, March 25, 2015.

“Research Roundtable.” Presentation at the “Ready America: Implementing Immigration Action” conference, Washington DC, February 9-11, 2015.

**2014 |** “Insights from Implementing DACA for Administrative Relief.” Presentation at the National Immigrant Integration Conference, Los Angeles, CA, December 16, 2014.

“Deferred Action for Childhood Arrivals.” American Immigration Council (AIC), Washington, D.C., November 7, 2014.

“Immigration Policy and the November 2014 Midterm Elections.” California Immigrant Policy Center (CIPC), October 29, 2014.

“The Many Paths to Legal Status: Results and Implications from the PERSON Survey.” Presentation to the Center for Migration Studies (CMS), New York, NY, September 29, 2014.

“The Congressional Politics of Interior Immigration Enforcement.” Presentation at the “Migration During Economic Downturns” workshop, German Historical Institute, Washington, DC, April 4-5, 2014.

“Mapping DACA Renewals.” Presentation to U.S. Citizenship and Immigration Services (USCIS), March 13, 2014.

“Latino Politics: Left, Right, or Down the Middle?” Presentation at the Hispanic Radio annual conference, San Diego, CA, March 10, 2014.

**2013 |** “Undocumented No More: A Nationwide Analysis of Deferred Action for Childhood Arrivals.” Center for Comparative Immigration Studies (CCIS), University of California, San Diego, October 2, 2013.

“DACA Turns 1.” Presentation at the Center for American Progress, Washington, DC, August 15, 2013. **[Televised on CSPAN]**

“The Prospects for Comprehensive Immigration Reform.” Presentation at the Mexican Ministry of Foreign Affairs, Mexico City, Mexico, August 12, 2013.

“A Look at the Stats: How Will Congressional Representatives Vote on Comprehensive Immigration Reform?” Presentation at the “Changing Face of America” conference, University of California, Berkeley, May 3, 2013.

“Will Comprehensive Immigration Reform Pass? Predicting Legislative Support and Opposition to CIR.” Center for Comparative Immigration Studies (CCIS), University of California, San Diego, April 29, 2013.

“Race, Ethnicity, the 2012 Elections, and the Politics of Comprehensive Immigration Reform.” Presentation at the *Beyond the Headlines* speaker series, UCLA, February 26, 2013.

“International Migrants Bill of Rights (IMBR) Initiative.” Georgetown Law School, Washington, DC, February 8-9, 2013.

## PROFESSIONAL ACTIVITIES

---

- Reviewer: *American Journal of Political Science*, *American Political Science Review*, *American Politics Research*, *American Sociological Review*, *British Journal of Political Science*, *Citizenship Studies*, *Du Bois Review*, *International Migration*, *International Migration Review*, *International Studies Quarterly*, *Journal of Ethnic & Migration Studies*, *Journal of Peace Research*, *Journal of Politics*, *Journal of Race, Ethnicity, and Politics*, *Law & Social Inquiry*, *Migration Studies*, *National*

*Science Foundation, Oxford University Press, Perspectives on Politics, Politics, Groups, and Identities, Political Research Quarterly, Proceedings of the National Academies of Sciences, Russell Sage Foundation, Social Identities, Social Problems*

- Advisory Board, Center for Comparative Immigration Studies (CCIS), 2012-2018
- Advisory Board, Integrated Voter Engagement study, 2016
- Advisory Board, Unbound Philanthropy, 2015-2017
- APSA, Executive Committee, Migration and Citizenship Section, Treasurer, 2012-2015
- APSA, Migration and Citizenship Section Program Co-Chair, 2018
- Editorial Board, *Journal of Ethnic and Migration Studies* (JEMS), 2024-2028
- Editorial Board, *Journal of Migration and Human Security* (JMHS), 2014-present
- Editorial Board, *Politics, Groups, and Identities* (PGI), 2016-present
- Editorial Board, *Polity*, 2016-present
- Editorial Search Committee, *Perspectives on Politics* Editor-in-Chief search committee, 2022-2023
- Executive Committee, Center for Comparative Immigration Studies (CCIS), 2015-2018
- MPSA, International Relations and Domestic Politics Section Program Chair, 2016
- WPSA, (Im)Migration and Citizenship Section Program Chair, 2015, 2017
- WPSA, Dissertation award committee, 2016

## **PUBLIC SCHOLARSHIP**

---

Wong is one of the country's top experts on immigration politics and policy. Wong and his work have been covered by *The New York Times*, *The Los Angeles Times*, *The Washington Post*, NPR and major media outlets across the country in hundreds of articles. A sample can be found here: <https://usipc.ucsd.edu/media/index.html>

# **EXHIBIT U**

**UNCLASSIFIED (U)**

**8 FAM 300**  
**U.S. CITIZENSHIP AND**  
**NATIONALITY**

**8 FAM 301**  
**U.S. CITIZENSHIP**

**8 FAM 301.1**  
**ACQUISITION BY BIRTH IN THE UNITED**  
**STATES**

*(CT:CITZ-50; 01-21-2021)*  
*(Office of Origin: CA/PPT/S/A)*

**8 FAM 301.1-1 INTRODUCTION**

*(CT:CITZ-50; 01-21-2021)*

- a. U.S. citizenship may be acquired either at birth or through naturalization subsequent to birth. U.S. laws governing the acquisition of citizenship at birth embody two legal principles:
  - (1) *Jus soli* (the law of the soil) - a rule of common law under which the place of a person's birth determines citizenship. In addition to common law, this principle is embodied in the 14th Amendment to the U.S. Constitution and the various U.S. citizenship and nationality statutes; and
  - (2) *Jus sanguinis* (the law of the bloodline) - a concept of Roman or civil law under which a person's citizenship is determined by the citizenship of one or both parents. This rule, frequently called "citizenship by descent" or "derivative citizenship", is not embodied in the U.S. Constitution, but such citizenship is granted through statute. As U.S. laws have changed, the requirements for conferring and retaining derivative citizenship have also changed.
- b. National vs. citizen: While most people and countries use the terms "citizenship" and "nationality" interchangeably, U.S. law differentiates between the two. Under current law all U.S. citizens are also U.S. nationals, but not all

U.S. nationals are U.S. citizens. The term "national of the United States", as defined by statute (INA 101 (a)(22) (8 U.S.C. 1101(a)(22)) includes all citizens of the United States, and other persons who owe allegiance to the United States but who have not been granted the privilege of citizenship:

- (1) Nationals of the United States who are not citizens owe allegiance to the United States and are entitled to the consular protection of the United States when abroad, and to U.S. documentation, such as U.S. passports with appropriate endorsements. They are not entitled to voting representation in Congress and, under most state laws, are not entitled to vote in Federal, State, or local elections except in their place of birth. (See [7 FAM 012](#) and [7 FAM 1300 Appendix B](#) Endorsement 09.);
- (2) Historically, Congress, through statutes, granted U.S. non-citizen nationality to persons born or inhabiting territory acquired by the United States through conquest or treaty. At one time or other natives and certain other residents of Puerto Rico, the U.S. Virgin Islands, the Philippines, Guam, and the Panama Canal Zone **were** U.S. non-citizen nationals. (See [7 FAM 1120](#) and [7 FAM 1100 Appendix P.](#));
- (3) Under current law, only persons born in American Samoa and Swains Island are U.S. non-citizen nationals (INA 101(a)(29) (8 U.S.C. 1101(a)(29) and INA 308(1) (8 U.S.C. 1408)). (See [7 FAM 1125.](#)); and
- (4) See [7 FAM 1126](#) regarding the citizenship/nationality status of persons born on the Commonwealth of the Northern Mariana Islands (CNMI).

c. Naturalization – Acquisition of U.S. Citizenship Subsequent to Birth: Naturalization is "the conferring of nationality of a State upon a person after birth, by any means whatsoever" (INA 101(a)(23) (8 U.S.C. 1101(a)(23)) or conferring of citizenship upon a person (see INA 310, 8 U.S.C. 1421 and INA 311, 8 U.S.C. 1422). Naturalization can be granted automatically or pursuant to an application. (See [7 FAM 1140.](#))

d. "Subject to the Jurisdiction of the United States": All children born in and subject, at the time of birth, to the jurisdiction of the United States acquire U.S. citizenship at birth even if their parents were in the United States illegally at the time of birth:

- (1) The U.S. Supreme Court examined at length the theories and legal precedents on which the U.S. citizenship laws are based in *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898). In particular, the Court discussed the types of persons who are subject to U.S. jurisdiction. The Court affirmed that a child born in the United States to Chinese parents acquired U.S. citizenship even though the parents were, at the time, racially ineligible for naturalization;
- (2) The Court also concluded that: "The 14th Amendment affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country, including children here born of resident aliens, with the exceptions or qualifications (as old as the rule itself) of children of foreign sovereigns or their ministers, or born on

foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes. The Amendment, in clear words and in manifest intent, includes the children born within the territory of the United States, of all other persons, of whatever race or color, domiciled within the United States." Pursuant to this ruling:

- (a) Acquisition of U.S. citizenship generally is not affected by the fact that the parents may be in the United States temporarily or illegally; and that; and
- (b) A child born in an immigration detention center physically located in the United States is considered to have been born in the United States and be subject to its jurisdiction. This is so even if the child's parents have not been legally admitted to the United States and, for immigration purposes, may be viewed as not being in the United States.

## **8 FAM 301.1-2 WHAT IS BIRTH "IN THE UNITED STATES"?**

*(CT:CITZ-45; 12-09-2020)*

- a. INA 101(a)(38) (8 U.S.C. 1101 (a)(38)) provides that "the term 'United States,' when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States."
- b. On November 3, 1986, Public Law 94-241, "approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", (Section 506(c)), took effect. From that point on, the Northern Mariana Islands have been treated as part of the United States for the purposes of INA 301 (8 U.S.C. 1401) and INA 308 (8 U.S.C. 1408) (see [8 FAM 302.1](#))
- c. The Nationality Act of 1940 (NA), Section 101(d) (54 Statutes at Large 1172) (effective January 13, 1941 until December 23, 1952) provided that "the term 'United States' when used in a geographical sense means the continental United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States." The 1940 Act did not include Guam or the Northern Mariana Islands as coming within the definition of "United States."

See the text of the 1940 Act on the Intranet, Acquisition of Citizenship, Legal and Regulatory Documents.

- d. Prior to January 13, 1941, there was no statutory definition of "the United States" for citizenship purposes. The phrase "in the United States" as used in Section 1993 of the Revised Statutes of 1878 clearly includes states that have been admitted to the Union (see [8 FAM 102.2](#)).

- e. INA 304 (8 U.S.C. 1404) and INA 305 (8 U.S.C. 1405) provide a basis for citizenship of persons born in Alaska and Hawaii, respectively, while they were territories of the United States.

## **8 FAM 301.1-3 NOT INCLUDED IN THE MEANING OF "IN THE UNITED STATES"**

*(CT:CITZ-1; 06-27-2018)*

- a. Birth on U.S. Registered Vessel On High Seas or in the Exclusive Economic Zone: A U.S.-registered or documented ship on the high seas or in the exclusive economic zone is not considered to be part of the United States. Under the law of the sea, an Exclusive Economic Zone (EEZ) is a maritime zone over which a State has special rights over the exploration and use of natural resources. The EEZ extends up to 200 nautical miles from the coastal baseline. A child born on such a vessel does not acquire U.S. citizenship by reason of the place of birth (Lam Mow v. Nagle, 24 F.2d 316 (9th Cir., 1928)).

**NOTE:** This concept of allotting nations EEZs to give better control of maritime affairs outside territorial limits gained acceptance in the late 20th century and was given binding international recognition by the United Nations Convention on the Law of the Sea (UNCLOS) in 1982.

Part V, Article 55 of the Convention states:

Specific legal regime of the EEZ:

The EEZ is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this convention.

- b. A U.S.-registered aircraft outside U.S. airspace is not considered to be part of U.S. territory. A child born on such an aircraft outside U.S. airspace does not acquire U.S. citizenship by reason of the place of birth.

**NOTE:** The United States of America is not a party to the U.N. Convention on Reduction of Statelessness (1961). Article 3 of the Convention does not apply to the United States. Article 3 provides

"For the purpose of determining the obligations of Contracting States under this Convention, birth on a ship or in an aircraft shall be deemed to have taken place in the territory of the State whose flag the ship flies or in the territory of the State in which the aircraft is registered, as the case may be."

This is a frequently asked question.

- c. Birth on U.S. military base outside of the United States or birth on U.S. embassy or consulate premises abroad:
  - (1) Despite widespread popular belief, U.S. military installations abroad and U.S. diplomatic or consular facilities abroad are not part of the United

States within the meaning of the 14th Amendment. A child born on the premises of such a facility is not born in the United States and does not acquire U.S. citizenship by reason of birth;

(2) The status of diplomatic and consular premises arises from the rules of law relating to immunity from the prescriptive and enforcement jurisdiction of the receiving State; the premises are not part of the territory of the United States of America. (See Restatement (Third) of Foreign Relations Law, Vol. 1, Sec. 466, Comment a and c (1987). See also, Persinger v. Iran, 729 F.2d 835 (D.C. Cir. 1984).

d. Birth on foreign ships in foreign government non-commercial service:

(1) A child born on a foreign merchant ship or privately owned vessel in U.S. internal waters is considered as having been born subject to the jurisdiction of the United States. (See U.S. v. Wong Kim Ark.); and

(2) Foreign warships, naval auxiliaries, and other vessels or aircraft owned or operated by a State and used for governmental non-commercial service are not subject to jurisdiction of the United States. Persons born on such vessels while in U.S. internal waters (or, of course, anywhere else) do not acquire U.S. citizenship by virtue of place of birth.

e. Alien enemies during hostile occupation:

(1) If part of the United States were occupied by foreign armed forces against the wishes of the United States, children born to enemy aliens in the occupied areas would not be subject to U.S. jurisdiction and would not acquire U.S. citizenship at birth; and

(2) Children born to persons other than enemy aliens in an area temporarily occupied by hostile forces would acquire U.S. citizenship at birth because sovereignty would not have been transferred to the other country. (See U.S. v. Wong Kim Ark.)

## **8 FAM 301.1-4 BIRTH IN U.S. INTERNAL WATERS AND TERRITORIAL SEA**

*(CT:CITZ-50; 01-21-2021)*

a. Persons born on ships located within U.S. internal waters (except as provided in [8 FAM 301.1-3](#)) are considered to have been born in the United States. Such persons will acquire U.S. citizenship at birth if they are subject to the jurisdiction of the United States. Internal waters include the ports, harbors, bays, and other enclosed areas of the sea along the U.S. coast. As noted above, a child born on a foreign merchant ship or privately owned vessel in U.S. internal waters is considered as having been born subject to the jurisdiction of the United States. (See U.S. v. Wong Kim Ark.)

b. Twelve Nautical Mile Limit: The territorial sea of the United States was formerly three nautical miles. (See, e.g., *Cunard S.S. Co. v Mellon*, 262 U.S. 100, 122, 43 S. Ct. 504, 67 L. Ed. 894 (1923).) However, the three-mile rule

was changed by a Presidential Proclamation in 1988, implementing the territorial-sea provision of the 1982 U.N. Convention on the Law of the Sea. (Presidential Proclamation 5928, signed December 27, 1988, published at 54 Federal Register 777, January 9, 1989.) As decreed by that Proclamation, the territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law. (The Proclamation also stated that the jurisdiction of the United States extends to the airspace over the territorial sea.) (See Gordon, Immigration Law and Procedure, Part 8 Nationality and Citizenship, 92.03(2) (b) territorial limits.)

- c. FAM guidance up until 1995 ([7 FAM 1116.1-2](#)) In U.S. Waters TL:CON-64; 11-30-95) advised that persons born within the 3-mile limit of the U.S. territorial sea were born "within the United States" and could be documented as U.S. citizens if they were also born subject to U.S. jurisdiction. Some commentators took this view as well, such as Gordon. Analysis of this issue undertaken in 1994-1995 revealed, however, that there is a substantial legal question whether persons born outside the internal waters of the United States but within the territorial sea are in fact born "within the United States" for purposes of the 14th Amendment and the INA.
- d. Cases involving persons born outside the internal waters but within the U.S. territorial sea, must be referred to AskPPTAdjudication@state.gov for coordination with L/CA, L/OES, and other appropriate offices within the United States government.

***NOTE: This is not a public-facing e-mail address and public inquiries will not be replied to.***

## **8 FAM 301.1-5 WHAT IS BIRTH IN U.S. AIRSPACE?**

**(CT:CITZ-45; 12-09-2020)**

- a. Under international law, the limits of a country's sovereign airspace correspond with the extent of its territorial sea. The outer limit of the territorial sea of the United States is 12 nautical miles from the coastline. Airspace above the land territory, internal waters, and territorial sea is considered to be part of the United States (Presidential Proclamation 5928, signed December 27, 1988, published at 54 Federal Register 777, January 9, 1989).
- b. Comments on the applicability of the 14th Amendment to vessels and planes, are found in Gordon, Immigration Law and Procedure, Part 8, Nationality and Citizenship, Chapter 92, 92.03 (New York: Matthew Bender, 2007). This volume states:

"The rules applicable to vessels obviously apply equally to airplanes. Thus a child born on a plane in the United States or flying over its territory would acquire United States citizenship at birth."

- c. Under the 1944 Convention on International Civil Aviation, articles 17–21, all aircraft have the nationality of the State in which they are registered, and may not have multiple nationalities. For births, the nationality law of the aircraft's "nationality" may be applicable, and for births that occur in flight while the aircraft is not within the territory or airspace of any State, it is the only applicable law that may be pertinent regarding acquisition of citizenship by place of birth. However, if the aircraft is in, or flying over the territory of another State, that State may also have concurrent jurisdiction.
- d. Cases of citizenship of persons born on planes in airspace above the United States land territory or internal waters may be adjudicated by passport specialists at domestic passport agencies and centers or consular officers at posts abroad in accordance with [8 FAM 301.1-6](#).
- e. Cases of persons born on planes in airspace outside the 12 nautical mile limit would be adjudicated as a birth abroad under INA 301 (8 U.S.C. 1401) or INA 309 (8 U.S.C. 1409) as made applicable by INA 301(g).
- f. Cases of persons born on a plane in airspace above the U.S. territorial sea (12 nautical mile limit) must be referred to [AskPPTAdjudication@state.gov](mailto:AskPPTAdjudication@state.gov) for consultation with L/CA.

## **8 FAM 301.1-6 DOCUMENTING BIRTH IN U.S. WATERS AND U.S. AIRSPACE**

*(CT:CITZ-1; 06-27-2018)*

- a. Proof of birth in U.S. internal waters or U.S. airspace consists of a U.S. birth certificate certified by the issuing authority in the U.S. jurisdiction.
- b. There is no U.S. Federal law governing the report of such births.
- c. Generally speaking, U.S. Customs and Border Protection (CBP) would require some documentation of the birth, generally an excerpt of the ship's/aircraft's medical log or master/captain's log, reflecting the time, latitude, and longitude when the birth occurred.
- d. For ships/aircraft in-bound for the United States, the parents would then be responsible for reporting the birth to the civil authorities in the U.S. jurisdiction where the vessel put into port. (See the Centers for Disease Control and Prevention (CDC) publication "Where to Write for Birth Certificates.")
  - (1) The parents will have to contact the state vital records office to determine the exact procedures for report such a birth;
  - (2) Parents should obtain a certified copy of the ship's medical log, airplane's log, or other statement from the attending physician or other attendant and attempt to obtain information on how to contact attendants in the future should further questions arise;

- (3) If the mother and child were immediately taken to a U.S. hospital, authorities there may be of assistance in facilitating contact with the appropriate state authorities; and
- (4) It is unlikely that the vital records office in the parents' state of residence will issue such a birth certificate. Parents may be redirected to the vital records office in the state where the ship first put into port after the birth of the child.

## **8 FAM 301.1-7 NATIVE AMERICANS AND ESKIMOS**

*(CT:CITZ-1; 06-27-2018)*

- a. Before U.S. v. Wong Kim Ark, the only occasion on which the Supreme Court had considered the meaning of the 14th Amendment's phrase "subject to the jurisdiction" of the United States was in *Elk v. Wilkins*, 112 U.S. 94 (1884). That case hinged on whether a Native American who severed ties with the tribe and lived among whites was a U.S. citizen and entitled to vote. The Court held that the plaintiff had been born subject to tribal rather than U.S. jurisdiction and could not become a U.S. citizen merely by leaving the tribe and moving within the jurisdiction of the United States. The Court stated that: "The Indian tribes, being within the territorial limits of the United States, were not, strictly speaking, foreign States; but they were alien nations, distinct political communities, with whom the United States might and habitually did deal through treaties or acts of Congress. They were never deemed citizens of the United States except under explicit provisions of treaty or statute to that effect, either declaring a certain tribe, or such members of it as chose to remain behind on the removal of the tribe westward, to be citizens, or authorizing individuals of particular tribes to become citizens upon application for naturalization."
- b. The Act of June 2, 1924 was the first comprehensive law relating to the citizenship of Native Americans. It provided: That all non-citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: Provided, That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property.
- c. Section 201(b) NA, effective January 13, 1941, declared that persons born in the United States to members of an Indian, Eskimo, Aleutian, or other aboriginal tribe were nationals and citizens of the United States at birth.
- d. INA 301(b) (8 U.S.C. 1401(b)) (formerly INA 301(a)(2)), in effect from December 24, 1952, restates this provision.

## **8 FAM 301.1-8 FOUNDLINGS**

*(CT:CITZ-1; 06-27-2018)*

- a. Under INA 301(f) (8 U.S.C. 1401(f)) (formerly Section 301(a)(6)) INA, a child of unknown parents is conclusively presumed to be a U.S. citizen if found in the United States when under 5 years of age, unless foreign birth is established before the child reaches age 21.
- b. Under Section 201(f) of the Nationality Act of 1940, a child of unknown parents, found in the United States, was presumed to have been a U.S. citizen at birth until shown not to have been born in the United States no matter at what age this might have been demonstrated.

**UNCLASSIFIED (U)**

# **EXHIBIT V**

DAVID CHIU, SBN 189542  
City Attorney  
YVONNE R. MERÉ, SBN 173594  
Chief Deputy City Attorney  
SARA J. EISENBERG, SBN 269303  
Chief of Complex and Affirmative Litigation  
MOLLIE M. LEE, SBN 251404  
Chief of Strategic Advocacy  
DAVID S. LOUK, SBN 304654  
MOLLY J. ALARCON, SBN 315244  
Deputy City Attorneys  
Fox Plaza  
1390 Market Street, 6th Fl.  
San Francisco, California 94102-5408  
Telephone: (415) 505-0844  
Facsimile: (415) 437-4644  
E-Mail: David.Louk@sfcityatty.org

*Attorneys for Plaintiff*  
CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY, *et al.*

Case No. 25-cv-10139

Plaintiffs,

## DECLARATION OF PERI WEISBERG

vs.

DONALD J. TRUMP, *et al.*

## Defendants.

I, Peri Weisberg, declare as follows:

1. I am a resident of the State of California. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am currently employed by the City and County of San Francisco's Human Services Agency ("SF HSA"). I work for SF HSA's Planning Unit as a Principal Administrative Analyst.

3. In this role, among other responsibilities, I am responsible for analyzing and understanding the benefits programs administered by SF HSA. This includes analyzing program participation trends, understanding and evaluating financial and budgetary information, and assessing federal, state, and local policy proposals. My role also includes project management and strategic planning.

4. I have performed these and related duties at SF HSA since 2016. I have a Master's Degree in Public Policy from the University of California, Berkeley, and a Bachelor's Degree in Public Policy from the University of Michigan. I have thirteen years of work experience in the field of social services.

5. I am providing this declaration to explain certain impacts of the executive order titled “Protecting the Meaning and Value of American Citizenship,” issued on January 20, 2025 (the “Executive Order”), which revokes birthright citizenship for children born in the United States after February 19, 2025 to (i) a mother who is unlawfully present or who is lawfully present in the United States but on a temporary basis, and (ii) a father who is neither a citizen nor a lawful permanent resident.

6. As described below, that Executive Order will inflict significant harm upon SF HSA's efforts to provide newborn San Franciscans and their families with necessary aid and assistance, and will reduce federal funding flowing to the City and County of San Francisco.

## CalWORKs and CalFresh

7. SF HSA administers the federal aid programs Temporary Assistance to Needy Families (“TANF”) and Supplemental Nutrition Assistance Program (“SNAP”), which in California are called CalWORKs and CalFresh, respectively.

8. CalWORKs provides temporary financial assistance and services to eligible families with children, including cash assistance, food assistance, child care subsidies, employment services, mental health counseling, and sometimes housing assistance. CalFresh provides food assistance to low-income individuals in need.

9. Federal funding to California, which is in turn distributed to SF HSA, comprises a substantial portion of the aid administered through those assistance programs. In addition to amounts received by recipients, San Francisco receives funding to administer each program based, in part, on the number of recipients.

10. However, federal funding is only provided to States and localities to administer aid to those eligible under federal criteria, which restrict aid to citizens (with limited exceptions not relevant to the effects of the Executive Order). In practice, and by law, verification of eligibility is tied to proof of a valid social security number (SSN). SF HSA verifies eligibility for CalWORKs and CalFresh with proof of a valid SSN.

11. Because every newborn in San Francisco is presumptively a U.S. citizen, every otherwise-eligible newborn San Franciscan is eligible for aid (as distributed to their family) as soon as SF HSA is alerted to their birth. While enrollment generally begins almost immediately after birth for the family of every otherwise-eligible newborn, by law, eligibility verification and administration of aid by SF HSA must eventually be linked to proof of a valid social security number (SSN) for both CalWORKs and CalFresh.

## **Impact of Executive Order**

12. CalWORKs and CalFresh are two critical aid assistance programs that help newborn San Franciscans and their families. Under California law, San Francisco has a responsibility to support all poor and indigent residents not otherwise supported. CalWORKs and CalFresh are two pillars of San Francisco's ability to fulfill its responsibility to its residents.

13. San Francisco does so in part by providing, for example, in-kind food assistance and free diaper programs for residents who are not otherwise eligible for other aid assistance programs, or who find themselves with unmet needs despite other forms of assistance. These aid expenditures are primarily funded directly from San Francisco's general fund.

1       14.    If implemented, the Executive Order will not only interfere with the administration of  
2 CalWORKs and CalFresh operated by SF HSA, impairing the welfare and wellbeing of San  
3 Francisco's residents, but it will also reduce the amount of funding San Francisco receives to provide  
4 assistance to newborns and their families.

5       15.    SF HSA's administration of CalWORKs and CalFresh is structured around the  
6 significant reimbursements and direct funding streams from the federal government by way of the  
7 State of California. Federal financial participation generally reimburses approximately fifty percent of  
8 SF HSA administrative costs related to CalFresh. Administrative costs in CalFresh include the costs of  
9 operating in-person and telephone service centers, employing staff to make eligibility determinations,  
10 maintaining technology systems, ensuring program integrity, and promoting awareness of the program  
11 to eligible individuals, among other activities. For CalWORKs, program funds from the federal and  
12 state governments are distributed to SF HSA in a single allocation that supports eligibility  
13 determination and other administration costs, the provision of employment services to CalWORKs  
14 participants, and additional supports for pregnant and parenting teens. In separate, additional  
15 allocations, federal funds from the TANF block grant are combined with state funds to support other  
16 services SF HSA administers to CalWORKs participating families, including child care subsidies and  
17 home visiting services. In addition to these reimbursements to SF HSA for administration and direct  
18 services to participants, the federal government funds the cost of aid payments to federally-eligible  
19 participants, either in whole (in the case of CalFresh) or in part (in the case of CalWORKs). Any loss  
20 of funding would have serious consequences for SF HSA and the thousands of affected individuals it  
21 serves.

22       16.    I understand that the federal government action of denying SSNs to newborns born to  
23 certain immigrants in San Francisco will result in those newborns being treated as non-citizens with no  
24 legal status. That will result in the direct loss of federal funding to California and to San Francisco for  
25 aid provided to those newborns, because eligibility for federally matched programs such as TANF and  
26 SNAP depends on the individual's eligibility under federal law, which necessarily turns on their  
27 citizenship status, as verified by a valid SSN.

1       17. In particular, federally matched coverage for newborns provided under CalWORKs or  
2 CalFresh will be lost for the predictable number of newborns in San Francisco who will fall under the  
3 ambit of the Executive Order, since those programs are not available to non-citizens (with limited  
4 exceptions not relevant to the effects of the Executive Order). This will necessarily result in reduced  
5 federal funding and a shift to San Francisco of funding responsibility for this group of individuals.

6       18. In addition, if implemented, the Executive Order likely will interfere with and  
7 complicate SF HSA's administration of these programs.

8       19. SF HSA will need to immediately begin planning for the potential loss of federal  
9 funding. This includes reassigning staff from other priorities, hiring contractor support, and expanding  
10 existing programmatic support contracts to encompass the new scope of work this would entail.

11       20. SF HSA would also incur significant costs to train staff, partners, and aid assistance  
12 providers on any updated eligibility system and procedures, and to revise existing guidance  
13 documents, manuals, and outreach materials regarding eligibility rules and procedures.

14       21. Because so many changes will need to be made to implement CalWORKs and CalFresh  
15 under this new citizenship rule, it may be difficult for San Francisco to predict its budgeting in  
16 providing CalWORKs and CalFresh going forward, as well as the additional support San Francisco  
17 will need to expend from its general fund to substitute for the loss of aid assistance from these  
18 programs.

19       22. Finally, San Francisco could also face monetary penalties as a result of the Executive  
20 Order. For example, San Francisco is required by state law and regulation to immediately extend  
21 CalWORKs and CalFresh benefits to otherwise-eligible families of newborns shortly after their birth.  
22 However, such individuals will eventually be deemed ineligible solely due to the denial of a SSN as a  
23 result of the Executive Order, and so San Francisco will have a substantially increased overpayment  
24 error rate—the rate of payments to families enrolled on programs who are ultimately deemed  
25 ineligible, or eligible for a lower benefit amount. Pursuant to general regulation, an elevated  
26 overpayment error rate will expose San Francisco to significant financial penalties over time. *See 7*  
27 C.F.R. § 275.23(d)(2).

1           23. I estimate the approximate per-person loss of assistance to be \$189 per month in food  
2 assistance benefits (from CalFresh) and \$409 per month in cash assistance (from CalWORKs). This is  
3 based on the total benefit amount provided for each program in a typical month, divided by the total  
4 number of aided persons in the program that month (including all eligible household members). That  
5 is a conservative estimate, because it does not include the value of other support that often  
6 complements these benefits, such as housing support and child care vouchers for families. For  
7 example, housing support for families frequently amounts to \$1,600 or more per family. These  
8 estimates also do not include amounts for benefit administration received by San Francisco.

9  
10 I declare under penalty of perjury that the foregoing is true and correct.

11           Executed on January 20, 2025, at Oakland, California.

12             
13           PERI WEISBERG

# **EXHIBIT W**



PRESIDENTIAL ACTIONS

# PROTECTING THE MEANING AND VALUE OF AMERICAN CITIZENSHIP

EXECUTIVE ORDER

January 20, 2025

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose. The privilege of United States citizenship is a priceless and profound gift. The Fourteenth Amendment states: “All 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.” That provision rightly repudiated the Supreme Court of the United States’s shameful decision in *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857), which

misinterpreted the Constitution as permanently excluding people of African descent from eligibility for United States citizenship solely based on their race. But the Fourteenth Amendment has never been interpreted to extend citizenship universally to everyone born within the United States. The Fourteenth Amendment has always excluded from birthright citizenship persons who were born in the United States but not “subject to the jurisdiction thereof.” Consistent with this understanding, the Congress has further specified through legislation that “a person born in the United States, and subject to the jurisdiction thereof” is a national and citizen of the United States at birth, 8 U.S.C. 1401, generally mirroring the Fourteenth Amendment’s text. Among the categories of individuals born in the United States and not subject to the jurisdiction thereof, the privilege of United States citizenship does not automatically extend to persons born in the United States: (1) when that person’s mother was unlawfully present in the United States and the 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 at the time of said person’s birth was lawful but temporary (such as, but not limited to, visiting the United States under the auspices of the Visa Waiver Program or visiting on a student, work, or tourist visa) and the father was not a United States citizen or lawful permanent resident at the time of said person’s birth.

Sec. 2. Policy. (a) It is the policy of the United States that no department or agency of the United States government shall issue documents recognizing United States citizenship, or accept documents issued by State, local, or other governments or authorities purporting to recognize United States citizenship, to persons: (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 the

person's father was not a United States citizen or lawful permanent resident at the time of said person's birth.

(b) Subsection (a) of this section shall apply only to persons who are born within the United States after 30 days from the date of this order.

(c) Nothing in this order shall be construed to affect the entitlement of other individuals, including children of lawful permanent residents, to obtain documentation of their United States citizenship.

Sec. 3. Enforcement. (a) The Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Commissioner of Social Security shall take all appropriate measures to ensure that the regulations and policies of their respective departments and agencies are consistent with this order, and that no officers, employees, or agents of their respective departments and agencies act, or forbear from acting, in any manner inconsistent with this order.

(b) The heads of all executive departments and agencies shall issue public guidance within 30 days of the date of this order regarding this order's implementation with respect to their operations and activities.

Sec. 4. Definitions. As used in this order:

(a) "Mother" means the immediate female biological progenitor.

(b) "Father" means the immediate male biological progenitor.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against

the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,

January 20, 2025.

News

Administration

Issues

THE WHITE HOUSE

1600 Pennsylvania Ave NW  
Washington, DC 20500

THE WHITE HOUSE

WH.GOV

Copyright

## Privacy

# **EXHIBIT X**

AN  
AMERICAN DICTIONARY  
OF THE  
ENGLISH LANGUAGE;  
CONTAINING

THE WHOLE VOCABULARY OF THE FIRST EDITION IN TWO VOLUMES QUARTO; THE ENTIRE CORRECTIONS  
AND IMPROVEMENTS OF THE SECOND EDITION IN TWO VOLUMES ROYAL OCTAVO;

TO WHICH IS PREFIXED

AN INTRODUCTORY DISSERTATION

ON THE ORIGIN, HISTORY, AND CONNECTION, OF THE LANGUAGES OF WESTERN ASIA AND EUROPE, WITH  
AN EXPLANATION OF THE PRINCIPLES ON WHICH LANGUAGES ARE FORMED.

BY NOAH WEBSTER, LL.D.,

*Member of the American Philosophical Society in Philadelphia; Fellow of the American Academy of Arts and Sciences in Massachusetts; Member of the Connecticut Academy of Arts and Sciences; Fellow of the Royal Society of Northern Antiquaries in Copenhagen; Member of the Connecticut Historical Society; Corresponding Member of the Historical Societies in Massachusetts, New York, and Georgia; of the Academy of Medicine in Philadelphia, and of the Columbian Institute in Washington; and Honorary Member of the Michigan Historical Society.*

GENERAL SUBJECTS OF THIS WORK.

- I.—ETYMOLOGIES OF ENGLISH WORDS, DEDUCED FROM AN EXAMINATION AND COMPARISON OF WORDS OF CORRESPONDING ELEMENTS IN TWENTY LANGUAGES OF ASIA AND EUROPE.
- II.—THE TRUE ORTHOGRAPHY OF WORDS, AS CORRECTED BY THEIR ETYMOLOGIES.
- III.—PRONUNCIATION EXHIBITED AND MADE OBVIOUS BY THE DIVISION OF WORDS INTO SYLLABLES, BY ACCENTUATION, BY MARKING THE SOUNDS OF THE ACCENTED VOWELS, WHEN NECESSARY, OR BY GENERAL RULES.
- IV.—ACCURATE AND DISCRIMINATING DEFINITIONS, ILLUSTRATED, WHEN DOUBTFUL OR OBSCURE, BY EXAMPLES OF THEIR USE, SELECTED FROM RESPECTABLE AUTHORS, OR BY FAMILIAR PHRASES OF UNDISPUTED AUTHORITY.

REVISED AND ENLARGED,

BY CHAUNCEY A. GOODRICH,

PROFESSOR IN YALE COLLEGE.

WITH PRONOUNCING VOCABULARIES OF SCRIPTURE, CLASSICAL, AND GEOGRAPHICAL NAMES.

TO WHICH ARE NOW ADDED

PICTORIAL ILLUSTRATIONS,

TABLE OF SYNONYMS, PECULIAR USE OF WORDS AND TERMS IN THE BIBLE, APPENDIX OF NEW WORDS,  
PRONOUNCING TABLE OF NAMES OF DISTINGUISHED PERSONS, ABBREVIATIONS, LATIN,  
FRENCH, ITALIAN, AND SPANISH PHRASES, ETC.

SPRINGFIELD, MASS.

PUBLISHED BY GEORGE AND CHARLES MERRIAM,  
CORNER OF MAIN AND STATE STREETS.

1860.

PE 1625  
W3  
1860

ENTERED ACCORDING TO ACT OF CONGRESS, IN THE YEAR 1840.

BY NOAH WEBSTER, LL. D.,

IN THE CLERK'S OFFICE OF THE DISTRICT COURT OF THE DISTRICT OF CONNECTICUT.

ENTERED ACCORDING TO ACT OF CONGRESS, IN THE YEAR 1847,

BY GEORGE AND CHARLES MERRIAM,

IN THE CLERK'S OFFICE OF THE DISTRICT COURT OF THE DISTRICT OF MASSACHUSETTS.

ENTERED ACCORDING TO ACT OF CONGRESS, IN THE YEAR 1856,

BY EMILY W. ELLSWORTH, JULIA W. GOODRICH,  
WILLIAM G. WEBSTER, ELIZA S. W. JONES,  
AND LOUISA WEBSTER,

IN THE CLERK'S OFFICE OF THE DISTRICT COURT OF THE DISTRICT OF CONNECTICUT

ENTERED ACCORDING TO ACT OF CONGRESS, IN THE YEAR 1859.

BY G. & C. MERRIAM,

IN THE CLERK'S OFFICE OF THE DISTRICT COURT OF THE DISTRICT OF MASSACHUSETTS.

STEREOTYPED AT THE  
BOSTON TYPE AND STEREOTYPE FOUNDRY.

MANUFACTURED BY  
CASE, LOCKWOOD & CO.,  
HARTFORD, CONN.

Gift  
Mrs. Truxton Beal  
Jan. 18, 1937



# **EXHIBIT Y**

COMMENTARIES  
ON THE  
LAW S  
OF  
ENGLAND.  
IN FOUR BOOKS.

By SIR WILLIAM BLACKSTONE,

ONE OF HIS MAJESTY'S JUSTICES OF THE HONOURABLE COURT OF COMMON PLEAS.

33146

C

THE SIXTH EDITION.

DUBLIN:

PRINTED FOR THE COMPANY OF BOOKSELLERS.  
M,DCC,LXXV.

## CHAPTER THE TENTH.

OF THE PEOPLE, WHETHER ALIENS,  
DENIZENS, OR NATIVES.

HAVING, in the preceding chapters, treated of persons as they stand in the public relations of *magistrates*, I now proceed to consider such persons as fall under the denomination of the *people*. And herein all the inferior and subordinate magistrates, treated of in the last chapter, are included.

THE first and most obvious division of the people is into aliens and natural-born subjects. Natural-born subjects are such as are born within the dominions of the crown of England; that is, within the liegeance, or as it is generally called, the allegiance of the king: and aliens, such as are born out of it. Allegiance is the tie, or *ligamen*, which binds the subject to the king, in return for that protection which the king affords the subject. The thing itself, or substantial part of it, is founded in reason and the nature of government; the name and the form are derived to us from our Gothic ancestors. Under the feudal system, every owner of lands held them in subjection to some superior or lord, from whom or whose ancestors the tenant or *vasal* had received them: and there was a mutual trust or confidence subsisting between the lord and *vasal*, that the lord should protect the *vasal* in the enjoyment of the territory he had granted him, and, on the other hand, that the *vasal* should

# **EXHIBIT Z**

# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF

### THE FIRST SESSION

OF

### THE THIRTY-NINTH CONGRESS.

---

BY F. & J. RIVES.

---

CITY OF WASHINGTON:  
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.

1866.

Mr. CHANDLER. I will then renew my motion, that the unfinished business be postponed until to-morrow at two o'clock.

The PRESIDENT *pro tempore*. The motion of the Senator from Illinois is that the present and all prior orders be postponed, and that the Senate proceed to the consideration of the resolution from the House of Representatives proposing an amendment to the Constitution of the United States. That is now the motion before the Senate.

The motion was agreed to.

#### RECONSTRUCTION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States, the pending question being on the amendment offered by Mr. JOHNSON to strike out the third section, in the following words:

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

Mr. HOWARD. I hope the vote will be taken on that motion.

Mr. JOHNSON. Is there anything proposed as a substitute for that section?

Mr. CLARK. Your motion precludes that now. You move to strike out, simply.

Mr. JOHNSON. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 43, nays 0; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Cowan, Cragin, Creswell, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Saulsbury, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—43.

NAYS—0.

ABSENT—Messrs. Brown, Dixon, McDougall, Sprague, Wright, and Yates—6.

The amendment was agreed to.

Mr. HOWARD. I now offer a series of amendments to the joint resolution under consideration, which I will send to the Chair.

Mr. FESSENDEN. Take them one section at a time.

Mr. HOWARD. I will state very briefly what they are. I propose to amend section one of the article by adding after the words “section one” the following words, which will of course constitute a part of section one:

All persons born in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside.

The second amendment—

Mr. FESSENDEN. Let us take a vote on the first one.

Mr. TRUMBULL. The Senator had better state all the amendments.

Mr. JOHNSON. I hope we shall hear them all.

Mr. HOWARD. The second amendment is to amend the second section by striking out the word “citizens,” in the twentieth line, where it occurs, and inserting after the word “male” the words “inhabitants, being citizens of the United States;” and by inserting at the end of that section the words “any such State.”

The third section has already been stricken out. Instead of that section, or rather in its place, I offer the following:

SEC. 3. No person shall be a Senator or Representative in Congress, or an elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may, by a vote of two thirds of each House, remove such disability.

The following is to come in as section four:

The obligations of the United States incurred in suppressing insurrection, or in defense of the Union,

or for payment of bounties or pensions incident thereto, shall remain inviolate.

Section four, as it now stands, will be changed to section five, and I propose to amend that section as follows: strike out the word “already,” in line thirty-four, and also the words “or which may hereafter be incurred,” in line thirty-five, and also the words “or of war” in lines thirty-five and thirty-six, and insert the word “rebellion” in lieu thereof; and also strike out the words “loss of involuntary service or labor” in line thirty-seven, and insert “the loss or emancipation of any slave; but all such debts, obligations, and claims shall be forever held illegal and void.”

After consultation with some of the friends of this measure it has been thought that these amendments will be acceptable to both Houses of Congress and to the country, and I now submit them to the consideration of the Senate.

The PRESIDENT *pro tempore*. The first question in order is the amendment proposed to the joint resolution by the Senator from Ohio, [Mr. WADE.]

Mr. WADE. I ask leave to withdraw that amendment.

The PRESIDENT *pro tempore*. It is still in the power of the mover, and he can withdraw it if he pleases. The amendment is withdrawn. The question now is on the amendments proposed by the Senator from Michigan.

Mr. SAULSBURY. It is very well known that the majority of the members of this body who favor a proposition of this character have been in very serious deliberation for several days in reference to these amendments, and have held some four or five caucuses on the subject. Perhaps they have come to the conclusion among themselves that the amendments offered are proper to be made, but this is the first intimation that the minority of the body has had of the character of the proposed change in the constitutional amendment. Now, sir, it is nothing but fair, just, and proper that the minority of the Senate should have an opportunity to consider these amendments; and I rise for the purpose of moving that these amendments, together with the original proposition, be printed, so that we may see them before we are called upon to vote on them. Certainly there can be no graver question, no more serious business that can engage the attention of this Senate than a proposed change in the fundamental law.

Mr. FESSENDEN. I will say to the Senator that if any gentleman on that side of the Chamber desires that these amendments be laid upon the table and printed, there is no objection to that.

Mr. SAULSBURY. Then I will defer any further remarks, and make that motion.

The PRESIDENT *pro tempore*. It is moved that the amendments be printed and that the further consideration of the joint resolution be postponed until to-morrow.

The motion was agreed to.

Mr. SUMNER. I wish to give notice of an amendment which at the proper time I intend to offer to Senate bill No. 292, entitled “A bill to provide for restoring to the States lately in insurrection their full political rights.” It is to strike out all after the enacting clause of the first section and to insert a section as a substitute which I ask to have printed.

Mr. JOHNSON and Mr. STEWART. Let it be read.

The PRESIDENT *pro tempore*. The proposed amendment will be read, if there be no objection.

The Secretary read it, as follows:

Strike out all after the enacting clause of the first section of the bill and insert in lieu thereof the following:

That when any State lately in rebellion shall have ratified the foregoing amendment and shall have modified its constitution and laws in conformity therewith, and shall have further provided that there shall be no denial of the elective franchise to citizens of the United States because of race or color, and that all persons shall be equal before the law, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such: *Provided*, That nothing in this

section shall be so construed as to require the disfranchisement of any loyal person who is now allowed to vote.

Mr. SUMNER. I simply wish to have that amendment printed.

The PRESIDENT *pro tempore*. The order to print will be entered.

Mr. SUMNER. I also ask the unanimous consent of the Senate to introduce a bill of which no notice has been given, which I desire to have considered in connection with the other measure, as it belongs to this group of reconstruction measures.

There being no objection, leave was granted to introduce a bill (S. No. 345) to enforce the amendment to the Constitution abolishing slavery by securing the elective franchise to colored citizens; which was read twice by its title.

Mr. SUMNER. I move that the bill be printed and laid upon the table.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the bill (H. R. No. 459) granting a pension to Anna E. Ward.

The message further announced that the House of Representatives had passed the following bills of the Senate with amendments to each, in which it requested the concurrence of the Senate:

A bill (S. No. 184) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, and for other purposes; and

A bill (S. No. 237) granting a pension to Mrs. Martha Stevens.

#### PRIVATE CLAIMS.

Mr. CLARK. I ask that the Senate give me a little time on Friday next for the purpose of disposing of certain private claims, if there be no objection.

Mr. FESSENDEN. I shall object to that unless the constitutional amendment is disposed of by that time.

Mr. CLARK. I will state that I will not antagonize them with the constitutional amendment, or a public necessity of that kind, but I should like to have an understanding that I may have an hour or so on Friday next for the consideration of private claims, if there is no other public business of pressing importance in the way.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President of the United States had approved and signed, on the 26th instant, the following act and joint resolutions:

An act (S. No. 318) to authorize the appointment of an additional Assistant Secretary of the Navy;

A joint resolution (S. R. No. 74) providing for the acceptance of a collection of plants tendered to the United States by Frederick Pech; and

A joint resolution (S. R. No. 97) to authorize certain medals to be distributed to veteran soldiers free of postage.

#### MARTHA STEVENS.

Mr. LANE, of Indiana. I move to take up Senate bill No. 237, granting a pension to Mrs. Martha Stevens, which has been returned from the House of Representatives with an amendment. The bill as it passed the Senate gave a pension of twenty dollars a month; the amendment of the House reduces it to seventeen dollars a month, the amount allowed in the case of a first lieutenant.

The amendment was concurred in.

#### DISTRICT SUPREME COURT.

On motion of Mr. WADE, the amendments of the House of Representatives to the bill (S. No. 181) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, and for other purposes, were

The motion was agreed to; and Messrs. WILSON, ANTHONY, and HENDRICKS were appointed conferees on the part of the Senate.

FORTIFICATION APPROPRIATION BILL.

The Senate proceeded to consider its amendment to the bill (H. R. No. 255) making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the year ending June 30, 1867, which was disagreed to by the House of Representatives.

Mr. FESSENDEN. I move that the Senate insist on its amendment, and agree to the conference asked by the House.

The motion was agreed to; and Messrs. MORGAN, MORRILL, and SAULSBURY were appointed conferees on the part of the Senate.

WOMEN'S HOSPITAL.

Mr. MORRILL. There is a bill on the table which comes from the House of Representatives amended. I desire to call it up and concur in the amendments. It is Senate bill No. 167, to incorporate the Women's Hospital Association of the District of Columbia.

Mr. HOWARD. It is very nearly one o'clock, and I hope the joint resolution to amend the Constitution will be taken up.

Mr. MORRILL. This is pending simply on a question of concurring in the amendments made by the House to a bill of the Senate, and will not occupy two minutes.

Mr. HOWARD. If it does not go beyond one o'clock I shall not object.

Mr. MORRILL. Let it come up. I move to take it up.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 167) to incorporate the Women's Hospital Association of the District of Columbia.

The PRESIDENT *pro tempore*. The first amendment of the House has already been concurred in.

The Secretary read the second amendment of the House of Representatives, which was in the first section, line three, after the name "Adelaide J. Brown," to strike out all the names to and including that of "Mary K. Lewis," in line seven, except that of "Mary W. Kelly," and to insert "Elmira W. Knap, Mary C. Havermeyer, Mary Ellen Norment, Jane Thompson, Maria L. Harkness, Isabella Margaret Washington, and Mary F. Smith."

Mr. MORRILL. I move that the Senate concur in that amendment.

The motion was agreed to.

The next amendment was after the word "Columbia," at the end of section one, to add "by the name of the Columbia Hospital for Women and Lying-in Asylum."

Mr. MORRILL. I move that the Senate concur in that amendment.

The motion was agreed to.

The next amendment was in section two, line two to strike out the word "twelve" and insert "twenty-four" as the number of directors.

The amendment was concurred in.

The next amendment was in section three, after the word "directors" at the end of line three to insert "to consist of the first twelve of the above-named incorporators."

The amendment was concurred in.

The next amendment was in section four, line one, after the word "the" to insert "first twelve."

The amendment was concurred in.

The next amendment was in section five, after the word "Women" in line three, to insert "and Lying-in Asylum."

The amendment was concurred in.

The next amendment was in section five, line four, after the word "with" to insert "board, lodging."

The amendment was concurred in.

The PRESIDENT *pro tempore*. The amendments are completed.

DEATH OF GENERAL SCOTT.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

*To the Senate and House of Representatives:*

With sincere regret I announce to Congress that Winfield Scott, late lieutenant general in the Army of the United States, departed this life at West Point, in the State of New York, on the 29th day of May instant, at eleven o'clock in the forenoon. I feel well assured that Congress will share in the grief of the nation which must result from its bereavement of a citizen whose high fame is identified with the military history of the Republic.

ANDREW JOHNSON.

WASHINGTON, May 30, 1866.

Mr. WILSON. I offer the following resolution:

*Resolved by the Senate, (the House of Representatives concurring,) That the Committee on Military Affairs and the Militia of the Senate and the Committee on Military Affairs of the House of Representatives, be, and they are hereby, appointed a joint committee of the two Houses of Congress to take into consideration the message of the President of the United States announcing to Congress the death of Lieutenant General Winfield Scott, and to report what method should be adopted by Congress to manifest their appreciation of the high character, tried patriotism, and distinguished public services of Lieutenant General Winfield Scott, and their deep sensibility upon the announcement of his death.*

There being no objection, the Senate proceeded to consider the resolution; and it was adopted unanimously.

Mr. WILSON. As this committee is to be a joint one, and the resolution will have to be acted on by the House of Representatives, I move, for the present, that the message of the President be laid upon the table, and printed.

The motion was agreed to.

RECONSTRUCTION.

Mr. HOWARD. I now move to take up House joint resolution No. 127.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States.

The PRESIDENT *pro tempore*. The question is on the amendments proposed by the Senator from Michigan, [Mr. HOWARD.]

Mr. HOWARD. The first amendment is to section one, declaring that "all persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside." I do not propose to say anything on that subject except that the question of citizenship has been so fully discussed in this body as not to need any further elucidation, in my opinion. This amendment which I have offered is simply declaratory of what I regard as the law of the land already, that every person born within the limits of the United States, and subject to their jurisdiction, is by virtue of natural law and national law a citizen of the United States. This will not, of course, include persons born in the United States who are foreigners, aliens, who belong to the families of ambassadors or foreign ministers accredited to the Government of the United States, but will include every other class of persons. It settles the great question of citizenship and removes all doubt as to what persons are or are not citizens of the United States. This has long been a great desideratum in the jurisprudence and legislation of this country.

The PRESIDENT *pro tempore*. The first amendment proposed by the Senator from Michigan will be read.

The Secretary read the amendment, which was in line nine, after the words "section one," to insert:

All persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside.

So that the section will read:

SEC. 1. All persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Mr. DOOLITTLE. I presume the honorable Senator from Michigan does not intend by this amendment to include the Indians. I move, therefore, to amend the amendment—I presume he will have no objection to it—by inserting after the word "thereof" the words "excluding Indians not taxed." The amendment would then read:

All persons born in the United States, and subject to the jurisdiction thereof, excluding Indians not taxed, are citizens of the United States and of the States wherein they reside.

Mr. HOWARD. I hope that amendment to the amendment will not be adopted. Indians born within the limits of the United States, and who maintain their tribal relations, are not, in the sense of this amendment, born subject to the jurisdiction of the United States. They are regarded, and always have been in our legislation and jurisprudence, as being *quasi* foreign nations.

Mr. COWAN. The honorable Senator from Michigan has given this subject, I have no doubt, a good deal of his attention, and I am really desirous to have a legal definition of "citizenship of the United States." What does it mean? What is its length and breadth? I would be glad if the honorable Senator in good earnest would favor us with some such definition. Is the child of the Chinese immigrant in California a citizen? Is the child of a Gypsy born in Pennsylvania a citizen? If so, what rights have they? Have they any more rights than a sojourner in the United States? If a traveler comes here from Ethiopia, from Australia, or from Great Britain, he is entitled, to a certain extent, to the protection of the laws. You cannot murder him with impunity. It is murder to kill him, the same as it is to kill another man. You cannot commit an assault and battery on him, I apprehend. He has a right to the protection of the laws; but he is not a citizen in the ordinary acceptation of the word.

It is perfectly clear that the mere fact that a man is born in the country has not heretofore entitled him to the right to exercise political power. He is not entitled, by virtue of that, to be an elector. An elector is one who is chosen by the people to perform that function, just the same as an officer is one chosen by the people to exercise the franchises of an office. Now, I should like to know, because really I have been puzzled for a long while and have been unable to determine exactly, either from conversation with those who ought to know, who have given this subject their attention, or from the decisions of the Supreme Court, the lines and boundaries which circumscribe that phrase, "citizen of the United States." What is it?

So far as the courts and the administration of the laws are concerned, I have supposed that every human being within their jurisdiction was in one sense of the word a citizen, that is, a person entitled to protection; but in so far as the right to hold property, particularly the right to acquire title to real estate, was concerned, that was a subject entirely within the control of the States. It has been so considered in the State of Pennsylvania; and aliens and others who acknowledge no allegiance, either to the State or to the General Government, may be limited and circumscribed in that particular. I have supposed, further, that it was essential to the existence of society itself, and particularly essential to the existence of a free State, that it should have the power, not only of declaring who should exercise political power within its boundaries, but that if it were overrun by another and a different race, it would have the right to absolutely expel them. I do not know that there is any danger to many of the States in this Union; but it is proposed that the people of Cal-

ifornia are to remain quiescent while they are overrun by a flood of immigration of the Mongol race? Are they to be immigrated out of house and home by Chinese? I should think not. It is not supposed that the people of California, in a broad and general sense, have any higher rights than the people of China; but they are in possession of the country of California, and if another people of a different race, of different religion, of different manners, of different traditions, different tastes and sympathies are to come there and have the free right to locate there and settle among them, and if they have an opportunity of pouring in such an immigration as in a short time will double or treble the population of California, I ask, are the people of California powerless to protect themselves? I do not know what the contingency will ever happen, but it may be well to consider it while we are on this point.

As I understand the rights of the States under the Constitution at present, California has the right, if she deems it proper, to forbid the entrance into her territory of any person she chooses who is not a citizen of some one of the United States. She cannot forbid his entrance; but unquestionably, if she was likely to be invaded by a flood of Australians or people from Borneo, man-eaters or cannibals if you please, she would have the right to say that those people should not come there. It depends upon the inherent character of the men. Why, sir, there are nations of people with whom theft is a virtue and falsehood a merit. There are people to whom polygamy is as natural as monogamy is with us. It is utterly impossible that these people can meet together and enjoy their several rights and privileges which they suppose to be natural in the same society; and it is necessary, a part of the nature of things, that society shall be more or less exclusive. It is utterly and totally impossible to mingle all the various families of men, from the lowest form of the Hottentot up to the highest Caucasian, in the same society.

It must be evident to every man intrusted with the power and duty of legislation, and qualified to exercise it in a wise and temperate manner, that these things cannot be; and in my judgment there should be some limitation, some definition to this term "citizen of the United States." What is it? Is it simply to put a man in a condition that he may be an elector in one of the States? Is it to put him in a condition to have the right to enter the United States courts and sue? Or is it only that he is entitled as a sojourner to the protection of the laws while he is within and under the jurisdiction of the courts? Or is it to set him upon some pedestal, some position, to put him out of the reach of State legislation and State power?

Sir, I trust I am as liberal as anybody toward the rights of all people, but I am unwilling, on the part of my State, to give up the right that she claims, and that she may exercise, and exercise before very long, of expelling a certain number of people who invade her borders; who owe to her no allegiance; who pretend to owe none; who recognize no authority in her government; who have a distinct, independent government of their own—an *imperium in imperio*; who pay no taxes; who never perform military service; who do nothing, in fact, which becomes the citizen, and perform none of the duties which devolve upon him, but, on the other hand, have no homes, pretend to own no land, live nowhere, settle as trespassers where ever they go, and whose sole merit is a universal swindle; who delight in it, who boast of it, and whose adroitness and cunning is of such a transcendent character that no skill can serve to correct it or punish it; I mean the Gypsies. They wander in gangs in my State. They follow no ostensible pursuit for a livelihood. They trade horses, tell fortunes, and things disappear mysteriously. Where they came from nobody knows. Their very origin is lost in mystery. No man to-day can tell from whence the Zin-

gara come or whither they go, but it is understood that they are a distinct people. They never intermingle with any other. They never intermarry with any other. I believe there is no instance on record where a Zingara woman has mated with a man of any other race, although it is true that sometimes the males of that race may mate with the females of others; but I think there is no case in history where it can be found that a woman of that race, so exclusive are they, and so strong are their sectional antipathies, has been known to mate with a man of another race. These people live in the country and are born in the country. They infest society. They impose upon the simple and the weak everywhere. Are those people, by a constitutional amendment, to be put out of the reach of the State in which they live? I mean as a class. If the mere fact of being born in the country confers that right, then they will have it; and I think it will be mischievous.

I think the honorable Senator from Michigan would not admit the right that the Indians of his neighborhood would have to come in upon Michigan and settle in the midst of that society and obtain the political power of the State, and wield it, perhaps, to his exclusion. I do not know that anybody would agree to that. It is true that our race are not subjected to dangers from that quarter, because we are the strongest, perhaps; but there is a race in contact with this country which, in all characteristics except that of simply making fierce war, is not only our equal, but perhaps our superior. I mean the yellow race; the Mongol race. They outnumber us largely. Of their industry, their skill, and their pertinacity in all worldly affairs, nobody can doubt. They are our neighbors. Recent improvement, the age of fire, has brought their coasts almost in immediate contact with our own. Distance is almost annihilated. They may pour in their millions upon our Pacific coast in a very short time. Are the States to lose control over this immigration? Is the United States to determine that they are to be citizens? I wish to be understood that I consider those people to have rights just the same as we have, but not rights in connection with our Government. If I desire the exercise of my rights I ought to go to my own people, the people of my own blood and lineage, people of the same religion, people of the same beliefs and traditions, and not thrust myself in upon a society of other men entirely different in all those respects from myself. I would not claim that right. Therefore I think, before we assert broadly that everybody who shall be born in the United States shall be taken to be a citizen of the United States, we ought to exclude others besides Indians not taxed, because I look upon Indians not taxed as being much less dangerous and much less pestiferous to society than I look upon Gypsies. I do not know how my honorable friend from California looks upon Chinese, but I do know how some of his fellow-citizens regard them. I have no doubt that now they are useful, and I have no doubt that within proper restraints, allowing that State and the other Pacific States to manage them as they may see fit, they may be useful; but I would not tie their hands by the Constitution of the United States so as to prevent them hereafter from dealing with them as in their wisdom they see fit.

Mr. CONNESS. Mr. President, I have failed to learn, from what the Senator has said, what relation what he has said has to the first section of the constitutional amendment before us; but that part of the question I propose leaving to the honorable gentleman who has charge of this resolution. As, however, the State of California has been so carefully guarded from time to time by the Senator from Pennsylvania and others, and the passage, not only of this amendment, but of the so-called civil rights bill, has been deprecated because of its pernicious influence upon society in California, owing to the contiguity of the

Chinese and Mongolians to that favored land, I may be excused for saying a few words on the subject.

If my friend from Pennsylvania, who professes to know all about Gypsies and little about Chinese, knew as much of the Chinese and their habits as he professes to do of the Gypsies, (and which I concede to him, for I know nothing to the contrary,) he would not be alarmed in our behalf because of the operation of the proposition before the Senate, or even the proposition contained in the civil rights bill, so far as it involves the Chinese and us.

The proposition before us, I will say, Mr. President, relates simply in that respect to the children begotten of Chinese parents in California, and it is proposed to declare that they shall be citizens. We have declared that by law; now it is proposed to incorporate the same provision in the fundamental instrument of the nation. I am in favor of doing so. I voted for the proposition to declare that the children of all parentage whatever, born in California, should be regarded and treated as citizens of the United States, entitled to equal civil rights with other citizens of the United States.

Now, I will say, for the benefit of my friend, that he may know something about the Chinese in future, that this portion of our population, namely, the children of Mongolian parentage, born in California, is very small indeed, and never promises to be large, notwithstanding our near neighborhood to the Celestial land. The habits of those people, and their religion, appear to demand that they all return to their own country at some time or other, either alive or dead. There are, perhaps, in California today about forty thousand Chinese—from forty to forty-five thousand. Those persons return invariably, while others take their places, and, as I before observed, if they do not return alive their bones are carefully gathered up and sent back to the Flower Land. It is not an unusual circumstance that the clipper ships trading between San Francisco and China carry at a time three or four hundred human remains of these Chinese. When interred in our State they are not interred deep in the earth, but laid very near the surface, and then mounds of earth are laid over them, so that the process of disinterment is very easy. That is their habit and custom; and as soon as they are fit for transmission to their own country they are taken up with great regularity and sent there. None of their bones are allowed to remain. They will return, then, either living or dead.

Another feature connected with them is, that they do not bring their females to our country but in very limited numbers, and rarely ever in connection with families; so that their progeny in California is very small indeed. From the description we have had from the honorable Senator from Pennsylvania of the Gypsies, the progeny of all Mongolians in California is not so formidable in numbers as that of the Gypsies in Pennsylvania. We are not troubled with them at all. Indeed, it is only in exceptional cases that they have children in our State; and therefore the alarming aspect of the application of this provision to California, or any other land to which the Chinese may come as immigrants, is simply a fiction in the brain of persons who deprecate it, and that alone.

I wish now to address a few words to what the Senator from Pennsylvania has said as to the rights that California may claim as against the incursion of objectionable population from other States and countries. The State of California at various times has passed laws restrictive of Chinese immigration. It will be remembered that the Chinese came to our State, as others did from all parts of the world, to gather gold in large quantities, it being found there. The interference with our own people in the mines by them was deprecated by and generally objectionable to the miners in California. The Chinese are re-

garded, also, not with favor as an addition to the population in a social point of view; not that there is any intercourse between the two classes of persons there, but they are not regarded as pleasant neighbors; their habits are not of a character that make them at all an inviting class to have near you, and the people so generally regard them. But in their habits otherwise, they are a docile, industrious people, and they are now passing from mining into other branches of industry and labor. They are found employed as servants in a great many families and in the kitchens of hotels; they are found as farm hands in the fields; and latterly they are employed by thousands—indeed, I suppose there are from six to seven thousand of them now employed in building the Pacific railroad. They are there found to be very valuable laborers, patient and effective; and, I suppose, before the present year closes, ten or fifteen thousand of them, at least, will be employed on that great work.

The State of California has undertaken, at different times, to pass restrictive statutes as to the Chinese. The State has imposed a tax on their right to work the mines, and collected it ever since the State has been organized—a tax of four dollars a month on each Chinaman; but the Chinese could afford to pay that and still work in the mines, and they have done so. Various acts have been passed imposing a poll tax or head tax, a capitation tax, upon their arrival at the port of San Francisco; but all such laws, when tested before the supreme court of the State of California, the supreme tribunal of that people, have been decided to be unconstitutional and void.

Mr. HOWARD. A very just and constitutional decision, undoubtedly.

Mr. CONNESS. Those laws have been tested in our own courts, and when passed under the influence of public feeling there they have been declared again and again by the supreme court of the State of California to be void, violative of our treaty obligations, an interference with the commerce of the nation. Now, then, I beg the honorable Senator from Pennsylvania, though it may be very good capital in an electioneering campaign to declaim against the Chinese, not to give himself any trouble about the Chinese, but to confine himself entirely to the injurious effects of this provision upon the encouragement of a Gypsy invasion of Pennsylvania. I had never heard myself of the invasion of Pennsylvania by Gypsies. I do not know, and I do not know that the honorable Senator can tell us, how many Gypsies the census shows to be within the State of Pennsylvania. The only invasion of Pennsylvania within my recollection was an invasion very much worse and more disastrous to the State, and more to be feared and more feared, than that of Gypsies. It was an invasion of rebels, which this amendment, if I understand it aright, is intended to guard against and to prevent the recurrence of. On that occasion I am not aware, I do not remember that the State of Pennsylvania claimed the exclusive right of expelling the invaders, but on the contrary my recollection is that Pennsylvania called loudly for the assistance of her sister States to aid in the expulsion of those invaders—did not claim it as a State right to exclude them, did not think it was a violation of the sovereign rights of the State when the citizens of New York and New Jersey went to the field in Pennsylvania and expelled those invaders.

But why all this talk about Gypsies and Chinese? I have lived in the United States for now many a year, and really I have heard more about Gypsies within the last two or three months than I have heard before in my life. It cannot be because they have increased so much of late. It cannot be because they have been felt to be particularly oppressive in this or that locality. It must be that the Gypsy element is to be added to our political agitation, so that hereafter the negro alone shall

not claim our entire attention. Here is a simple declaration that a score or a few score of human beings born in the United States shall be regarded as citizens of the United States, entitled to civil rights, to the right of equal defense, to the right of equal punishment for crime with other citizens; and that such a provision should be deprecated by any person having or claiming to have a high humanity passes all my understanding and comprehension.

Mr. President, let me give an instance here, in this connection, to illustrate the necessity of the civil rights bill in the State of California; and I am quite aware that what I shall say will go to California, and I wish it to do so. By the influence of our "southern brethren," who I will not say invaded California, but who went there in large numbers some years since, and who seized political power in that State and used it, who made our statutes and who expounded our statutes from the bench, negroes were forbidden to testify in the courts of law of that State, and Mongolians were forbidden to testify in the courts; and therefore for many years, indeed, until 1862, the State of California held officially that a man with a black skin could not tell the truth, could not be trusted to give a relation in a court of law of what he saw and what he knew. In 1862 the State Legislature repealed the law as to negroes, but not as to Chinese.

Where white men were parties the statute yet remained, depriving the Mongolian of the right to testify in a court of law. What was the consequence of preserving that statute? I will tell you. During the four years of rebellion a good many of our "southern brethren" in California took upon themselves the occupation of what is there technically called "road agents." It is a term well known and well understood there. They turned out upon the public highways, and became robbers, highway robbers; they seized the treasure transmitted and conveyed by the express companies, by our stage lines, and in one instance made a very heavy seizure, and claimed that it was done in accordance with the authority of the so-called confederacy. But the authorities of California hunted them down, caught a few of them, and caused them to be hanged, not recognizing the commission of Jeff. Davis for those kinds of transactions within our bounds. The spirit of insubordination and violation of law, promoted and encouraged by rebellion here, affected us so largely that large numbers of—I will not say respectable southern people, and I will not say that it was confined to them alone—but large numbers of persons turned out upon the public highways, so that robbery was so common upon the highways, particularly in the interior and in the mountains of that State, that it was not wondered at, but the wonder was for anybody that traveled on the highways to escape robbery. The Chinese were robbed with impunity, for if a white man was not present no one could testify against the offender. They were robbed and plundered and murdered, and no matter how many of them were present and saw the perpetration of those acts, punishment could not follow, for they were not allowed to testify. Now, sir, I am very glad indeed that we have determined at length that every human being may relate what he heard and saw in a court of law when it is required of him, and that our jurors are regarded as of sufficient intelligence to put the right value and construction upon what is stated.

So much for what has been said in connection with the application of this provision to the State that I in part represent here. I beg my honorable friend from Pennsylvania to give himself no further trouble on account of the Chinese in California or on the Pacific coast. We are fully aware of the nature of that class of people and their influence among us, and feel entirely able to take care of them and to provide against any evils that may flow from

their presence among us. We are entirely ready to accept the provision proposed in this constitutional amendment, that the children born here of Mongolian parents shall be declared by the Constitution of the United States to be entitled to civil rights and to equal protection before the law with others.

Mr. HOWARD. There is a typographical error in the amendment now under consideration. The word "State" in the eleventh line is printed "States." It should be in the singular instead of the plural number, so as to read "all persons born in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State" (not States) "wherein they reside." I move that that correction be made.

Mr. JOHNSON. I suggest to the Senator from Michigan that it stands just as well as it is.

Mr. HOWARD. I wish to correct the error of the printer; it is printed "States" instead of "State."

The PRESIDENT *pro tempore*. The correction will be made.

Mr. JOHNSON. I doubt whether it is an error of the printer.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Wisconsin to the amendment of the Senator from Michigan to the resolution before the Senate.

Mr. DOOLITTLE. I moved this amendment because it seems to me very clear that there is a large mass of the Indian population who are clearly subject to the jurisdiction of the United States who ought not to be included as citizens of the United States. All the Indians upon reservations within the several States are most clearly subject to our jurisdiction, both civil and military. We appoint civil agents who have a control over them in behalf of the Government. We have our military commanders in the neighborhood of the reservations, who have complete control. For instance, there are seven or eight thousand Navajoes at this moment under the control of General Carlton, in New Mexico, upon the Indian reservations, managed, controlled, fed at the expense of the United States, and fed by the War Department, managed by the War Department, and at a cost to this Government of almost a million and a half of dollars every year. Because it is managed by the War Department, paid out of the commissary fund and out of the appropriations for quartermasters' stores, the people do not realize the enormous expense which is upon their hands. Are these six or seven thousand Navajoes to be made citizens of the United States? Go into the State of Kansas, and you find there any number of reservations, Indians in all stages, from the wild Indian of the plains, who lives on nothing but the meat of the buffalo, to those Indians who are partially civilized and have partially adopted the habits of civilized life. So it is in other States. In my own State there are the Chippewas, the remnants of the Winnebagos, and the Pottawatomies. There are tribes in the State of Minnesota and other States of the Union. Are these persons to be regarded as citizens of the United States, and by a constitutional amendment declared to be such, because they are born within the United States and subject to our jurisdiction?

Mr. President, the word "citizen," if applied to them, would bring in all the Digger Indians of California. Perhaps they have mostly disappeared; the people of California, perhaps, have put them out of the way; but there are the Indians of Oregon and the Indians of the Territories. Take Colorado; there are more Indian citizens of Colorado than there are white citizens this moment if you admit it as a State. And yet by a constitutional amendment you propose to declare the Utes, the Tabahuaches, and all those wild Indians to be citizens of the United States, the great Republic of the world, whose citizenship should be a

title as proud as that of king, and whose danger is that you may degrade that citizenship.

Mr. President, citizenship, if conferred, carries with it, as a matter of course, the rights, the responsibilities, the duties, the immunities, the privileges of citizens, for that is the very object of this constitutional amendment to extend. I do not intend to address the Senate at length on this question now. I have simply raised the question. I think that it would be exceedingly unwise not to adopt this amendment and to put in the Constitution of the United States the broad language proposed. Our fathers certainly did not act in this way, for in the Constitution as they adopted it they excluded the Indians who are not taxed; did not enumerate them, indeed, as a part of the population upon which they based representation and taxation; much less did they make them citizens of the United States.

Mr. President, before the subject of the constitutional amendment passes entirely from the Senate, I may desire to avail myself of the opportunity to address the body more at length; but now I simply direct what I have to say to the precise point contained in the amendment which I have submitted.

Mr. FESSENDEN. I rise not to make any remarks on this question, but to say that if there is any reason to doubt that this provision does not cover all the wild Indians, it is a serious doubt; and I should like to hear the opinion of the chairman of the Committee on the Judiciary, who has investigated the civil rights bill so thoroughly, on the subject, or any other gentleman who has looked at it. I had the impression that it would not cover them.

Mr. TRUMBULL. Of course my opinion is not any better than that of any other member of the Senate; but it is very clear to me that there is nothing whatever in the suggestions of the Senator from Wisconsin. The provision is, that "all persons born in the United States, and subject to the jurisdiction thereof, are citizens." That means "subject to the complete jurisdiction thereof." Now, does the Senator from Wisconsin pretend to say that the Navajo Indians are subject to the complete jurisdiction of the United States? What do we mean by "subject to the jurisdiction of the United States?" Not owing allegiance to anybody else. That is what it means. Can you sue a Navajo Indian in court? Are they in any sense subject to the complete jurisdiction of the United States? By no means. We make treaties with them, and therefore they are not subject to our jurisdiction. If they were, we would not make treaties with them. If we want to control the Navajoes, or any other Indians of which the Senator from Wisconsin has spoken, how do we do it? Do we pass a law to control them? Are they subject to our jurisdiction in that sense? Is it not understood that if we want to make arrangements with the Indians to whom he refers we do it by means of a treaty? The Senator himself has brought before us a great many treaties this session in order to get control of those people.

If you introduce the words "not taxed," that is a very indefinite expression. What does "excluding Indians not taxed" mean? You will have just as much difficulty in regard to those Indians that you say are in Colorado, where there are more Indians than there are whites. Suppose they have property there, and it is taxed; then they are citizens.

Mr. WADE. And ought to be.

Mr. TRUMBULL. The Senator from Ohio says they ought to be. If they are there and within the jurisdiction of Colorado, and subject to the laws of Colorado, they ought to be citizens; and that is all that is proposed. It cannot be said of any Indian who owes allegiance, partial allegiance if you please, to some other Government that he is "subject to the jurisdiction of the United States." Would the Senator from Wisconsin think for a moment of bringing a bill into Congress to subject these wild Indians with whom we have no treaty to the laws and regulations of civilized life? Would he think of punishing them for instituting among them-

selves their own tribal regulations? Does the Government of the United States pretend to take jurisdiction of murders and robberies and other crimes committed by one Indian upon another? Are they subject to our jurisdiction in any just sense? They are not subject to our jurisdiction. We do not exercise jurisdiction over them. It is only those persons who come completely within our jurisdiction, who are subject to our laws, that we think of making citizens; and there can be no objection to the proposition that such persons should be citizens.

It seems to me, sir, that to introduce the words suggested by the Senator from Wisconsin would not make the proposition any clearer than it is, and that it by no means embraces, or by any fair construction—by any construction, I may say—could embrace the wild Indians of the plains or any with whom we have treaty relations, for the very fact that we have treaty relations with them shows that they are not subject to our jurisdiction. We cannot make a treaty with ourselves; it would be absurd. I think that the proposition is clear and safe as it is.

Mr. JOHNSON. Mr. President, the particular question before the Senate is whether the amendment proposed by the Senator from Wisconsin shall be adopted. But while I am up, and before I proceed to consider the necessity for that amendment, I will say a word or two upon the proposition itself; I mean that part of section one which is recommended as an amendment to the old proposition as it originally stood.

The Senate are not to be informed that very serious questions have arisen, and some of them have given rise to embarrassments, as to who are citizens of the United States, and what are the rights which belong to them as such; and the object of this amendment is to settle that question. I think, therefore, with the committee to whom the matter was referred, and by whom the report has been made, that it is very advisable in some form or other to define what citizenship is; and I know no better way of accomplishing that than the way adopted by the committee. The Constitution as it now stands recognizes a citizenship of the United States. It provides that no person shall be eligible to the Presidency of the United States except a natural-born citizen of the United States or one who was in the United States at the time of the adoption of the Constitution; it provides that no person shall be eligible to the office of Senator who has not been a citizen of the United States for nine years; but there is no definition in the Constitution as it now stands as to citizenship. Who is a citizen of the United States is an open question. The decision of the courts and the doctrine of the commentators is, that every man who is a citizen of a State becomes *ipso facto* a citizen of the United States; but there is no definition as to how citizenship can exist in the United States except through the medium of a citizenship in a State.

Now, all that this amendment provides is, that all persons born in the United States and not subject to some foreign Power—for that, no doubt, is the meaning of the committee who have brought the matter before us—shall be considered as citizens of the United States. That would seem to be not only a wise but a necessary provision. If there are to be citizens of the United States entitled everywhere to the character of citizens of the United States there should be some certain definition of what citizenship is, what has created the character of citizen as between himself and the United States, and the amendment says that citizenship may depend upon birth, and I know of no better way to give rise to citizenship than the fact of birth within the territory of the United States, born of parents who at the time were subject to the authority of the United States. I am, however, by no means prepared to say, as I think I have intimated before, that being born within the United States, independent of any new constitutional

provision on the subject, creates the relation of citizen to the United States.

The amendment proposed by my friend from Wisconsin I think, and I submit it to the Senate, should be adopted. The honorable member from Illinois seems to think it unnecessary, because, according to his interpretation of the amendment as it stands, it excludes those who are proposed to be excluded by the amendment of the Senator from Wisconsin, and he thinks that that is done by saying that those only who are born in the United States are to become citizens thereof, who at the time of birth are "subject to the jurisdiction thereof," and he supposes and states very positively that the Indians are not subject to the jurisdiction of the United States. With due deference to my friend from Illinois, I think he is in error. They are within the territorial limits of the United States. If they were not, the provision would be altogether inapplicable to them. In one sense, therefore, they are a part of the people of the United States, and independent of the manner in which we have been dealing with them it would seem to follow necessarily that they are subject to the jurisdiction of the United States, as is anybody else who may be born within the limits of the United States. But when the United States took possession—England for us in the beginning, and our limits have been extended since—of the territory which was originally peopled exclusively by the Indians, we found it necessary to recognize some kind of a national existence on the part of the aboriginal settlers of the United States; but we were under no constitutional obligation to do so now, for although we have been in the habit of making treaties with these several tribes, we have also, from time to time, legislated in relation to the Indian tribes. We punish murder committed within the territorial limits in which the tribes are to be found. I think we punish the crime of murder committed by one Indian upon another Indian. I think my friend from Illinois is wrong in supposing that that is not done.

Mr. TRUMBULL. Not except where it is done under special provision—not with the wild Indians of the plains.

Mr. JOHNSON. By special provision of legislation. That I understand. I am referring to that.

Mr. TRUMBULL. We propose to make citizens of those brought under our jurisdiction in that way. Nobody objects to that, I reckon.

Mr. JOHNSON. Yes, I do. I am not objecting at all to their being citizens now; what I mean to say, is that over all the Indian tribes within the limits of the United States, the United States may—that is the test—exercise jurisdiction. Whether they exercise it in point of fact is another question; whether they propose to govern them under the treaty-making power is quite another question; but the question as to the authority to legislate is one, I think, about which, if we were to exercise it, the courts would have no doubt; and when, therefore, the courts come to consider the meaning of this provision, that all persons born within the limits of the United States and subject to the jurisdiction thereof are citizens, and are called upon to decide whether Indians born within the United States, with whom we are now making treaties are citizens, I think they will decide that they have become citizens by virtue of this amendment. But at any rate, without expressing any decided opinion to that effect, as I would not do when the honorable member from Illinois is so decided in the opposite opinion, when the honorable member from Wisconsin, to say nothing of myself, entertains a reasonable doubt that Indians would be embraced within the provision, what possible harm can there be in guarding against it? It does not affect the constitutional amendment in any way. That is not my purpose, and I presume is not the purpose of my friend from Wisconsin.

The honorable member from Illinois says that the terms which the member from Wis-

consin proposes to insert would leave it very uncertain. I suppose that my friend from Illinois agreed to the second section of this constitutional amendment, and these terms are used in that section. In apportioning the representation, as you propose to do by virtue of the second section, you exclude from the basis "Indians not taxed." What does that mean? The honorable member from Illinois says that that is very uncertain. What does it mean? It means, or would mean if inserted in the first section, nothing, according to the honorable member from Illinois. Well, if it means nothing inserted in the first section it means nothing where it is proposed to insert it in the second section. But I think my friend from Illinois will find that these words are clearly understood and have always been understood; they are now almost technical terms. They are found, I think, in nearly all the statutes upon the subject; and if I am not mistaken, the particular statute upon which my friend from Illinois so much relied as one necessary to the peace of the country, the civil rights bill, has the same provision in it, and that bill I believe was prepared altogether, or certainly principally, by my friend from Illinois. I read now from the civil rights bill as it passed:

"That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens."

What did these words mean? They meant something; and their meaning as they are inserted in that act is the same meaning which will be given to them if they are inserted in the first section of this constitutional amendment. But I conclude by saying that when we are trying to settle this, among other questions, for all time, it is advisable—and if my friend will permit me to say so, our clear duty—to put every provision which we adopt in such plain language as not to be capable of two interpretations, if we can. When Senators upon the floor maintain the opinion that as it now stands it is capable of an interpretation different from that which the committee mean, and the amendment proposed gets clear of that interpretation which the committee do not mean, why should we not adopt it?

I hope, therefore, that the friends—and I am the friend of this provision as far as we have gone in it—that the friends of this constitutional amendment will accept the suggestion of the honorable member from Wisconsin.

Mr. TRUMBULL. The Senator from Maryland certainly perceives a distinction between the use of the words "excluding Indians not taxed" in the second section and in the first. The second section is confined to the States; it does not embrace the Indians of the plains at all. That is a provision in regard to the apportionment of representation among the several States.

Mr. JOHNSON. The honorable member did not understand me. I did not say it meant the same thing.

Mr. TRUMBULL. I understood the Senator, I think. I know he did not say that the clause in the second section was extended all over the country, but he did say that the words "excluding Indians not taxed" were in the second section, and inasmuch as I had said that those words were of uncertain meaning, therefore, having gone for the words in the second section I was guilty of a great inconsistency. Now, I merely wish to show the Senator from Maryland that the words in the second section may have a very clear and definite meaning, when in the first section they would have a very uncertain meaning, because they are applied under very different circumstances. The second section refers to no persons except those in the States of the Union; but the first section refers to persons everywhere, whether in the States or in the Territories or in the District of Columbia. Therefore the criticism upon the language that I had used, it seems to me, is not a just one.

But the Senator wants to insert the words, "excluding Indians not taxed." I am not willing to make citizenship in this country de-

pend on taxation. I am not willing, if the Senator from Wisconsin is, that the rich Indian residing in the State of New York shall be a citizen and the poor Indian residing in the State of New York shall not be a citizen. If you put in those words in regard to citizenship, what do you do? You make a distinction in that respect, if you put it on the ground of taxation. We had a discussion on the civil rights bill as to the meaning of these words, "excluding Indians not taxed." The Senator from Maryland, [Mr. JOHNSON,] I think, on that occasion gave this definition to the phrase "excluding Indians not taxed," that it did not allude to the fact of taxation simply but it meant to describe a class of persons; that is, civilized Indians. I was inclined to fall into that view. I was inclined to adopt the suggestion of the Senator from Maryland, that the words "excluding Indians not taxed" did not mean literally excluding those upon whom a tax was not assessed and collected, but rather meant to define a class of persons, meaning civilized Indians; and I think I gave that answer to the Senator from Indiana, [Mr. HENDRICKS,] who was disposed to give it the technical meaning that "Indians not taxed" meant simply those upon whom no tax was laid. If it does mean that, then it would be very objectionable to insert those words here, because it would make of a wealthy Indian a citizen and would not make a citizen of one not possessed of wealth under the same circumstances. This is the uncertainty in regard to the meaning of those words. The Senator from Maryland and myself, perhaps, would understand them alike as embracing all Indians who were not civilized; and yet, if you insert that language, "Indians not taxed," other persons may not understand them that way; and I remember that the Senator from Indiana was disposed to understand them differently when we had the discussion upon the civil rights bill. Therefore I think it better to avoid these words and that the language proposed in this constitutional amendment is better than the language in the civil rights bill. The object to be arrived at is the same.

I have already replied to the suggestion as to the Indians being subject to our jurisdiction. They are not subject to our jurisdiction in the sense of owing allegiance solely to the United States; and the Senator from Maryland, if he will look into our statutes, will search in vain for any means of trying these wild Indians. A person can only be tried for a criminal offense in pursuance of laws, and he must be tried in a district which must have been fixed by law before the crime was committed. We have had in this country, and have to-day, a large region of country within the territorial limits of the United States, unorganized, over which we do not pretend to exercise any civil or criminal jurisdiction, where wild tribes of Indians roam at pleasure, subject to their own laws and regulations, and we do not pretend to interfere with them. They would not be embraced by this provision.

For these reasons I think this language is better than the language employed by the civil rights bill.

Mr. HENDRICKS. Will the Senator from Illinois allow me to ask him a question before he sits down?

Mr. TRUMBULL. Certainly.

Mr. HENDRICKS. I wish to know if, in his opinion, it is not a matter of pleasure on the part of the Government of the United States, and especially of Congress, whether the laws of the United States be extended over the Indians or not; if it is not a matter to be decided by Congress alone whether we treat with the Indians by treaty or govern them by direct law; in other words, whether Congress has not the power at its pleasure to extend the laws of the United States over the Indians and to govern them.

Mr. TRUMBULL. I suppose it would have the same power that it has to extend the laws of the United States over Mexico and govern her if in our discretion we thought proper to

extend the laws of the United States over the republic of Mexico, or the empire of Mexico, if you please so to call it, and had sufficient physical power to enforce it. I suppose you may say in this case we have the power to do it, but it would be a violation of our treaty obligations, a violation of the faith of this nation, to extend our laws over these Indian tribes with whom we have made treaties saying we would not do it.

Mr. FESSENDEN. We could extend it over Mexico in the same way.

Mr. TRUMBULL. I say we could extend it over Mexico just as well; that is, if we have the power to do it. Congress might declare war, or, without declaring war, might extend its laws, or profess to extend them, over Mexico, and if we had the power we could enforce that declaration; but I think it would be a breach of good faith on our part to extend the laws of the United States over the Indian tribes with whom we have these treaty stipulations, and in which treaties we have agreed that we would not make them subject to the laws of the United States. There are numerous treaties of that kind.

Mr. VAN WINKLE. If the Senator will permit me, I wish to remind him of a citation from a decision of the Supreme Court that he himself made here, I think, when the veto of the civil rights bill was under discussion; and if I correctly understood it, as he read it, the Supreme Court decided that these untaxed Indians were subjects, and distinguished between subjects and citizens.

Mr. TRUMBULL. I think there are decisions that treat them as subjects in some respects. In some sense they are regarded as within the territorial boundaries of the United States, but I do not think they are subject to the jurisdiction of the United States in any legitimate sense; certainly not in the sense that the language is used here. The language seems to me to be better chosen than it was in the other bill. There is a difficulty about the words, "Indians not taxed." Perhaps one of the reasons why I think so is because of the persistency with which the Senator from Indiana himself insisted that the phrase "excluding Indians not taxed," the very words which the Senator from Wisconsin wishes to insert here, would exclude everybody that did not pay a tax; that that was the meaning of it; we must take it literally. The Senator from Maryland did not agree to that, nor did I; but if the Senator from Indiana was right, it would receive a construction which I am sure the Senator from Wisconsin would not be for: for if these Indians come within our limits and within our jurisdiction and are civilized, he would just as soon make a citizen of a poor Indian as of the rich Indian.

Mr. HENDRICKS. I expected the Senator from Illinois, being a very able lawyer, at the head of the Judiciary Committee, to meet the question that I asked him and to answer it as a question of law, and not as a question of military power. I did not ask him the question whether the Government of the United States had the military power to go into the Indian territory and subjugate the Indians to the political power of the country; nor had he a right to understand the question in that sense. I asked him the question whether, under the Constitution, under the powers of this Government, we may extend our laws over the Indians and compel obedience, as a matter of legal right, from the Indians. If the Indian is bound to obey the law he is subject to the jurisdiction of the country; and that is the question I desired the Senator to meet as a legal question, whether the Indian would be bound to obey the law which Congress in express terms extended over him in regard to questions within the jurisdiction of Congress.

Now, sir, this question has once or twice been decided by the Attorney General, so far as he could decide it. In 1855 he was inquired of whether the laws of the United States regulating the intercourse with the Indian tribes, by the general legislation in regard to Oregon,

had been extended to Oregon; and he gave it as his opinion that the laws had been extended to Oregon, and regulated the intercourse between the white people and the Indians there. Subsequently, the Attorney General was asked whether Indians were citizens of the United States in such sense as that they could become the owners of the public lands where the right to acquire them was limited to citizens; and in the course of that opinion he says that the Indian is not a citizen of the United States by virtue of his birth, but that he is a subject. He says:

"The simple truth is plain that the Indians are the subjects of the United States, and therefore are not, in mere right of home-birth, citizens of the United States. The two conditions are incompatible. The moment it comes to be seen that the Indians are domestic subjects of this Government, that moment it is clear to the perception that they are not the sovereign constituent ingredients of the Government. This distinction between citizens proper, that is, the constituent members of the political sovereignty, and subjects of that sovereignty, who are not therefore citizens, is recognized in the best authorities of public law."

He then cites some authorities. Again, he says:

"Not being citizens of the United States by mere birth, can they become so by naturalization? Undoubtedly."

"But they cannot become citizens by naturalization under existing general acts of Congress. (2 Kent's Commentaries, page 72.)

"These acts apply only to foreigners, subjects of another allegiance. The Indians are not foreigners, and they are in our allegiance without being citizens of the United States."

Mr. JOHNSON. Whose opinion is that?

Mr. HENDRICKS. That is the opinion of Mr. Cushing, given on the 5th of July, 1856. I did not intend to discuss this question, but I will make one further reply to the Senator from Illinois. When the civil rights bill was under consideration I was of the opinion that the term "not taxed" meant not taxed; and when words are plain in the law I take them in their natural sense. When there is no ambiguity the law says there shall be no construction; and when you say a man is not taxed I presume it means that he is not taxed. I do not know any words that express the meaning more clearly than the words themselves, and therefore I cannot express the meaning in any more apt words than the words used by the Senator from Wisconsin, "Indians not taxed." When I said that that was making citizenship to rest upon property I recollect, or I think I do, the indignant terms in which the Senator from Illinois then replied, conveying the idea that it was a demagogical argument in this body to speak of a subject like that; and yet to-day he says to the Senator from Wisconsin that it is not a statesmanlike proposition. He makes the same point upon the Senator from Wisconsin which he undertook to make upon me on the civil rights bill.

If it is the pleasure of Congress to make the wild Indians of the desert citizens, and then if three fourths of the States agree to it, I presume we will get along the best way we can; and what shall then be the relations between these people and the United States will be for us and for our descendants to work out. They are not now citizens; they are subjects. For safety, as a matter of policy we regulate our intercourse with them to a large extent by treaties, so as that they shall assent to the regulations that govern them. That is a matter of policy, but we need not treat with an Indian. We can make him obey our laws, and being liable to such obedience he is subject to the jurisdiction of the United States. I did not intend to discuss this question, but I got into it by the inquiry I made of the Senator from Illinois.

Mr. HOWARD. I hope, sir, that this amendment will not be adopted. I regard the language of the section as sufficiently certain and definite. If amended according to the suggestion of the honorable Senator from Wisconsin it will read as follows:

All persons born in the United States, and subject to the jurisdiction thereof, excluding Indians not taxed, are citizens of the United States, and of the State wherein they reside.

Suppose we adopt the amendment as suggested by the honorable Senator from Wisconsin, in what condition will it leave us as to the Indian tribes wherever they are found? According to the ideas of the honorable Senator, as I understand them, this consequence would follow: all that would remain to be done on the part of any State would be to impose a tax upon the Indians, whether in their tribal condition or otherwise, in order to make them citizens of the United States. Does the honorable Senator from Wisconsin contemplate that? Does he propose to leave this amendment in such a condition that the State of Wisconsin, which he so ably represents here, will have the right to impose taxes upon the Indian tribes within her limits, and thus make of these Indians constituting the tribes, no matter how numerous, citizens of the United States and of the State of Wisconsin? That would be the direct effect of his amendment if it should be adopted. It would, in short, be a naturalization, whenever the States saw fit to impose a tax upon the Indians, of the whole Indian race within the limits of the States.

Mr. CLARK. The Senator will permit me to suggest a case. Suppose the State of Kansas, for instance, should tax her Indians for five years, they would be citizens.

Mr. HOWARD. Undoubtedly.

Mr. CLARK. But if she refuse to tax them for the next ten years how would they be then? Would they be citizens or not?

Mr. HOWARD. I take it for granted that when a man becomes a citizen of the United States under the Constitution he cannot cease to be a citizen, except by expatriation or the commission of some crime by which his citizenship shall be forfeited.

Mr. CLARK. If it depends upon taxation.

Mr. HOWARD. The continuance of the quality of citizenship would not, I think, depend upon the continuance of taxation.

Mr. CLARK. But still he would be an "Indian not taxed."

Mr. HOWARD. He has been taxed once.

Mr. CLARK. The point I wish to bring the Senator to is this: would not the admission of a provision of that kind make a sort of shifting use of the Indians?

Mr. HOWARD. It might, depending upon the construction which would happen to be given by the courts to the language of the Constitution. The great objection, therefore, to the amendment is, that it is an actual naturalization, whenever the State sees fit to enact a naturalization law in reference to the Indians in the shape of the imposition of a tax, of the whole Indian population within their limits. There is no evading this consequence, but still I cannot impute to the honorable Senator from Wisconsin a purpose like that. I think he has misapprehended the effect of the language which he suggests. I think the language as it stands is sufficiently certain and exact. It is that "all persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

I concur entirely with the honorable Senator from Illinois, in holding that the word "jurisdiction," as here employed, ought to be construed so as to imply a full and complete jurisdiction on the part of the United States, coextensive in all respects with the constitutional power of the United States, whether exercised by Congress, by the executive, or by the judicial department; that is to say, the same jurisdiction in extent and quality as applies to every citizen of the United States now. Certainly, gentlemen cannot contend that an Indian belonging to a tribe, although born within the limits of a State, is subject to this full and complete jurisdiction. That question has long since been adjudicated, so far as the usage of the Government is concerned. The Government of the United States have always regarded and treated the Indian tribes within our limits as foreign Powers, so far as the treaty-making power is concerned, and so far especially as the commercial power is concerned,

for in the very Constitution itself there is a provision that Congress shall have power to regulate commerce, not only with foreign nations and among the States, but also with the Indian tribes. That clause, in my judgment, presents a full and complete recognition of the national character of the Indian tribes, the same character in which they have been recognized ever since the discovery of the continent and its occupation by civilized men; the same light in which the Indians were viewed and treated by Great Britain from the earliest commencement of the settlement of the continent. They have always been regarded, even in our ante-revolutionary history, as being independent nations, with whom the other nations of the earth have held treaties, and in no case, I believe, has either the Government of Great Britain or of the United States recognized the right of an individual Indian to transfer or convey lands. Why? If he was a citizen, in other words, if he was not a subject of a foreign Power, if he did not belong to a tribe whose common law is that land as well as almost every other description of property shall be held in common among the members of the tribe, subject to a chief, why is it that the reservation has been imposed and always observed upon the act of conveyance on the part of the Indian?

A passage has been read from an opinion given by Mr. Attorney General Cushing on this subject, in which, it seems to me, he takes great liberties with the Constitution in speaking of the Indian as being a subject of the United States. Certainly I do not so hold; I cannot so hold, because it has been the habit of the Government from the beginning to treat with the Indian tribes as sovereign Powers. The Indians are our wards. Such is the language of the courts. They have a national independence. They have an absolute right to the occupancy of the soil upon which they reside; and the only ground of claim which the United States has ever put forth to the proprietorship of the soil of an Indian territory is simply the right of pre-emption; that is, the right of the United States to be the first purchaser from the Indian tribes. We have always recognized in an Indian tribe the same sovereignty over the soil which it occupied as we recognize in a foreign nation of a power in itself over its national domains. They sell the lands to us by treaty, and they sell the lands as the sovereign Power owning, holding, and occupying the lands.

But it is useless, it seems to me, Mr. President, to enlarge further upon the question of the real political power of Indians or of Indian tribes. Our legislation has always recognized them as sovereign Powers. The Indian who is still connected by his tribal relation with the government of his tribe is subject for crimes committed against the laws or usages of the tribe to the tribe itself, and not to any foreign or other tribunal. I believe that has been the uniform course of decision on that subject. The United States courts have no power to punish an Indian who is connected with a tribe for a crime committed by him upon another member of the same tribe.

Mr. FESSENDEN. Within the territory.

Mr. HOWARD. Yes, sir. Why? Because the jurisdiction of the nation intervenes and ousts what would otherwise be perhaps a right of jurisdiction of the United States. But the great objection to the amendment to the amendment is that it is an unconscious attempt on the part of my friend from Wisconsin to naturalize all the Indians within the limits of the United States. I do not agree to that. I am not quite so liberal in my views. I am not yet prepared to pass a sweeping act of naturalization by which all the Indian savages, wild or tame, belonging to a tribal relation, are to become my fellow-citizens and go to the polls and vote with me and hold lands and deal in every other way that a citizen of the United States has a right to do.

Mr. DOOLITTLE. Mr. President, the Senator from Michigan declares his purpose to be

not to include these Indians within this constitutional amendment. In purpose I agree with him. I do not intend to include them. My purpose is to exclude them; and the question between us is whether his language includes them and mine excludes them, or whether his language excludes them and mine includes them. The Senator says, in the first place, if the words which are suggested by me, "Indians not taxed," are to govern, any State has it in its power to naturalize the Indian tribes within its limits and bring them in as citizens. Can a State tax them unless they are subject to the State? Certainly not. My friend from Michigan will not contend that an Indian can be taxed if he is not subject to the State or to the United States; and yet, if they are subject to the jurisdiction of the United States they are declared by the very language of his amendment to be citizens.

Now, sir, the words which I have used are borrowed from the Constitution as it stands—the Constitution adopted by our fathers. We have lived under it for seventy years; and these words, "Indians not taxed," are the very words which were used by our fathers in forming the Constitution as descriptive of a certain class of Indians which should not be enumerated as a part of our population, as distinguished from another class which should be enumerated as a part of our population; and these are words of description used by them under which we have acted for seventy years and more. They have come to have a meaning that is understood as descriptive of a certain class of Indians that may be enumerated within our population as a part of the citizens of the United States, to constitute a part of the basis of the political power of the United States, and others not included within it are to be excluded from that basis. The courts of the United States have had occasion to speak on this subject, and from time to time they have declared that the Indians are subjects of the United States, not citizens; and that is the very word in your amendment where they are "subject to the jurisdiction" of the United States. Why, sir, what does it mean when you say that a people are subject to the jurisdiction of the United States? Subject, first, to its military power; second, subject to its political power; third, subject to its legislative power; and who doubts our legislative power over the reservations upon which these Indians are settled? Speaking upon that subject, I have to say that one of the most distinguished men who ever sat in this body, certainly that have sat in this body since I have been a member of it, the late Senator from Vermont, Judge Collamer, time and again urged upon me, as a member of the Committee on Indian Affairs, to bring forward a scheme of legislation by which we should pass laws and subject all the Indians in all the Territories of the United States to the legislation of Congress direct. The Senator from Ohio not now in his seat [Mr. SHERMAN] has contended for the same thing, and other members of Congress contend that the very best policy of dealing with the Indian tribes is to subject them at once to our legislative power and jurisdiction. "Subjects of the United States!" Why, sir, they are completely our subjects, completely in our power. We hold them as our wards. They are living upon our bounty.

Mr. President, there is one thing that I doubt not Senators must have forgotten. In all those vast territories which we acquired from Mexico, we took the sovereignty and the jurisdiction of the soil and the country from Mexico, just as Mexico herself had held it, just as Spain had held it before the Mexican republic was established; and what was the power that was held by Spain and by Mexico over the Indian tribes? They did not recognize even the possessory title of an Indian in one foot of the jurisdiction of those territories. In reference to the Indians of California, we have never admitted that they had sufficient jurisdiction over any part of its soil to make a treaty with them. The Senate of the United

States expressly refused to make treaties with the Indians of California, on the ground that they had no title and no jurisdiction whatever in the soil; they were absolutely subject to the authority of the United States, which we derived from our treaty with Mexico.

The opinion of Attorney General Cushing, one of the ablest men who has ever occupied the position of Attorney General, has been read here, in which he states clearly that the Indians, though born upon our soil, owing us allegiance, are not citizens; they are our subjects; and that is the very word which is used in this amendment proposed to the Constitution of the United States, declaring that if they be "subject" to our jurisdiction, born on our soil, they are, *ipso facto*, citizens of the United States.

Mr. President, the celebrated civil rights bill which has been passed during the present Congress, which was the forerunner of this constitutional amendment, and to give validity to which this constitutional amendment is brought forward, and which without this constitutional amendment to enforce it has no validity so far as this question is concerned, uses the following language:

"That all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States."

Why should this language be criticised any more now, when it is brought forward here in this constitutional amendment, than when it was in the civil rights bill? Why should the language be more criticised here than it is in the second section of this constitutional amendment, where the same words are used? The second section, in apportioning representation, proposes to count the whole number of persons in each State, "excluding Indians not taxed." Why not insert those words in the first section as well as in the second? Why not insert them in this constitutional amendment as well as in the civil rights bill? The civil rights bill undertook to do this same thing. It undertook to declare that "all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States." But, sir, the committee of fifteen, fearing that this declaration by Congress was without validity unless a constitutional amendment should be brought forward to enforce it, have thought proper to report this amendment.

Mr. FESSENDEN. I want to say to the honorable Senator, who has a great regard for truth, that he is drawing entirely upon his imagination. There is not one word of correctness in all that he is saying, not a particle, not a scintilla, not the beginning of truth.

Mr. DOOLITTLE. I take a little issue with my friend from Maine on that point as a question of fact.

Mr. FESSENDEN. In the first place, this was not brought forward by the committee of fifteen at all.

Mr. DOOLITTLE. This proposition was first introduced into the House by a gentleman from Ohio by the name of BINGHAM.

Mr. FESSENDEN. I thought the Senator was speaking of this first part of the section, the amendment, not the whole.

Mr. DOOLITTLE. No, sir; that is proposed by the Senator from Michigan. As I understand, a member from Ohio, Mr. BINGHAM, who in a very able speech in the House maintained that the civil rights bill was without any authority in the Constitution, brought forward a proposition in the House of Representatives to amend the Constitution so as to enable Congress to declare the civil rights of all persons, and that constitutional amendment, Mr. BINGHAM being himself one of the committee of fifteen, was referred by the House to that committee, and from the committee it has been reported. I say I have a right to infer that it was because Mr. BINGHAM and others of the House of Representatives and other persons upon the committee had doubts, at least, as to

the constitutionality of the civil rights bill that this proposition to amend the Constitution now appears to give it validity and force. It is not an imputation upon any one.

Mr. GRIMES. It is an imputation upon every member who voted for the bill, the inference being legitimate and logical that they violated their oaths and knew they did so when they voted for the civil rights bill.

Mr. DOOLITTLE. The Senator goes too far. What I say is that they had doubts.

Mr. FESSENDEN. I will say to the Senator one thing; whatever may have been Mr. BINGHAM's motives in bringing it forward, he brought it forward some time before the civil rights bill was considered at all and had it referred to the committee, and it was discussed in the committee long before the civil rights bill was passed. Then I will say to him further, that during all the discussion in the committee that I heard nothing was ever said about the civil rights bill in connection with that. It was placed on entirely different grounds.

Mr. DOOLITTLE. I will ask the Senator from Maine this question: if Congress, under the Constitution now has the power to declare that "all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States," what is the necessity of amending the Constitution at all on this subject?

Mr. FESSENDEN. I do not choose that the Senator shall get off from the issue he presented. I meet him right there on the first issue. If he wants my opinion upon other questions, he can ask it afterward. He was saying that the committee of fifteen brought this proposition forward for a specific object.

Mr. DOOLITTLE. I said the committee of fifteen brought it forward because they had doubts as to the constitutional power of Congress to pass the civil rights bill.

Mr. FESSENDEN. Exactly; and I say, in reply, that if they had doubts, no such doubts were stated in the committee of fifteen, and the matter was not put on that ground at all. There was no question raised about the civil rights bill.

Mr. DOOLITTLE. Then I put the question to the Senator: if there are no doubts, why amend the Constitution on that subject?

Mr. FESSENDEN. That question the Senator may answer to suit himself. It has no reference to the civil rights bill.

Mr. DOOLITTLE. That does not meet the case at all. If my friend maintains that at this moment the Constitution of the United States, without amendment, gives all the power you ask, why do you put this new amendment into it on that subject?

Mr. HOWARD. If the Senator from Wisconsin wishes an answer, I will give him one such as I am able to give.

Mr. DOOLITTLE. I was asking the Senator from Maine.

Mr. HOWARD. I was a member of the same committee, and the Senator's observations apply to me equally with the Senator from Maine. We desired to put this question of citizenship and the rights of citizens and freedmen under the civil rights bill beyond the legislative power of such gentlemen as the Senator from Wisconsin, who would pull the whole system up by the roots and destroy it, and expose the freedmen again to the oppressions of their old masters.

Mr. DOOLITTLE. The Senator has made his answer, I suppose.

Mr. HOWARD. Yes, sir.

Mr. DOOLITTLE. Mr. President, when the Senator undertakes to say that I have any disposition to subject the freedmen to the despotism of their old masters, he says that which there is not a particle of foundation or excuse for saying. I say to that Senator—

Mr. HOWARD. I beg the Senator to allow me one word. I made no personal imputation against the Senator from Wisconsin.

Mr. DOOLITTLE. I desire to finish my sentence before being interrupted.

Mr. HOWARD. I will not be forced by the Senator into a false position.

Mr. DOOLITTLE. I do not desire to be interrupted until I finish one sentence. I say to that Senator that so far as the rights of the freedmen are concerned, I am willing to compare my course of action in this body or elsewhere with his. I say to that Senator that I labored as hard as he has labored to secure the rights and liberties of the freedmen, to emancipate the slaves of the South, and to put an end forever not only to slavery, but to the aristocracy that was founded upon it; and I have never, by word or deed, said or done anything, as a member of this body or elsewhere, tending to build up any oppression against the freedmen, tending to destroy any of their rights. I say to that honorable Senator, and I am ready at any time to meet him in argument upon it although it is drawing me now from the question in dispute, that I myself prepared and introduced here and urged a bill whose provisions defended every right of the freedmen just as much as the bill to which we have now made reference, and I am prepared to do so and to defend their rights with the whole power of the Government.

But, sir, the Senator has drawn me off from the immediate question before the Senate. The immediate question is, whether the language which he uses, "all persons subject to the jurisdiction of the United States," includes these Indians. I maintain that it does; and, therefore, for the purpose of relieving it from any doubt, for the purpose of excluding this class of persons, as they are, in my judgment, utterly unfit to be citizens of the United States, I have proposed this amendment, which I borrow from the Constitution as it stands, which our fathers adopted more than seventy years ago, which I find also in the civil rights bill which passed this present Congress, and which I find also in the second section of this constitutional amendment when applied to the enumeration of the inhabitants of the States. I insist that it is just, proper in every way, but reasonable, that we exclude the wild Indians from being regarded or held as citizens of the United States.

Mr. WILLIAMS. I would not agree to this proposed constitutional amendment if I supposed it made Indians not taxed citizens of the United States. But I am satisfied that, giving to the amendment a fair and reasonable construction, it does not include Indians not taxed. The first and second sections of this proposed amendment are to be taken together, are to be construed together, and the meaning of the word "citizens," as employed in both sections, is to be determined from the manner in which that word is used in both of those sections. Section one provides that—

All persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

If there be any doubt about the meaning of that paragraph, I think that doubt is entirely removed by the second section, for by the second section of this constitutional amendment Indians not taxed are not counted at all in the basis of representation. The words in the second section are as follows:

Representatives shall be apportioned among the several States which may be included within the Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

They are not to be regarded as persons to be counted under any circumstances. Indians not taxed are not even entitled to be counted as persons in the basis of representation under any circumstances; and then the section provides—

But whenever, in any State, the elective franchise shall be denied to any portion of its male inhabitants, being citizens of the United States, &c.

Now, can any reasonable man conclude that the word "citizens" there applies to Indians not taxed, or includes Indians not taxed, when they are expressly excluded from the basis of representation and cannot even be taken into the enumeration of persons upon

whom representation is to be based? I think it is perfectly clear, when you put the first and second sections together, that Indians not taxed are excluded from the term "citizens;" because it cannot be supposed for one moment that the term "citizens," as employed in these two sections, is intended to apply to Indians who are not even counted under any circumstances as a part of the basis of representation. I therefore think that the amendment of the Senator from Wisconsin is clearly unnecessary. I do not believe that "Indians not taxed" are included, and I understand that to be a description of Indians who maintain their tribal relations and who are not in all respects subject to the jurisdiction of the United States.

In one sense, all persons born within the geographical limits of the United States are subject to the jurisdiction of the United States, but they are not subject to the jurisdiction of the United States in every sense. Take the child of an ambassador. In one sense, that child born in the United States is subject to the jurisdiction of the United States, because if that child commits the crime of murder, or commits any other crime against the laws of the country, to a certain extent he is subject to the jurisdiction of the United States, but not in every respect; and so with these Indians. All persons living within a judicial district may be said, in one sense, to be subject to the jurisdiction of the court in that district, but they are not in every sense subject to the jurisdiction of the court until they are brought, by proper process, within the reach of the power of the court. I understand the words here, "subject to the jurisdiction of the United States," to mean fully and completely subject to the jurisdiction of the United States. If there was any doubt as to the meaning of those words, I think that doubt is entirely removed and explained by the words in the subsequent section; and believing that, in any court or by any intelligent person, these two sections would be construed not to include Indians not taxed, I do not think the amendment is necessary.

Mr. SAULSBURY. I do not presume that any one will pretend to disguise the fact that the object of this first section is simply to declare that negroes shall be citizens of the United States. There can be no other object in it, I presume, than a further extension of the legislative kindness and beneficence of Congress toward that class of people.

"The poor Indian, whose untutored mind, sees God in clouds, or hears him in the wind," was not thought of. I say this not meaning it to be any reflection upon the honorable committee who reported the amendment, because for all the gentlemen composing it I have a high respect personally; but that is evidently the object. I have no doubt myself of the correctness of the position, as a question of law, taken by the honorable Senator from Wisconsin; but, sir, I feel disposed to vote against his amendment, because if these negroes are to be made citizens of the United States, I can see no reason in justice or in right why the Indians should not be made citizens. If our citizens are to be increased in this wholesale manner, I cannot turn my back upon that persecuted race, among whom are many intelligent, educated men, and embrace as fellow-citizens the negro race. I therefore, as at present advised, for the reasons I have given, shall vote against the proposition of my friend from Wisconsin, although I believe, as a matter of law, that his statements are correct.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment proposed by the Senator from Michigan.

Mr. DOOLITTLE. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. VAN WINKLE. I desire to have the amendment to the amendment read.

The Secretary read the amendment to the amendment, which was to insert after the word

"thereof" in the amendment the words "excluding Indians not taxed;" so that the amendment, if amended, would read:

All persons born in the United States, and subject to the jurisdiction thereof, excluding Indians not taxed, are citizens of the United States and of the State wherein they reside.

The question being taken by yeas and nays, resulted—yeas 10, nays 30; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Norton, and Riddle—10.

NAYS—Messrs. Anthony, Clark, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Kansas, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Summer, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—30.

ABSENT—Messrs. Brown, Chandler, Dixon, Lane of Indiana, Nesmith, Saulsbury, Sprague, Wright, and Yates—9.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Michigan.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The next amendment proposed by the Senator from Michigan [Mr. HOWARD] will be read.

The Secretary read the amendment, which was in section two, line twenty-two, after the word "male," to strike out the word "citizens" and insert "inhabitants, being citizens of the United States;" so as to make the section read:

Sec. 2. Representatives shall be apportioned among the several States which may be included within the Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male inhabitants, being citizens of the United States, not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

Mr. JOHNSON. Is it supposed that that amendment changes the section as it was before? It appears to me to be the same as it was before, because, although the word "inhabitants" is used, it is in connection with the other words that they are to be citizens of the United States. As it originally stood it read:

But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens.

Mr. FESSENDEN. The object is the same as in the amendment already made, to prevent a State from saying that although a person is a citizen of the United States he is not a citizen of the State.

Mr. HOWARD. The object is to make section two conform to section one, to make them harmonize.

Mr. JOHNSON. I am satisfied.

The amendment was agreed to.

Mr. SAULSBURY. Is it in order now to offer an amendment to the first section?

The PRESIDENT *pro tempore*. There are several more amendments before the Senate, offered by the Senator from Michigan, [Mr. HOWARD], not yet acted upon. The next amendment offered by him will be read.

The Secretary read the amendment, which was to add at the end of section two the words "in such State."

The amendment was agreed to.

The next amendment was to insert as section three the following:

Sec. 3. That no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

Mr. HENDRICKS. I move to amend the amendment by inserting after the word "shall" in the thirty-seventh line the words "during the term of his office." I presume I understand

Several SENATORS. Now let us vote on all the other amendments together.

The PRESIDING OFFICER. If such be the pleasure of the Senate, the question will be taken collectively on all the other amendments.

Mr. JOHNSON. I hope not. I want a separate vote on the third section.

The PRESIDING OFFICER. That is the next section.

Mr. HENDRICKS. I do not understand this. Can this resolution be adopted by voting on sections separately?

Mr. FESSENDEN. No.

The PRESIDING OFFICER. The Senate is now concurring in amendments made as in Committee of the Whole.

Mr. SHERMAN. No amendment was made to the third section.

Mr. HENDRICKS. That is what I want to understand. I understand that there is no amendment from the Committee of the Whole to the third section.

Mr. FESSENDEN. Yes, we struck out the third section as reported and inserted a substitute for it.

The PRESIDING OFFICER. The question is on the amendment made as in Committee of the Whole to the third section.

Mr. JOHNSON. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. SHERMAN. The third section was the original section that came from the House disfranchising the southern people from voting. That has been stricken out.

Mr. HOWARD. The question is on concurring in the amendment we made to the third section.

Mr. SHERMAN. That was to strike out the third section which came from the House and insert another.

The question was taken by yeas and nays, with the following result:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cowan, Cragin, Creswell, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Norton, Nye, Poland, Pomeroy, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Summer, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—42.

NAY—Mr. Johnson—1.

ABSENT—Messrs. Brown, Buckalew, Dixon, Nesmith, Riddle, and Wright—6.

Mr. HENDRICKS, (before the result was announced,) I think the vote just taken is not correctly understood.

The PRESIDING OFFICER. No discussion is in order; the vote has not been announced.

Mr. HENDRICKS. I am not going into any discussion, but I have a right to ask of the Chair the precise question in time to let any gentleman change his vote if he desires to do so. The motion was not originally to strike out the third section as it came from the House and to insert another. They were separate motions. Then ought there not to be two votes upon this section now?

Mr. SHERMAN. I suppose any Senator can call for a division.

Mr. HENDRICKS. There is no need to call for a division because there were two distinct motions. There was first a motion to strike out and afterward a motion to insert something else. Now, the precise question before the Senate is whether the third section as it came from the House shall be stricken out, and then there will be another question not yet voted upon by the Senate, whether we shall insert the third section which was agreed to as in Committee of the Whole. That is the way it stands.

Several SENATORS. Oh, no.

Mr. JOHNSON. Mr. President—

Mr. CONNESS. I object to discussion at this time.

The PRESIDING OFFICER. The discussion is not in order; the vote has not been announced.

Mr. JOHNSON. I am not about to discuss

the question. The Senator from California need not suppose that I propose to occupy the time of the Senate unnecessarily. I proposed to strike out the original third section as it came from the House.

Mr. CONNESS. I rise to a question of order. It is not in order to discuss a question after the call of the roll has been commenced.

The PRESIDING OFFICER. The result of the vote has not been announced, but the roll has been called.

Mr. JOHNSON. If I am not in order I will take my seat; but it is barely possible that the Senator from California may not be in order.

Mr. CONNESS. I am quite aware of that; but I believe I have a right to raise the question of order.

Mr. JOHNSON. I do not object to that.

Mr. CONNESS. Very well; then let the Chair decide.

The PRESIDING OFFICER. No discussion is in order until after the vote is announced; but, by common consent, Senators may be allowed to explain their own votes, but no extended remarks can be allowed.

Mr. CONNESS. There is no right to explain a vote.

Mr. JOHNSON. I moved to strike out the third section as it came from the other House. That motion was carried, and afterward what now appears upon the face of the resolution as the third section was proposed and adopted as a separate amendment. I voted just this moment to strike out what was adopted. The effect of that would have been to restore the original third section, perhaps, but I meant when that was done to move to strike out the third section so as to leave no such section.

The PRESIDING OFFICER. On this question—

Mr. HENDRICKS. What question?

The PRESIDING OFFICER. The question was on concurring in the amendment made as in Committee of the Whole, which was to strike out the third section and insert other words in lieu of it. The result of that vote is 42 in the affirmative and 1 in the negative. So the amendment is concurred in. The Secretary will read the next amendment.

The Secretary read the next amendment, which was to strike out the fourth and fifth sections, and to insert the following section in lieu of them:

Sec. —. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

The amendment was concurred in.

The amendments were ordered to be engrossed and the joint resolution to be read a third time. The joint resolution was read the third time.

The PRESIDING OFFICER. This joint resolution having been read three times, the question is on its passage.

Mr. JOHNSON. I ask for the yeas and nays.

Several SENATORS. The yeas and nays must be taken, of course.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 11; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Poland, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Summer, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

NAYS—Messrs. Cowan, Davis, Doolittle, Guthrie, Hendricks, Johnson, McDougall, Norton, Riddle, Saulsbury, and Van Winkle—11.

ABSENT—Messrs. Brown, Buckalew, Dixon, Nesmith, and Wright—5.

The PRESIDING OFFICER. The joint resolution is passed, having received the votes of two thirds of the Senate.

ADJOURNMENT TO MONDAY.

Mr. HARRIS. I move that when the Senate adjourn to-day, it be to meet on Monday next. The motion was agreed to.

FORTIFICATION BILL.

Mr. MORGAN. I submit the following report from the committee of conference on the fortification bill, and I move that the Senate concur in the report:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendment of the Senate to said bill and agree to the same.

E. D. MORGAN,

L. M. MORRILL,

W. SAULSBURY,

Managers on the part of the Senate.

H. J. RAYMOND,

W. E. NIBLACK,

S. PERHAM,

Managers on the part of the House.

The report was concurred in.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 15) authorizing documentary evidence of title to be furnished to the owners of certain lands in the city of St. Louis; and

A bill (H. R. No. 281) to amend the postal laws.

REPORT FROM A COMMITTEE.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of George W. Tarlton, praying for the restoration of his property confiscated under proceedings instituted in the United States district court for the northern district of New York, submitted a written report and asked to be discharged from the further consideration of the subject. The committee was discharged and the report was ordered to be printed.

Mr. HENDERSON. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, June 8, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MUTILATED NOTES OF NATIONAL BANKS.

Mr. HUBBARD, of West Virginia, by unanimous consent submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Banking and Currency be instructed to inquire into the expediency of providing by law, either by the establishment of a Bureau of Redemption in connection with the Treasury Department, or such other mode as may be deemed most advisable, for the redemption of the worn-out, mutilated, altered, or disfigured bank notes issued under the national currency act, so as to obviate the necessity of sending such notes to each particular bank of issue for redemption; and that the committee have leave to report by bill or otherwise.

Mr. HUBBARD, of West Virginia, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MONUMENT TO LIEUTENANT GENERAL SCOTT.

Mr. HALE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the erection of a monument at West Point to the memory of Lieutenant General Winfield Scott, and to report by bill or otherwise.

both branches of it, yet as we were compelled to unite on some measure—and we must all yield some of our opinions upon various questions involved—there are five sections in this proposed article—I feel bound to vote against this amendment offered by the Senator from Wisconsin, though in my judgment it would do more than any other to heal the difficulties by which we are surrounded."

There is an open confession that he is about to vote against an amendment which he entertains no doubt would do more to heal our difficulties than anything else!

Now, sir, no man can excuse himself for a thing of that kind; and while I admire the honesty of his confession, that he is doing it for party and political purposes, yet I utterly detest the odious principle that he avows for mere party purposes.

I ask the attention of the House to an extract from another speech, and, mark you, I am not now offering you "copperhead" testimony. The extract is from a speech made by one of your great northern lights, the celebrated Wendell Phillips. I ask the Clerk to read it.

The Clerk read as follows:

"Mr. Phillips hoped the Senate's amendment of the reconstruction plan would meet with an ignominious defeat, and that Massachusetts would reject it. He would welcome every Democrat and copperhead vote to help its defeat. He would go a step further and said, I hope that the Republican party, if it goes to the polls next fall on this basis, will be defeated. If this is the only thing that the party has to offer, it deserves defeat. The Republican party to-day seeks only to save its life. God grant that it may lose it!" \*

"The Republicans go to the people in deceit and hypocrisy, with their faces masked and their convictions hid; I hope to God they will be defeated! I want another serenade, not only to uncover the hidden sentiments of a Cabinet, but to smoke out the United States Senate, that we may see how many of them range by the side of Sumner, Ben. Wade, Judge Kelley, and Thad. Stevens."

Mr. HARDING, of Kentucky. Ay, sir, some of the men named there have since given way and fallen, and are no longer on Phillips's loyal list. As I said, sir, I am not reading southern testimony, or the testimony of copperheads; but from this great northern light, the man who has done more for the Republican party than any other man in the country. He was raised among them; he has affiliated with them; and he cannot be deceived as to their purposes. He charges that this Republican party is going before the country wearing a mask of hypocrisy, with its visage masked, and that its object is not to amend the Constitution, but, as Senator SHERMAN says, to save the life of the Republican party; and he says, "God grant they may lose it!" Now, sir, I cannot call in question such authority as this. He must know what he is talking about, and I have had read to you what he says.

[Here the hammer fell.]

Mr. STEVENS. I now, sir, move the previous question.

The previous question was seconded and the main question ordered.

#### ENROLLED BILL AND RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 328) for the relief of Mrs. Abigail Ryan, and joint resolution (S. R. No. 51) respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs; when the Speaker signed the same.

#### RECONSTRUCTION—AGAIN.

Mr. STEVENS. Mr. Speaker, I do not intend to detain the House long. A few words will suffice.

We may, perhaps, congratulate the House and the country on the near approach to completion of a proposition to be submitted to the people for the admission of an outlawed community into the privileges and advantages of a civilized and free Government.

When I say that we should rejoice at such completion, I do not thereby intend so much to express joy at the superior excellence of the scheme, as that there is to be a scheme—a scheme containing much positive good, as well, I am bound to admit, as the omission of many better things.

In my youth, in my manhood, in my old age, I had fondly dreamed that when any fortunate chance should have broken up for awhile the foundation of our institutions, and released us from obligations the most tyrannical that ever man imposed in the name of freedom, that the intelligent, pure and just men of this Republic, true to their professions and their consciences, would have so remodeled all our institutions as to have freed them from every vestige of human oppression, of inequality of rights, of the recognized degradation of the poor, and the superior caste of the rich. In short, that no distinction would be tolerated in this purified Republic but what arose from merit and conduct. This bright dream has vanished "like the baseless fabric of a vision." I find that we shall be obliged to be content with patching up the worst portions of the ancient edifice, and leaving it, in many of its parts, to be swept through by the tempests, the frosts, and the storms of despotism.

Do you inquire why, holding these views and possessing some will of my own, I accept so imperfect a proposition? I answer, because I live among men and not among angels; among men as intelligent, as determined, and as independent as myself, who, not agreeing with me, do not choose to yield their opinions to mine. Mutual concession, therefore, is our only resort, or mutual hostilities.

We might well have been justified in making renewed and more strenuous efforts for a better plan could we have had the co-operation of the Executive. With his cordial assistance the rebel States might have been made model republics, and this nation an empire of universal freedom. But he preferred "restoration" to "reconstruction." He chooses that the slave States should remain as nearly as possible in their ancient condition, with such small modifications as he and his prime minister should suggest, without any impertinent interference from Congress. He anticipated the legitimate action of the national Legislature, and by rank usurpation erected governments in the conquered provinces; imposed upon them institutions in the most arbitrary and unconstitutional manner; and now maintains them as legitimate governments, and insolently demands that they shall be represented in Congress on equal terms with loyal and regular States.

To repress this tyranny and at the same time to do some justice to conquered rebels requires caution. The great danger is that the seceders may soon overwhelm the loyal men in Congress. The haste urged upon us by some loyal but impetuous men; their anxiety to embrace the representatives of rebels; their ambition to display their dexterity in the use of the broad mantle of charity; and especially the danger arising from the unscrupulous use of patronage and from the oily orations of false prophets, famous for sixty-day obligations and for protested political promises, admonish us to make no further delay.

A few words will suffice to explain the changes made by the Senate in the proposition which we sent them.

The first section is altered by defining who are citizens of the United States and of the States. This is an excellent amendment, long needed to settle conflicting decisions between the several States and the United States. It declares this great privilege to belong to every person born or naturalized in the United States.

The second section has received but slight alteration. I wish it had received more. It contains much less power than I could wish; it has not half the vigor of the amendment which was lost in the Senate. It or the proposition offered by Senator WADE would have worked the enfranchisement of the colored man in half the time.

The third section has been wholly changed by substituting the ineligibility of certain high offenders for the disfranchisement of all rebels until 1870.

This I cannot look upon as an improvement. It opens the elective franchise to such as the States choose to admit. In my judg-

ment it endangers the Government of the country, both State and national; and may give the next Congress and President to the reconstructed rebels. With their enlarged basis of representation, and exclusion of the loyal men of color from the ballot-box, I see no hope of safety unless in the prescription of proper enabling acts, which shall do justice to the freedmen and enjoin enfranchisement as a condition precedent.

The fourth section, which renders inviolable the public debt and repudiates the rebel debt, will secure the approbation of all but traitors.

The fifth section is unaltered.

You perceive that while I see much good in the proposition I do not pretend to be satisfied with it. And yet I am anxious for its speedy adoption, for I dread delay. The danger is that before any constitutional guards shall have been adopted Congress will be flooded by rebels and rebel sympathizers. Whoever has mingled much in deliberative bodies must have observed the mental as well as physical nervousness of many members, impelling them too often to injudicious action. Whoever has watched the feelings of this House during the tedious months of this session, listened to the impatient whispering of some and the open declarations of others; especially when able and sincere men propose to gratify personal predilections by breaking the ranks of the Union forces and presenting to the enemy a ragged front of stragglers, must be anxious to hasten the result and prevent the demoralization of our friends. Hence, I say, let us no longer delay; take what we can get now, and hope for better things in further legislation; in enabling acts or other provisions.

I now, sir, ask for the question.

The SPEAKER. The question before the House is on concurring in the amendments of the Senate; and as it requires by the Constitution a two-thirds vote, the vote will be taken by yeas and nays.

Mr. DEFREES. I ask the consent of the House to print some remarks upon this question, which I have not had an opportunity of delivering.

No objection was made, and leave was granted. [The speech will be found in the Appendix.]

Mr. WRIGHT. I ask the same privilege.

No objection was made, and leave was granted. [The speech will be found in the Appendix.]

The joint resolution as amended by the Senate is as follows:

Joint resolution proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:

#### ARTICLE—.

SEC. 1. All 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. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution

of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The question was put on concurring with the amendments of the Senate; and there were yeas 120, nays 32, not voting 32; as follows:

YEAS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Culton, Darling, Davis, Dawes, Defrees, Delano, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asaiah W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Lafin, Latham, George V. Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perhain, Phelps, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Shelabarger, Sloan, Smith, Spalding, Stevens, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and the Speaker—120.

NAYS—Messrs. Ancona, Bergen, Boyer, Chanler, Coffroth, Dawson, Denison, Eldridge, Finck, Grossbrenner, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Kerr, Le Blond, Marshall, Niblack, Nicholson, Samuel J. Randall, Ritter, Rogers, Ross, Sitgreaves, Strouse, Taber, Taylor, Thornton, Trimble, Winfield, and Wright—32.

NOT VOTING—Messrs. Anderson, Benjamin, Blow, Brandegee, Broomall, Culver, Deming, Dixon, Goodyear, Harris, Hill, Dennis Hubbard, Hubbard, James Humphrey, Ingersoll, Johnson, Jones, Kasson, William Lawrence, Marston, McCullough, McIndoe, Noell, Patterson, Radford, Rollins, Rousseau, Shanklin, Starr, Burt Van Horn, Elihu B. Washburne, and Woodbridge—32.

The SPEAKER. Two thirds of both Houses having concurred in the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States, the joint resolution has passed.

During the roll-call on the foregoing vote,

Mr. KELLEY said: I desire to announce that Mr. BROOMALL, and Mr. WASHBURN of Illinois, are paired with Mr. SHANKLIN upon this question.

Mr. LAFLIN said: I wish to announce that my colleague, Mr. VAN HORN, is paired upon this question with Mr. GOODYEAR.

Mr. ANCONA said: My colleague, Mr. JOHNSON, is absent on account of sickness, and is paired upon this question with Mr. ROLLINS and Mr. MARSTON, of New Hampshire.

Mr. DARLING said: I desire to state that my colleague, Mr. JAMES HUMPHREY, is detained at home by sickness. If present he would have voted in the affirmative.

Mr. WINFIELD said: My colleague, Mr. RADFORD, is unavoidably detained from his seat. If here he would have voted against the Senate amendment.

Mr. ASHLEY, of Ohio, said: My colleague, Mr. LAWRENCE, has been called home in consequence of the death of his father. If present he would have voted "ay."

Mr. COBB said: Mr. McINDOE is detained from his seat by illness. If here he would vote in the affirmative.

Mr. MOULTON said: My colleague, Mr. INGERSOLL, has gone home under leave of absence from the House.

Mr. HART said: Mr. HUBBARD, of New York, is absent on account of death in his family. If he had been here he would have voted "ay."

Mr. WASHBURN, of Indiana, said: My colleague Mr. HILL, is absent by leave of the House. If here he would have voted in the affirmative.

Mr. ELDRIDGE. I desire to state that if Messrs. Brooks and Voorhees had not been expelled, they would have voted against this proposition. [Great laughter.]

Mr. SCHENCK. And I desire to say that if Jeff. Davis were here, he would probably also have voted the same way. [Renewed laughter.]

Mr. WENTWORTH. And so would Jake Thompson.

The result of the vote having been announced as above recorded,

Mr. STEVENS moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The House is now engaged in executing the order of the House to proceed to business upon the Speaker's table.

#### RIVER AND HARBOR BILL.

The next business upon the Speaker's table was the amendments of the Senate to House bill No. 492, making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under authority of law, and for other purposes.

Mr. ELIOT. I move that the House non-concur in the amendments of the Senate, and ask for a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. ELIOT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### STEAMBOAT INSPECTION LAW.

The next business upon the Speaker's table was the amendments of the Senate to House bill No. 477, further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes.

Mr. ELIOT. I move that the bill and amendments be referred to the Committee on Commerce.

The motion was agreed to.

#### EXAMINERS OF PATENTS.

The next business upon the Speaker's table was Senate bill No. 350, to authorize the Commissioner of Patents to pay those employed as examiners and assistant examiners the salary fixed by law for the duties performed by them; which was read a first and second time.

Mr. JENCKES. I ask that this bill be put upon its passage now.

Mr. RANDALL, of Pennsylvania. Let the bill be read. I want to know what it is.

The bill was read at length. It authorizes the Commissioner of Patents to pay those employed in the Patent Office from April 1, 1861, until August 1, 1865, as examiners and assistant examiners of patents, at the rate fixed by law for those respective grades, provided that the same be paid out of the Patent Office fund, the compensation thus to be paid not to exceed that paid to those duly enrolled as examiners and assistant examiners for the same period.

Mr. JENCKES. This matter has been considered by the House Committee on Patents, who have recommended it once during the last Congress and once during the present Congress. I call the previous question upon the passage of the bill.

Mr. HARDING, of Illinois. I move that the bill be laid upon the table.

Mr. RANDALL, of Pennsylvania. I suggest that this bill better be referred to the Committee on Patents.

Mr. FARNSWORTH. I understand that the Committee on Patents of this House have examined this bill and decided to report unanimously in its favor.

Mr. ROSS. Is a motion to refer the bill now in order?

The SPEAKER. That motion is not now in order, pending the motion to lay upon the

table and the demand for the previous question.

Mr. STEVENS. I move that the House adjourn.

The SPEAKER. Will the gentleman from Pennsylvania [Mr. STEVENS] withdraw the motion to allow the Chair to lay before the House several executive communications?

Mr. STEVENS. I will withdraw the motion for that purpose.

#### DIRECT TAXES IN GEORGIA.

The SPEAKER laid before the House the following message from the President of the United States:

#### To the Senate and House of Representatives:

I communicate, and invite the attention of Congress to, a copy of joint resolutions of the Senate and House of Representatives of the State of Georgia, requesting the suspension of the collection of the internal revenue tax due from that State pursuant to an act of Congress of 5th of August, 1861.

ANDREW JOHNSON.

WASHINGTON, D. C., June 11, 1866.

The message, with accompanying documents, was referred to the Committee of Ways and Means and ordered to be printed.

#### AGRICULTURAL COLLEGE—GEORGIA.

The SPEAKER also laid before the House the following message from the President of the United States:

#### To the Senate and House of Representatives:

It is proper that I should inform Congress that a copy of an act of the Legislature of Georgia of the 10th of March last has been officially communicated to me, by which that State accepts the donation of land for the benefit of colleges for agriculture and the mechanic arts, which donation was provided for by the acts of Congress of 2d July and 14th April, 1864.

ANDREW JOHNSON.

WASHINGTON, D. C., June 11, 1866.

The message was laid upon the table and ordered to be printed.

#### DRAFT IN PENNSYLVANIA.

The SPEAKER also laid before the House a communication from the Secretary of War, in answer to a resolution of the House of Representatives of the 11th instant, in regard to the draft in the eighth congressional district of Pennsylvania.

Mr. ANCONA. I move that this communication be printed and referred to the Committee on Military Affairs.

The motion was agreed to.

#### BRITISH AMERICAN TRADE.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury in answer to a resolution of the House of Representatives of March 28, 1866, calling for information in regard to commercial relations with British America.

The question was upon ordering the communication to be printed.

Mr. DAVIS. Can an objection be made at this time to the printing of this communication?

The SPEAKER. It is customary to order the printing of all executive communications without putting the question to the House, unless objections be made to the printing.

Mr. DAVIS. I object to the printing of this communication.

The SPEAKER. Objection being made, the question of printing will be submitted to the House.

Mr. DAVIS. Before the question is taken I desire to say a single word upon it. If I understand this communication—

Mr. WENTWORTH. What is the question before the House?

The SPEAKER. It is whether the communication from the Secretary of the Treasury in regard to commercial relations with British America shall be printed.

Mr. WENTWORTH. Before that question is voted upon, or even debated, I insist that the communication shall be read. I object to one