EXECUTIVE ORDER ANALYSIS

"Protecting the American People Against Invasion"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/

SUMMARY

Goes Into Effect: Immediately, but entirely implemented through agency action.

Establishes US policy of achieving "the total and efficient enforcement" of the immigration laws, "including through lawful incentives and detention capabilities."

SPECIFIC DIRECTIVES

- Updates DHS civil priorities, including:
  - Enforcing final orders of removal
  - Prioritizing enforcing immigration laws related to illegal entry and unlawful presence
- Updates AG criminal enforcement priorities "to prioritize the prosecution of criminal offenses related to the unauthorized entry or continued unauthorized presence" of immigrants.
- Requires AG and Secretary of DHS to establish Homeland Security Task Forces (HSTFs) in every state, which "shall" include representation from relevant state and local law enforcement agencies.
- Requires Secretary of DHS to enforce registration of all "aliens" per 8 USC Ch. 12.
- Requires Secretaries of DHS and the Treasure to collect fines from noncitizens unlawfully present in the US, or who attempted to unlawfully enter the US, and from "those who facilitate such aliens' presence in the United States."
- Requires Secretary of DHS to apply expedited removal provisions to all individuals designated under 8 USC § 1225(b)(1)(A)(iii)(II).
- Encourages state and local law enforcement cooperation with federal immigration enforcement, including through agreements under section 287(g) of the INA.
- Encourages voluntary departures.
- Threatens sanctions and international pressure on countries to accept removals of their nationals and also third-party nationals from the US.
- Emphasizes case-by-case application of parole moving forward.
- Directs reexamination of TPS designations and employment authorization.
- Targets "so-called 'sanctuary' jurisdictions", including considering criminal or civil sanctions that might be applied "based on any such jurisdiction's practices that interfere with the enforcement of Federal law."
- Issues guidance to ensure maximum compliance from state and local law enforcement to share information via 8 USC § 1373 and 8 USC § 1644.
- Orders pause of funding to nongovernmental organizations "supporting or providing services, either directly or indirectly, to removable or illegal aliens" pending review and/or audit of funds.
- Directs hiring of more CBP and ICE agents.

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INNOVATION LAW LAB

Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Protecting the American People Against Invasion"

Date Issued: January 20, 2025

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POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Expanding expedited removal processes will speed up deportations and reduce access to procedural rights, leaving many people without access to counsel or the opportunity to be heard before a judge.
- DHS has already announced expansion of expedited removal to its full extent under current law.
- The administration is likely to end existing TPS programs, causing loss of protected status for individuals who have held this status (some for many years).
- Sanctuary jurisdictions will be targeted if they do not cooperate with Federal requests. However, sanctuary jurisdictions are not unlawful under existing law, including the longstanding "anti-commandeering doctrine" (which prevents the Federal government from coercing States to implement policies).
- The order is intended to have a chilling effect not only on jurisdictions but also on non-profit organizations, religious and other social services organizations who assist immigrants, by threatening defunding and retaliation for support of immigrant communities.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Protecting the Meaning and Value of American Citizenship"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-meaning-and-value-of-american-citizenship/

SUMMARY

Goes Into Effect: Wednesday, February 19, 2025.

Interprets the 14th Amendment of the US Constitution to not convey birthright citizenship to children born on US soil if a parent is not a US citizen or lawful permanent resident (LPR) at the time of their birth.

SPECIFIC DIRECTIVES

- Interprets the 14th Amendment of the US Constitution to not convey birthright citizenship to individuals born in the US if they are not "subject to the jurisdiction" of the US, stating that Congress has defined individuals subject to the jurisdiction of the US as nationals and citizens of the US at birth (citing 8 U.S.C. 1401).
- Excludes from birthright citizenship individuals born in the US if
  - Their mother is not lawfully present in the US or is present on a lawful temporary basis in the US *and*
  - Their father is neither a US citizen nor a US LPR.
- Establishes US policy to not issue documents recognizing US citizenship to individuals born in the US under the prior categories – but only as to individuals born on or after February 19, 2025.
- *Note:* The order explicitly states US policy that children of LPRs receive US citizenship if they are born in the US. However, that is phrased as policy, not as required by the 14th Amendment.

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Existing law is very clear that children born in the United States, with very limited exceptions, are entitled to US citizenship. There is already a flurry of lawsuits that will likely prevent the order from implementation while litigation is pending. The legality of this order is likely to be decided by the Supreme Court.
- If implemented, this order could render thousands of children stateless and without documentation. Without basic vital documents, children would be especially vulnerable if they are prevented from even claiming their parents' citizenship.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Securing Our Borders"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/securing-our-borders/

SUMMARY

Goes Into Effect: Immediately.

Commits administration to "marshal all available resources and authorities to stop th[e] unprecedented flood of illegal aliens into the United States" and lays out overarching policy commitments.

SPECIFIC DIRECTIVES

- Establishes policy of the US to:
  - Build a border wall;
  - Deter and prevent entry of "illegal aliens" into US;
  - Detain noncitizens apprehended for suspected violations of law "to the maximum extent authorized by law" until they are deported;
  - Promptly deport all noncitizens in US "in violation of Federal law"; and
  - Pursue criminal charges for violations of immigration law, including against individuals who "facilitate [immigrants'] unlawful presence" in the US.
- Orders Secretary of DHS to resume Migrant Protection Protocols "[a]s soon as practicable."
  - *DHS promptly announced reinstatement of the 2019 program.*
- Eliminates parole programs, including CBP One App (which allowed noncitizens to seek asylum at the US/Mexico border) and CHNV Parole (which allowed certain nationals of Cuba, Haiti, Nicaragua, and Venezuela to seek advance permission to enter the US with parole).
- Orders Attorney General (AG) and Secretary of DHS to prioritize prosecution of border-related offenses.
- Emphasizes compliance with DNA and identification requirements for all detained noncitizens.
- Orders Secretary of State to engage in additional Safe Third Country agreements under 8 USC 1158(a)(2)(A), which would allow noncitizens to be deported to third countries.

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Detention on "suspicion" of violating Federal or State law may give rise to lawsuits as it implies a violation of Due Process in criminal matters.
- Elimination of the CBP One App has already been challenged in court.
- Increased detention beyond current capacity is likely to involve new construction and result in continued incarceration in inhumane conditions.
- Reinstatement of MPP and third-country deportations will increase the risk that individuals seeking protection are trapped in dangerous conditions or sent to unfamiliar countries.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Declaring a National Emergency at the Southern Border of the US"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-emergency-at-the-southern-border-of-the-united-states/

SUMMARY

Goes Into Effect: Immediately.

Invokes the National Emergencies Act to declare a national emergency at the southern border of the US, based on the "invasion" of immigrants, and to authorize use of the Armed Forces and border wall construction.

SPECIFIC DIRECTIVES

- Orders Secretaries of Defense to deploy military, including the National Guard, to support DHS "in obtaining complete operational control of the southern border of the US," including through providing detention space and transportation (including aircraft).
- Orders Secretaries of Defense and DHS to build "additional physical barriers" at the southern border, including in coordination with cooperative states.
- Orders Secretary of Transportation and Federal Communications Commission to consider waiving regulations that limit DHS ability to "counter unmanned aerial systems" (drones) within 5 miles of the southern border.
- Orders Secretaries of Defense and DHS to consider revising use of force policies to maximize denial of entry to noncitizens and protection of DHS / military forces.
- Revokes Proclamation 10142 of January 20, 2021 (Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction).
- Requires 30- and 90-day reports, "including whether to invoke the Insurrection Act of 1807."

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Even with these directives, mobilization of the armed forces will take time to implement. Internal policies will be needed as well as potential involvement of Congress to authorize additional funds.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Protecting the U.S. from Foreign Terrorists and Other National Security and Public Safety Threats"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-united-states-from-foreign-terrorists-and-othernational-security-and-public-safety-threats/

SUMMARY

Goes Into Effect: Varied.
Recommendations requested within 30-60 days.

Commits to enhanced security vetting of noncitizens applying to enter and already within the US, including recommendation of country-specific travel bans.

SPECIFIC DIRECTIVES

- Within 30 days, Secretary of State should
  - Evaluate current identification / vetting requirements and visa programs.
  - Ensure heightened identification processes for refugees or stateless individuals (above typical processes).
  - Devote adequate resources to pursue denaturalization for offenses under 8 USC § 1451.
  - Ensure "the proper assimilation of lawful immigrants into the United States, and recommend any additional measures to be taken that promote a unified American identity and attachment to the Constitution, laws, and founding principles of the United States."
  - Recommend further actions "to protect the American people from the action of foreign nationals", including individuals who seek "the overthrow or replacement of the culture on which our constitutional Republic stands, or who provide aid, advocacy, or support for foreign terrorists."
- Within 60 days, Cabinet members should:
  - Further interpret grounds of inadmissibility under the INA.
  - Identify countries that may warrant an entry ban under 8 USC § 1182(f) and further vetting (and removal, where appropriate) of those countries' nationals allowed into the US under the Biden administration.
  - Ensure heightened identification processes for refugees or stateless individuals (above typical processes).

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Further limitations on migration from specified countries. Country-wide bans will move away from adjudicating entry decisions on a case-by-case basis and will likely to target immigrant communities already facing discrimination.
- TBD what implementation will mean for immigrants who engage in any political activity that differs from the administration's idea of American culture.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists"

Date Issued: January 20, 2025

Link:https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/

SUMMARY

Goes Into Effect: By Monday, February 3, 2025.

Establishes a process for identifying cartels and similar organizations as terrorist organizations. Commits US to ensuring "the total elimination of these organizations' presence in the United States" and eliminate their extra-territorial threats to the US.

SPECIFIC DIRECTIVES

- Within 14 days of the order:
  - Secretary of State must recommend cartels and other organizations to designate as terrorist organizations, and
  - Attorney General and Secretary of DHS must take appropriate action to implement Alien Enemies Act if invoked by the President, including "to prepare such facilities as necessary to expedite the removal of those who may be designated under this order."

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Likely to be used as a pretext for invoking the Alien Enemies Act, to enable widespread detention and deportation of certain foreign nationals outside the normal immigration system. The Alien Enemies Act was last used during and after World War II as the legal authority for imprisoning noncitizens of Japanese, German, and Italian descent in internment camps.
- Likely to be used to further stigmatize noncitizens from countries identified as associated with cartels.
- May be used to support baseless accusations against organizations supporting immigrant communities as supporting terrorist organizations.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Guaranteeing the States Protection Against Invasion"
Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/guaranteeing-the-states-protection-against-invasion/

SUMMARY

Goes Into Effect: Immediately, for all noncitizens seeking to enter the US on or after January 20, 2025.

Declares an invasion at the US southern border under Article IV, Section 4 of the US Constitution and suspends the physical entry of "aliens involved in an invasion" until the President concludes that the invasion is over.

SPECIFIC DIRECTIVES

- Under 8 USC §§ 1182(f) and 1185(a), suspends entry to the US for "aliens engaged in the invasion across the southern border".
- Similarly suspends entry of any noncitizens who before entry to US fail "to provide Federal officials with sufficient medical information and reliable criminal history and background information as to enable fulfillment of the requirements of sections 212(a)(1)-(3) of the INA" (laying out health, criminal, and security-related inadmissibility grounds).
- Prohibits such "aliens" from invoking INA provisions that would allow their continued presence in the US, including section 208 of the INA (asylum).
- Orders Secretary of DHS to "take all appropriate action to repel, repatriate, or remove any alien engaged in the invasion across the southern border of the United States on or after the date of this order."

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Severe limits on individuals' ability to seek protection in the United States, a right enshrined under US and international law.
- Return of individuals back to countries where they fear harm.
- Uses "invasion" language to influence public narrative and attempt to support potential future invocation of the Alien Enemies Act to broadly detain and deport foreign nationals.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Realigning the United States Refugee Admissions Program"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/realigning-the-united-states-refugee-admissions-program/

SUMMARY

Goes Into Effect: Monday, January 27, 2025.

Suspends the US Refugee Admissions Program (USRAP) unless and until the President determines that the entry of refugees into the United States through USRAP is in the interests of the United States.

SPECIFIC DIRECTIVES

- Suspends USRAP based on finding that entry of refugees into the US is currently detrimental to the interests of the US.
- Establishes policy that State and local jurisdictions should have a role in future decisions about refugee placement and resettlement.
- USRAP is suspended unless and until the President determines it is in the interests of the US to resume admission of refugees. Within 90 days, and every 90 days thereafter, the Secretary of DHS must consult with the Secretary of State and submit a report to the President advising whether resumption of USRAP is in the interests of the US.
- While USRAP is suspended, Secretary of State and Secretary of Homeland Security may jointly admit refugees to the US on a case-by-case basis.
- Revokes Executive Order 14013 of February 4, 2021 (Rebuilding and Enhancing Programs To Resettle Refugees and Planning for the Impact of Climate Change on Migration).
- Decisions on already submitted applications are suspended until USRAP restarts.

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Leaves refugees and families in process of reunification who were already cleared for resettlement without resort and in high-risk circumstances (*e.g.* Afghan refugees and families).

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Clarifying the Military's Role in Protecting the Territorial Integrity of the US"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/clarifying-the-militarys-role-in-protecting-the-territorial-integrity-of-the-united-states/

SUMMARY

Goes Into Effect: Immediately.

Orders the Armed Forces to prioritize border security.

SPECIFIC DIRECTIVES

- Assigns US Northern Command (USNORTHCOM) "the mission to seal the borders and maintain the sovereignty, territorial integrity, and security of the United States by repelling forms of invasion including unlawful mass migration, narcotics trafficking, human smuggling and trafficking, and other criminal activities."
- Ongoing military operations for border security.
- Within 10 days, requests a revised Unified Command Plan from the Secretary of Defense.

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Militarization of the border.
- Will likely take time to implement as mobilization will take planning and resources.

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EXECUTIVE ORDER ANALYSIS

"Restoring the Death Penalty and Protecting Public Safety"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/restoring-the-death-penalty-and-protecting-public-safety/

SUMMARY

Goes Into Effect: Immediately.

Requires the Attorney General to seek the death penalty for any capital offense committed by an undocumented person in the United States.

SPECIFIC DIRECTIVES RELEVANT TO IMMIGRATION

- The Attorney General shall pursue the death penalty for all crimes of a severity demanding its use or "a severity demanding its use".
- The Attorney General must pursue the death penalty for any "capital crime committed by an alien illegally present in this country."
- The Attorney General shall take all appropriate action to seek the overruling of Supreme Court precedents that limit the authority of State and Federal governments to impose capital punishment.
- Within 30 days, requests Secretary of Health and Human Services to provide further guidance in accordance with this policy.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/

SUMMARY

Goes Into Effect: Immediately.

Establishes policy of the US to recognize only two sexes, male and female.

SPECIFIC DIRECTIVES RELEVANT TO IMMIGRATION

- Within 30 days, requests Secretary of Health and Human Services to provide further guidance in accordance with this policy.
- "The Attorney General and Secretary of Homeland Security shall ensure that males are not detained in women's prisons or housed in women's detention centers, including through amendment, as necessary, of Part 115.41 of title 28, Code of Federal Regulations and interpretation guidance regarding the Americans with Disabilities Act."
- Limits ability of transgender individuals in US custody to receive appropriate medical care.

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Expected to result in rescission of policies and guidelines protecting transgender individuals in ICE custody.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"America First Policy Directive to the Secretary of State"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/america-first-policy-directive-to-the-secretary-of-state/

SUMMARY

Goes Into Effect: "As soon as practicable."

Declares that the new foreign policy of the US is to "champion core American interests and always put America and American citizens first."

SPECIFIC DIRECTIVES RELEVANT TO IMMIGRATION

- Orders Secretary of State to issue guidelines to bring the State Department in line with new policy.

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Previews the use of sanctions and other forms of US influence to coerce other countries into compliance with US immigration policy, including accepting deportations from the US.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"America First Trade Directive"

Date Issued: January 20, 2025

Link: https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/

SUMMARY

Goes Into Effect: Gradually, through implementation.

Establishes a new US trade policy that purports to prioritize benefits to the United States.

SPECIFIC DIRECTIVES RELEVANT TO IMMIGRATION

- "The Secretary of Commerce and the Secretary of Homeland Security shall assess the unlawful migration and fentanyl flows from Canada, Mexico, the PRC, and any other relevant jurisdictions and recommend appropriate trade and national security measures to resolve that emergency."

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Previews the use of trade repercussions for countries that do not cooperate with US migration policy.

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Last Updated: 01.22.2025

EXECUTIVE ORDER ANALYSIS

"Initial Rescissions of Harmful Executive Orders and Actions"

Date Issued: January 20, 2025

Link: http://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/

SUMMARY

Goes Into Effect: Immediately.

Revokes a range of Biden administration Executive Orders.

SPECIFIC RESCISSIONS RELEVANT TO IMMIGRATION

- **Executive Order 13993 of January 20, 2021** (Revision of Civil Immigration Enforcement Policies and Priorities) = *revokes prior civil immigration enforcement priorities.*
- **Executive Order 14006 of January 26, 2021** (Reforming Our Incarceration System To Eliminate the Use of Privately Operated Criminal Detention Facilities) = *revokes prior intention to phase out government use of private prisons.*
- **Executive Order 14010 of February 2, 2021** (Creating a Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border) = *revokes order intended to strengthen / expand other countries' asylum and resettlement capacities and calling for review of US asylum processes.*
- **Executive Order 14011 of February 2, 2021** (Establishment of Interagency Task Force on the Reunification of Families) = *dissolves task force that worked to reunify families and children separated at US-Mexico border under first Trump administration.*
- **Executive Order 14012 of February 2, 2021 (**Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans) = *revokes order aiming to coordinate federal government efforts to welcome and support immigrants.*
- **Executive Order 14013 of February 4, 2021** (Rebuilding and Enhancing Programs To Resettle Refugees and Planning for the Impact of Climate Change on Migration) = *revokes order enhancing aspects of USRAP process, including consideration of climate change impacts.*

POTENTIAL IMPLICATIONS & LEGAL CHALLENGES

- Dissolves many Biden administration immigration changes and signals sweeping changes to other internal directives.
- The Trump administration has eliminated the past prioritization of particular immigrants (e.g. individuals with criminal records) for immigration enforcement. All individuals deemed in violation of immigration laws may now be prioritized.

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Last Updated: 01.22.2025