

No. 25-365

IN THE
Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE
UNITED STATES, *et al.*,

Petitioners,

v.

BARBARA, *et al.*,

Respondents.

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE
UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF OF *AMICI CURIAE*
FIRST FOCUS ON CHILDREN, CENTER
FOR LAW AND SOCIAL POLICY, DR. LISA FORTUNA,
DR. HECTOR ADAMES, WARREN BINFORD,
DR. NAYELI Y. CHAVEZ-DUEÑAS, CHILDREN
NOW, DR. MARYAM JERNIGAN-NOESI, AND YOUNG
CENTER FOR IMMIGRANT CHILDREN'S RIGHTS
IN SUPPORT OF RESPONDENTS

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**INTRODUCTION AND
INTEREST OF *AMICI CURIAE*¹**

Executive Order 14160, the so-called Birthright Citizenship Order (“Order”), purports to end birthright citizenship in the United States. Protecting the Meaning and Value of American Citizenship, 90 Fed. Reg. 8449 (Jan. 20, 2025). Termination would gravely endanger the mental and physical health and the safety and security of hundreds of thousands, perhaps millions, of children born here. As organizations and individuals dedicated to supporting babies and children and promoting their well-being, amici are deeply concerned about the immediate and long-term effects on this population of terminating the right to citizenship at birth.

Amicus curiae **First Focus on Children (First Focus)** is a bipartisan advocacy organization dedicated to making children and families the priority in federal policy and budget decisions. First Focus prioritizes health, education, development, safety, and well-being for all children. All policy decisions must consider the children significantly affected by them. The Order does not. Instead, it endangers not only the children directly targeted by the Order, but all babies born in the United States, creating new barriers and obstacles to benefits—including food and healthcare—that set all children up for healthy and successful lives. Drawing on its broad expertise and experience in advocating for policies that benefit children, First Focus submits this brief to inform the Court about the very real harm to health and well-being likely to ensue if the Order is implemented.

1. No counsel for a party authored this brief in whole or in part, and no person or entity other than amici and their counsel made a monetary contribution to the preparation or submission of this brief.

Amicus curiae **Center for Law and Social Policy (CLASP)** is a national, nonpartisan, anti-poverty nonprofit advancing federal and state policy solutions for people with low incomes. CLASP develops practical yet visionary strategies for reducing poverty, promoting economic opportunity, and addressing systemic barriers faced by people of color. CLASP has expertise in early care and education, public benefit programs, postsecondary education and workforce development, and immigration policy. Birthright citizenship ensures that all children born on U.S. soil have access to critical protections, and any effort to restrict it would undermine children's health and well-being in their earliest years of life.

Amicus curiae **Lisa Fortuna, M.D., MPH, M.Div.**, is Chair of Psychiatry and Neurosciences at University of California Riverside School of Medicine. Dr. Fortuna has over 100 publications and has been a principal investigator of research funded by the National Institutes of Health and Patient-Centered Outcomes Research Institute. This research includes innovative models for addressing mental health care for post-traumatic stress disorder (PTSD) and substance use disorders and digital health interventions for adults, youth, and immigrant families. She submits this brief in her individual capacity. Institutional affiliation is listed for identification purposes only, and this brief does not represent the position of the University of California, Riverside.

Amicus curiae **Hector Adames, Psy.D.**, is Professor and Program Chair of Counseling Psychology at The Chicago School, College of Professional Psychology, and co-founder and co-director of the Immigration, Critical Race, and Cultural Equity (IC-RACE) Lab. Trained as a neuropsychologist, Dr. Adames' research focuses on how social determinants of health impact individuals.

He has co-authored 8 books and over 60 publications, and has earned several national awards, including the 2018 Distinguished Emerging Professional Research Award from the American Psychological Association (APA, Division-45). In 2021, APA honored him with a Presidential Citation for his commitment to human rights through his research. Based on his scholarship and clinical experience with immigrant populations, he is concerned about the harmful short- and long-term physical and psychological effects that removing birthright citizenship would have on babies and children, including increased risks of family separation, family stress, fear, and social exclusion. He submits this brief in his individual capacity. Institutional affiliation is listed for identification purposes only, and this brief does not represent the position of The Chicago School.

Amicus curiae **Warren Binford** is an internationally recognized children's rights scholar and advocate. She is the inaugural W.H. Lea for Justice Endowed Chair in Pediatric Law, Ethics, & Policy and Professor of Pediatrics (with tenure) in the School of Medicine at CU Anschutz and Professor of Law (with courtesy). Professor Binford's research and advocacy focus on protecting children from 21st century harms, including exploitation and abuse. She submits this brief in light of the impact that statelessness and lack of documented citizenship have on the trafficking and exploitation of children, among other harms to their health and wellbeing. She has published over 100 academic articles, essays, book chapters, and op-eds. She has received over 50 awards and distinctions for her work and was a Fulbright Scholar in 2012 and a Distinguished Fulbright Chair in 2016. She submits this brief in her individual capacity. Institutional affiliation is listed for identification purposes only, and this brief does not represent the position of CU Anschutz.

Amicus curiae **Nayeli Y. Chavez-Dueñas** is a professor in the College of Professional Psychology at The Chicago School, and co-founder and co-director of the Immigration, Critical Race, and Cultural Equity (IC-RACE) Lab. Trained as a pediatric clinical psychologist, Dr. Chavez-Dueñas's scholarship focuses on immigration, parenting, and unaccompanied minors. Given her scholarship and clinical experience working with immigrant populations, Dr. Chavez-Dueñas is deeply concerned about detrimental the short- and long-term physical and psychological impact that removing birthright citizenship will have on babies and children including the risk for family separation, family stress, fear, and social exclusion. Additionally, removing the protections that come with birthright citizenship increases exposure to adverse childhood experiences, which are associated with a host of negative physical and mental health outcomes. She believes that regardless of their parent's immigration status, babies deserve full protection and access to the resources that will help them thrive in this country. Dr. Chavez-Dueñas submits this brief in her individual capacity. Institutional affiliation is listed for identification purposes only, and this brief does not represent the position of The Chicago School.

Amicus curiae **Children Now** is a nonpartisan whole-child research, policy development, communications, and advocacy organization working on kids' issues from pre-natal to age 26, and is dedicated to promoting children's health, education and well-being in California. The termination of birthright citizenship would create obstacles to food, medical, and other benefits for all

babies born in California. Children Now joins this brief to express our strong support for birthright citizenship as a way to promote health and well-being for all children.

Amicus curiae **Maryam Jernigan-Noesi, Ph.D.**, is a licensed psychologist and Founder and Chief Executive Officer of Jernigan & Associates Consulting, Inc. A specialist in youth, families, and health psychology, Dr. Jernigan-Noesi has dedicated her career to advancing trauma-informed, culturally responsive psychological care for children and communities experiencing racial and structural harm. She has consulted with over 100 organizations on issues of equity, intergenerational trauma, and the psychological well-being of children and families. Dr. Jernigan-Noesi has developed evidence-informed frameworks for understanding and addressing racial trauma across the lifespan, with particular attention to the compounding effects of policy-driven fear, social exclusion, and identity instability on children’s mental health development. The elimination of birthright citizenship, with its attendant consequences of statelessness, family separation, chronic fear, and loss of belonging, would impose precisely the kind of structural and developmental harm that her clinical and scholarly work has documented. She submits this brief in her individual capacity. Institutional affiliation is listed for identification purposes only, and this brief does not represent the position of Jernigan & Associates Consulting, Inc.

Amicus curiae **Young Center on Immigrant Children’s Rights** (“Young Center”) is a national non-profit organization whose mission is to protect and advance the rights and best interests of immigrant children in accordance with state, federal, and international law. Since

2004, the Young Center has been appointed by the Office of Refugee Resettlement (“ORR”) within the United States Department of Health and Human Services to serve as the independent Child Advocate, akin to a best interests guardian ad litem, for unaccompanied and separated immigrant children. The Young Center is appointed as Child Advocate pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA).⁸ U.S.C. § 1232(c)(6)(A). The Young Center is the only organization appointed by ORR to serve in this capacity. The Young Center’s Child Advocate Program currently operates in nine locations across the country. As an advocate uniquely positioned at the intersection of immigration law and child welfare, the Young Center is obligated to speak on behalf of the many children whose lives would be irreparably harmed by the loss of citizenship status that safeguards their wellbeing and legal standing.

First Focus on Children and fellow amici respectfully submit this brief to assist the Court in its review by providing key facts about how the loss of birthright citizenship would impact not only directly affected babies and children, but all children born into the ensuing atmosphere of uncertainty and fear. The Executive Branch has a legal and moral responsibility to avoid inflicting harm on children, yet that harm is readily apparent on the face of the Order. The very real potential harm that the Order would do to babies and children must be considered.

SUMMARY OF ARGUMENT

In the United States, citizenship at birth is a fundamental right. By operation of the Fourteenth Amendment, every baby born within our borders claims citizenship equally, regardless of parentage, ethnic heritage, race, or any other factor.

Elimination of birthright citizenship would irreparably harm babies and children, regardless of whether their parent is an American citizen or permanent resident. Babies' and children's health would suffer in both the short and long term. Without birthright citizenship, noncitizen mothers are less likely to seek prenatal care and to give birth in a hospital—where the mother's citizenship may be asked about. Lower maternal and infant health care utilization would significantly harm developing babies before and after birth. Long-term impacts include internalizing symptoms like anxiety and depression, a psychological toll that is chronic and developmental.

Harm would also flow from the inaccessibility or absence of documents, whether or not the baby is covered by the Order. Every baby would face paperwork requirements that many would be unable to meet for a wide variety of reasons, including issues related to conception via IVF, same-sex parents, unavailability or loss of documents, and many more. Citizenship for all babies born in the United States would become contingent on far more than the simple birth certificate required today, an obstacle far more likely to block families of color and families living in poverty. Loss of birthright citizenship will create a permanent underclass burdened by constitutional discrimination and marked by growing disparities for a class of persons that includes many American citizens.

Babies without U.S. citizenship also face the risk of return to dangerous or hostile nations that also may not afford them the right to citizenship. Because these babies would lack immigration status, they are at risk of detention and deportation. This dangerous fate falls on

them for reasons beyond their control, whether by parental choices, bureaucratic error or delay, lost documents, or a myriad of other factors.

Born vulnerable and innocent, babies deserve the safety and security of American citizenship, regardless of parentage. The focus of the Fourteenth Amendment is on babies and children, not their parents. The best interests of children must therefore remain at the forefront. Amici urge this Court to affirm that all babies born in the United States are citizens by birthright: of equal status, inherent worth, and full dignity.

ARGUMENT

A. **Babies and children born in the United States have a fundamental constitutional right to citizenship.**

Amici urge the Court to recall that the focus of the Fourteenth Amendment is “on the child, not the parent.” *Doe v. Trump*, 157 F.4th 36, 69 (1st Cir. 2025). Indeed, the plain text of the Fourteenth Amendment grants citizenship to all persons “born in the United States, and subject to the jurisdiction thereof.” In *Doe v. Trump*, the First Circuit accordingly declined to adopt the Government’s argument that “makes the domicile of a child’s *mother* of critical import to whether the *child* is ‘subject to the jurisdiction’ of the United States upon being born here.” 157 F.4th at 70 (emphasis added). “[F]ollowing *Wong Kim Ark*,” the *Doe v. Trump* court noted, “the Supreme Court has itself repeatedly described U.S.-born children, even of unlawfully present individuals, as citizens.” 157 F.4th at 77. The Birthright Citizenship Order (Order) would shift the citizenship determination from the location of the

child's birth to the condition and choices of the parents, contrary to Constitutional text and jurisprudence and in direct opposition to the best interests of all children, of any parentage, in safety, security, and predictability. The Order would punish innocent children who have done nothing to deserve it.

This Court has repeatedly recognized the foundational nature of citizenship as “[a child’s] basic right, for it is nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person . . . He has no lawful claim to protection from any nation, and no nation may assert rights on his behalf.” *Perez v. Brownell*, 356 U.S. 44, 64 (1958). The consistent and unbroken American constitutional, statutory, and judicial rule is birthright citizenship for all babies born here.

B. Elimination of the fundamental constitutional right to citizenship for all persons born in the United States would irreparably harm babies and children.

1. Birthright citizenship termination would harm the health of babies and children in both the short and long term.

Deprivation of birthright citizenship would have myriad negative impacts on all babies and children, broadly jeopardizing their mental, emotional, and physical health in the immediate term, with “long-term implications.” Bruce Lesley, *From Cradle to Limbo: The Immediate and Long-Term Dangers of Repealing Birthright Citizenship for Children* 5 (March 13, 2024). But it also irreparably harms the communities of which

those children are a part, in both the short and long term, along with the larger society of which they remain a part.

Research indicates that “the threat of [ending birthright citizenship] causes fear and uncertainty, leading to reduced healthcare utilization, worse birth outcomes, lower public safety net programs (e.g., enrollment in the Supplemental Nutrition Assistance Program or Medicaid), and economic instability. This chilling effect disproportionately affects Latino communities[.]” Lucía Félix Beltrán et al., *Born Into Uncertainty: The Health and Social Costs of Ending Birthright Citizenship* 4 (Feb. 12, 2025). Research tends to show that policies hostile to immigrants “contribute to delayed and inadequate prenatal care among immigrant Latina mothers.” *Id.* at 6. This risk means “the EO poses a unique threat to immigrant maternal and child health” including “a chilling effect on pregnant immigrants’ willingness to seek care” and “delays in the receipt of vital healthcare like early health screenings and vaccinations.” Rachel E. Fabi et al., *Stateless at Birth—Birthright Citizenship and the Safeguarding of Immigrant Material and Child Health*, *J Gen Intern Med* (Jan. 2026) (n.p.); *see also* ““Subject to the Jurisdiction Thereof”: Birthright Citizenship and the Fourteenth Amendment”: Hearing Before the House Committee on the Judiciary, Subcommittee on the Constitution and Limited Government, 119th Cong. (2025) (statement for the record of Center for Law and Social Policy 4) (immigration enforcement has “contributed to delayed and insufficient prenatal care . . . increasing post-natal and long-term pediatric care costs.”). Home birth, which could rise in response to this chilling effect, poses unique risks to “individuals with high-risk pregnancies requiring higher levels of care [who] may opt to deliver

outside of the safety of the inpatient setting.” *Id.* Since its promulgation in 2002, the Conception to End of Pregnancy (FCEP) option in the Children’s Health Insurance Program has recognized the critical importance of prenatal care to babies. *See* 42 C.F.R. Sec. 457.10 (2002).

Moreover, the Order would result in children being undocumented and subject to immigration enforcement, including deportation and detention. Groundbreaking work by amicus and national expert Dr. Lisa Fortuna further explains how immigration enforcement affects the minds and bodies of babies and children as they grow. *See* Lisa Fortuna et al., *Special Report: U.S. Immigration Policy and the Mental Health of Children and Families*, 60(8) *Psychiatric News* (July 25, 2025). Dr. Fortuna describes the “structural and intergenerational trauma” suffered by migrant children and the sociopolitical forces that shape its experience and symptomatology. The “constellation of mental health risks shaped by the migration experience” can only be worsened by the “chronic stress related to legal uncertainty . . . and fear of immigration enforcement” that surely accompany deprivation of a baby’s citizenship. *Id.* at 2.

Dr. Fortuna explains that the “psychological toll” experienced as part of constant immigration enforcement threat is “not only acute, but chronic, layered, and developmental.” *Id.* at 5. Beyond the impact on children’s brains and bodies, this stress takes its toll on “the social networks and relational environments that children depend on for safety and identity formation.” Children rely on stability in their routine lives, but “the ripple effects of immigration enforcement extend into everyday environments once considered safe,” contributing to

increased risk of PTSD and internalizing symptoms like anxiety and depression. *Id.* at 4. In sum, “developmental neuroscience has shown that chronic, early-life stress—particularly when it involves attachment disruption, exposure to violence, or institutional betrayal—can dysregulate the hypothalamic-pituitary-adrenal (HPA) axis and elevate cortisol levels over time.” Chronic elevation of cortisol tends to cause “long-term impairments in emotional regulation, memory, impulse control, and cognitive development” and, crucially, “developmental scaffolding,” which affects mental and physical health for life. *Id.* at 5.

Damage to the mental and emotional health of babies and children inflicted by statelessness, exclusion, and fear will compound with age and time. Amicus First Focus notes that “one cannot ignore the psychological ramifications of statelessness on children. A sense of belonging and identity is critical to all human beings, but particularly so for children. Being stateless can create a perpetual identity crisis, making children more susceptible to psychological disorders such as depression and anxiety.” Lesley, *From Cradle to Limbo*, *supra* at 5.

2. The Birthright Citizenship Order would harm a wide range of babies, including children of citizens, by delaying or denying access to citizenship and necessary benefits.

Termination of birthright citizenship will impact each of the babies born in the United States each year, whether or not they are covered by the Order. Implementation would require parents to prove their U.S. citizenship or legal permanent residency to obtain citizenship for their

child, leading to increased bureaucracy for hospitals and families—at considerable taxpayer expense. Low income and single parent families would face the greatest obstacles, “with a disproportionate impact on families of color, in particular Latino families.” CLASP Statement for the Record 3.

Amicus First Focus on Children has repeatedly made clear that ending birthright citizenship harms all babies born in the United States. Implementation of the Order “would subject every single child born in this country [to] additional paperwork burdens proving their parent(s) own citizenship status at the time of birth, bureaucratic delays, and costly legal barriers.” Bruce Lesley, *Do No Harm: Why Ending Birthright Citizenship Puts ALL Babies and Children at Risk* 10 (Nov. 17, 2024); see also Kevin Morris and Cora Henry, *Millions of Americans Don’t Have Documents Proving Their Citizenship Readily Available* 1 (June 11, 2024) (finding that nearly ten percent of voting-age Americans—21.3 million people—lack documentation made necessary by the Order); Br. of Project Rousseau, et al., as *Amici Curiae* Supporting Respondents at III, *Trump v. Barbara*, No. 25-365, 14-15.

First Focus notes a long list of widely applicable harms and bureaucratic hurdles, among them issues related to paternity, “the status of a baby who was conceived via in vitro fertilization (IVF) or intrauterine insemination (IUI); determinations in cases of birth via surrogacy; the determination of a baby’s status with same-sex parents²;

2. The Order references only “mother” and “father” when identifying a child’s parents, upon whose status the baby’s citizenship depends. The Order defines “mother” as “immediate female biological progenitor” and “father” as “immediate male

the establishment of a new bureaucracy or agency to make such determinations; the appeals rights available to a baby or child; the citizenship of a child whose parents failed to apply for citizenship of the child; the eligibility status of children for programs like Medicaid, WIC, or the Child Tax Credit, who are in limbo awaiting a citizenship determination,” and more. Lesley, *Do No Harm, supra* at 11-12.

The immediate impact on *every* baby born in the United States would be harmful, and disproportionately so for “families with fewer financial resources, limited literacy, or language barriers.” *Id.* at 15. The result would be to “push[] the most vulnerable children further into the margins of society[.]” *Id.* See Br. of Project Rousseau, *supra* at 9-10. For example, termination of birthright citizenship would entrench and worsen ongoing systems and patterns of racial and ethnic discrimination and generational poverty. “Over time, this policy would significantly expand the noncitizen population, deepening disparities and increasing legal vulnerabilities for Latino families.” Beltrán et al., *supra* at 9.

Lack of birthright citizenship, or inability to prove citizenship by descent, would create insurmountable barriers to necessary benefits for affected babies and

biological progenitor.” Order, Sec. 4(a) and (b). The implications for children born of same-sex marriage and in the other circumstances listed here are unknown. For example, the Order is not clear about a child born of a same-sex marriage whose U.S. citizen or legal permanent resident “progenitor” (parent) is not biologically related to the child. See Mel Leonor Barclay, *Trump executive order on birthright citizenship casts a narrow view of family*, The 19th, Feb. 4, 2025.

children “at the most vulnerable, critical, and important moment of their lives.” Lesley, *Do No Harm*, supra at 10-11. Amici emphasize that difficulty accessing benefits would affect all babies, even babies who remain United States citizens under the Order, because of complications and delays in obtaining documentation and demonstrating eligibility.

Food benefits normally available to infants and children, especially those who are low income, depend upon appropriate documentation for all recipients. According to USDA guidance on the implementation of the Order, benefits eligibility must be verified through “qualifying documents” that functionally require babies and children to produce a passport (obtained under new regulations required by the Order), a certificate of naturalization, a certificate of citizenship, a Social Security number issued under new requirements in the Order, or other documents the Secretary of Agriculture may designate. U.S. Dep’t of Agriculture, *Guidance on Protecting the Meaning and Value of American Citizenship (Executive Order 14160) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (July 26, 2025). If the child does not have any of these documents, they must present a birth certificate **and** any of the qualifying documents listed above, as issued to the child’s U.S. citizen or legal permanent resident parent. Babies born to U.S. citizen parents affected by poverty, homelessness, language barriers, rural location, or other obstacles may not be able to qualify. There can be no question that food support is critical to healthy child development for all babies and children in the United States.

Medicaid and CHIP (Children's Health Insurance Program) are the United States' primary federal safety net health care programs, both administered by the Department of Health & Human Services (HHS). HHS issued essentially the same Guidance for implementation of the Order as issued by USDA, except that HHS also accepts a birth certificate documenting the birth of the mother or father in the United States or its territories for those born before the date of the Order. U.S. Dep't of Agriculture Food and Nutrition Service, *Guidance on Protecting the Meaning and Value of American Citizenship (EO Order 14160) for Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (July 26, 2025). The result is to cut off critically necessary medical and mental health care for babies and children who are either denied citizenship by birthright or unable to produce the documentation required to demonstrate citizenship. This deprivation would be particularly widespread and damaging in the critically important first few days of life, when all babies would be challenged by the need to demonstrate citizenship. See Flavia Indrio et al., *The Importance of Strengthening Mother and Child Health Services during the First 1000 Days of Life: The Foundation of Optimum Growth, Health, and Development*, 245 *J. Pediatrics* 254 (June 2022).

Without citizenship, access to higher education would be highly constrained by finances and enrollment, depending on the state of the person's residence. To begin, non-citizens do not qualify for federal financial assistance. Over twenty-five states charge undocumented students out-of-state tuition regardless of their state of residence. Some states provide state-level financial assistance for

college to undocumented students, but many do not. While undocumented students can generally attend public colleges, Alabama, Georgia, and South Carolina actively block their enrollment unless they have DACA protection. *See* Higher Ed Immigration Portal, Undocumented Tuition Map (visited Feb. 16, 2026).

As babies and children denied birthright citizenship grow into adults, they will be deprived of the right to vote and serve on juries. Both critically important forms of participation in civic life depend on citizenship. An increasing number of people born in the United States will have no say in how the country is governed, which is harmful and profoundly undemocratic.

The citizenship stripping, fear, anxiety, instability, and threats to health and well-being that would follow on implementation of the Order unquestionably constitute irreparable harm to the babies directly targeted, their families, schools, churches, and broader communities.

3. Elimination of birthright citizenship would violate fundamental constitutional rights and deprive babies and children of safety and security of person and identity.

Amicus First Focus and fellow amici emphasize that the deprivation of birthright citizenship is a direct injury to babies, the most vulnerable among us, for reasons beyond their control. The loss of citizenship, which “would recreate *Dred Scott’s* two-tiered caste system,” only begins the avalanche of lost rights. Lesley, *Do No Harm*, *supra* at 2.

Termination of birthright citizenship threatens to “create an underclass of citizens subject to constitutionally sanctioned discrimination and social exclusion.” Lesley, *From Cradle to Limbo*, *supra* at 7. Amicus CLASP has made clear to Congress the status of citizenship as a fundamental right; “every child deserves the rights and protections necessary to grow and thrive from birth” and “[b]irthright citizenship is fundamental to our nation’s foundational principles of equity . . . [these rights] are essential to children’s well-being.” CLASP Statement for the Record at 8. Without birthright citizenship, a “new class of stateless children would be condemned to live in the shadows of society without the protections and opportunities that citizenship provides,” including a range of benefits and protections necessary to healthy child development. Lesley, *Do No Harm*, *supra* at 9.

C. Deprivation of citizenship will render many babies stateless or threaten them with return to a hostile or dangerous country, placing them in great risk of harm, immediately and in the long term, for reasons beyond their control.

Amicus Center for Law and Social Policy warns that “[d]enying citizenship to newborns of undocumented parents puts babies at risk of becoming stateless and subject to detention and deportation.” CLASP Statement for the Record at 3. Deprivation of citizenship and possible statelessness places them at great risk of harm, immediately and in the long term, for reasons outside their control. Such an offense “would violate a basic moral tenet of our country, which is to not punish innocent people for the perceived violations of law by others. Babies did not

choose either their birth or their geographic location . . . Children are viewed as vulnerable individuals deserving of protection, not as extensions of their parents' actions or inactions." Lesley, *Do No Harm*, supra at 7. While children born to immigrants in countries that do not confer birthright citizenship face barriers to healthcare and education and can suffer "social exclusion in their country of birth," research on the impact of Germany's 2000 extension of birthright citizenship found "substantial benefits of the policy on children's educational and developmental outcomes as well as social integration comparable to educational interventions at a much lower cost." CLASP Statement for the Record 3.

- 1. Many babies and children would be rendered stateless by termination of birthright citizenship because they have nowhere to go or their parents' nation is prohibitively dangerous.**

Over time, deprivation of birthright citizenship could leave millions of babies born in the United States bereft of a country with nowhere else to go. Michael Fix, *Repealing Birthright Citizenship: The Unintended Consequences*, Migration Policy Institute (Oct. 30, 2018). Because the Order and its implementation do not offer any pathways to citizenship or legal permanent residency to babies born without citizenship, children born to stateless parents will remain stateless and without a nationality. Further, children born to parents of nations who refuse to recognize the right of return for their nationals also have nowhere to go. The fate of all babies and children in these categories remains uncertain. Such action would gravely endanger these babies and

children for no fault of their own and abandon them in a place where they have no nationality, nor, in many cases, any right to one. Key examples are nations that do not grant citizenship by descent or grant it only through the paternal line. *See* Brief of the Global Strategic Litigation Council, et al., as *Amici Curiae* Supporting Respondents at 28-29, *Trump v. Barbara*, No. 25-365.

2. Babies and children would depend entirely on their parents to qualify for citizenship and produce the needed documents, regardless of their parents' status or access to records.

Under the Order, “a baby’s nationality would [] depend[] on the adjudication and affirmation of citizenship by the government based on the documentation of nationality of one’s parents.” This process “is much more like the complex and bureaucratic citizenship adjudication procedure required for babies born to American parents in other countries.” Lesley, *In Harm’s Way*, *supra* at 3. As Margaret Stock explains, American citizenship and immigration laws “are complex, and a parent’s status is often a moving target.” *Id.*, quoting Margaret Stock, *Is Birthright Citizenship Good for America?*, 32(1) *Cato Journal* 139, 152 (2012). If families don’t have the documents and/or don’t have money for a lawyer, they may never be able to apply for citizenship for their baby, who could grow into adulthood stateless.

Further, children could be rendered stateless by errors, omissions, or missing documentation. “As seen in other countries that have attempted to restrict birthright citizenship, bureaucratic errors have led to thousands of people being arbitrarily rendered stateless, unable to

obtain documentation, subject to systemic discrimination, and wrongful detainment and deportation.” Letter to Senator Graham from First Focus 5 (March 10, 2025). Many other factors can create barriers to obtaining documents, including poverty, parent’s birth abroad or at home, loss, other inaccessibility. *See* Br. of Global Strategic Litigation Council, et al. 9-10.

In sum, babies born to parents granted temporary lawful status in the United States because return to their countries would endanger their freedom or lives will face precarious, possibly stateless, and potentially dangerous and violent futures if birthright citizenship is revoked. Worse, “[t]here is no federal law that defines who a stateless person is, nor are there protections for stateless persons comparable to those that are afforded to refugees or others in need of protection, nor pathways to legal status.” Melissa Stewart, *Birthright Citizenship, Denaturalization, and the Specter of Statelessness*, 73 UCLA L. Rev. Discourse 170, 183 (2026). This level of uncertainty and broad, unresolved threat is extremely harmful to the health and well-being of babies and children.

CONCLUSION

The decision below should be affirmed.

Respectfully submitted,

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