



erickson
immigration group

DAY 1 SUMMARY

The Trump Administration's Immigration Executive Orders

BIG PICTURE

On January 20, 2025, shortly after being sworn in as the 47th President of the United States, President Donald J. Trump signed several executive orders (EOs), memorandums, and proclamations directing federal agencies to enact policies furthering his immigration agenda. The EOs provide broad guidance to agencies who will then draft policy memoranda that aligns with the EO language. The EOs give the American public an overview of the Trump immigration agenda without details on how the agenda will be carried out. The specifics, namely which foreign nationals could be denied entry and under what specific circumstances, will be implemented in the coming weeks and months. **At this time, there are no Executive Orders specific to legal immigration.**

The first of these proclamations was [Declaring a National Emergency at the Southern Border of the United States](#). A national emergency grants the President the legal authority to deploy the US Armed Forces and provide additional resources to secure the border, including detention space and constructing additional barriers along the southern border, with coordination from willing state governors.

These Executive Orders emphasize a whole of government approach to immigration enforcement, including local and state governments and inter-departmental collaboration. By declaring an invasion and national emergency, the President has the authority to deploy the US military to the border and allocate resources accordingly; it also allows the President and departments to enact far-reaching policies, including travel bans, detainment, and removal.

RESOURCES

- [TRUMP WHITE HOUSE NEWS](#)

EXECUTIVE ORDERS RELATED TO BORDER SECURITY AND ENFORCEMENT

The [Securing Our Borders Executive Order](#) aims to stop immigrants from crossing into the United States without authorization. The actions for this EO include securing the border by building a physical barrier wall and using personnel and technology. This EO would also increase detention and resume the Migrant Protection Protocols (MPP), also known as Remain in Mexico, which returns migrants to their home countries while awaiting removal proceedings. It ends the use of the CBP One App and the categorical parole programs previously established by executive orders.

How would this impact legal immigrants?

- Terminates the program for Cubans, Haitians, Nicaraguans, and Venezuelans, known as the "CHNV Program."
- DHS could require DNA testing to determine familial relationships at entry.

The [Protecting the American People Against Invasion Executive Order](#) revokes Biden administration policies and refocuses DHS on increasing the enforcement of US immigration laws. The actions for this Executive Order include hiring additional agents, expanding criminal prosecution for families crossing the border, limiting the use of Temporary Protected Status, increasing immigrant detention, and applying Expedited Removal for foreign nationals residing in the US for less than two years. The EO expands state and local law enforcement agencies' ability to police for immigration violations and directs states and local authorities to cooperate with DHS or risk losing federal funding. The EO also lays out a system of penalties (including sanctions) for countries labeled "recalcitrant" if they do not accept deportees.

How would this impact legal immigrants?

- The EO empowers state and local law enforcement agencies to police for immigration violations, which could lead to increased racial profiling of foreign nationals.
- The EO could revoke or fail to renew the status of foreign nationals who have Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA), parole, or other temporary statuses such as Deferred Enforced Departure (DED).
- Countries such as China and India could be labeled "recalcitrant" if they refuse to accept deportees. Note that in advance of the EO, India agreed to accept 18k deportees.

EXECUTIVE ORDERS RELATED TO BORDER SECURITY AND ENFORCEMENT (CONT'D)

The **[Guaranteeing the States Protection Against Invasion Executive Order](#)** invokes the President's constitutional authority and powers under the Immigration and Nationality Act (INA) and restricts any foreign nationals from entering the US across the southern border until the President determines that the immigrant "invasion" has ended. It also directs the suspension of entry for foreign nationals who pose a public health, safety, or national security risk. It also re-emphasizes the use of broad bans on entry for certain foreign nationals, using the legal provision evoked previously under the "Muslim Ban."

How would this impact legal immigrants?

- The EO sets the groundwork for future foreign national bans based on national origin or other parameters.
- Section 3 authorizes federal officials to deny entry to any foreign national who fails to provide sufficient medical information, reliable criminal history, and background information. The EO does not define parameters of "sufficient medical information" or "reliable criminal history."
 - DHS will presumably define these terms in subsequent memoranda, though there is concern that these broad definitions could be used to deny entry to individuals from countries deemed "less desirable."

EXECUTIVE ORDERS RELATED TO TRAVEL & ENTRY BANS

The [Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats Executive Order](#) enhances vetting and screening during the visa issuance processes across agencies. The EO also directs the Secretary of State to identify countries with insufficient vetting information and consider suspending admissions from those countries.

A report will be submitted to the President identifying countries with inadequate screening, and appropriate action will be taken to exclude or remove individuals who pose security risks.

The EO also calls for reviewing and adjusting policies regarding inadmissibility, refugee admissions, visa programs, and the protection of constitutional rights.

How would this impact legal immigrants?

- Foreign nationals should expect increased scrutiny and vetting and overall longer processing times. Foreign nationals from so-called "hostile" regions such as China or Muslim-majority nations may experience extended delays and/or denials.
- The EO directs agencies to suggest the banning of admission of foreign nationals from certain countries within 60 days. *This could replicate the "Muslim Ban" by March 2025, though the list of banned countries is expected to be more expansive than the prior Trump administration.*
- This EO applies to foreign nationals outside the US and those already present in the country, suggesting that **some legal foreign nationals could be re-vetted** to ensure that they do not "bear hostile attitudes toward [U.S.] citizens, culture, government, institutions, or founding principles, and do not advocate for, aid, or support designated foreign terrorists and other threats to our national security." This includes the use of denaturalization pursuant to 8 U.S.C. Sec. 1451.

EXECUTIVE ORDERS RELATED TO US CITIZENSHIP

The [Protecting the Meaning and Value of American Citizenship](#) Executive Order

states that the Fourteenth Amendment does not grant citizenship to all individuals born on US soil. It excludes those born to unlawfully present parents or those in the US temporarily (e.g., on tourist or student visas), where the father is not a US citizen or lawful permanent resident, (e.g., on any non-immigrant work, tourist or student visa). The EO directs state, local, and federal agencies to prevent the issuance of citizenship documents starting on February 20, 2025.

How would this impact legal immigrants?

- Pursuant to this EO, children of nonimmigrant visa holders would not attain citizenship at birth. The EO specifically states that children of temporary visa holders, including students, nonimmigrant workers, or tourists (including from visa waiver countries,) do not attain citizenship unless the child's biological father is a lawful permanent resident or US Citizen.
 - This is the most controversial EO because its principles run counter to the US Constitution. [Immigrant advocacy groups](#) and [18 states](#) have filed a lawsuit to enjoin this measure.

EXECUTIVE ORDERS RELATED TO REFUGEES AND ASYLEES

The [Realigning the United States Refugee Admissions Program](#) Executive Order

indefinitely suspends the US Refugee Admissions Program (USRAP) effective January 27, 2025, and it would remain suspended until "such time as the further entry into the United States of refugees aligns with the interests of the United States."

A report will be submitted within 90 days to assess whether resuming refugee admissions is in the US interest. Further reports will be required every 90 days.

How would this impact legal immigrants?

- This EO prevents the admission of nearly all refugees; however, few could be admitted if it would be in the national interest and their admission does not pose a threat to the security or welfare of the United States.

THEMES TO WATCH

- The [**America First Policy Directive to the Secretary of State**](#) directs the Secretary of State to issue guidance bringing the Department of State's policies, programs, personnel, and operations in line with an America First foreign policy, which puts America and its interests first.
- The [**Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government**](#) EO establishes a policy that the US government will recognize only two biological sexes, male and female. Government-issued identification documents, including passports, visas, and Global Entry cards, must "accurately reflect the holder's sex," male or female.
- The [**Restoring the Death Penalty and Protecting Public Safety**](#) EO directs the Attorney General to seek the death penalty for all crimes deserving of it, particularly for the murder of law enforcement officers or crimes committed by illegal aliens.
- The President, through the [**Initial Rescissions of Harmful Executive Orders and Actions**](#), revoked or undid policies from the previous administration that the President considers harmful, including those related to "diversity, equity, and inclusion" (DEI), climate policies, and border control.
- The [**Clarifying the Military's Role in Protecting the Territorial Integrity of the United States**](#) Executive Order directs the Defense Secretary to submit a plan for deploying U.S. Northern Command forces to the border. Foreign nationals could experience increased US military presence at ports of entry and within their communities. *Foreign nationals should not be interrogated or questioned by military officials because the Posse Comitatus Act prohibits using the federal military to enforce domestic immigration law; however, the Trump administration is expected to push the boundaries of this restriction.*

CONGRESSIONAL BILLS ON IMMIGRATION

Last week, the Senate considered the [Laken Riley Act](#) (S.5), an immigration enforcement measure that would require Immigration and Customs Enforcement (ICE) to mandatorily detain without the possibility of bond any undocumented immigrant who was arrested, charged, or convicted of a theft-related crime, including minor crimes of shoplifting without exception.

The "Laken Riley Act" would also expand states' role in immigration policy, transferring immigration authority from the federal government to the states by granting state attorneys general [the ability to sue](#) for harms inflicted on its residents due to federal immigration decisions. The bill would allow any state attorney general to challenge and/or overrule an immigration officer's decision related to an admission, detention, grant of parole, or visa decision.

The Senate will vote on the "Laken Riley Act" early this week, where it is expected to pass. The bill will then be returned [to the House](#) before being sent to President Trump's desk for signature.

Analysis: [This particular provision](#) of the eight-page bill would expand the power of state appointees, allowing them to sue the federal government and seek sweeping bans on visas from countries that won't take back deportees. This includes countries such as Mexico, Guatemala, and El Salvador, which are south of the US border and are frequently a part of immigration debates. Still, it could also apply to countries like China and India, which colleges often depend on for large swaths of their international student population.

The bill would give states a role in dictating US foreign policy and could impact the US's relationship with allies and adversaries.

EDITORIAL FOOTNOTE: THE TRUMP ADMINISTRATION HAS USED THE TERM "ALIEN" TO REFER TO PEOPLE WHO ARE IMMIGRANTS AND FOREIGN NATIONALS. IN INSTANCES WHERE WE'RE REPEATING ADMINISTRATION POLICY, WE ARE USING THEIR TERMINOLOGY.

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STAY IN THE LOOP WITH **EIG**

Erickson Immigration Group will continue to monitor developments and share updates as more news is available.

Please contact your employer or EIG attorney if you have questions about anything we're reporting or case-specific questions.

We're here to answer questions, provide support, and be your partner.

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