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Policy Brief: Trump Administration Day One Executive Orders

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Introduction

On January 20, 2025, President Trump issued several executive orders that impose sweeping reforms to the immigration system. While these orders purport to put “America first,” they are unlikely to make the nation safer or advance its interests. In fact, these initial executive actions will not only undermine the orderly and efficient operation of the immigration system that is essential to the nation’s prosperity but also destabilize American families and communities.

As the national bar association of immigration lawyers, AILA supports reforms to the immigration system to ensure the fair, orderly and efficient processing of immigrants. Polling shows that the American people want real solutions that ensure the immigration system meets the needs of American families, businesses and the economy. For example, a recent *Wall Street Journal* poll concluded that the public does not support mass deportations and instead supports orderly and measured approaches that protect longtime undocumented residents from removal without causing fear and disruption in local communities. AILA is committed to advancing solutions that will improve the immigration system and advance America’s national interest.

This document summarizes and analyzes each of the executive orders impacting immigration.

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1. Executive Order Initial Rescissions of Harmful Executive Orders and Action

The new administration rescinded several Biden-era orders, including those on enforcement priorities, restoring the legal immigration system, reunification of families separated under Trump I, refugee resettlement, and managing migration with other country governments. The immigration implications of these rescissions are wide-ranging, and include setting the stage for the expansion of expedited removal in the interior and eliminating any right to seek bond, reinstating the public charge process under Trump I, as well as eliminating efforts to improve government efficiency. AILA released a members only [practice alert](#) with more detail on this executive order. These are the immigration-related executive orders rescinded:

- Executive Order 13993 of January 20, 2021 (Revision of Civil Immigration Enforcement Policies and Priorities).
- 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).
- Executive Order 14011 of February 2, 2021 (Establishment of Interagency Task Force on the Reunification of Families).
- Executive Order 14012 of February 2, 2021 (Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans).
- Executive Order 14013 of February 4, 2021 (Rebuilding and Enhancing Programs To Resettle Refugees and Planning for the Impact of Climate Change on Migration).

2. Executive Order Protecting the Meaning and Value of American Citizenship

This executive order attempts to strip fundamental rights provided by the U.S. Constitution from individuals born in the United States. The Constitution sets forth that individuals born on U.S. soil are, with limited exceptions, U.S. citizens. The executive order expressly prohibits issuing documentation of citizenship to a child born in the United States to a mother who 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.

Therefore, the clear intent of this executive order is to limit the automatic acquisition of citizenship only to children born in the United States whose mother or father is a lawful permanent resident or U.S. citizen. This impacts the children of undocumented parents, as well as the children of parents who are in lawful nonimmigrant status, such as TPS or H-1B. This will adversely impact the ability of U.S. companies from being able to recruit the best and brightest talent from around the world to contribute to the nation's economic growth and innovation.

Analysis:

- The policy will take effect 30 days after the issuance of the executive order and will apply to children born on or after February 20, 2025. The definition of mother and father is limited to immediate female/male biological progenitors. This may impact the children of same sex couples and children born through Artificial Reproductive Technologies (ART).

- Multiple lawsuits seeking to enjoin this EO were filed against this executive order within 24 hours, including one [brought by 18 states and San Francisco and Washington, DC](#).¹ Four additional states [filed another lawsuit](#) in the Western District of Washington, and a judge issued an order temporarily blocking this EO on January 23, 2024.
- The executive order indicates that those who will be denied citizenship are not “subject to the jurisdiction” of the United States as required in the 14th Amendment. This is a baseless argument. The jurisdiction clause is recognized as applying to Native Americans and diplomats. Moreover, to claim that the excluded class of immigrants are not within U.S. jurisdiction would also mean they are not subject to federal immigration enforcement.
- A January 2025, [Wall Street Journal](#) poll concluded that 64% to 31% of voters oppose ending birthright citizenship.

3. [Executive Order Protecting the American People Against Invasion](#)

This wide-ranging executive order calls for the maximal enforcement of immigration law, rescinds the Biden administration’s enforcement policies and directs DHS to set new enforcement priorities. The order specifies that these priorities should include illegal entry, unlawful presence, and people with final orders of removal. Notably, the order directs the DHS secretary to expand the use of expedited removal to the interior for noncitizens who entered within the past two years and calls for DHS to work towards ensuring the detention of everyone pending resolution of their cases, as well as the expansion of detention facility capacity.

The order calls for the registration of undocumented aliens and the prioritization of enforcement against those who do not comply, as well as for fines and penalties to be levied against people who are undocumented or others who facilitate the presence of someone who is undocumented.

Additionally, the order has a significant impact on local governments. The order calls for DHS and the Attorney General to deny “sanctuary jurisdictions” access to federal funds to the maximum extent allowed under law. The order calls for the expansion of agreements under INA 287(g) with local governments to effectively deputize them to assist with immigration enforcement. It creates in each state a federal Homeland Security Task Force comprised of federal and local law enforcement who the order directs to coordinate enforcement efforts. It also will take steps to ensure information sharing with state and local governments to enforce immigration law. The order re-establishes the office of victims of immigrant crimes (VOICE) created under Trump I to respond to reports of crimes committed by removable individuals.

The order requires a review of all federal funding agreements with non-governmental organizations to ensure none are facilitating the violation of immigration law or wasteful. The new administration also intends to impose sanctions against recalcitrant countries who do not accept or facilitate the return of their nationals, which could include the denial of visas to citizens, subjects, or nationals of the country. It also requires establishment of a system to impose visa bonds to enforce the INA.² The order calls for limiting grants of humanitarian parole, Temporary Protected Status, employment authorization, and public benefits to existing statutory requirements (based on the assumption that the Biden administration did not comply with statute).

¹ See [New Hampshire Indonesian Community Support v. Donald J. Trump](#), No. 1:25-cv-38 (D. N.H. Jan. 20, 2025); see also [New Jersey v. Trump](#), No. 1:25-cv-10139 (D. MA, Jan. 21, 2025).

² At the end of the first Trump Administration, the DOS issued a Temporary Final Rule establishing a visa bond pilot program to ensure departure and maintenance of individuals with temporary business/tourist visas. See 85 FR 74875 (Nov. 24, 2020).

Finally, the order calls for significant increases in the hiring of CBP and ICE officers and agents. This appears to override the hiring freeze on other federal personnel.

Analysis:

- The new requirement that undocumented aliens register their presence is similar to the post-911 National Security Entry Exit Registration System (NSEERS) program that also required the registration of certain people present in the United States which targeted people from mostly Muslim and Arab-majority nations. That program was ended in 2016 after it was found to be ineffective and resulted in abuses due to racial, ethnic and religious profiling.
- The administration is further signaling its intent to further restrict grants of humanitarian parole, TPS, granting of work permits and access to public benefits.
- Under Trump I, VOICE stigmatized immigrants by creating a false narrative that undocumented immigrants are more likely to commit crimes, despite unrefuted statistics showing that they have lower crime rates than native-born citizens.
- The information sharing provisions of the order raise concerns about privacy and the balance of federal and local roles in immigration enforcement. Under Trump I such policies enabled the targeting of undocumented family members in the U.S. whose children seek to enter the U.S. as unaccompanied minors.
- The order may violate the 10th Amendment's prohibition on the federal government commandeering state and local resources.
- The expanded deputization of local law enforcement to engage in civil immigration enforcement led to constitutional violations by local authorities, such as racial profiling. This order creates an unfunded mandate for local authorities to provide staffing and resources for federal immigration enforcement.
- Federally funded programs that provide states and localities with support for migrants and for alternatives to detention could be targeted as part of the reviews anticipated in this order.

4. [Executive Order Securing Our Borders](#)

While this order announces policies it claims will achieve complete operational control of the border, it dismantles important programs that improve efficiency at ports of entry or help reduce pressure at the U.S. southern border. Many of the announced policies were tried in the President's first term, including the construction of walls and barriers and the maximal use of resources to prevent unauthorized entries, detain migrants, execute removals, and prosecute those who violate immigration law. The order announces the restart of the Migrant Protection Protocols (MPP, also known as Remain in Mexico) which first went into effect in January 2019 and required people to wait in Mexico for their immigration court hearings. In addition, the order ends the CBP One app, terminates what it refers to as "categorical" humanitarian parole programs created under the Biden administration and specifically states that parole programs for Cubans, Haitians, Nicaraguans and Venezuelans (CHNV) are halted. While the executive order does not specifically rescind the humanitarian parole program created for Ukrainians and Afghans, its reference to ending categorical parole programs suggests that is intended. Finally, the order states that the administration will end the practice of releasing people apprehended at the border into the U.S. pending court hearings (so-called "catch-and-release") which presumably means enforcement officials will no longer have the discretion to determine whether it is necessary and justified to detain someone.

Analysis:

- The administration all but eliminates asylum at the U.S. southern border by making MPP the only remaining, and altogether flawed, alternative. On January 21, [DHS announced](#) it has reinstated MPP, but its ability to do that depends on the agreement of the Government of Mexico. When

MPP was first initiated, it resulted in a humanitarian crisis at the southern border with large numbers of people waiting in squalid, unsafe camps and increased the presence of cartels preying upon migrants. Several operational problems denied many applicants' access to court.

- The legal pathways President Biden created for nationals of CHNV countries improved the orderly arrival of thousands of people in need of protection and alleviated the volume coming to the U.S. border. Humanitarian parole programs, including those for CHNV countries, Ukrainians and Afghans, have proven effective as solutions to provide legal processes for people to come to the United States. Ending CHNV, along with the CBP One app, will compel more people to enter between ports of entry for lack of an orderly alternative.
- By announcing the end of catch-and-release—and therefore limiting the discretion of officers to determine whether detention is necessary—the administration is signaling its intention to mandate detention for anyone apprehended, including families, regardless of the case-by-case circumstances. Detention facilities will quickly reach maximum capacity, as it did under the Biden administration. The new administration will need to seek funding and other ways to expand detention space.
 - Under the Trump administration's first term, similar mandatory detention policies resulted in the release of “nearly 58,184 noncitizens with criminal records, including 8,620 violent criminals and 306 murderers,” according to data obtained by the [CATO Institute](#).
- Notably, [past policies that turn away asylum seekers at the border or force them to wait](#) long periods at ports of entry have been unsuccessful and lead to more people crossing between ports of entry.

5. [Executive Order Declaring a National Emergency at the Southern Border](#)

With this order, the Trump administration is attempting to deploy the military—including personnel and budgetary resources—at the border and to execute mass deportations. Drawing upon the Constitution and the National Emergencies Act, the President declared a national emergency at the U.S. southern border to justify the use of Department of Defense (DOD) resources, including the Armed Forces and National Guard, to enforce immigration law. DOD is ordered to support DHS enforcement efforts and devote resources to border barrier construction, apprehensions, detention capacity, and other operations. The order seeks to authorize drone and other surveillance by waiving aviation and communication regulations.

Analysis:

- The chief concern is whether it is appropriate and lawful to mobilize the U.S. military to engage in civil immigration enforcement. Implementation of the order could conflict with INA Section 235, which requires immigration officers to conduct expedited removal.
- This broad directive will likely lead to the overuse of force against migrants. Military personnel will be deployed to the border and given directives to prioritize stopping individuals from physically entering the country. This order attempts to authorize military personnel to use force to maintain the safety and security of DHS personnel and Armed Forces members.
- By attempting to grant broad authority to use force in border operations, the President will compound the use of force at the U.S. southern border.
- Notably, the [Chamberlain Network](#), a veteran organization, has come out against this order, stating “[a]s veterans, we took an oath to defend against threats—not families seeking safety. Deploying troops at the border for immigration enforcement weaponizes the military in ways it was never meant to be used.”

6. Executive Order Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats

As in 2017, the Trump administration is setting the stage to justify travel bans and to avoid the legal challenges that plagued his initial versions of the Muslim ban, which targeted nationals from mostly Muslim-majority countries. Within 60 days, the administration will identify nations with deficient vetting procedures that will be subject to a complete or partial travel ban justified under [INA 212\(f\)](#).

Enhanced vetting will also be re-established at the baseline level that was in place at the end of the first Trump administration (January 19, 2021), and all resources available will be used to maximize the scrutiny of visa applicants and those who are already in the United States in lawful status. The Department of State and other agencies will evaluate all visa programs for national security and otherwise recommend actions to protect Americans.

Additionally, more resources will be devoted to denaturalization operations and the assimilation of immigrants and a more stringent verification and screening of refugees and stateless persons will be applied.

Analysis:

- The first Trump administration imposed extreme vetting procedures that were frequently unnecessary and resulted in severe delays to visa processing. The language of the new executive order indicates even more stringent vetting, as it will look back four years and reevaluate adjudications.
- The stricter scrutiny on new applicants and those who have been in nonimmigrant status in the United States for many years will result in uncertainty and delays for their employers and families.

7. Executive Order Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists

This order establishes a process to designate cartels as FTOs or SDGTs within 14 days and calls for their complete elimination in the U.S. It also announces a plan to use the Alien Enemies Act to expedite the removal of people designated as terrorists.

Analysis:

- The order relies upon the determination that there is a “qualifying invasion” to justify the use of the Alien Enemies Act, which “is a wartime authority that allows the president to detain or deport the natives and citizens of an enemy nation.” These deportations may occur without a hearing and against individuals [with lawful permission](#) to be in the U.S.

8. Executive Order Guaranteeing the States Protections Against Invasion

While border arrival numbers in [recent months](#) have posted the lowest levels in years, the Trump administration has declared that an invasion of migrants is ongoing at the southern border, and is using it as a justification to suspend all border entries, including asylum seekers. The order, operating in conjunction with other policies, effectively bans asylum at the southern border. The order invokes Article IV, Section 4 of the Constitution, which requires the United States to protect states from foreign invasion, and relies heavily on the president’s authority to restrict or block entry into the country under [INA 212\(f\)](#). The order also relies upon INA 212(f) to block entry for anyone who might pose a threat to public health (if they fail to provide medical or criminal background information).

Analysis:

- The order conflicts with the INA’s guarantee of access to asylum and is subject to legal challenge on this ground, as [one of the limitations of INA 212\(f\)](#) is that it cannot conflict with the statute.
- The order is premised on the farfetched view that the unauthorized entry of migrants constitutes an “invasion.”

9. [Executive Order Clarifying the Military’s Role in Protecting the Territorial Integrity of the United States](#)

Within 10 days, DOD is ordered to deliver a revised Unified Command Plan for the United States Northern Command to seal the borders and maintain U.S. sovereignty and security including repelling “invasion” in the form of “unlawful mass migration” and narcotics or human trafficking and other criminal activities. The order requires “commander’s estimate” within 30 days and continuous assessment of operations.

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

The president has suspended the U.S. refugee program indefinitely. This is based on a determination that the program is detrimental to U.S. interests under INA 212(f). Notwithstanding the suspension, DOS and DHS may admit refugees on a case-by-case basis. States and localities will be given a role in determining the placement of refugees in their jurisdictions. Within 90 days, DOS and DHS will offer recommendations on whether the program will resume. The executive order on Protecting the United States from Foreign Terrorists also notes that more stringent vetting will be applied to refugees. As of January 22, 2025, flights for refugees already cleared to come to the U.S. [have been canceled](#), including for “more than 1,600 Afghans who assisted America’s war efforts.”

Analysis:

- In January 2017, President Trump also suspended the refugee program and subsequently lowered the annual refugee resettlement targets. By the end of fiscal year 2020, the total number of refugees resettled had dropped to less than 12,000.
- Refugees typically wait years to be interviewed and are subject to the most rigorous security and identity screening procedures of any foreign national entering the United States. Additional vetting measures are unlikely to result in improved national security benefits.
- If the refugee program resumes, states and localities may be able to resist or block the placement of refugees in their jurisdictions. Typically refugees prefer resettlement in areas where they have family or community connections. It will be important to track whether the program gives states the authority to approve resettlement decisions and whether refugees who later seek to travel to a restricted jurisdiction will be barred.
- Ending the refugee program will negatively impact our economy: a [2024 government study](#) found that refugees contributed nearly \$124 billion in federal, state and local tax revenue.

11. [Executive Order Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#)

Changes made to how the federal government recognizes gender has a wide ranging impact on immigration, from paperwork to detention centers, and significantly increases the hardship and risks for transgender and nonbinary noncitizens. This order directs government agencies to recognize only two sexes, male and female, in all of its policies and procedures. Agencies are required to submit a report to

the President on their progress within 120 days. As it relates to immigration, the following actions will be impacted:

Analysis:

- Government-issued identity documents, including passports, visas and Global Entry cards will only reflect male or female. It is unclear whether the government will require reissuance of existing documentation.
- Immigration forms, regulations and policy documents may need to be updated.
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- Detention Centers will only separate detainees by male or female, likely no longer permitting separate housing units for transgender individuals or other semi-protective measures such as “administrative segregation.”
- Although the Secretary of Health and Human Services is required to provide definitions of relevant terms within 30 days, the definitions will likely leave gaps that will result in differing and contradictory definitions amongst agencies.
- This change will result in heightened risks and hardship for people who do not conform to the strict male/female gender categories of the executive order. People who identify as transgender or nonbinary will likely experience significant mistreatment, abuse and violence in immigration detention due to their gender status.

12. Executive Order America First Trade Policy

This order may result in policy shifts that impact the eligibility criteria for important nonimmigrant visas available to Canadians and Mexicans. The order directs that the U.S. trade policies promote “investment and productivity, enhances our Nation’s industrial and technological advantages, defends our economic and national security, and — above all — benefits American workers, manufacturers, farmers, ranchers, entrepreneurs, and businesses.” It requires the review of all existing trade agreements, as well as the impact of the U.S.-Mexico- Canada Agreement (USMCA) on American workers, farmers, ranchers, service providers, and other businesses.

Analysis:

- The directive to review the USMCA before the 2026 renewal may result in policy shifts affecting the eligibility criteria for TN visas. If the U.S. Trade Representative recommends changes to the agreement, visa issuance procedures may be altered, leading to a stricter interpretation of job categories and qualifications. Canadian and Mexican professionals applying for TN visas may face additional documentation requirements to prove their qualifications and the necessity of their employment in the United States.
- The review of other trade agreements may impact other treaty-based nonimmigrant visa categories, such as E-1 (treaty trader), E-2 (treaty investor), and H-1B1 (specialty occupation worker).
- Sections directing the investigation of unfair trade practices and tariff policies may create uncertainty for businesses employing foreign professionals under B-1 (business visitor) or L-1 (intra-company transferee) visas, resulting in fewer job opportunities for noncitizens.

13. Executive Order America First Policy Directive to the Secretary of State

This order, framed as directing foreign policy to “champion core American interests and always put America and American citizens first,” has the potential to harm our economic growth and prosperity. It is effective immediately.

Analysis:

- Although not explicit, this directive may be a reinstatement of the first Trump administration's Buy American, Hire American (BAHA) Executive Order 13788.³ The BAHA policies resulted in increased scrutiny of employment-based visas, barriers for U.S. businesses to hire foreign workers, and a focus on increased wage requirements which hurt small businesses, non-profits, and foreign graduates of U.S. institutions. As acknowledged by President Trump, with increased tariffs, legal immigration to bring businesses and critical workers to the United States will be key to America's economic success. If the America First policy resurrects the BAHA policy, this will harm our economic growth and prosperity.

AILA Recommendations and Solutions

Effective solutions for the U.S. immigration system require a holistic, all-of-government approach that marshals the combined resources of all relevant federal agencies whose missions span adjudications, processing, and enforcement. The following common-sense solutions will bring order and efficiency while ensuring fairness to the immigration system without the chaos and fear of the administration's policies.

- **Hire more Customs and Border Protection (CBP) OFO officers and asylum officers to reduce logjams at ports of entry.** Proper staffing ensures faster and more thorough screenings. In addition, greater investment is needed in port infrastructure to increase traffic lanes, hours of operation, and capacity for vehicular, pedestrian, business, and other traffic.
- **Expand orderly, legal pathways to reduce unauthorized entries—rather than eliminate them as the Securing Our Borders EO does.** Humanitarian parole and refugee resettlement offer ways for people to apply before they come to the United States. The Biden Administration's parole programs for Ukrainians, Afghans, Cubans, Haitians, Nicaraguans, and Venezuelans [successfully relieved](#) the pressure at the U.S.-Mexico border by offering a better alternative for individuals from these countries.
- **Ensure courts decide cases quickly and fairly by hiring more immigration court personnel to support immigration judges.** Cases should not take years, but there are millions of cases in the court [backlog](#). CBP and the courts must coordinate to eliminate delays caused by inefficiencies, such as the weeks-long delays in the transmission of legal documents between CBP and the courts. Polls show that [60 percent](#) of Americans want more resources for courts to improve the border situation.
- **Reduce delays for foreign workers and family members applying for green cards by recapturing several hundred thousand unused immigrant visas.** The current visa backlogs put more pressure on the border by limiting lawful immigration pathways. Families and businesses should not need to wait decades for a loved one or critical employee to immigrate.
- **Improve efficiency in adjudications at USCIS, DOS, and DOL by leveraging technology, streamlining processing, and properly resourcing agencies.** Pressure at the border will also be reduced by improving agency processing efficiency. Increased efficiency in adjudications will also ensure integrity and accountability.

³ <https://www.federalregister.gov/documents/2017/04/21/2017-08311/buy-american-and-hire-american>

- **Expand the availability of temporary worker visa programs to provide lawful pathways and address economic needs.** This can be done by creating nonimmigrant visa categories to address non-seasonal, lesser skilled economic needs of the United States, and increasing use of H-2A and H-2B to address seasonal needs.
- **Increase support and coordination with the United Nations, Mexico, and other nations.** Managing migration is a regional challenge that requires cooperation by the United States and other countries. The Trump administration's elimination of [directives](#) to address the root causes of migration is a step in the wrong direction.
- **Fund alternatives to detention that are more effective, cost-effective, and humane than jail.** For example, in FY23, the federal Case Management Pilot Program (CMPP) had a 100% immigration court hearing attendance rate for program participants. CMPP helps noncitizens prepare and attend their immigration court hearings and facilitates departures for individuals at the conclusion of their cases. CMPP operates in New York City, Houston, Los Angeles, Baltimore, and Washington, D.C.

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