Birth Tourism

By Pawel Styma | March 2020

The Issue

Birth tourism is a term which refers to the practice of foreign mothers-to-be traveling to the United States on tourist visas for the specific purpose of giving birth in the U.S. in order to obtain U.S. citizenship for their child. The secondary goal of the mother may be to eventually secure legal permanent resident status, also colloquially known as a “green card.”

It is estimated that 33,000 babies are born to women who arrived on tourist visas every year. While this may not seem like a large number, the abusive practice has been trending upward in recent years. Birth tourism is not explicitly mentioned in the Immigration and Nationality Act, but the State Department recently clarified its policy on visa issuance in light of the risks to national security posed by the practice.

Once U.S. born children turn 21, they can also petition to bring their parents to the country as legal permanent residents. As “immediate relatives,” they do not have to wait in line like other immigrants. For foreign citizens, there are other benefits as well. As one Turkish birth tourist admitted, speaking of her daughter: “I don’t want her to deal with visa issues — American citizenship has so many advantages.” However, it is highly doubtful whether the framers of the U.S. Constitution or the authors of the 14th Amendment would have considered convenient, hassle-free entry for foreign nationals a legitimate purpose of American citizenship.

There are important reasons why birth tourism should concern the average American, particularly with regard to national security and potential wrongdoing by foreign actors. Moreover, as FAIR President Dan Stein points out: “Shady entrepreneurs are profiting handsomely from this practice, American taxpayers are stuck with costs, and the value of U.S. citizenship is further diminished.”

Recent Developments

On January 23, 2020, the U.S. Department of State implemented a rule giving visa officers more discretion to deny a foreign national a B nonimmigrant visa, which is used for business or pleasure, if it is believed the sole purpose of travel is giving birth in the U.S. The Department of State argues that “this rule reflects a better policy, as birth tourism poses risks to national security,” and because “the birth tourism industry is also rife with criminal activity, including international criminal schemes.” The rule also requires visa applicants seeking medical treatment in the U.S. to demonstrate to the satisfaction of a consular officer that they have made arrangements for medical treatment and are
able to pay for it. The rule contains several exceptions, such as having a dying relative in the country or a U.S. citizen husband. It does not apply to the 39 countries participating in the Visa Waiver Program.

**Why Curbing Birth Tourism Is Necessary**

Birth tourism is one of the more brazen abuses of birthright citizenship. The Trump administration has moved to clamp down on this practice because it incentivizes criminal activity and presents a threat to the national security of the United States.

According to the State Department’s new rule, “reporting from U.S. embassies and consulates has documented trends showing an increasing number of B visa applicants whose stated primary purpose of travel is to give birth in the United States.”

The rule also brought attention to “the national security vulnerability that could allow foreign governments or entities to recruit or groom U.S. citizens who were born as a result of birth tourism and raised overseas, without attachment to the United States, in manners that threaten the security of the United States.”

Birth tourism is a criminal business activity that is promoted by many overseas companies – there are approximately 500 in China alone. The birth tourism industry can involve complicated schemes and millions of dollars in criminal proceeds. For example, on January 31, 2019, federal prosecutors announced indictments against 19 people with being involved with the operation of three birth tourism schemes in Southern California. The operators of the “maternity” or “birthing houses” were charging their clients tens of thousands of dollars, and, in one case, “more than $3.4 million in international wire transfers” were received within the span of two years. They also coached their Chinese customers about how to lie to U.S. officials and hide their pregnancies. Furthermore, “the indictments allege that many of the Chinese birth tourism customers failed to pay all of the medical costs associated with their hospital births, and the debts were referred to collection.”

Because the practice is clandestine, there is no definitive breakdown by country of origin. However, according to CIS, there is considerable evidence that many birth tourists come from China, Taiwan, South Korea, Nigeria, Turkey, Russia, Brazil, and even Mexico. Some of these nations – especially Russia and China – have long histories of anti-American espionage activities.

**The Solution**

The State Department’s new rule cracking down on the abuse of birthright citizenship by birth tourists is a welcome development. However, as in the case of the children of illegal aliens benefiting from automatic U.S. citizenship, it is necessary to reform birthright citizenship. While legislation or an executive action clarifying that automatic birthright citizenship does not apply to individuals born on U.S. soil to illegal aliens and temporarily-present tourists is necessary, it will likely be challenged in court, and, hopefully, appealed. That, in turn, would give the Supreme Court an opportunity to weigh in on an issue on which it has never ruled directly.

For more information, please see FAIR’s issue brief on birthright citizenship and illegal immigration.