



## PRESS RELEASE

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### **Attorney General Frosh Joins Coalition of Attorneys General in Filing Suit to Block Trump Administration from Demanding Citizenship Info in 2020 Census**

*Citizenship Demand Would Depress Turnout in States with Large  
Immigrant Populations – Threatening States’ Fair Representation in Congress  
and Electoral College, as well as Billions in Critical Federal Funds*

**BALTIMORE, MD (April 3, 2018)** – Maryland Attorney General Brian E. Frosh, part of a coalition of 18 Attorneys General, six cities, and the bipartisan U.S. Conference of Mayors, today filed a [lawsuit](#) to block the Trump Administration from demanding citizenship information in the 2020 decennial Census. Demanding citizenship information would depress Census turnout in states with large immigrant populations, directly threatening those states’ fair representation in Congress and the Electoral College, as well as billions of dollars in critical federal funds for education, infrastructure, Medicaid, and more.

“The Trump Administration’s decision to demand citizenship information is an attempt to intimidate voters and to suppress the vote,” said Attorney General Frosh. “It will undermine the accuracy of the Census, result in the loss of federal funds for Maryland and deprive our state of fair representation in Congress. This maneuver will not withstand constitutional scrutiny.”

Under the Constitution, the Census Bureau has an obligation to determine, “the whole number of persons in each state.” Yet demanding citizenship information in the Census is expected to depress participation among immigrants, causing a population undercount that would disproportionately harm states and cities with large immigrant communities. Non-citizens are counted in the Census for the purposes of federal funds, apportioning of congressional seats and Electoral College votes, and the drawing of state and local districts.

On December 12, 2017, the U.S. Department of Justice requested that the Census Bureau demand citizenship information in the 2020 Census form sent to every household in the United States, even though the Census is supposed to count all persons—citizens and non-citizens alike. The Department of Justice argued that the collection of such information was necessary to ensure proper enforcement of the 1965 Voting Rights Act. Yet, as a coalition of Attorneys General argued in a letter sent to the Commerce Secretary in February, the demand would have precisely the opposite effect by driving down participation in immigrant communities. The resulting

undercount would deprive immigrant communities of fair representation when legislative seats are apportioned and district lines are drawn.

The lawsuit filed today is brought under the Enumeration Clause of the U.S. Constitution, as this action by the Trump administration will impede an “actual Enumeration” required by the Constitution. It is also brought under the Administrative Procedure Act, which permits courts to set aside unlawful or arbitrary and capricious agency decisions.

As the Census Bureau’s own research shows, the decision to demand citizenship information will “inevitably jeopardize the overall accuracy of the population count” by significantly deterring participation in immigrant communities, because of concerns about how the federal government will use citizenship information.

In 1980, the Census Bureau rejected the addition of a citizenship question, saying, “Any effort to ascertain citizenship will inevitably jeopardize the overall accuracy of the population count. Obtaining the cooperation of a suspicious and fearful population would be impossible if the group being counted perceived any possibility of the information being used against them. Questions as to citizenship are particularly sensitive in minority communities and would inevitably trigger hostility, resentment, and refusal to cooperate.”

In 2009, all eight former directors of the Census Bureau dating back to 1979 – who served under both Democratic and Republican presidents – affirmed that a citizenship question would depress participation and lead to a significant undercount, undermining the purpose of the Census itself.

As today’s lawsuit describes, the administration’s decision is inconsistent with the Census Bureau’s constitutional and statutory obligations, is unsupported by the stated justification, departs from decades of settled practice without reasoned explanation, and fails to consider the availability of alternative data that can effectively serve the federal government’s needs.

The lawsuit also emphasizes the irreparable financial harm that will result from inaccuracies in the 2020 Census caused by demanding citizenship information. Hundreds of billions of dollars in federal funds are directly tied to demographic information obtained through the census, including the Highway Trust Fund and other Department of Transportation grants, Child Care Development Grants, and Medicaid. Consequently, inaccurate counts can potentially deprive states of much-needed funds designed to protect low-income and vulnerable communities.

The decennial census is also used to apportion seats in the House of Representatives, and each plaintiff state relies on population information from the Census Bureau to draw statewide redistricting plans for their Congressional and state legislative districts. Demanding citizenship information would cause disproportionate undercounts in communities with immigrant populations and therefore prevent plaintiff states from fulfilling the one-person, one-vote constitutional requirement, as well as create distributional inaccuracies in the data states use to draw district lines.

The lawsuit, filed this morning in the U.S. District Court for the Southern District of New York, was led by New York Attorney General Eric Schneiderman and, in addition to New York and Maryland, was joined by the Attorneys General of Connecticut, Delaware, Illinois, Iowa, Massachusetts, Minnesota, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania,

Rhode Island, Virginia, Vermont, Washington, and the District of Columbia; the cities of New York, Chicago, Philadelphia, Providence, San Francisco, and Seattle; and the bipartisan U.S. Conference of Mayors.