

Reject Extreme, Anti-Immigrant Policies in Federal Supplemental Budget Negotiations

Congress and the White House must forcefully reject the harsh and harmful changes to immigration law being discussed as part of the supplemental funding negotiations.¹ The policy changes being negotiated behind closed doors will cause **widespread harm both at the border and to families and communities throughout the country**. Instead, we ask members of Congress to support sensible, humane solutions that reflect our nation's stated values of human rights and due process.

What is being discussed?

Reintroducing and expanding Title 42-like expulsion authority to rapidly expel people arriving at the southern border without asylum screenings or due process.

The proposed "Title 42 on steroids" would allow the president to indefinitely suspend immigration for virtually any reason, compounding the suffering at the border and potentially triggering mass expulsions nationwide.² Use of Title 42 resulted in devastation and chaos at the border, as migrants rapidly expelled to Mexico became targets for kidnapping and violence.³ This change would only exacerbate challenges at the border without addressing the factors that drive people to seek asylum.

Gutting our asylum system by preventing people with legitimate asylum claims from seeking protection from persecution, torture, and death:

- **Changing the "credible fear standard"** would effectively ensure that many people fleeing persecution and torture cannot meaningfully present their claims for asylum.
- **Imposing a transit ban** would particularly endanger Black, Indigenous, and LGBTQ+ asylum seekers by preventing people who travel to the southern border through a third country from seeking protection in the United States unless they were denied asylum in the countries they traveled through, whether or not those countries are deemed "Safe Third Countries" pursuant to U.S. law.⁴ Many countries on migration routes are not safe for these populations.
- **Capping asylum grants** would force thousands of asylum seekers to wait in inhumane and life-threatening conditions in Mexico, increase our backlog of asylum cases, and violate our legal obligations to refugees under various treaties and international law.⁵

Expanding expedited removal nationwide and allowing the government to detain and summarily deport immigrants nationwide without due process.

Expanding expedited removal threatens the 16.7 million people who live in mixed-status families and risk being separated from their family members.⁶ It would tear apart families and communities and incentivize racial profiling by immigration authorities, who would be empowered to ask any person who "looks" foreign to prove their immigration status on the spot.

Expanding mandatory detention and surveillance of immigrants.

This policy change would require the detention and electronic monitoring of more immigrants facing removal, including children and families. Immigration detention is cruel, inhumane, costly, and ultimately, unnecessary.⁷ Proposals to expand the categories of immigrants subject to mandatory detention and to restrict the government's ability to release people from detention would likely require construction of mass internment camps and result in family separation and widespread suffering.⁸

Ending humanitarian parole.

This tool has been used by administrations from both parties to enable people to enter the United States temporarily to work and care for their families when there are “urgent humanitarian reasons or significant public benefit.”⁹ Humanitarian parole has been critical to providing protection for the people most in need, and it helps drive migrants to safer ports of entry and away from dangerous unauthorized border crossings.¹⁰ Eliminating or restricting parole authority would increase pressure on the border and require expanding the costly and cruel immigration detention system.

What solutions should Congress and the White House consider instead?

- **Investing in capacity at ports of entry** to promote humane and orderly processing that upholds due process, including the right to apply for asylum.
- **Creating new and expanding existing lawful pathways** to permanent settlement in the United States, including by supporting and improving options for people in the Americas to apply for humanitarian protection from other countries instead of traveling to the southern border to request asylum.
- **Improving the processing of immigration cases** by investing in access to federally funded legal representation and removing cases from immigration court dockets that can be resolved without litigation.
- **Investing in social services** to ensure the humane reception of people migrating to the United States.

Endnotes

- ¹ For the proposed provisions in Congress, see National Immigrant Justice Center, “Immigrants and Asylum Seekers Are Not Bargaining Chips: Congress Must Reject Permanent Legislative Changes that Would Eviscerate U.S. Asylum Protections,” December 8, 2023, <https://perma.cc/QR4-967E>. For the White House’s position, see Camilo Montoya-Galvez, “White House Open to New Border Expulsion Law, Mandatory Detention and Increased Deportations in Talks with Congress,” CBS News, December 12, 2023, <https://perma.cc/2VLJ-Z2VH>.
- ² Fwd.us, “Awful Policy and Terrible Politics: 6 Extreme Demands in the Senate Immigration Talks,” December 8, 2023, <https://perma.cc/6VKP-8K3T>.
- ³ Azadeh Erfani, “FAQ: The End of Title 42 Expulsions,” National Immigrant Justice Center, May 10, 2023, <https://perma.cc/57WR-F4KB>; and Human Rights First, *Human Rights Stain, Public Health Farce: Evasion of Asylum Law and Title 42 Abuse Must End—and Never Be Revived* (New York: Human Rights First, 2022), <https://perma.cc/JS93-LN7F>.
- ⁴ Center for Gender & Refugee Studies (CGRS), *Far from Safety: Dangers and Limits to Protection for Asylum Seekers Transiting through Latin America* (San Francisco, CA: CGRS, 2023), <https://cgrs.uclawsf.edu/our-work/publications/far-safety-dangers-and-limits-protection-asylum-seekers-transiting-through>.
- ⁵ Human Rights First, “Capping Asylum: Illegal, Dangerous, and Counterproductive,” December 11, 2023, <https://perma.cc/99NW-77T5>.
- ⁶ American Immigration Council, “A Primer on Expedited Removal,” July 22, 2019, updated December 12, 2023, <https://perma.cc/CLS9-9T6G>; and Silva Mathema, “Keeping Families Together: Why All Americans Should Care About What Happens to Unauthorized Immigrants,” Center for American Progress, March 16, 2017, <https://perma.cc/F5VV-ASSM>.
- ⁷ Vera Institute of Justice, “Detention of Immigrants,” accessed January 4, 2024, <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants>.
- ⁸ Human Rights First, “Mandatory Detention is Cruel, Unnecessary, and Wasteful,” December 2023, <https://perma.cc/9P67-8KNG>.
- ⁹ U.S. Citizenship and Immigration Services, “Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States,” accessed January 3, 2024, <https://perma.cc/96B6-W6ZQ>.
- ¹⁰ FWD.us, “Immigration Parole: Policy Brief,” April 5, 2023, <https://perma.cc/3X06-5RGV>.