

Title 42 and Asylum Processing at the US-Mexico Border: A Primer

What is Title 42?

Title 42 is a provision of health law that the Trump administration weaponized during the pandemic to deny all families, children, and single adults the opportunity to seek safety in the United States. The Biden administration continues to use it today, despite [more than 60 members of Congress](#) calling for an end to these expulsions in February 2021 and [countless public health officials](#), including those from [the CDC](#), stating there is no scientific basis for the policy since its enactment.

Why support ending Title 42?

Title 42 has led to [thousands of kidnappings, extortions, sexual assaults, and more of migrants in Mexico, for more than a year](#). It also flies in the face of US asylum law that requires a person seeking safety at our borders be allowed to do so. The [United Nations High Commissioner for Refugees](#) publicly called for the policy's end in May 2021, stating that many other countries maintained their obligations to human rights by establishing health screenings and quarantine measures for those seeking asylum. Using existing laws and government resources, safely welcoming and processing people seeking protection is entirely compatible with observing relevant public health guidance, as [US public health experts](#) have repeatedly recommended.

What should happen at the border after Title 42 ends?

Seeking protection in the United States under existing asylum and immigration laws and processes will be possible again. People fleeing violence and persecution can wait in safety in the United States for their cases to be decided in an orderly process. Congress should fund legal orientation and representation programs and [support humanitarian assistance](#), including basic medical care and referrals to appropriate community-based case services that support people with their immigration cases.

Do we need more detention beds or detention centers when Title 42 ends?

No. Customs and Border Protection (CBP) already runs immediate background checks when someone is encountered at the border, and if a person seeking asylum passes these checks, the individual can be released to community or family in the United States, where immigration officials will determine whether asylum is granted or not. There is [no reason to keep people locked up in detention facilities](#), where overcrowding, spoiled food, lack of medical care, and abuse are commonplace, and particularly during the ongoing COVID-19 pandemic when being detained has resulted in [unnecessary death due to the spread of the disease in ICE facilities](#).

Studies have shown time and again that [the vast majority of people comply with immigration requirements](#) upon release from detention, especially if they have a lawyer. Appropriate community-based support can also assist people with navigating the immigration process. Detention is expensive and unnecessary.

How can Congress make asylum a fairer and more efficient process?

Rebuild and improve the asylum system by ending Title 42 for all people seeking safety, implementing common-sense public health measures, and investing in community-based processing and legal support. Our immigration system does not need more CBP facilities at the border, ICE detention beds, or impossibly speedy adjudications. Congress has the unique opportunity to adopt a humane approach, aligned with our country's legal obligations and values, that affords children, families, and adults their right to seek protection at our borders.

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