

**The So-Called “Bipartisan Border Solutions Bill”:  
A Recipe for Mass Detention and Expedited Deportations of Asylum Seekers**  
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In April 2021, Senators John Cornyn (R-TX) and Kyrsten Sinema (D-AZ) and Representatives Henry Cuellar (D-TX) and Tony Gonzales (R-TX) introduced the [Bipartisan Border Solutions Act](#) in the House and Senate. Although the bill employs language of protection, due process, and efficiency, **its proposals would eviscerate access to asylum at the southern border. The bill would create a new border processing system wherein refugees, including families and children, arriving at the southern border face mandatory detention and expedited deportation back to harm and death.**

The bill’s central proposal—a series of new Customs and Border Protection (CBP) facilities at the border, inside of which asylum seekers have only 72 hours to present the law and facts supporting their asylum claim—is a near exact replica of [rapid processing programs](#) developed by the Trump administration. These Trump-era programs were notorious black holes, with three-quarters of those processed through losing their claims to protection.

**Embracing the Trump-era model of unfairly rushed asylum processing within CBP jails is not a solution, it is a dangerous step toward dismantling U.S. asylum protections.**

Specifically, the bill would:

- 1) **Entrench the use of harmful CBP jails for arriving asylum seekers:** The bill proposes to fund new Customs and Border Protection (CBP) facilities at the U.S. border to detain families with children and adults seeking asylum. CBP facilities are no place for arriving refugees, particularly families and children, and have a long track record of being inhumane, dangerous, and systematically inadequate for the care of any individual, let alone children. These [harmful conditions](#) undermine refugees’ ability to adequately participate in any form of asylum screening, including having a [coercive effect](#). Refugees may feel compelled to abandon the asylum process in an attempt to escape these abusive conditions.
- 2) **Create rapid deportation processes that set asylum seekers up to fail:** The bill would establish an impossibly fast asylum screening or potentially full asylum process at the border that requires asylum seekers to present their claims *within 72 hours* of their arrival, and while in CBP custody. Access to legal counsel is extremely limited in CBP facilities, and the short timeline makes it [nearly impossible](#) for an asylum seeker to receive legal guidance prior to the credible fear interview. [Trump-era expedited border asylum programs](#) have already demonstrated that there is no way to mitigate the harms

of [rushed processing](#) for refugees arriving fleeing fresh trauma and harm; inevitably, this bill would result in the U.S. government sending asylum seekers regularly back to harm and death.

- 3) **Develop new rocket docketts that impose additional due process barriers for asylum seekers:** The bill would create vaguely-defined pilot programs that maintain the [harmful expedited removal process](#), signal a return to [rocket-docketts](#) that would exacerbate, not ease, the due process barriers already faced by those seeking asylum, and push the [backlogged](#) immigration court system to its breaking point. The bill extensively funds new CBP and Immigration and Customs Enforcement (ICE) officers, and to a lesser extent U.S. Citizenship and Immigration Services and Executive Office for Immigration Review staff, to carry out these flawed programs. This is all in the name of continuing to separate asylum from the “formal” immigration system, despite the fact that the right to seek asylum is enshrined in U.S. law.
- 4) **Undermine protections for unaccompanied children by conflating enforcement with family reunification:** The bill creates punitive barriers to the reunification of unaccompanied children with their families by inserting new barriers and requirements for potential sponsors, adding fear into the reunification process; [history shows](#) that such provisions result in children [languishing](#) longer in government custody for no good reason. The bill ignores the [robust processes](#) ORR already has at its disposal to ensure the safety of children being released to sponsors, taking away ORR case managers’ discretion and their ability to make decisions in the best interests of a child.

This bill pays lip service to notions of due process and access to counsel, but the timelines and processes proposed are entirely unworkable for the involved agencies and are hostile to refugee protection. The bill, for example, provides for the expansion of the Legal Orientation Program (LOP), which would be welcome in most settings but is truly meaningless in this context. The bill sets such short timelines for the provision of LOP services that few if any legal service providers would be able to actually deliver services. Further, even if those services are provided, arriving asylum seekers would be too acutely processing the [trauma](#) and dangers they *just fled* to process complex legal advisals.

**The Border Solutions Act adopts an enforcement-only approach that is anathema to the humanitarian nature of asylum law and policy. It envisions a border policy that prioritizes expedited processing and detention to the exclusion of fairness and asylum access.** There is no question that policy [changes](#) are urgently needed on the United States-Mexico border, including immediate action to, among other things:

- end the use of policies that violate refugee law and [reopen ports of entry](#) to those exercising their lawful right to seek asylum;
- ensure access to full legal representation for indigent asylum seekers;

- minimize time in government custody while background and security checks are conducted;
- coordinate swift, safe release and transportation of people seeking protection from border custody to community-based border shelters or respite centers and ensure they can continue with their immigration cases in the [community](#);
- fund localities, nongovernmental organizations, and shelters that provide critical respite and humanitarian services;
- preserve family unity; and
- employ state-licensed child welfare workers to protect children in custody at the border.

**Rather than providing urgently needed changes, the “Border Solutions Act” will only result in heightened obstacles and harm for refugees seeking safety in the United States.**

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