

# Congress: Do Not Trade Immigrant Families and People Seeking Safety for Supplemental Funding Package

## FACT SHEET

**Note:** Sections with an asterisk are reported to be under consideration by the White House.

US Senators have for months been engaged in bipartisan negotiations that would dramatically curtail access to asylum and upend US immigration enforcement as part of a supplemental funding package for Ukraine, Israel, and Taiwan. Senator James Lankford (R-OK), a lead negotiator, has proposed several dramatic changes to immigration and asylum policy that would worsen chaos at the border, separate families, and send refugees back to the persecution and torture they fled. Reports have also indicated consideration of expanding expedited removal, which, if implemented, could subject countless people and families already in the US to rapid deportation proceedings without due process. At the root of these proposals is an attempt to restrict migrant rights in exchange for foreign aid.

**The Women's Refugee Commission (WRC) urges Congress and the Biden administration to decouple border policy changes from supplemental funding request negotiations and abandon efforts to restrict access to asylum.** Below, WRC summarizes why any one of these proposed changes would increase, rather than reduce, chaos at the US-Mexico border and fundamentally undermine the United States' historic tradition of welcoming refugees.

### **\*1. Mass expulsions authority and visa suspension authority.**

This proposal would allow the president to create a mass expulsions policy like Title 42 that would summarily expel migrants at the southern border without the ability to seek asylum. When Title 42 was in place, desperate migrants would cross the border multiple times, often taking more life-threatening routes, to seek safety. Such crossings were financial boons to smugglers and created inefficiencies for Customs and Border Protection (CBP) both at and between ports of entry. Title 42 also did not deter migrants from coming to the United States.

This proposal would also allow the president to stop issuing or renewing employment, family-based, or other visas unrelated to migration at the southern border. Together, these authorities would effectively serve as a way to keep out all immigrants.

### **\*2. Mandatory detention.**

Requiring that people seeking asylum remain in detention for the full adjudication of their cases is inhumane, expensive, and unfeasible. The harm and due process violations of immigration detention have been extensively documented. The proposal would prevent the Department of Homeland Security (DHS) from releasing people on parole or through bond for months or years, thus overcrowding facilities and punishing people for exercising their legal right to apply for asylum. It could also resurrect the practice of family detention, which WRC has long documented to be inhumane.

Arbitrary detention and family detention is prohibited under international law. The Biden administration rightly ended family detention, which is considered "grossly disproportionate and may constitute cruel, inhuman or degrading treatment of migrant children." A 2016 DHS-convened Advisory Committee tasked with identifying ways to improve family detention instead recommended it be discontinued altogether. Restarting it would cause untold harm to children and their parents.

### \*3. Nationwide expedited removal.

Expedited removal is currently used for noncitizens within 100 miles of the US border within 14 days of arrival and allows DHS to rapidly deport people without a court hearing or access to legal counsel unless they can show a credible fear of persecution. Credible fear interviews (CFIs) often happen in custody settings like border custody or ICE immigration detention, with no access to counsel or understanding of the process.

Expanding expedited removal would increase racial profiling and allow DHS to round up immigrants throughout the country for quick deportations. It could subject countless people, including families with US citizen children, to rapid deportation without a hearing before an immigration judge. The Biden administration rescinded the previous administration's expanded expedited removal policy.

Expedited removal is also already inefficient and exacerbates asylum application backlogs. Between fiscal years 2016 and 2019, nearly 90 percent of asylum officers on average were temporarily reassigned from adjudicating asylum applications to conduct credible fear screenings for people seeking asylum who are placed in expedited removal at the border.

### \*4. Changing initial asylum eligibility standard.

For noncitizens placed in expedited removal, raising the preliminary screening standard of the interview to determine whether someone can then apply for asylum would result in more individuals being returned to the very persecution or torture that they fled. The initial screening threshold for the credible fear interview is, by Congressional design, lower than the final asylum standard to ensure that the US does not send a single person back to persecution, torture, or death. If the standard is raised from "significant possibility" to "more likely than not," many people would never have their day in court to prove their asylum claim in front of an immigration judge and would instead be rapidly deported.

The Biden administration's asylum ban, known as Circumvention of Lawful Pathways, has already heightened the credible fear standard. People subjected to the asylum ban are three times more likely to fail their screenings and be ordered deported without the chance to prove their asylum claims.

### 5. Transit ban.

A transit ban would bar anyone from asylum in the US if they traveled through another country and did not first apply for and be denied asylum in that country before arriving here, making them, at most, eligible for lesser forms of protection that provide far less security. This would effectively prevent most people from being able to seek asylum in the US. It also ignores the barriers to legal protection in other countries en route to the United States, including discrimination faced by particularly vulnerable individuals, such as LGBTQI+ or Black migrants.

### 6. Ending parole.

Parole is used to allow individuals to temporarily enter or remain in the US when DHS determines that there are urgent humanitarian or significant public benefit reasons for a person to be in the US and that person merits a favorable exercise of discretion. In 2022, parole added 450,000 workers to industries with critical labor shortages, such as construction, food services, and healthcare.

If the proposal eliminates parole programs such as Uniting for Ukraine, Ukrainians fleeing the Russian invasion will no longer have this critical lifeline to safety and future presidents would not have the ability to quickly support vulnerable individuals fleeing war or crisis.

If the proposal eliminates the ability for CBP to use [parole as a processing pathway](#) at ports of entry, the southern border would become more chaotic as fewer migrants would be able to access ports of entry in an orderly manner. People would be forced to take dangerous, life-threatening travel routes led by smugglers. More people, including families, seeking asylum would be held for extended periods of time in detention facilities, which would inevitably become overcrowded.

## 7. Capping asylum.

A cap on the number of people who could be granted asylum would arbitrarily [violate](#) the rights of people seeking protection. A cap would create an [administrative burden](#) for US Citizenship and Immigration Services and immigration courts, undoing recent efficiency improvements. It would have devastating ripple effects around the world and contradict “commitments to enhance cooperation and shared responsibilities on managing migration and protection in ways grounded in human rights, transparency, nondiscrimination, and State sovereignty” in the [LA Declaration](#), which has been joined by the US and many countries throughout the Americas.

A cap would force people to wait in [danger in Mexico](#) or decide to cross in a more dangerous manner. The US-Mexico border region is already the [deadliest land route](#) for migrants worldwide.

## 8. Automatic border shutdown authority.

The proposal would bar migrants from entering the US if certain levels of apprehensions are met. This would result in desperate and vulnerable people trying to cross multiple times along more dangerous routes as they did during [Title 42](#). Critically, this would lead to [more chaos and harm](#) at the US border.

## 9. Mandatory electronic monitoring, including for children.

This proposal would require the use of ankle monitors or other forms of electronic monitoring for surveillance, including of children. Ankle monitors are an extreme and onerous form of electronic surveillance that has only ever been used for adults. [Evidence](#) shows that people show up to immigration court and comply with Immigration and Customs Enforcement (ICE) requirements without psychologically and physically harmful, expensive electronic monitoring, and that where needed, [case management](#) is a far more appropriate and evidence-based support for people navigating the immigration process.

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### Women’s Refugee Commission

The Women’s Refugee Commission (WRC) improves the lives and protects the rights of women, children, and youth who have been displaced by conflict and crisis. We research their needs, identify solutions, and advocate for programs and policies to strengthen their resilience and drive change in humanitarian practice. Since our founding in 1989, we have been a leading expert on the needs of refugee women, children, and youth and the policies that can protect and empower them. [womensrefugeecommission.org](http://womensrefugeecommission.org).

December 2023