

# The Latest: Changes to the Asylum System Under the Biden Administration

*This policy fact sheet will be updated as needed. It was last updated April 25, 2022.*

The Biden administration committed to not only undoing the harms of the previous administration but also [improving the US immigration system](#), which has long endured systemic issues that prevent immigrants from exercising their rights and being treated with dignity. For a more comprehensive review of the Biden administration's first-year efforts to fulfill its promises and recommendations from WRC, see our [report](#) from January 2022.

This fact sheet reviews the latest developments in the following issue areas:

- The administration announced that Title 42 will end May 23, and Ukrainians are exempted.
- 3,000 migrants are enrolled in Remain in Mexico – and only 3 percent have legal support.
- Expulsion flights continue to send asylum-seeking individuals back to violence and harm.
- The Biden administration is negotiating migration arrangements with countries in the hemisphere and plans to sign declaration on migration and protection at the Summit of the Americas.
- ICE will no longer hold immigrants in two jails, and President Biden requests a 25 percent cut in immigration detention from Congress.
- 200 children and parents separated under the Trump administration are reunited.

## Title 42 will end May 23, and Ukrainians are exempted

On April 1, 2022, the Biden administration [announced](#) that the Centers for Disease Control and Prevention (CDC) will terminate Title 42 on May 23. The Women's Refugee Commission (WRC) [commended](#) the decision to finally lift this unlawful policy that turned thousands of people seeking protection back to danger. The announcement came after countless [people seeking asylum](#), thousands of [public health experts](#), hundreds of [Members of Congress](#), and numerous [immigration, faith-based, civil, and human rights organizations](#) advocated for the removal of Title 42 and restoration of the US asylum system.

In March 2022, the Department of Homeland Security (DHS) advised border officials to [exclude Ukrainians from Title 42](#), ultimately resulting in the processing of nearly [10,000 Ukrainians](#) in two months. Especially with certain populations exempted, the public health rationale of any Title 42 expulsions is unjustifiable. With Title 42 in place, many Black and LGBTQ migrants face discrimination while forced to wait in Mexico. An April 2022 Hastings to Haiti Partnership, Center for Gender & Refugee Studies, and Haitian Bridge Alliance fact sheet found that nearly 10,000 Black migrants blocked from safety in the US are waiting in Tijuana, experiencing [violence, harassment, racism and a lack of adequate medical access](#).

Since President Biden took office, at least 9,886 [kidnappings, torture, rape, and other violent attacks](#) have occurred against people denied protection in the United States due to Title 42. WRC rejects efforts like the Public Health and Border Security Act that would continue to [deny people their right](#) to seek safety in the United States. **WRC urges the Biden administration to restore and rebuild a just, orderly, and humane asylum system for everyone, including at US ports of entry; support**

and work closely with local organizations that welcome migrants; and employ community-based support services and ensure access to counsel for anyone who may need assistance navigating the immigration process.

### **3,000 migrants are enrolled in Remain in Mexico – and only 3 percent have legal support**

Per its April 2022 report, DHS has enrolled [3,012 non-citizens](#) in the Remain in Mexico program, including 275 women, between December 6, 2021 and April 7, 2022. Over the past four months, DHS has ramped up enrollments, with March marking the highest number of enrollments. In August 2021, a US District Court ordered the Biden administration to restart the Remain in Mexico (RMX) program, formally known as Migrant Protection Protocols, and it has since been reinstated in San Diego, Brownsville, El Paso, and Laredo. The expansion of the program is despite DHS Secretary Mayorkas's finding in the October 2021 termination memo that the [human costs of the program](#) are "intolerable." Today, non-Mexican individuals from any country in the Western Hemisphere could be potentially subject to RMX.

So far, the majority of individuals returned have been from [Nicaragua](#) (73 percent), Venezuela (8 percent), and Cuba (7 percent). While waiting in Mexico, many people seeking asylum face [insecure conditions](#) and lack telephone or internet access as guaranteed under the [program's parameters](#), making it difficult for them to prepare for their court hearings. Of those enrolled who had fear screenings, 97 percent were unable to have an attorney or legal consultant present. Of those who have re-entered the US for an immigration court hearing, 95 percent also did not have an attorney or legal consultant present.

On April 26, 2022, oral arguments in the Supreme Court will begin in Biden v. Texas et al., which will determine if the Biden administration can end Remain in Mexico. When the policy was last in place, more than 1,544 publicly reported cases of [murder, rape, torture, kidnapping, and other violent attacks](#) occurred against migrants forced back to Mexico. **WRC recommends that the Biden administration reverse its expansion of RMX, process individuals previously or newly subjected to the policy into the US, and work to keep its [promise to end RMX](#) once and for all.**

### **Expulsion flights continue to send asylum-seeking individuals back to violence and harm**

DHS continues conducting [expulsion flights](#) that send individuals back to their countries of origin through the use of Title 42, currently including to Guatemala, Honduras, El Salvador, Haiti, Colombia, and Brazil. These removals fail to screen for protection, often returning individuals back to the very violence they fled. A March 2022 Human Rights Watch report found that [returns to Haiti are life-threatening](#) due to the dire security and humanitarian crisis in the country.

Expulsions under Title 42 [violate the law](#) and risk sending people back to dangerous conditions. **WRC urges the Biden administration to uphold US refugee law and treaty obligations and restore access to asylum at the border, including at ports of entry.**

### **The Biden administration is negotiating migration arrangements with countries in the hemisphere and plans to sign declaration on migration and protection at the Summit of the Americas**

The Biden administration is actively negotiating migration arrangements with countries in the hemisphere and already signed arrangements with [Costa Rica](#) and [Panama](#), though the

arrangement details are not public. The administration has announced it will sign a declaration on migration and protection at the Summit of the Americas in June. The declaration and arrangements should uphold international law and respect for human rights and include the [consultation of international organizations and civil society actors](#). **WRC urges increased transparency around the already signed and future arrangements, which should focus on responsibility-sharing oriented solutions that complement—but do not supplant or limit—access to protection at borders, including the US-Mexico border.**

## **ICE will no longer hold immigrants in two jails, and President Biden requests a 25 percent cut in immigration detention from Congress**

In March 2022, Immigration and Customs Enforcement (ICE) [announced it will no longer detain](#) immigrants at Etowah County Detention Center in Gadsden, Alabama and will pause its use of Glades County Detention Center in Moore Haven, Florida. ICE will also reduce the number of beds used to detain immigrants at two other facilities in North Carolina and Louisiana. Investigations found that these facilities had serious issues with inadequate medical care, discriminatory abuse, pest infestations, and other [inhumane conditions](#).

In its fiscal year 2023 budget request to Congress, the Biden administration called for a 25 percent reduction in capacity at immigration detention facilities. This reduction of 9,000 beds is a significant shift away from incarceration. However, WRC is concerned with the increased funds for ICE's alternatives to detention (ATD), as these are largely grounded in electronic surveillance rather than evidence-based community support programs, and whose exponential growth has not reduced unnecessary custody. Case management services should be led and provided by experienced non-profit community-based immigration and refugee organizations due to their strong ties, trust and integration into their local communities. While a flawed program in key ways, the [Family Case Management pilot program](#) (FCMP) still had a 99 percent compliance rate with both ICE check-ins and immigration court hearings at a fraction of the cost of detention. The new Office for Civil Rights and Civil Liberties (CRCL) Case Management Pilot Program (CMPP) may be a promising new model, if implemented meaningfully and is supported to succeed. **WRC emphasizes the need for evidence-based community-based programs that replace ICE's enforcement lens with trauma-informed support services and access to legal counsel.**

## **200 children and parents separated under the Trump administration are reunited**

Since February 2021, a [Presidential Task Force](#) has worked to identify and reunite parents and children who were unjustly separated by the Trump administration. As of April 18, 2022, the Task Force has [reunited 200 families](#) after being apart for years. Additionally, per the Ms. L v. ICE class action lawsuit's March 2, 2022 joint status report, 2,762 children have been reunified with their separated parent out of a total number of 3,810 children whose parents are currently confirmed to be members of the original and expanded classes. **WRC encourages efforts to make the reunification process as readily accessible and transparent as possible, in addition to continuing to push for pathways to permanent immigration status and access to medical and comprehensive mental health services for affected families.**

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After four years of intentional cruelty against immigrants under the Trump administration, the Biden administration has the unique opportunity to restore and improve our immigration system. A humane approach that affords children, families, and adults their right to seek protection at our borders aligns with our country's legal obligations and ethical values. [WRC recommends](#) that the

Biden administration welcome people seeking asylum through community-based case services and allow individuals to safely present their case in the United States outside of detention.

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