

Bipartisan Border Security Package

Myth vs. Fact

Myth: The President already has all the authorities he needs to secure the border.

Fact: The bill includes the policies and resources needed to solve the border crisis - regardless of who the President is.

Currently, the U.S. Department of Homeland Security (DHS) does not have adequate resources to process, detain, and remove the increasing volume of migrants crossing the border. Presidents Biden, Trump, Obama, and Bush were not able to secure the border to the fullest extent because Congress failed to provide sufficient resources and pass the right policies.

The fact is, we have to actually change the outdated policies that have allowed the border crisis to get so out of control. The bill increases resources and changes policies to close loopholes being exploited by criminal cartels. Further, the bill empowers and requires any administration, regardless of party control, to close the border when the system becomes overwhelmed.

Myth: This bill will let 5,000 migrants into the country per day.

Fact: The bill ends catch and release. The new Border Emergency Authority (BEA) closes the border to prevent the system from being overwhelmed.

In December of 2023, there were over 300,000 migrant encounters along the southwest border. These historically high numbers have overwhelmed the system. Currently, most migrants approaching the border are released into the interior of the country. The bill ends catch and release by detaining and removing individuals quickly, and placing those who cannot be detained into non-custodial rapid processing under government supervision. The bill creates a rapid consequence system: those who do not have valid claims to asylum will be quickly removed from the country.

When the number of people approaching the border exceeds our ability to process them, DHS will now have a new authority – called the Border Emergency Authority – to stop migrant surges that overwhelm the border. This authority allows DHS to quickly reassert control of the border and the system.

The BEA is a backstop for use in emergency situations. If the number of migrants attempting to cross the border – including migrants using the CBP One app at Ports of Entry – continues at its current high pace, the border WILL be shut down.

- If the daily average of migrant encounters reaches 5,000 over a week, DHS must close the border indefinitely until numbers fall and DHS has processing capacity and operational control of the border.
- **5,000 refers to total migrants attempting to cross the border – not the number of individuals allowed into the country, as some have claimed. The bill ends the practice of catch and release.**
- All migrant encounters – with or without BEA in effect – will be processed using the new removal authority. Those who seek asylum will undergo a swift Protection Determination Interview at the higher screening standard and will be immediately removed from the country if they fail.

The border will not reopen until numbers reduce to a level that allows DHS to regain operational control for a sustained period.

Myth: This bill will make the border crisis worse.

Fact: The bill fixes the border crisis by reasserting control of the border, strengthening the asylum process, and closing loopholes exploited by criminal cartels.

The current broken system and the gaps in the asylum process are exploited by cartels to create chaos and overwhelm the border so they can smuggle people and drugs into our communities.

Cartels encourage migrants to cross the border and claim asylum. They falsely message this is a path to live in America and give many without valid asylum protection claims false hope they will be able to create a new life in the United States.

Most migrants encountered at the border are economic migrants seeking a better life – not legitimately fleeing persecution or torture – and ineligible for asylum status. Currently, when these migrants are encountered at the border, many are released into the country with a Notice to Appear for a hearing before an immigration judge years into the future.

Migrants can have up to three separate screenings to determine the validity of their asylum claims – and estimates suggest up to 4 out of 5 migrants pass their initial asylum screening, while less than 1 out of 5 actually receive a grant of asylum.

With current migration levels, the process of receiving a final asylum determination can take up to ten years or more due to a backlogged and overwhelmed system.

The bill fixes this broken system by creating a process that effectively evaluates asylum claims – establishing the expectation that migrants who don't qualify will be quickly identified and removed to their home countries.

- Raise the asylum screening standard to assess whether a migrant has a credible fear of persecution or torture to ensure those with legitimate asylum claims receive protection, while those with invalid claims are removed quickly.
- Consolidate the multiple initial screenings into one Protection Determination Interview, which all migrants undergo in 90 days or fewer.
- End catch and release by requiring the detention or mandatory supervision of all migrants processed at the border, ensuring all migrants follow through with the asylum process.

To efficiently and effectively conduct these Protection Determination Interviews, the bill gives DHS the resources it needs to hire personnel, and we ensure asylum claims and appeals are adjudicated by USCIS rather than the immigration court system – both of which will reduce the asylum backlog.

The new removal authority allows for efficient processing and removal of economic migrants and others who do not meet the threshold for asylum in a matter of several weeks to no more than 6 months. Under the current system, this process takes up to 10 years or more.

The Border Emergency Authority allows us to swiftly reassert control of the border when migrant encounters exceed the system's capacity to quickly process and remove.

Myth: This bill places significant restrictions on humanitarian parole programs.

Fact: The bill protects humanitarian parole for those who qualify.

Parole has traditionally been reserved for those who are not seeking permanent legal status, but need to temporarily come to America for medical reasons, to testify in court, or to leave temporary conditions that make their own country dangerous to live in.

Administrations have long used humanitarian parole as a response to emergencies that require swifter action than our immigration laws allow. From Operation New Life, which allowed some Vietnamese to come to America in the '70's, to Uniting for Ukraine, to welcoming Afghans who risked their lives to keep American servicemembers safe, the United States has used humanitarian parole to quickly get people out of harm's way.

The border security package ensures that humanitarian parole continues to be available for individuals who meet these specific criteria as written in the Immigration and Nationality Act. It does not modify the current CHNV program, which allows qualified individuals to seek approval from abroad and fly into the United States.

The border security package **ends the ability for migrants arriving unlawfully at the southwest border to be “paroled” into the country.** Instead, we ensure these migrants are detained or processed and monitored, given a strengthened initial asylum interview within 90 days, and quickly removed if they fail to qualify for asylum.

Myth: This bill provides work permits to every undocumented migrant released from federal custody.

Fact: Only individuals here legally will qualify for work permits.

The bill states that migrants are eligible for work authorization only after they clear the initial Protection Determination Interview at the new higher standard. This interview occurs either at the border for those in detention or in the community within 90 days of entering the country for those in non-custodial supervision. Migrants who fail their initial interview are removed from the country.

Migrants are supervised as they complete the second half of the asylum process and undergo their final Protection Merits Interview within an additional 90 days. During this second window of up to 90 days, migrants are authorized to work so they can provide for themselves and their families.

Only those with truly legitimate claims to asylum or protection will be authorized to work in the United States.

Myth: This bill does not live up to American values and will force migrants fleeing persecution to return home to dangerous situations.

Fact: The bill upholds our values and allows us to better manage the crisis, ensuring migrants are treated fairly and humanely.

Our border and immigration system does not have the resources to process the sheer number of migrants arriving at the border. Many migrants wait for days – sometimes without adequate food, shelter, water, medications and other necessities – while the government works to process them. This is a true humanitarian crisis.

Cartels exploit the immigration backlog and use the lengthy asylum process to encourage migrants to come to our country illegally, falsely messaging this is a path to live in America and giving many without valid asylum protection claims false hope they will be able to create a new legal life in the United States.

The growing backlog prevents those legitimately fleeing violence and persecution from quickly receiving protection, leaving them in legal limbo for years without the ability to build better lives and contribute to our communities.

Only by regaining control of the border will we be able to process migrants in an orderly, fair, and humane manner, and ensure those legitimately fleeing violence and persecution can quickly find a path to a new life in the U.S.

Myth: This bill provides guaranteed taxpayer-funded counsel for migrants.

Fact: The bill provides assistance to young, unaccompanied children who appear at the border. The bill does not provide tax-payer counsel for adults.

The border security package clarifies an existing right – that migrants processed at the border have the right to be represented by an attorney, at their own expense. And migrants who seek consultation cannot use this as an attempt to delay the asylum processing system.

Unaccompanied children aged 13 and under who arrive at the border without adult family members, or who are left at the border without family, do receive access to counsel. Current law provides for government-appointed and pro-bono counsel for these young children who cannot represent themselves in immigration proceedings.

Myth: This bill eliminates due process.

Fact: The bill provides robust due process protections.

The border security package affirms that migrants have a right to consultation, guarantees that children 13 and under and certain incompetent adults have access to counsel, and ensures all migrants are able to request administrative review of their asylum claims – reducing the backlog and providing certainty to migrants in six months or less.

In the case of a negative final Protection Merits Interview, migrants who seek an appellate review will have their case reviewed by a panel of three USCIS asylum officers to ensure a balanced and fair final determination.