

BORDER SOLUTIONS



AMERICAN IMMIGRATION LAWYERS ASSOCIATION

Solutions for the Border and America's Immigration System

May 20, 2024

AILA presents this set of solutions to Congress and the President to address the border and modernize America's immigration system. With the dramatic shifts in worldwide migration,¹ sustained action is needed at the U.S. southern border to ensure the fair, fast, and orderly processing of arriving migrants. In its first term, the Biden Administration has implemented stringent border enforcement measures and expanded legal pathways for migrants that effectively alleviate pressure at the border.² While many of Biden's policies have been effective, some policies have restricted access and, as a result, are compromising protection for asylum seekers. Managing the border is no easy task and urgently requires additional resources, coordination, and political commitment from both parties—but a system that is both fair and orderly can be achieved.

First, Congress must set aside partisanship and fund federal agencies adequately and in a timely manner.³ The federal government needs to be equipped to stop drug cartels, process migrants quickly and fairly, guarantee protection for those eligible for legal relief, and remove those who are ultimately deemed ineligible in a safe and humane manner.

Effective migration management requires solutions that address the entire immigration system, not just the border.

Effective migration management requires solutions that address the entire immigration system, not just the border. The Administration should continue developing legal pathways and coordinating with country governments to give people other options besides journeying to the U.S. southern border. Bureaucratic delays slow down border processing and the regular handling of employment and family immigration cases,⁴ and agencies must improve systems and coordination to cut through red tape.

Solutions for border management should be paired with protection for people who have been living in and contributing to the country for years but have no way to apply for legal status. They are integral to American communities and help the country thrive. Congress should create a path to citizenship for them, which will also make the immigration system more orderly. In the meantime, the President should not wait but must use his authority to grant them legal status and work permits.

Poll after poll shows Americans favor a balanced approach instead of severe enforcement measures that block or expel people without giving them a fair process.⁵ Americans also want leaders to find common ground rather than point fingers and play politics with immigration.⁶

Solutions for a safe, orderly border.

Boost law enforcement operations to combat cartel trafficking in fentanyl, other narcotics, and weapons that pose threats to border security and the safety of local communities. Heightened investments in federal law enforcement enabled agencies to make major seizures of opioids and increase the disruption of the illicit drug trade.⁷ U.S. citizens, not migrants, are responsible for nearly all fentanyl trafficking.⁸

Hire more Customs and Border Protection (CBP) officers and asylum officers to reduce logjams at ports of entry so people receive thorough screenings and a decision by a judge or court of appeal if needed. Invest in port infrastructure to increase traffic lanes, hours of operation, and capacity for vehicular, pedestrian, business, and other traffic.

Improve immigration court efficiency by hiring more immigration court personnel to support immigration judges in rendering fair decisions and to address the backlog that delays cases for years.⁹ CBP and the courts should work together to eliminate delays caused by inefficiencies of interagency communication, such as the transmission of legal documents between CBP and the courts – which often takes weeks. Polling shows that 60 percent of Americans want more resources for courts to improve the border situation.¹⁰

Provide legal representation to speed up cases, increase efficiency, and make decisions more accurate and fairer. Legal representation “is linked to higher efficiency at every stage of the court process. Represented respondents sought fewer unmeritorious claims, had a greater chance of being released from detention, and were more likely to appear at hearings following release.”¹¹ However, only 30 percent of immigrants receive legal counsel, and representation rates have declined.¹² People who are represented by legal counsel are almost five times more likely to obtain relief such as asylum.¹³

Ultimately, long-term solutions for border management will require Congress to pass new laws that modernize the immigration system.

Expand orderly, legal pathways to reduce unauthorized entries. Humanitarian parole and refugee resettlement offer ways for people to apply before they come to the United States. The Biden Administration’s parole programs for Ukrainians, Afghans, Cubans, Haitians, Nicaraguans, and Venezuelans have successfully relieved the pressure at the U.S.-Mexico border by offering a better alternative for individuals from these countries.¹⁴ The President’s Safe Mobility Initiative will also reduce border migration by increasing access to refugee status and other lawful pathways.¹⁵

Increase support and coordination with the United Nations, Mexico, and other nations. Managing migration is a regional challenge that requires cooperation by the United States and other countries. The federal government should continue its efforts to address the root causes of migration and support the long-term integration of migrants in Mexico and other countries.¹⁶

Increase funding for the Department of Labor, U.S. Citizenship and Immigration Services, and the State Department to speed up the processing of immigration applications and reduce delays at the border. AILA found that years-long delays put people in a desperate situation and drive many with congressionally approved visas to enter at the southern border, which unnecessarily compounds the bottleneck at the border.¹⁷

Support local communities welcoming new arrivals. Cities that welcome arriving migrants need federal support to meet temporary shelter and emergency needs. Congress should approve the request from city mayors of both political parties for federal funding under the Shelter and Services Program (SSP). Once they obtain work permits, data shows that arriving asylum seekers contribute significantly to their new communities, as the evidence shows from what has happened in New York.¹⁸

Closing or restricting entry at the border is neither necessary nor an effective border management strategy. Reports indicate that President Biden plans to impose severe restrictions on asylum seekers under 8 U.S.C. 1182(f).¹⁹ Forcing asylum seekers to wait in Mexico leaves them vulnerable to crime and cartel violence and creates unsafe refugee encampments on the other side of the border.²⁰ Past restrictions at the border have been unsuccessful, leading to more people crossing between ports of entry.²¹ The Administration can establish an orderly, efficient process without compromising fairness. What still stands in the way are persistent gaps in congressional funding for agencies to increase capacity and increase efficiency.

Provide a path to citizenship for people contributing to this country.

Millions of people live in and contribute to this country, but still do not have a way to apply for permanent legal status. Creating a legal path for them to apply for citizenship garners wide support among American voters and has bipartisan backing in Congress.²² To achieve this, Congress should pass the Dream Act, the American Dream and Promise Act, or similar bills.²³

The urgency of legalizing the status of people who are undocumented requires that the President act immediately and not wait for Congress. While not as durable as citizenship, these options will provide temporary legal status and work authorization:

- **Protect the spouses of U.S. citizens.** There are an estimated 1.3 million U.S. citizens with undocumented spouses who can qualify for permanent status but face obstacles in the application process.²⁴ The President could establish a humanitarian parole program in the form of parole-in-place on a case-by-case basis, which would also enable them to apply for work permits. Parole would grant immediate relief to millions of mixed-status families and allow them to live without the fear of deportation. It is estimated that such a program would add 16 billion dollars to the U.S. economy and five billion dollars in taxes per year.²⁵
- **Designate or redesignate temporary protected status (TPS)** for several countries that currently qualify for such protection under federal law due to ongoing armed conflict, natural disaster, or other conditions that make it unsafe for their nationals to return.

Ultimately, long-term solutions for border management will require Congress to pass new laws that modernize the immigration system. The overwhelming evidence shows that America needs

more immigrants to secure its prosperity. Immigrants are a huge engine of growth and contribute billions of dollars in federal, state, and local taxes annually.²⁶ Current statutory immigration levels are not meeting that need. That is why both Republican and Democratic leaders want more legal pathways for foreign workers.²⁷ Lawmakers must find common ground to increase visas for people to join their family and come work in the United States.

Contact: Greg Chen, gchen@aila.org or Amy Grenier, agrenier@aila.org

RELATED AILA RESOURCES

[Featured Issue: Border Processing and Asylum](#)

[Policy Brief: AILA Analysis of the Border and Immigration Provisions of the 2024 Senate Bipartisan Border Bill “Emergency National Security Supplemental Appropriations Act, 2024”](#)

Endnotes

-
- ¹ See Congressional Research Service (CRS), “International Migration Trends in the Western Hemisphere, July 15, 2022, <https://crsreports.congress.gov/product/pdf/R/R47182/2>.
 - ² See Circumvention of Lawful Pathways, 88 Fed. Reg 31314 (May 16, 2023) (codified at 8 CFR §§ 208, 1003, and 1208), <https://www.federalregister.gov/documents/2023/05/16/2023-10146/circumvention-of-lawful-pathways>.
 - ³ AILA, “AILA Sends Letter to Congress with Recommendations on FY2025 Appropriations,” March 26, 2024, <https://www.aila.org/library/aila-sends-letter-to-congress-with-recommendations-on-fy2025-appropriations>.
 - ⁴ AILA, “Policy Brief: Barriers to Immigrant Visas Driving Migrants to the Southern Border,” Nov. 6, 2023, <https://www.aila.org/library/policy-brief-barriers-to-immigrant-visas-driving-migrants-to-the-southern-border>.
 - ⁵ See e.g., Pew Research Center, “3. What would improve the U.S. immigration system?” Feb. 15, 2024, <https://www.pewresearch.org/politics/2024/02/15/what-would-improve-the-u-s-immigration-system/>; Global Strategy Group on behalf of Immigration Hub, “New polling on immigration solutions,” March 2024, <https://static1.squarespace.com/static/5b60b2381aef1dbe876cd08f/t/65f0977a26955b3ceec8bcb3/1710266234883/Immigration+Hub+Survey+Memo+F03.12.24.pdf>.
 - ⁶ See Global Strategy Group on behalf of Immigration Hub, “New polling on immigration solutions,” March 2024
 - ⁷ See Luke Barr and Sarah Beth Hensley, “Illegal drugs expected to be top national security threat in 2024: DHS,” ABC News, Sept. 14, 2023, <https://abcnews.go.com/Politics/illegal-drugs-expected-top-national-security-threat-2024/story?id=103190843> (stating “DHS said it has invested in stopping these dangerous and illegal drugs from entering the country -- seizing more fentanyl, and arresting more people for fentanyl-related crimes in the last two years than in the previous five years combined. . .”).
 - ⁸ E.g., Christian Penichet-Paul, “Illicit Fentanyl and Drug Smuggling at the U.S.-Mexico Border: An Overview,” National Immigration Forum, Oct. 25, 2023, <https://immigrationforum.org/article/illicit-fentanyl-and-drug-smuggling-at-the-u-s-mexico-border-an-overview/> (stating “[e]vidence indicates that illicit fentanyl is primarily brought to the U.S. by American citizens and usually through legal ports of entry. The calculation is simple: illicit drug smuggling organization are likely to prefer U.S. citizens as smugglers because they are less likely to raise alarms or undergo additional vetting when re-entering the U.S. through a legal port.”)
 - ⁹ See Greg Chen and Peter L. Markowitz, “Unclogging the nation’s immigration court system,” *The Hill*, Feb. 1, 2021, <https://thehill.com/opinion/immigration/536794-unclogging-the-nations-immigration-court-system/?rl=1>; CRS, “Immigration Judge Hiring and Projected Impact on the Immigration Courts Backlog,” July 28, 2023, <https://crsreports.congress.gov/product/pdf/R/R47637>.
 - ¹⁰ Pew Research Center, “3. What would improve the U.S. immigration system?” Feb. 15, 2024.
 - ¹¹ Muzaffar Chishti et. al., “At the Breaking Point: Rethinking the U.S. Immigration Court System,” Migration Policy Institute, July 2023, https://www.migrationpolicy.org/sites/default/files/publications/mpi-courts-report-2023_final.pdf.
 - ¹² TRAC Immigration, “Too Few Immigration Attorneys: Average Representation Rates Fall from 65% to 30%,” Jan. 24, 2024, <https://trac.syr.edu/reports/736/>.

-
- ¹³ Ingrid Eagly and Steven Shafer, *Access to Counsel in Immigration Court*, Sept. 2016, <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.
- ¹⁴ See David J. Bier, "Parole Sponsorship is a Revolution in Immigration Policy," *CATO.org*, Sept. 18, 2023, <https://www.cato.org/briefing-paper/parole-sponsorship-revolution-immigration-policy>; Alex Nowrasteh, Stan Veuger, and Tara Watson, "Biden Can Use a First Fix for a Broken Immigration System," *Foreign Policy.com*, Jan. 30, 2023, <https://foreignpolicy.com/2023/01/30/biden-immigration-system-humanitarian-parole/>; DHS, "Fact Sheet: Data From First Six Months of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans Shows That Lawful Pathways Work," July 25, 2023, <https://www.dhs.gov/news/2023/07/25/fact-sheet-data-first-six-months-parole-processes-cubans-haitians-nicaraguans-and>.
- ¹⁵ U.S. Department of State, "Safe Mobility Initiative," *Bureau of Population, Refugees, and Migration*, <https://www.state.gov/refugee-admissions/safe-mobility-initiative/>.
- ¹⁶ See "Fact Sheet: Third Ministerial Meeting on the Los Angeles Declaration On Migration and Protection in Guatemala," The White House, May 7, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/07/fact-sheet-third-ministerial-meeting-on-the-los-angeles-declaration-on-migration-and-protection-in-guatemala/>.
- ¹⁷ AILA, "Policy Brief: Barriers to Immigrant Visas Driving Migrants to the Southern Border," Nov. 6, 2023, <https://www.aila.org/library/policy-brief-barriers-to-immigrant-visas-driving-migrants-to-the-southern-border>.
- ¹⁸ New York City Comptroller Brad Lander, "Facts, Not Fear: How Welcoming Immigrants Benefits New York City," Jan. 4, 2024, <https://comptroller.nyc.gov/reports/facts-not-fear-how-welcoming-immigrants-benefits-new-york-city/>.
- ¹⁹ See Mike Allen, Hans Nichols, Stef W. Kight, "Scoop: Biden plans order to limit southern border crossings by the end of month," *Axios*, <https://www.axios.com/2024/04/10/biden-border-executive-order-immigrants-asylum-limit>.
- ²⁰ See e.g., AP, "19 burned bodies found near Mexico-U.S. border," *CBS News*, Jan. 25, 2021, <https://www.cbsnews.com/news/mexico-us-border-19-bodies-found-camargo/>.
- ²¹ See e.g., American Immigration Council, "Metering and Asylum Turnbacks," Mar. 8, 2021, <https://www.americanimmigrationcouncil.org/research/metering-and-asylum-turnbacks>.
- ²² Global Strategy Group on behalf of Immigration Hub, "New polling on immigration solutions," March 2024, finding that 81 percent support creating pathways to citizenship for immigrants who have been living in the U.S. for many years and pass a background check and pay taxes.
- ²³ See Senator Dick Durbin, "Immigration: Dream Act & DACA," accessed May 20, 2024, <https://www.durbin.senate.gov/issues/immigration->; White House, "Statement by President Biden on the American Dream and Promise Act of 2021," Mar. 18, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/18/statement-by-president-biden-on-the-american-dream-and-promise-act-of-2021/>.
- ²⁴ Sam Heller, "Undocumented spouses of U.S. citizens should have easier path to citizenship, group says," *Chicago Sun Times*, Jun 30, 2021, <https://chicago.suntimes.com/2021/6/30/22557948/undocumented-immigrants-spouses-marriage-citizenship-american-families-united-act>.
- ²⁵ FWD.us, "American Families United Act: Priority Bill Spotlight," Oct. 5, 2023, <https://www.fwd.us/news/american-families-united-act/>.
- ²⁶ See e.g., American Immigration Council, "Immigrants in the United States," accessed May 20, 2024, <https://map.americanimmigrationcouncil.org/locations/national/>.
- ²⁷ See e.g., Eric Holcomb and Spencer Cox, "To solve our national immigration crisis, let states sponsor immigrants," *Washington Post*, Feb. 21, 2023, <https://www.washingtonpost.com/opinions/2023/02/21/eric-holcomb-spencer-cox-states-immigration/>; Democratic National Committee, "Creating a 21st Century Immigration System," *Democrats.org*, <https://democrats.org/where-we-stand/party-platform/creating-a-21st-century-immigration-system/>.