

# Immigration REPORT

## Biden Immigration Bill: Something for Everyone (Except the American Public)

The very first bill the Biden White House sent down Pennsylvania Avenue was the U.S. Citizenship Act, which proposes a sweeping amnesty for some 14.5 million illegal aliens (plus an untold number of illegal aliens who have already been deported), and massive increases in new immigration.

While massive amnesty bills and across-the-board immigration increases are nothing new – we saw them under President George W. Bush and the Gang of Eight bill under President Barack Obama – what immediately stands out in the Biden bill is that there is not even a pretense of future immigration enforcement. None. In return for the biggest amnesty in history and a jobs-killing increase in new immigration, the American public does not even get the usual empty promises that we will not be inundated with large-scale illegal immigration in the future.

In his statement to Congress, President Biden asserts, “The bill provides hardworking people who enrich our communities every day and who have lived here for years, in some cases for decades, an opportunity to earn citizenship.” The hardworking, community-enriching people to whom he refers are not law-abiding Americans (many of whom are struggling mightily), but millions of people who broke our laws.

Among the highlights of the Biden U.S. Citizenship

Act, according to the White House summary:

**A roadmap to citizenship for undocumented individuals.** “The bill allows undocumented individuals to apply for temporary legal status, with the ability to apply for green cards after five years... Applicants must be physically present in the United States on or before January 1, 2021. The Secretary of the Department of Homeland Security (DHS) may waive the presence requirement for those deported on or after January 20, 2017 who were physically present for at least three years prior to removal for family unity and other humanitarian purposes.”

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# Immigration Bill

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**Increases family chain migration.** The bill would “deal with backlogs in family-based visas by backlogs, by recapturing unused visas from other categories, eliminating lengthy wait times, and increasing per-country visa caps. It also eliminates the so-called ‘3 and 10-year bars,’ and other provisions...[T]he bill allows immigrants with approved family-sponsorship petitions to join family in the United States on a temporary basis while they wait for green cards to become available.”



Image Credit: istock

**Warns immigration law enforcement not to do their jobs.** “The bill provides funding for training and continuing education to promote agent and officer safety and professionalism. It also creates a Border Community Stakeholder Advisory Committee, provides more special agents at the DHS Office of Professional Responsibility to investigate criminal and administrative misconduct, and requires the issuance of department-wide policies governing the use of force.”

**Makes U.S. immigration policy hostage to corrupt foreign regimes.** As far as preventing future large-scale illegal immigration, the Biden plan calls for “addressing the root causes of migration.” According to the White House, “The bill codifies and funds the President’s \$4 billion, four-year inter-agency plan to address the underlying causes of migration in the region, including by increasing assistance to El Salvador, Guatemala, and Honduras, conditioned on their ability to reduce the endemic corruption, violence, and poverty that causes people to flee their home countries.” While we’re all waiting for that to happen, the bill “creates safe and legal channels for people to seek protection, including by establishing Designated Processing Centers throughout Central America to register and process displaced persons for refugee resettlement and other lawful migration avenues—either to the United States or other partner countries. The bill also re-institutes the Central American Minors program to reunite children with U.S. relatives and creates a Central American Family Reunification Parole Program to more quickly unite families with approved family sponsorship petitions.”

Needless to say, FAIR will work vigorously with allies in Congress to oppose this legislation that attempts to grant mass amnesty and sacrifice the interests and security of the American public. FAIR will educate the American people about the legislation and mobilize public opposition. The Biden administration, along with an increasingly partisan and ideological media, will mount a full-scale effort to enact this damaging legislation in whole, or broken up into smaller components. FAIR will be counting on the active participation of members and supporters to block this audacious effort to sell-out the vital interests of the American people who would receive nothing in return. ■

## Immigration REPORT

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# New FAIR Analysis Estimates There are Now 14.5 Million Illegal Aliens Here

If it seems as though the accepted estimate of the illegal alien population has been stuck at 11 million for years despite ongoing high levels of illegal immigration, you're not wrong. It has, largely because many in government and the media seek to minimize the impact of illegal immigration.

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**F**AIR's latest analysis, released in January, places the illegal alien population at about 14.5 million.

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FAIR, using Census Bureau and other reliable data, periodically updates the estimate of the illegal population. FAIR's latest analysis, released in January, places the illegal alien population at about 14.5 million. The 2020 estimate of 14.5 million represents an increase of about 200,000 over 2019. This increase occurred in spite of COVID-related travel and border restrictions (which held down the number of visa overstays and the number of people crossing land borders) and agreements struck with Mexico and Central American governments to deter the entry of fraudulent asylum seekers.

An accurate estimate of the illegal alien population is crucial for a variety of reasons. The first is the costs of illegal immigration to American taxpayers. The 2020 increase in the illegal alien population added about \$2 billion to the tab, pushing the overall annual cost close to the \$140 billion mark. Even in the best of times, \$140 billion represents an onerous cost burden. Under current circumstances, with government at all levels straining to provide services and benefits during the pandemic, illegal immigration is all the more harmful.

Second, with the change of administrations and Democrats in control of both houses of Congress, there is certain to be a legislative push to enact a sweeping illegal alien amnesty. The Biden administration has proposed that every illegal alien present in the United

States as of January 1, 2021 be granted amnesty and an expedited path to citizenship. Coupled with existing family chain migration policies, each additional amnestied alien represents an exponential increase in family reunification visas that will be issued down the road.

## **According to the report, a combination of factors is responsible for the increase in the number of people residing illegally in the U.S:**

- A nationwide increase in the number of sanctuary jurisdictions, or areas where local and state law enforcement are prohibited from cooperating with federal immigration law enforcement.
- Many unscrupulous businesses continue to exploit illegal workers to lower labor costs and pad their profits.
- An increasing number of states and jurisdictions offering social welfare programs and other benefits to illegal aliens, including in-state tuition, driver's licenses, and even COVID-19 relief funds.
- A massively backlogged immigration court system.
- The promise of a wide-sweeping amnesty from the incoming administration.

The full report, 2020 Update: How Many Illegal Aliens Live in the United States?, along with the methodology used to compile the updated estimate, can be found on FAIR's website, [www.fairus.org](http://www.fairus.org). ■



# Turnabout is Fair Play: Federal Judge Blocks Biden Effort to Halt Deportations



Image Credit: istock

Throughout the Trump administration, the strategy of open borders and illegal alien advocacy groups was to use the judicial system to thwart every effort to enforce immigration laws by running down the clock. Even though the previous administration eventually prevailed in most cases – because they were merely carrying out laws as enacted by Congress – opponents of immigration enforcement often succeeded in delaying implementation for months, or even years.

Now it is the Biden administration that is using a variety of executive action options to address immigration enforcement. In this case, however, the administration is employing these actions to nullify or circumvent immigration laws. In perhaps the boldest effort to nullify immigration statutes, President Biden ordered a 100-day moratorium on all deportations.

This blanket refusal by the new administration to enforce any immigration laws went far beyond any reasonable exercise of executive discretion and was immediately challenged in a lawsuit brought by Texas. In the lawsuit, Texas Attorney General Ken Paxton noted that the Biden administration's actions ignored a Department of Homeland Security pledge to consult with Texas before making changes to enforcement policies.

“On its first day in office, the Biden Administration cast aside congressionally enacted immigration laws and suspended the removal of illegal aliens whose removal is compelled by those very laws,” the complaint, filed in the US District Court for the Southern District of Texas, reads. “In doing so, it ignored basic constitutional principles and violated its written pledge to

work cooperatively with the State of Texas to address shared immigration enforcement concerns,” the lawsuit adds.

On January 26, Federal District Court Judge Drew Tipton issued a 14-day Temporary Restraining Order (TRO) barring President Biden's suspension of deportations from taking effect. Judge Tipton cited the Biden administration's failure to comply with the requirements of the Administrative Procedures Act (a tactic frequently employed by those attempting to block Trump-era immigration policy changes). Further, Judge Tipton acknowledged the potential harm to Texas that might result from the Biden administration's efforts to halt all deportations. “In light of the foregoing, the Court finds that the threat of injury to Texas outweighs any potential harm to Defendants and the public interest is served and protected by the issuance of this TRO,” wrote the judge. Judge Tipton subsequently extended the TRO for another 14 days on February 9, while he continued to review legality of the administration's action.

At the close of this newsletter, Judge Tipton had still not issued a ruling on the merits of Texas' lawsuit. However, given his acknowledgement of the potential harm to Texas and other jurisdictions, he could issue a permanent restraining order. Such an order would have to be appealed by the Biden Justice Department before the Fifth Circuit Court of Appeals – the same court that struck down two executive amnesty policies that the Obama administration attempted to implement – and ultimately could be brought before the U.S. Supreme Court. ■

# Illegal Immigration Skyrockets During Biden's First Few Weeks in Office

As predictably as the sun rising in the east, President Joe Biden's numerous executive orders, pronouncements, and immigration policy shifts have resulted in a burgeoning border crisis. Border apprehension in January reached nearly 78,000 – more than double the number of apprehensions recorded during January 2020. And, though the data for February have not been tabulated yet, the numbers were trending up with Biden's first full month in office on track to top 100,000 apprehensions.

The early days of the Biden administration provide a textbook example of how to create a migration crisis. Since taking office on January 20, the administration has:

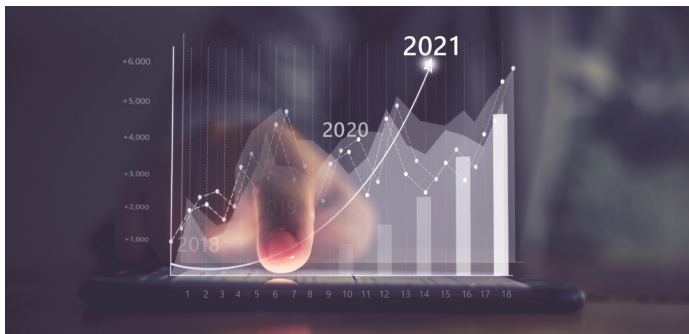


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**Suspended enrollment in the Migrant Protection Protocols (MPPs).** The MPPs, also known as the “Remain in Mexico” policy was one of two bilateral or multilateral agreements that stemmed the surge of fraudulent asylum claimants and resulted in the abatement of the 2019 border crisis. Under the MPPs, asylum claimants who entered the country illegally were returned to Mexico until an initial hearing on their claims could be held. The MPPs effectively removed the incentive for people to enter specious claims for asylum in the expectation that they would be released into the United States, pending a hearing that they were unlikely to show up for.

**Withdrawn from ‘safe country’ agreements with Central American governments.** The second effective program to stanch the flow of fraudulent asylum claimants were agreements with the govern-

ments of Honduras, El Salvador and Guatemala that required migrants to seek asylum in the first country they arrived in after leaving the country where they claimed to be persecuted. “The Biden administration believes there are more suitable ways to work with our partner governments to manage migration across the region,” said Secretary of State Anthony Blinken as he announced the immediate suspension of the agreements and their eventual termination. Notably, Blinken failed to say what those “more suitable ways” might be.

**Rescinded the ‘Border Emergency’ declaration and terminated construction of border security fencing.** On his first day in office, President Biden rescinded his predecessor’s border emergency declaration (just in time for his own new border emergency) that allowed the executive branch to act decisively to deal with migration crises. Additionally, the presidential proclamation also included an immediate halt to construction of the border wall that has effectively prevented mass illegal entries in places where it is already in place. The president also ordered a number of federal agencies to look into ways to “re-purpose” funding that had been appropriated for construction of the border wall.

**Ordered a review of civil immigration enforcement practices.** In an executive order signed on his first day in office, President Biden reversed an order issued by President Trump in 2017 instructing the various agencies of the federal government to enforce U.S. immigration laws as enacted by Congress. The administration’s actions would likely eliminate most, if not all, worksite enforcement actions during a period of high unemployment. Biden’s executive order is likely the first step in returning to Obama-era “catch-and-release” policies at the border and limit immigration enforcement in the interior of the country to a small number of violent criminals and terrorists.

**Ended travel restrictions on citizens of countries known to harbor or support terror-**

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# Illegal Immigration

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**ism.** President Biden repealed a 2017 executive order, upheld by the U.S. Supreme Court, that denied visas to people from a small number of countries known to sponsor terrorism, and which do not cooperate in providing necessary information about those applying for U.S. visas. In addition, the order directs the State Department to “swiftly propose remedies for harms caused by the bans, especially for individuals stuck in the waiver process and those who had immigrant visas denied.”

## Reaffirmed his commitment to DACA.

Even as a lawsuit challenging the constitutionality of the Deferred Action for Childhood Arrivals (DACA) is making its way through the courts, the president’s memorandum seeks to extend protection to so-called “Dreamers,” a much broader cohort of illegal aliens who entered the country as minors, but who never sought, or were otherwise not qualified for protection

under DACA.

**Attempted to suspend all removals for the first 100 days of his administration.** Making good on a campaign promise, the new administration ordered a halt to all removals for the first hundred days of the Biden presidency, pending a “comprehensive review” of all immigration enforcement policies. The removal ban included criminal aliens and people who had pending orders of removal after exhausting all legal avenues to remain in the country. Thankfully, in response to a lawsuit brought by the state of Texas, a federal judge temporarily blocked this policy from going into effect.

This list of executive orders, policy changes and memoranda, does not include all the steps that the Biden administration has taken to undermine immigration enforcement.

Taken together – limits on enforcement and promises of mass amnesty – the resurgence of large-scale illegal immigration in the early days of the Biden administration was entirely predictable and is almost certain to grow in momentum in the coming months. ■

## Former ICE and Border Patrol Chief, Mark Morgan, Joins FAIR



Mark Morgan, who previously served as Acting Director of Immigration and Customs Enforcement (ICE) under President Trump and as Director of U.S. Customs and Border Protection (CBP) under President Obama, has joined the Federation for American Immigration Reform (FAIR) as a Senior Fellow.

Faced with a new administration that is openly hostile to all manner of immigration enforcement, Morgan’s experience, expertise and stature will be invaluable in FAIR’s effort to counter the reckless policies and legislation that are already emerging. Having served in high level immigration enforcement positions in both Republican and Democratic administrations, Morgan’s voice carries significant weight with

members of both parties and the media.

In his role of Senior Fellow, Morgan will analyze the impact of Biden administration efforts to curtail or abolish border and interior immigration enforcement, and their effects on the security and well-being of the American people. His expertise will also be critical to building public opposition to legislative efforts to grant mass amnesty to illegal aliens and dramatically increase overall immigration.

“I’m honored to serve as a senior fellow with FAIR, which is dedicated to engaging in meaningful dialogue to influence, formulate and promote responsible immigration policies for the 21st Century and beyond. I am delighted to be part of the effort to seek out solutions to mitigate the tremendous burden and negative impact of uncontrolled immigration on our country’s national security and economic prosperity,” Morgan said. And FAIR is honored to have him on board. ■



# News from our State and Local Operations

## TEXAS

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The Texas Legislature kicked off the new year with an attempt to roll back the state's ill-advised law granting in-state tuition benefits to illegal aliens. While Texas has been at the forefront of efforts to ensure that immigration laws are enforced, and has sued to stop unconstitutional policies by the Obama and Biden administrations, the state was the first to grant in-state tuition benefits to illegal aliens in 2001. Bills in both houses of the legislature have been introduced to repeal the 2001 law. The timeline for repealing this expensive benefit for illegal aliens, however, is short as the legislature meets only once every two years and would have to act on the measure by May.



## FLORIDA

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A similar effort to repeal in-state tuition benefits for illegal aliens attending Florida's public colleges and universities is also underway. Florida only granted these benefits in 2014, but the \$45 million a year price tag is too steep, argues State Rep. Randy Fine (R-Palm Beach), who filed the repeal bill. It is also wrong, says Fine. "We charge American students from the other 49 states and Puerto Rico the full-price to provide them with the nation's top-rated public education...but students who are in this country illegally get a sweetheart deal." Like Texas, the timeline for repealing in-state tuition benefits is a short one.

## VIRGINIA

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Even as Texas and Florida were moving to end in-state tuition benefits to illegal aliens, both houses of the Virginia Legislature approved measures that would grant those benefits. Additionally, the State House approved a measure to expand the state's policy of issuing driver's licenses to illegal aliens to include non-driver state IDs. That bill is awaiting consideration by the Senate. Another bill would bar Department of Motor Vehicle personnel from sharing any information in its database with federal immigration authorities without a judicial warrant or subpoena being issued.

## MARYLAND

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Despite a string of gruesome and high profile crimes directly attributable to sanctuary policies in place in Montgomery County, the Maryland Legislature seems undeterred in its efforts to codify these dangerous policies statewide. At least four bills have been introduced that would place Maryland among the most radical states when it comes to protecting illegal aliens. The bills before the legislature would bar nearly all forms of law enforcement cooperation and information sharing with ICE, and commit public funding to help illegal aliens fight removal. FAIR's State and Local Engagement Director, Shari Rendall, was among those testifying against these measures in hearings before legislative committees.

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