



FACT SHEET: President Biden Issues Executive Actions Restricting Asylum

June 4, 2024

On June 4th, 2024, President Biden issued disappointing executive actions to drastically restrict people's right to seek asylum at the Southern border using section 212(f) of the Immigration and Nationality Act.

What it does:

- Using the same section of INA 212(f) that Former President Trump used to introduce the Muslim Bans, Biden's Executive Action restricts the entry of most migrants at the southern border and deports large numbers of migrants without processing their asylum claims during times of "high level encounters".
- In coordination with a joint interim final rule from the Departments of Justice and Homeland Security, US border officers will stop conducting credible fear interviews for asylum claims, allowing border agents to reject and deport migrants who enter the country more quickly. Only those who, without prompting, express a fear of returning to their country or country of removal, fear of persecution or torture, or an intention to apply for asylum will be given a credible fear interview with an Asylum Officer.
- Those expelled while these restrictions are active would be subject to a 5-year bar from reentry to the US and possible criminal prosecution.
- These restrictions only allow exceptions for unaccompanied children, victims of "severe" trafficking, and migrants who have scheduled an appointment with the CBP One App.
- These restrictions will be triggered when the seven-day average of daily border crossings exceeds 2,500. The border would "reopen" only after the daily number of border crossings drops to 1,500 for seven days in a row and stays that way for two weeks.

What are its effects:

- The threshold of 2,500 daily crossings has been exceeded almost every day for nearly a year, due to a wave of global migration fueled by climate change, economic instability, and political violence worldwide. ***As a result, these destructive restrictions will take effect beginning at 12:01 am on June 5th, 2024.***
- Biden's threshold for daily crossings is also more restrictive than the threshold of 5,000 daily crossings outlined in the Senate's Border Bill.
- These actions violate international law by closing the border to people seeking safety, exacerbate the humanitarian and operational challenges on the border, make asylum largely inaccessible for those who are permitted to ask for it at ports of entry, and punish asylum seekers.



- The humanitarian challenges at our southern border are grave, but these actions respond to those challenges with punishment and fear – an approach that is not only deadly but counterproductive, exacerbating chaos rather than ameliorating it. Our communities need reforms that are compassionate, rights-respecting policies that work.

President Biden recent executive actions restricting asylum do not come as a sudden change in the administration’s immigration policy. Over the past year, the Biden Administration has been introducing multiple agency rules and negotiating legislation to add more barriers to those seeking asylum.

- **May 10, 2023: “Asylum Ban” Rule** – The day before [Title 42](#) was set to expire, President Biden introduced a new federal regulation that bared asylum seekers who crossed through another country on their way to the US border, unless they had previously applied for asylum elsewhere or was able to schedule an appointment at a port of entry through CBP One.
- **September 10, 2023** – President Biden instructed the Department of Homeland Security to increase enforcement across the Southwest Border and called on Congress to pass comprehensive immigration reform.
- **February 2024: Senate Border Deal w/ Foreign Aid** - After months of closed-door negotiations between the Biden Administration and select Senators, the Senate released a foreign aid package that included destructive and draconian immigration policies that would “shutdown” the Southern border if the number of border crossings exceeded a specific threshold and restrict asylum. While it failed, Pres. Biden advocated for the Senate Border Deal and blamed Trump for its failure.
- **May 10, 2024: Asylum Bar Regulation** – The Biden Administration announced a new regulatory rule that would allow asylum officers to determine during a Credible Fear Interview whether a person arriving at a US border to seek refuge is ineligible for asylum based on one of five complex “bars” to asylum. Previously, these bars to asylum were only considered at a formal Asylum hearing in front of a judge, after they had time to prepare their case and find a lawyer. Effectively, the rule allowed immigration officials to reject and deport asylum-seeking migrants who are deemed as a danger to public safety or national security more quickly.
- **May 16th, 2024: Recent Arrivals Docket Rule** – The Biden Administration announced a new regulatory rule that would create a new “recent arrivals” docket process for single adults who try to cross the US-Mexico border without authorization, cutting timelines for immigration proceedings from years to about six months. The rule’s objective is to quickly process migrants who have just arrived and swiftly deporting them, if a judge determines they are ineligible for relief.



- *May 23rd, 2024: Senate Border Bill* – At the urging of the Biden Administration and Senate Leadership, the Senate reintroduced the draconian immigration policies found in the Senate’s February Deal that would allow the US government for the first time ever to deny people the opportunity to apply for asylum at our border simply based on border crossing numbers as a standalone bill. While it failed again, Pres. Biden advocated for the Senate Border Bill and blamed Trump for its failure.

Efforts to expel or block those seeking protection, further militarize the border, or detain more people will continue to criminalize and dehumanize the immigrant community and will have little impact on the numbers arriving at our borders. The humanitarian challenges at our southern border are grave, but these actions respond to those challenges with punishment and fear – an approach that is not only deadly but counterproductive, exacerbating chaos. Our communities need reforms that are compassionate, rights-respecting policies that work.