

[H.R. 2/S. 2824](#) - Secure the Border Act of 2023

[Rep. Mario Diaz-Balart \(R, FL-26\)](#) / [Sen. Ted Cruz \(TX\)](#)

[House Cosponsors](#)

[House Floor Vote](#)

[Senate Cosponsors](#)

[Senate Floor Vote](#)

The Secure the Border Act of 2023 makes substantial reforms to the immigration system to end exploits that have resulted in several border surges.

Wall Construction:

- Requires the resumption of border wall construction, using funds that were previously appropriated and materials previously acquired; and
- Amends the Secure Fence Act to explicitly require physical barriers along at least 900 miles of the border and expedite procedures for construction.

Border Control:

- Authorizes retention bonuses for Border Patrol and requires Customs and Border Protection (CBP) to hire and train staff sufficient to maintain not fewer than 22,000 Border Patrol agents;
- Defunds DHS processing of aliens between ports of entry and DHS-funded nongovernmental organizations (NGOs) that facilitate unlawful entry, human trafficking and smuggling, drug trafficking and smuggling, or provide, or facilitate the provision of transportation, lodging, or immigration legal services to inadmissible aliens who enter the United States after the date of the enactment;
- Restricts the documents that can be used as identification at airport security checkpoints, explicitly prohibiting various documents used by illegal aliens to access public flights-
 - Requires those without proper documentation to submit biometric data under the Automated Biometric Identification System (IDENT); and
 - Exempts aliens leaving the United States for the purposes of removal or deportation;

- Prohibits COVID-19 vaccine mandates for DHS employees and reinstates those fired as a result of previous COVID-19 vaccine requirements; and
- Restricts the CBP One Mobile Application (or similar program) to use for inspection of perishable cargo.

FTO Report:

- Requires Congress to commission a report to assess the damage the cartels are causing in the United States and recommend a strategy to deal with them.

Asylum Reform:

- Denies asylum eligibility for aliens who entered or attempted to enter the United States after transiting through at least one country outside of their country of nationality or last habitual residence (similar to a “Safe Third Country” policy);
- Raises the standard of proof for credible fear to “more likely than not” from “significant possibility,” and allows asylum officers to assess the alien’s credibility;
- Limits asylum to those arriving in the U.S. at ports of entry or brought into the U.S. after being interdicted in international or U.S. waters;
- Prohibits a determination that an alien is a member of a “particular social group” when that group is based on generalized violence, a high crime rate in the country of origin, or past or present criminal activity or gang or terrorist group membership (among others); and
- Clarifies that “persecution” does not include generalized harm or violence in a country, treatment the U.S. regards as unfair, unjust, unlawful, or unconstitutional, intermittent harassment, threats from unidentified entities without effort to carry them out, or non-severe economic harm or property damage.

Remain in Mexico:

- Makes illegal aliens ineligible for parole or release from custody other than to be returned to their home country or returned to a contiguous country to pursue an asylum claim;
- Mandates that DHS must return an illegal alien to a contiguous country (i.e., MPP) to await adjudication or remove the alien if DHS is unable to detain the alien during the adjudication or return the alien to his or her home country;
- Requires suspension of entry for aliens when DHS cannot comply with detain, return or removal of aliens; and
- Provides State Attorneys General cause of action to seek injunctive relief from DHS for failure to follow the detain, return, remove, or suspension requirements.

Bilateral Agreements:

- Requires the Secretary of State to “seek to negotiate” with Western Hemisphere countries to address the border surge (this is not a requirement for the policy reforms in the rest of the package, including “Remain in Mexico”).

Flores Fix:

- Removes the legal presumption that accompanied minors apprehended at the border cannot be detained; and
- Requires that accompanied minors only be released to parents or legal guardians who are lawfully present in the United States.

UAC Reforms:

- Treats all UACs the same regardless of national origin, so that all UACs who are not trafficking victims and who are not in fear of returning to their home country may be returned promptly to be reunited with their families; and
- Requires HHS to obtain relevant information for all sponsors of UACs, including the immigration status of the sponsor, and requires DHS to initiate removal proceedings on sponsors without lawful status.

Visa Overstays:

- Increases the penalties for illegal entry and applies the same penalties to visa overstays.

Parole Reform:

- Strictly limits parole to case-by-case basis by prohibiting class-wide eligibility criteria;
- Restricts parole for “urgent humanitarian reasons” to life-threatening medical emergencies, parents or legal guardians of a minor with a life-threatening medical emergency, organ donors, aliens with a close family member facing imminent death, aliens attending a funeral for a close family member, adopted children with an urgent medical condition needing care before final adoption visa award, and lawful applicants for adjustment of status who are returning after temporary travel abroad; and
- Restricts parole for “significant public benefit” to only those aliens whose presence is required in the United States to assist in a law enforcement matter, but who do not satisfy the eligibility requirements for admission as nonimmigrants, or for whom there is insufficient time to be admitted through the normal visa process.

Mandatory E-Verify:

- Requires all employers to screen all new hires through E-Verify within 3 years with a gradual phase-in based on business size, with agricultural employers having the last compliance date;
 - Employers with 50 or fewer employees can request a single 6-month extension.
 - DHS may extend the agricultural compliance date one time for 12 months upon completion of its agricultural workforce study (details below).
- Repeals the I-9 system and dispenses with the requirement that employers must keep paper copies on file;
- Gives safe harbor against prosecution to employers that rely on E-Verify in good faith, even if E-Verify gives them an incorrect eligibility confirmation;

- Increases penalties for knowingly hiring illegal aliens;
- Requires the Social Security Administration to identify compromised social security numbers (SSNs) and block their use until contact is established with the legitimate holder of the number in order to prevent further identity theft or misuse; and
- Allows parents to lock the SSNs of their children to prevent fraudulent use of minors' numbers (individuals already can lock their own SSN); and
- Includes a Sense of Congress that DHS, in implementing E-Verify, should “consider and address” any adverse impacts on the “Nation’s agricultural workforce, operations, and food security.”