United States District Court
Southern District of Texas
Victoria Division

STATE OF TEXAS, *et al.*, *Plaintiffs,* v. U.S. DEPARTMENT OF HOMELAND SECURITY, *et al.*, *Defendants.*	Case 6:23-cv-7

Plaintiff States' Motion for Preliminary Injunction

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INTRODUCTION

Congress makes the laws. U.S. Const. art. I, § 1. One of those laws is a limitation imposed upon the parole of aliens because of past executive abuses. That limitation permits the parole of aliens into the United States only on a "case-by-case basis" for "urgent humanitarian reasons" or "significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Accordingly, parole cannot be used as an alternative admissions program, nor can it be granted *en masse*—doing so violates the requirement that it be granted only on a case-by-case basis.

The President, and by extension his subordinates in the executive branch, are charged to "take Care that the Laws be faithfully executed[.]" U.S. Const. art. II, § 3, cl. 5. But instead of taking care to faithfully execute the limits Congress placed on alien parole, the Defendants are subverting them. The new Parole Program they concocted permits hundreds of thousands of aliens per year entry into the United States—aliens who otherwise have no lawful right for admission, entry, or presence. It permits that entry based not upon individual circumstances, but upon membership in particular groups. More, it allows the parolees to seek work authorization, which the Defendants have promised to expedite.

The Parole Program violates the limitations Congress placed on the parole of aliens into the United States and is therefore unlawful. Enforcing that unlawful program is *ultra vires*—outside the Defendants' power. The Parole Program is also unlawful because it was promulgated in violation of the law; the Defendants did not notify the public and seek and consider their comments before promulgation, and the program itself is arbitrary and capricious.

Permitting the Parole Program to continue will irreparably harm the Plaintiff States. The Court should therefore preliminarily enjoin the Defendants from operating the program pending a final judgment.

BACKGROUND AND FACTS

I. Limited Parole Authority.

The Secretary of Homeland Security may parole into the United States an otherwise inadmissible alien. *See* 8 U.S.C. § 1182(d)(5). But he may do so only on a "case-by-case basis" for "urgent humanitarian reasons" or "significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Congress added each of those restrictions to the parole power in 1996 as part of the Illegal Immigration Reform and Immigrant Responsibility Act, commonly called IIRIRA, because the executive branch had abused that parole power "to admit entire categories of aliens who do not qualify for admission under any other category in immigration law." H.R. Rep. No. 104-469, at 140 (1996). Underscoring this limitation, Congress emphasized that the Secretary and his Department "may not parole into the United States an alien who is a refugee unless [he] determines that compelling reasons in the public interest with respect to *that particular alien* require that the alien be paroled into the United States rather than be admitted as a refugee[.]" 8 U.S.C. § 1182(d)(5)(B) (emphasis added); *see also Texas v. Biden* ("*Texas MPP*"), 20 F.4th 928, 994 (5th Cir. 2021), *revd. on other grounds*, 142 S Ct. 2528 (2022).

As the Fifth Circuit stated less than two years ago, "[q]uintessential modern uses of the parole power include, for example, paroling aliens who do not qualify for an admission category but have an urgent need for medical care in the United States and paroling aliens who qualify for a visa but are waiting for it to become available." *Id.* at 947. But the power is not unlimited: "DHS

cannot use that power to parole aliens *en masse*; that was the whole point of the 'case-by-case' requirement that Congress added in IIRIRA." *Id.* at 997. And the Supreme Court recently affirmed that the parole power is limited, "not unbounded: DHS may exercise its discretion to parole applicants 'only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.' … And under the [Administrative Procedure Act], DHS's exercise of discretion within that statutory framework must be reasonable and reasonably explained." *Biden v. Texas*, 142 S. Ct. 2528, 2543 (2022).

II. The Parole Program.

On December 22, 2022, Secretary Mayorkas issued a memorandum that created a new parole program for nationals of Cuba, Haiti, Nicaragua, and Venezuela. That memorandum has not been released.

On January 5, 2023, President Biden and the other Defendants announced the creation of the Parole Program. *See* Exh. A (Dept. of Homeland Security Press Release, *DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes* (Jan. 5, 2023)). They purport the Program to "provide a lawful and streamlined way for qualifying nationals of Cuba, Haiti, Nicaragua, and Venezuela to apply to come to the United States, without having to make the dangerous journey to the border." *Id.* at *2. Under the Program, an alien "can seek *advance authorization* to travel to the United States, and be considered, on a case-by-case basis, for a temporary grant of parole for up to two years, including employment authorization[.]" *Id.* (emphasis added). The only conditions for doing so are obtaining a "supporter in the United States"— who can be a parolee or DACA recipient—"who commits to providing financial and other

support" and passing unspecified "rigorous biometric and biographic national security and public safety screening…." *Id.*

The Program "will allow up to 30,000 qualifying nationals *per month* from all four of these countries to reside legally in the United States for up to two years and to receive permission to work here, during that period." *Id.* (emphasis added).

The Defendants have already published a new website for applications to be submitted for the Program. *See* Exh. B (U.S. Citizenship & Immig. Svcs., *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, https://www.uscis.gov/CHNV (visited Feb. 13, 2023)). That site sets forth parameters for the program consistent with those the Department announced when it created the program:

- First, the "supporter"—who can also be a parolee, DACA recipient, Temporary Protected Status recipient, or a member of other categories of individuals—submits an "Online Request to be a Supporter and Declaration of Financial Support." *Id.* at *7.
- If USCIS "confirms a supporter," then the intended beneficiary alien receives an email from USCIS. *Id.*
- The beneficiary then uses the CBP One Mobile Application to submit biographic information and a photo. *Id.*
- If approved for "advance authorization to travel to the United States to seek a discretionary grant of parole," the beneficiary has 90 days to travel by air to a U.S. port of entry. *Id.* at *7–8.
- When the alien arrives, CBP conducts "additional screening and vetting," though the only such process mentioned is fingerprinting. *Id.* at *8. It then makes a parole determination. *Id.* An alien who is for

some reason not approved for parole is not turned away but "processed under an appropriate processing pathway[.]" *Id.*

- An approved alien is "paroled into the United States for a period of up to two years, subject to applicable health and vetting requirements, and will be eligible to apply for employment authorization." *Id.*

On January 9, 2023, DHS published four notices, one for each eligible nationality, in the Federal Register regarding the implementation of the Parole Program. *See* Implementation of a Parole Process for Haitians, 88 Fed. Reg. 1243 (Jan. 9, 2023); Implementation of a Parole Process for Nicaraguans, 88 Fed. Reg. 1255 (Jan. 9, 2023); Implementation of a Parole Process for Cubans, 88 Fed. Reg. 1266 (Jan. 9, 2023); Implementation of Changes to the Parole Process for Venezuelans, 88 Fed. Reg. 1279 (Jan. 9, 2023).

The Defendants did not publish advance notice in the Federal Register that they were planning to issue these notices, nor did they give the public and affected stakeholders the opportunity to comment on them. They have not published the decision memorandum that supposedly justifies the Program and the notices. None of the Defendants' materials creates or describes a mechanism for confirming that a sponsor is actually providing financial assistance or for removing parolees after the end of their supposed two-year parole period. None of the notices addresses reliance interests that have developed regarding the pre-Parole Program method of paroling aliens into the United States, much less the enforcement of the parole standards Congress wrote into the law.

III. Costs Imposed Upon the States.

Unchecked migration imposes millions upon millions of dollars of costs upon the States. As have other courts, the Court recently recognized that

Texas, in particular, bears significant burdens because of Defendants' unlawful actions.

A. Driver's licenses.

Texas furnishes driver's licenses to aliens so long as their presence in the United States is authorized by the federal government. Each additional customer seeking a Texas driver's license imposes a cost on Texas. Many illegal aliens released or paroled into Texas will obtain Texas driver's licenses. Because "driving is a practical necessity in most of" Texas, "there is little doubt that many" aliens present in Texas because they are paroled into the United States will obtain, at a cost to Texas, a Texas driver's license. *Texas v. United States* ("*Texas DAPA*"), 809 F.3d 134, 156 (5th Cir. 2015). As a representative of Texas's Department of Public Safety recently swore to another court, Texas incurs direct and indirect costs of roughly $200 for each non-citizen who seeks a limited-time license. *See* Exh. C.

B. Education.

Texas estimates that the average per-student, per-year funding entitlement for the 2021–22 school year is $9,216. For students qualifying for bilingual education services, that cost is $11,432. Texas cannot quantify the number of illegal aliens or children of illegal aliens in its schools. But data from the Office of Refugee Resettlement of the U.S. Department of Health and Human Services shows how many minor illegal aliens are released to sponsors in Texas. As the Court recently held, the estimated cost of educating those children in Fiscal Year 2022 will be more than $175 million. *See Texas v. United States* ("*Texas Prioritization*"), — F. Supp. 3d —, 2022 WL 2109204, *14 (S.D. Tex. June 10, 2022); *see also* Exh. D. Indeed, this number is almost certainly too low: because Texas's estimate of $176.42 million counts only the

children who were released to sponsors in the preceding fiscal year, thus becoming eligible for public education in FY2022, not the children who were released in previous years who continue to remain eligible for public education. These costs, unsurprisingly, increase as the number of illegal aliens in the State increases. *Id.* Thus, as the number of illegal aliens who are present in the State increases due to grants of parole or through unlawful entry, the education costs to the State will increase.

C. Healthcare.

Texas funds three healthcare programs that require significant expenditures to cover illegal aliens: the Emergency Medicaid Program, the Family Violence Program, and the Texas Children's Health Insurance Program. Texas is required by federal law to include illegal aliens in its Emergency Medicaid Program. 42 C.F.R. § 440.255(c). The Court has previously recognized that Texas spends, by its estimate, millions of dollars per year on furnishing healthcare to illegal aliens under these three programs—a total of $87 million in Fiscal Year 2019. Some illegal aliens who are admitted through the Program will require these services, causing Texas to incur costs. *Id.* *15; *see also* Exh. E.

Texas also incurs costs for uncompensated care provided by state public hospital districts to illegal aliens. The last time Texas's Health and Human Services Commission estimated those costs, they were more than $716 million. Some illegal aliens who are admitted through the Program will require these services, causing Texas to incur costs. *Id.*; *see also* Exh. E.

D. Law enforcement, correctional, and social costs

Texas spends tens of millions of dollars each year for increased law enforcement as its citizens suffer increased crime, unemployment,

environmental harm, and social disorder due to illegal immigration. The federal government reimburses only a fraction of these costs; the rest are borne by Texas and Texans. For example, the federal government's State Criminal Alien Assistance Program reimburses states and localities that incarcerate illegal aliens for some of the salaries they pay to correctional officers. For the most recent application period, July 2018–June 2019, the Texas Department of Criminal Justice sought reimbursement for nearly 9,000 eligible illegal-alien inmates who, based on the per-day, per-inmate average cost of incarceration, cost the State more than $165 million. The federal government reimbursed less than $15 million of that, meaning that incarcerating illegal aliens cost Texas—as the Court found—more than $150 million, a number that will increase as the number of illegal aliens in the State increases. *Id.* *13; *see also* Exh. F.

Those are not the only law-enforcement costs related to illegal aliens. Illegal aliens who are not incarcerated for long enough do not qualify for reimbursement. *See* Exh. F ¶ 4. TDCJ's costs do not include the costs that counties and municipalities incur to incarcerate illegal aliens. And every illegal alien who is incarcerated has been, at the least, arrested, meaning that a municipality, county, or the State has paid some law-enforcement officer to carry out and process the arrest and likely to investigate the underlying crime—or, at the very least, to accept the transfer of the alien from a federal law-enforcement officer. And an alien who is imprisoned as part of a sentence for a judgment of guilt has caused the State or county to pay for prosecutors, court officials, and clerks' staff, if not interpreters, appointed counsel, and defense investigators.

The Parole Program not only states that parolees can obtain work authorization in the United States but that Defendants will work expeditiously to process work authorization requests. The basic economic laws of supply and

demand are in effect in Texas; the necessary effect of authorizing illegal aliens to work in Texas is increase the supply of laborers and therefore depress the wages paid to Texans who are legally present in the United States.

STANDARD

For a preliminary injunction, the States must show "(1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public interest." *Janvey v. Alguire,* 647 F.3d 585, 595 (5th Cir. 2011).

ARGUMENT

I. The States Are Likely to Succeed on the Merits.

Because administrative agencies are creatures of statute, they possess only the authority that Congress has provided. *Natl. Fedn. of Indep. Bus. v. Dept. of Labor*, 142 S. Ct. 661, 665 (2022) (per curiam); *La. Pub. Serv. Commn. v. FCC*, 476 U.S. 355, 374 (1986) ("[A]n agency literally has no power to act ... unless and until Congress confers power upon it."). And it is a core principle that an agency may not rewrite statutory terms to suit its own sense of how the law should operate. *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 328 (2014). When agencies exceed their statutory authority, those actions are unlawful and *ultra vires*. *See City of Arlington, Tex. v. FCC,* 569 U.S. 290, 297 (2013); 5 U.S.C. § 706(2).

The Parole Program exceeds the Defendants' authority, lacked required notice and comment, and is arbitrary and capricious. The States are therefore likely to succeed on the merits.

A. The Parole Program violates the parole authority.

Congress has expressly and intentionally provided only a narrow path to parole aliens into the United States. Specifically, Section 212(d)(5) of the Immigration and Nationality Act, as amended by IIRIRA, allows parole of aliens "only on a case-by-case basis for urgent humanitarian reasons or significant public health benefit." 8 U.S.C. § 1182(d)(5)(A). "Congress 'specifically narrowed the executive's discretion' to grant parole due to 'concern that parole ... was being used by the executive to circumvent congressionally established immigration policy.'" *Texas v. Biden* (*Texas MPP*), 554 F. Supp. 3d 818, 852 n.11 (N.D. Tex. 2021), *revd. on other grounds*, 142 S. Ct. 2528 (2022) (quoting *Cruz-Miguel v. Holder*, 650 F.3d 189, 199 & n.15 (2d Cir. 2011). Congress was reacting, that is, to abuses just like the Parole Program:

> The text of section 212(d)(5) is clear that the parole authority was intended to be used on a case-by-case basis to meet specific needs, and not as a supplement to Congressionally-established immigration policy. In recent years, however, parole has been used increasingly to admit entire categories of aliens who do not qualify for admission under any other category in immigration law, with the intent that they will remain permanently in the United States. This contravenes the intent of section 212(d)(5), but also illustrates why further, specific limitations on the Attorney General's discretion are necessary.

H.R. Rep. No. 104-469, at 140 (1996). "[A]dmit[ing] entire categories of aliens who do not qualify for admission" is indeed, as the Defendants admit, the Parole Program's purpose. *See* Exh. B at *1 ("nationals of Cuba, Haiti, Nicaragua, and Venezuela" may make use of special processes to apply "for advanced authorization to travel and a temporary period of parole").

The Parole Program facially invokes the "case-by-case" language, but the substance of the Program confirms it is anything but. It authorizes 30,000

parolees per month. *See* 88 Fed. Reg. at 1280. A number so high—approaching a limit of nearly 400,000 parolees *per year*—is commonsense proof that the Defendants are not employing the parole power on a "case-by-case" basis for just those aliens with compelling humanitarian or medical situations. These numbers cannot be described as anything other than *en masse*. "Deciding to parole aliens *en masse* is the opposite of case-by-case decisionmaking" *Texas MPP*, 20 F.4th at 942; indeed, "that was the whole point of the 'case-by-case' requirement that Congress added." *Id.* at 997.

More, it is entirely implausible that Defendants would or could *actually* review and approve each parolee on a "case-by-case" basis. As both Justice Alito and Judge Kacsmaryk have noted in the context of a prior program, "'[T]he number of aliens paroled each month … — more than 27,000 in April of 2022 — gives rise to a strong inference that the Government is not really making these decisions on a case-by-case basis." *Texas v. Biden ("Texas MPP II")*, — F. Supp. 3d—, 2022 WL 17718634, at *13 (N.D. Tex. Dec. 15, 2022) (quoting *Biden*, 142 S. Ct. at 2554 (Alito, J., dissenting)). The Parole Program is even bigger—authorizing 30,000 parolees per month, and the number of applications Defendants would allegedly review would be even higher. The sheer volume of the Program provides an adequate basis to conclude it is *en masse*—and therefore illegal.

That illegality is confirmed by numerous other aspects. For example, the Program openly states its purpose is to be an immigration control measure that supposedly "reduce[s] the number of [aliens from the four covered countries] seeking to irregularly enter the United States" by instead providing them "a meaningful incentive to seek a safe, orderly means of traveling to the United States." 88 Fed. Reg. at 1267. But parole is not "intended to replace established refugee processing channels," as Congress "specifically narrowed the

executive's discretion to grant parole due to concern that parole was being used by the executive to circumvent congressionally established immigration policy." *Texas MPP*, 554 F. Supp. 3d at 852 n.11 (cleaned up).

That type of "circumvent[ion]" is precisely what the Parole Program intends to achieve: the Defendants shunt aliens away from the border and into the United States, not because of individual aliens' humanitarian concerns or public benefits, but "to improve border security, limit irregular migration, and create additional safe and orderly processes…." Exh. A at *1. That is a programmatic, not case-by-case, approach. And that invocation demonstrates precisely why Congress placed on the Defendants the limits that it did: Congress has already decided on the policies that will promote border security and limit irregular migration, and it enacted them into law to prevent the executive branch from creating its own "safe and orderly processes" to supervene the ones that Congress created itself.

Thus, rather than focus on how DHS personnel should determine whether a *specific* alien's parole would yield a humanitarian or public benefit, as one might expect for a proper usage of the parole power, the Defendants repeatedly measure such supposed benefits *in toto*, by accumulating them across hundreds of thousands of paroled aliens. For example, the Defendants assert benefits like "reduc[ing] the strain on DHS personnel and resources" at the southern border caused by "record numbers" of aliens from the four covered countries. *See* 88 Fed. Reg. at 1268–69. But paroling a small number of aliens on a case-by-case basis could never achieve such drastic reductions—it has to be done *en masse*. *See* 88 Fed. Reg. at 1280 (cap must be high enough that it "serves as a meaningful alternative to irregular migration" because otherwise "we would then see increased irregular migration" again). Likewise with the Defendants' invocation of supposed "border security" and "vetting" benefits,

see, e.g., 88 Fed. Reg. at 1272, which would make sense only across thousands of aliens, not "case-by-case" determinations, and which are illogical even on their own terms because the Defendants' "solution" for border security is simply to parole those aliens into the country anyway.

The application process itself confirms that aliens need not demonstrate an individualized humanitarian or public benefit from their parole; they need only point to "reasons, as described" in the notices announcing the Program—namely the generic benefits of reduced crossings writ large. 88 Fed. Reg. at 1275–76. This further confirms there is no actual case-by-case review intended, anticipated, or required.

The Fifth Circuit has already made clear that the parole power cannot be used as an escape valve to avoid the burdens of following Congress's requirements for processing aliens: "the Government's proposal to parole every alien it cannot detain is the opposite of the 'case-by-case' determinations required by law." *Texas MPP*, 20 F.4th at 997. As another court recently put it, "Any class-wide parole scheme … would be a violation of the narrowly prescribed parole scheme in section 1182 which allows parole 'only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.'" *Texas*, 554 F. Supp. 3d at 852.

B. The Defendants did not engage in required notice-and-comment rulemaking.

Under the APA, rules are subject to notice-and-comment rulemaking unless they fall within one of the APA's exceptions, 5 U.S.C. § 553(b)(A), which "must be narrowly construed." *Texas DAPA*, 809 F.3d at 171 (quoting *Profls. & Patients for Customized Care v. Shalala*, 56 F.3d 592, 595 (5th Cir. 1995)). The Parole Program wasn't adopted after notice and comment, and it is not subject to one of the exceptions. It is therefore unlawful.

1. The Program is not a policy statement.

Distinguishing between a rule and a policy statement depends on "two criteria: whether the [agency action] (1) imposes any rights and obligations and (2) genuinely leaves the agency and its decision-makers free to exercise discretion." *Texas DAPA*, 809 F.3d at 171 (cleaned up). A court making that determination must be "mindful but suspicious of the agency's own characterization," and its primary consideration is whether the action "has binding effect on agency discretion or severely restricts it." *Id.*

Under that evaluation, the Parole Program is not "merely … a general statement of policy," 88 Fed. Reg. at 1276, as the Defendants claim. The Parole Program certainly imposes rights and obligations by establishing a framework for the showing required to parole up to 360,000 aliens into the country annually. *See*, *e.g.*, *Texas v. United States* ("*Texas DACA*"), 328 F. Supp. 3d 662, 731 (S.D. Tex. 2018) (DACA is not a policy statement, for same reasons). And although the Secretary of DHS retains "discretion" to end the Program, the relevant question is whether "*DHS personnel[]*" have "discretion to stray from the guidance," *Texas MPP*, 40 F.4th at 229 (emphasis added), but there is no "evidence of discretion by the individuals processing [parole] applications," *Texas DACA*, 328 F. Supp. 3d at 732. Moreover, the notices announcing the Program are "much more substantive than a general statement of policy," confirming notice-and-comment was required. *Texas MPP*, 40 F.4th at 229.

2. The Program does not concern a foreign-affairs function.

The foreign-affairs exception to the APA's notice-and-comment requirement is narrow, and even "in the immigration context," the government must make a strong showing that allowing even a short notice-and-comment period "will provoke definitely undesirable international consequences." *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 775–76 (9th Cir. 2018) (Bybee,

J.). Accordingly, courts "disapprove[] the use of the foreign affairs exception where the Government has failed to offer evidence of consequences that would result from compliance with the APA's procedural requirements." *Id.* at 776 (collecting cases).

The Defendants' assertion that the Parole Program "will advance the Administration's foreign policy goals" and was in response "to requests from key foreign partners," 88 Fed. Reg. at 1277, is not enough. As Judge Bybee explained for the Ninth Circuit, even when there are "ongoing negotiations" with other countries, an agency must "explain[] how immediate *publication* of the Rule, instead of *announcement* of a proposed rule followed by a thirty-day period of notice and comment, is necessary for [those] negotiations." *E. Bay*, 932 F.3d at 776 (emphasis in original). The Defendants do no such thing, only pointing to the Parole Program's supposed foreign-affairs benefits and hypothesizing that even a slight delay "could" affect other countries' willingness to assist or cause "an even greater surge in migration" before the Program took effect. 88 Fed. Reg. at 1277.

That is not explanation; it is supposition. The Defendants could have proposed, and opened a notice-and-comment period on, the Parole Program on January 9 and simultaneously stated that anyone attempting to cross illegally after that date would be barred from the Program—similar to what the Program already says, *see, e.g.*, 88 Fed. Reg. at 1252. That would have eliminated the incentive for an "even greater surge in migration" that purported to trouble the Defendants while assuring "key foreign partners" that the U.S. was proceeding expeditiously. But the Defendants do not explain why that option was insufficient; their notices certainly give no indication it would have caused "definitely undesirable international consequences." A purported impact on foreign affairs was not good cause to avoid notice and comment.

3. There was not good cause to skip notice and comment.

The "good cause" exception to notice-and-comment is narrowly construed and only reluctantly countenanced, to be used only "on a break-glass-in-case-of-an-emergency basis[.]" *Natl. Horsemen's Benevolent & Protective Assn. v. Black*, 53 F.4th 869, 883 & n.26 (5th Cir. 2022). The only "good cause" the Defendants posit in their notices is that notice-and-comment "would seriously undermine a key goal of the policy: it would incentivize even more irregular migration." 88 Fed. Reg. at 1277. But as explained above, that simply is wrong. Announcing the Program and stating that anyone who attempts to cross illegally after January 9 (as the Program already says) would have had the same effect: immediately deterring aliens from seeking to cross illegally into the United States.

Nor could the Defendants claim recent events provide an urgent basis to take action. Border crossings have been steadily increasing over the course of the Biden Administration, 88 Fed. Reg. at 1245, 1268–69, which the Defendants themselves chalk up to long-extant things like the "lingering impacts of the COVID-19 pandemic," the refusal of Cuba to accept returned aliens as of February 2020, the response to April 2018 protests in Nicaragua, an assassination and earthquake in Haiti in Summer 2021, and the November 2021 decision by Nicaragua to allow Cubans to visit without visas. 88 Fed. Reg. at 1246, 1258, 1268–70. Those events are neither sudden nor urgent—the most recent of them occurred more than a year before the Defendants announced the Program—let alone so compelling that they overcome the strong presumption of notice-and-comment.

C. The Parole Program is arbitrary and capricious.

The APA's arbitrary-and-capricious framework applies, as the Supreme Court has recognized, to "DHS's exercise of discretion within th[e] statutory

framework" of § 1182(d)(5)(A). *Biden*, 142 S. Ct. at 2543. The Defendants were therefore required to examine the relevant data and articulate a satisfactory explanation for their action, including a rational connection between the facts found and the regulatory choice made. *Motor Vehicle Mfrs. Assn. of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *Texas v. United States*, 524 F. Supp. 3d at 652 (citations omitted). This reasoned decisionmaking includes, among other things, consideration of whether there was legitimate reliance on the status quo prior to an agency's change in course, for "[i]t would be arbitrary and capricious to ignore such matters." *Dept. of Homeland Security v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1913 (2020).

The Parole Program is arbitrary and capricious because the Defendants have relied on factors which Congress had not intended them to consider, entirely failed to consider an important aspect of the problem, and offered explanations for its decision that run counter to the evidence. *State Farm*, 463 U.S. at 43.

First, because the Defendants addressed only the benefits that might obtain from the *accumulated* effect of paroling thousands of aliens, they did not make—indeed, could not make—the showing actually required by § 1182(d)(5)(A): that admitting each *individual* parolee will yield a humanitarian or public benefit. Similarly, the Program is arbitrary and capricious because it does not require applicants to explain why their parole *specifically* would yield humanitarian or public benefits. *See* Argument § I.A.

Second, the Defendants did not consider and account for the Plaintiff States' reliance interests. *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016) ("In explaining its changed position, an agency must also be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account.") (cleaned up). In fact, perhaps

because they did not conduct notice-and-comment rulemaking, the Defendants did not address reliance interests of any kind. That is a *per se* violation of the APA because it is "arbitrary and capricious to ignore such matters." *Regents,* 140 S. Ct. at 1913.

Nor can the Defendants claim ignorance. They know about the costs imposed on states like Texas as a result of increased illegal immigration because courts have previously held—indeed, this Court has previously held—that the Defendants were arbitrary and capricious for ignoring those costs. *See Texas Prioritization*, 2022 WL 2109204 at *36–39. Those costs are just as relevant here—perhaps even more so, given that aliens paroled into the United States under the Parole Program would be eligible to receive work authorization, which the Defendants claim they are working to make as efficient as possible. *See* 88 Fed. Reg. at 1272, 1276.

Third, the Defendants justify the Parole Program on the basis that there is a sudden surge of migrants from several specific countries, such that emergency measures are needed—so urgent, in fact, that they cannot wait for a notice-and-comment rulemaking. But as explained above, the notices announcing the Program rely on events that are hardly sudden—ranging from COVID-19, to political and natural events occurring well in the past. *See* Argument § I.B.3. Because the cited evidence does not support the justification of this emergency measure, it is arbitrary and capricious.

Fourth, the Defendants did not explain or analyze how they would remove from the United States the hundreds of thousands of aliens paroled through their program at the end of any period of authorized parole, despite admitting general difficulty in removing such aliens even currently, *see*, *e.g.*, 88 Fed. Reg. at 1270–71, and despite the pattern of so-called "temporary" immigration policies becoming permanently entrenched, *see, e.g., Saget v. Trump*, 375

F. Supp. 3d 280, 295 (E.D.N.Y. 2019). The only substantive acknowledgment of the possibility that the nearly 30,000 new parolees every year will not depart the United States is on the USCIS website, which blandishes, "Individuals with expired parole are expected to depart the country of their own accord. Individuals in the United States encountered after their parole has terminated generally will be placed in removal proceedings." *See* Exh. B at *10. The Defendants' willful blindness to their own historical experience is arbitrary and capricious. Similarly, the Defendants do not explain or analyze how the "sponsor" requirement for applicants will be enforced. Although the sponsor—who can be a parolee himself—must pledge to provide financial support, no enforcement mechanism is described.

These unenforceable "parchment requirements" are designed only to give the appearance of selectivity, all while creating the equivalent of a new visa program for hundreds of thousands otherwise ineligible aliens each year.

* * *

For all these reasons, the States are likely to prevail on the merits of their claims.

II. The States Are Suffering Irreparable Harm.

"To show irreparable injury" in lieu of a stay, "it is not necessary to demonstrate that harm is inevitable and irreparable." *Humana, Inc. v. Avram A. Jacobson, M.D., P.A.*, 804 F.2d 1390, 1394 (5th Cir. 1986). Rather, the States "need show only a significant threat of injury from the impending action, that the injury is imminent, and that money damages would not fully repair the harm." *Id.* Courts in this Circuit have held—repeatedly—that "increased costs to States from [federal immigration agency action], and [the] inability to recover from [the] federal government supports [the] determination that States

have suffered an irreparable injury for which remedies available at law are precluded due to sovereign immunity." *Texas MPP II*, 2022 WL 17718634 at *17. Those same harms exist here.

As described above, Texas spends millions upon millions of dollars providing services to illegal aliens because of the United States government's failure to enforce federal law—in this case, by paroling hundreds of thousands of aliens into the interior of the United States even though they are not eligible under any statute to be physically present in the country. The State spends tens of millions of dollars each year for increased law enforcement, and its citizens suffer increased crime, unemployment, environmental harm, and social disorder due to illegal immigration. A rise in illegal immigration thus strains Texas's finances and hampers its ability to provide essential services, such as emergency medical care, education, driver's licenses, and other public safety services. Moreover, the Supreme Court has ruled that increased crime causes an "ongoing and concrete harm" to the State's law enforcement and public safety interests, even aside from financial expenditures. *Maryland v. King,* 567 U.S. 1301, 1303 (2012).

The other States will suffer from the same types of injuries, as explained in the Complaint. Dkt. 18 ¶¶ 74–139.

Each State will suffer harm from the Defendants' unlawful program, which violates each of their sovereign and quasi-sovereign interests in its own territory and the welfare of its own citizens. *See Texas Prioritization*, 2022 WL 2109204 at *16 fn.46 (recognizing the implication of quasi-sovereign interests of Texas "being free from 'substantial pressure' from the federal government to change its laws, and Texas's interest in the enforcement of immigration law—the power to regulate immigration being a sovereign prerogative that Texas wholly ceded to the Government when it joined the Union.").

The detailed immigration system Congress established creates a reliance interest for States in the enforcement of the limitations on parole that Congress imposed. *Id.* The Defendants' defiance of those limitations harms each of the States, who have no control over the number of paroled aliens who decide to reside within their boundaries.

These harms are significant, but ultimately, "[w]hen determining whether injury is irreparable, 'it is not so much the magnitude but the irreparability that counts.'" *Louisiana v. Biden*, 55 F.4th 1017, 1034 (5th Cir. 2022). And as courts have repeatedly held, *see Texas MPP II*, 2022 WL 17718634, at *17, the injuries described above are irreparable because the Defendants' sovereign immunity prevents retrospective relief, *see also Louisiana*, 55 F.4th at 1034. Nor could the Plaintiffs recoup such costs from the parolees themselves. *See Texas DAPA*, 809 F.3d at 186; *Texas v. United States,* 86 F. Supp. 3d 591, 673 (S.D. Tex. 2015) ("The Court agrees that, without a preliminary injunction, any subsequent ruling that finds [a particular immigration policy] unlawful after it is implemented would result in the States facing the substantially difficult—if not impossible—task of retracting any benefits or licenses already provided to [immigrant] beneficiaries. This genie would be impossible to put back into the bottle.").

III. The Balance of the Equities and Public Interest Favor the States.

The Court should consider the balance-of-equities and public-interest elements together. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) (merging these two elements when the Government is the nonmoving party); *Texas DAPA*, 809 F.3d at 187 (same). It should weigh whether "the threatened injury outweighs any harm that may result from the injunction to the non-movant" and whether

"the injunction will not undermine the public interest." *Valley v. Rapides Parish Sch. Bd.*, 118 F.3d 1047, 1051, 1056 (5th Cir. 1997).

The balance of harms favors granting a preliminary injunction because the States' harm is immediate, irreparable, and continuing. The States have a significant interest in maintaining the health and safety of their residents. Conversely, the Defendants face essentially no harm from maintaining the status quo. Any inefficiency resulting from an injunction inhibiting the Defendants is outweighed by the financial losses the States will incur and the damage that increased illegal immigration will do to their citizens. *United States v. Escobar,* No. 2:17-cr-529, 2017 WL 5749620, at *2 (S.D. Tex. Nov. 28, 2017).

Also, the public is served when the law is followed, and "there is generally no public interest in the perpetuation of unlawful agency action." *Wages & White Lion Invs., LLC, v. U.S. Food & Drug Admin.*, 16 F.4th 528, 560 (5th Cir. 2021) (quoting *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016)).

The balance of equities and public interest weigh in favor of an injunction.

IV. Relief Should Be Nationwide.

"In the context of immigration law, broad relief is appropriate to ensure uniformity and consistency in enforcement." *Texas MPP*, 40 F.4th at 229 n.18. Here, "[t]here is a substantial likelihood that a geographically-limited [remedy] would be ineffective," as aliens would simply be paroled into the United States through a non-party State. *Id.*; *see also Louisiana v. Becerra,* 20 F.4th 260, 263 (5th Cir. 2021) (nationwide injunction appropriate in part "because of the constitutional command for 'uniform' immigration laws).

The same scope of relief is independently justified on the basis that unlawful agency actions are ordinarily "vacated—not that their application to the individual [plaintiffs] is proscribed." *Texas MPP II*, 2022 WL 17718634 at *18.

CONCLUSION

The States respectfully request that the Court preliminarily enjoin the Defendants from operating the Parole Program. The States further respectfully request all other relief to which they may be entitled.

Dated February 14, 2023.

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CERTIFICATE OF SERVICE

I certify that on February 14, 2023, I filed this motion through the Court's CM/ECF system, which served it on all counsel of record.

/s/ Leif A. Olson

CERTIFICATE OF WORD COUNT

I certify that this motion, according to the word-count function of Microsoft Word, on which this motion it prepared, contains 6,464 words.

/s/ Leif A. Olson

U.S. Department of Homeland Security

DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes

Release Date: January 5, 2023

En español **Lu an Kreyòl**

WASHINGTON – The Department of Homeland Security (DHS) continues to prepare for the end of the Title 42 public health order, which is currently the subject of multiple court orders, and a return to processing all noncitizens under the Department's Title 8 immigration authorities. To that end, DHS today announced new border enforcement measures to improve border security, limit irregular migration, and create additional safe and orderly processes for people fleeing humanitarian crises to lawfully come to the United States. These measures, taken together, are concrete steps to enhance the security of our border while the Title 42 public health order is in place, and that DHS will continue to build on in preparation for the Title 42 order being lifted.

- DHS is establishing new parole processes for Cubans, Haitians, and Nicaraguans, modeled on the successful processes for Venezuelans and Ukrainians, which combine safe, orderly, and lawful pathways to the United States, including authorization to work, with significant consequences for those who fail to use those pathways. We are also continuing the process with respect to Venezuelans.
- Through the CBP One app, we are also providing a new mechanism for noncitizens to schedule appointments to present themselves at ports of entry, facilitating safe and orderly arrivals. Initially this will be used for those seeking an exception from the Title 42 public health order. Once the Title 42 order is no longer in place, CBP One will be used to help ensure safe and orderly processing at ports of entry.
- DHS is increasing and enhancing the use of expedited removal under Title 8 authorities for those who cannot be processed under the Title 42 public health order. These efforts include surging personnel and resources and enrolling individuals under the asylum processing interim final rule published in March 2022.
- As a complement to these efforts, and in response to the unprecedented surge in migration across the hemisphere and to reduce encounters at our border, DHS and the Department of Justice (DOJ) intend to shortly issue a proposed rule that will, subject to public comment, incentivize the use of the new and existing lawful processes available in the Unites States and partner nations, and place certain conditions on asylum eligibility for those who fail to do so.

DHS will continue to monitor developments on the southwest border and will accelerate or implement additional measures, as needed, consistent with applicable court orders.

"We can provide humanitarian relief consistent with our values, cut out vicious smuggling organizations, and enforce our laws," said **Secretary Alejandro N. Mayorkas**. "Individuals without a legal basis to remain in the United States will be subject to prompt expulsion or removal. Individuals who are provided a safe, orderly, and lawful path to the United States are less likely to risk their lives traversing thousands of miles in the hands of ruthless smugglers, only to arrive at our southern border and face the legal consequences of unlawful entry."

As required by a combination of the Supreme Court's December 27 order and a separate district court injunction prohibiting the implementation of the CDC termination of the Title 42 public health order, the Title 42 order remains in effect, and individuals who attempt to enter the United States without authorization will continue to be expelled.

Country-Specific Enforcement Processes

Building upon the success of Uniting for Ukraine (https://www.uscis.gov/ukraine) and the process for Venezuelans (https://www.uscis.gov/venezuela) announced in October – which combine a safe and lawful pathway with a consequence for failing to use that pathway – today's announcement establishes similar processes for Cuban, Haitian, and Nicaraguan nationals who face unique challenges in their home countries. The Venezuelan process also will continue; Border Patrol saw a dramatic drop – 90 percent – in the number of Venezuelans encountered at the border following the establishment of the program in October. Nationals from Venezuela, Cuba, Haiti, and Nicaragua who do not avail themselves of this process, attempt to enter the United States without authorization, and cannot establish a legal basis to remain will be removed or returned to Mexico, which will accept returns of 30,000 individuals per month who fail to use these new pathways. The expansion of the Venezuela process to Cuba, Haiti, and Nicaragua is contingent

on the Government of Mexico's willingness to accept the return or removal of nationals from those countries. It also is responsive to a request from the Government of Mexico to provide additional legal pathways for migrants, and it advances both countries' interests in addressing the effects throughout the hemisphere of deteriorated conditions in these countries.

Specifically, these processes will provide a lawful and streamlined way for qualifying nationals of Cuba, Haiti, Nicaragua, and Venezuela to apply to come to the United States, without having to make the dangerous journey to the border. Through a fully online process, individuals can seek advance authorization to travel to the United States and be considered, on a case-by-case basis, for a temporary grant of parole for up to two years, including employment authorization, provided that they: pass rigorous biometric and biographic national security and public safety screening and vetting; have a supporter in the United States who commits to providing financial and other support; and complete vaccinations and other public health requirements. Individuals who enter the United States, Mexico, or Panama without authorization following today's announcement will generally be ineligible for these processes. These processes will allow up to 30,000 qualifying nationals per month from all four of these countries to reside legally in the United States for up to two years and to receive permission to work here, during that period.

Starting tomorrow, potential supporters can apply to DHS to support eligible individuals via www.uscis.gov/CHNV (http://www.uscis.gov/CHNV) . Individuals and representatives of organizations seeking to apply as supporters must declare their financial support, and they must pass security background checks to protect against exploitation and abuse.

Safe and Orderly Processes at Ports of Entry

To facilitate the safe and orderly arrival of noncitizens seeking an exception from the Title 42 public health order, DHS is expanding use of the free CBP One mobile app for noncitizens to schedule arrival times at ports of entry. Individuals do not need to be at the border to schedule an appointment; expanded access to the app in Central Mexico is designed to discourage noncitizens from congregating near the border in unsafe conditions. Initially, this new scheduling function will allow noncitizens to schedule a time and place to come to a port of entry to seek an exception from the Title 42 public health order for humanitarian reasons based on an individualized assessment of vulnerability. This will replace the current process for individuals seeking exceptions from the Title 42 public health order, which requires noncitizens to submit requests through third party organizations located near the border.

Once the Title 42 public health order is no longer in place, this scheduling mechanism will be available for noncitizens, including those who seek to make asylum claims, to schedule a time to present themselves at a port of entry for inspection and processing, rather than arriving unannounced at a port of entry or attempting to cross in-between ports of entry. Those who use this process will generally be eligible for work authorization during their period of authorized stay.

Individuals who use the CBP One app will be able to schedule an appointment to present themselves at the following ports of entry:

- Arizona: Nogales;
- Texas: Brownsville, Hidalgo, Laredo, Eagle Pass, and El Paso (Paso Del Norte); and
- California: Calexico and San Ysidro (Pedestrian West – El Chaparral).

During their inspection process, noncitizens must verbally attest to their COVID-19 vaccination status and provide, upon request, proof of vaccination against COVID-19 in accordance with Title 19 vaccination requirements.

Individuals will be able to schedule appointments in CBP One in the coming days. The CBP One application is free to download and available in the Apple and Google App Stores as well as at https://www.cbp.gov/about/mobile-apps-directory/cbpone (https://www.cbp.gov/about/mobile-apps-directory/cbpone) .

Enhanced Use of Expedited Removal

We will comply with the court orders that require us to continue enforcing the Title 42 public health order. There are, however, migrants who cannot be expelled pursuant to Title 42 authorities and as a result are processed under Title 8 authorities. For those processed under Title 8, we are increasing and enhancing our use of expedited removal, which allows for the prompt removal of those who do not claim a fear of persecution or torture or are determined not to have a credible fear after an interview with an Asylum Officer, in accordance with established procedures.

This enhanced expedited removal process will include: dedicating additional resources including personnel, transportation, and facilities; optimizing processes across DHS and DOJ; and working with the State Department and countries in the region to increase repatriations. We also will continue to process individuals under the interim final rule published in March 2022 outlining procedures for U.S. Citizenship and Immigration Services to process asylum requests for noncitizens found to have a credible fear. Together, these measures will allow for the prompt removal of those who do not have a

legal basis to stay and improve our overall preparedness for when the Title 42 public health order is lifted. Individuals removed under Title 8 are subject to a five-year bar on admission and potential criminal prosecution should they seek to reenter.

Notice of Proposed Rulemaking

As a complement to these efforts, and in response to the unprecedented surge in migration across the hemisphere and to reduce encounters at our border, DHS and DOJ intend to issue a proposed rule to provide that individuals who circumvent available, established pathways to lawful migration, and also fail to seek protection in a country through which they traveled on their way to the United States, will be subject to a rebuttable presumption of asylum ineligibility in the United States unless they meet exceptions that will be specified. Individuals who cannot establish a valid claim to protection under the standards set out in the new rule will be subject to prompt removal under Title 8 authorities, which carries a five-year ban on reentry. DHS and DOJ will invite public comment on the proposed rule.

Overall, through today's announcements, DHS is strengthening the availability of legal, orderly pathways to the United States while imposing consequences on those who fail to use pathways made available to them by the United States and its regional partners.

These new measures complement ongoing efforts to increase refugee resettlement from the Western Hemisphere. The U.S. Government intends to welcome at least 20,000 refugees from Latin America and the Caribbean in Fiscal Year 2023 and 2024, putting the United States on pace to more than triple refugee admissions from the Western Hemisphere this Fiscal Year alone. This delivers on the President's commitment under the Los Angeles Declaration for Migration and Protection to scale up refugee admissions from the Western Hemisphere.

Taken together, these efforts will: reduce irregular migration by disincentivizing migrants from taking the dangerous journey to the southwest border of the United States and attempting to cross without authorization; significantly expand lawful pathways to the United States for vetted individuals; and reduce the role for – and profits of – smuggling networks that callously endanger migrants' lives for personal gain.

The Department is taking these measures in light of Congress's failure to pass the comprehensive immigration reform measures President Biden proposed on his first day in office and the economic and political instability around the world that is fueling the highest levels of migration since World War II, including throughout the Western Hemisphere. The surge in global migration is testing many nations' immigration systems, including that of the United States. The actions announced today are part of the Biden-Harris Administration's ongoing commitment to enforce our laws and build a fair, orderly, and humane immigration system, and build on efforts outlined in the Department's December 2022 Update on Southwest Border Security and Preparedness (/publication/update-southwest-border-security-and-preparedness-ahead-court-ordered-lifting-title-42). Today's announcements also show the imperative of partner countries working together, as agreed in the Los Angeles Declaration following the Summit of the Americas, to take action against smugglers and provide protection to asylum seekers. Hemispheric challenges require hemispheric solutions.

Everyone agrees that we are operating within a fundamentally broken immigration system. The steps we are taking reflect the constraints of our outdated statutes, which have not been updated in decades and were designed to address a fundamentally different migratory reality than that which exists today along the southwest border and around the world. As it has since its first day in office, the Biden-Harris Administration continues to call on Congress to pass legislation that strengthens border security, holistically addresses the root causes of migration, and improves legal pathways. We also encourage Congress to provide critical funding and advance bipartisan efforts to create a fair, fast, and functioning asylum system – enabling those who merit protection to quickly receive it, and those who do not to quickly be removed. In the absence of such action, the Administration is committed to pursuing every avenue within its authority to secure our borders, enforce our laws, and stay true to our values as we build safe, orderly, and humane processes.

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Topics

BORDER SECURITY (/TOPICS/BORDER-SECURITY) CITIZENSHIP AND IMMIGRATION SERVICES (/TOPICS/CITIZENSHIP-AND-IMMIGRATION-SERVICES) INTERNATIONAL ENGAGEMENT (/TOPICS/INTERNATIONAL-ENGAGEMENT)

Keywords

BORDER SECURITY (/KEYWORDS/BORDER-SECURITY) IMMIGRATION (/KEYWORDS/IMMIGRATION) IMMIGRATION ENFORCEMENT (/KEYWORDS/IMMIGRATION-ENFORCEMENT) SECRETARY ALEJANDRO MAYORKAS (/KEYWORDS/SECRETARY-ALEJANDRO-MAYORKAS)

Last Updated: 01/05/2023

Processes for Cubans, Haitians, Nicaraguans, and Venezuelans

ALERT: Starting Jan. 6, 2023, you must submit Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, if you are a potential supporter of a:

- Ukrainian or their immediate family member as part of Uniting for Ukraine; or
- Cuban, Haitian, Nicaraguan, or Venezuelan or their immediate family member as part of the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans.

You should not file Form I-134, Declaration of Financial Support, if you are a potential supporter of an individual under Uniting for Ukraine or the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans.

If you submitted Form I-134 online before Jan. 6, 2023, under Uniting for Ukraine or the Process for Venezuelans, your case will continue to process and no further action is required. You should **not** submit a Form I-134A.

ALERT: Access to the processes is free. Neither the U.S.-based supporter nor the beneficiary is required to pay the U.S. government a fee to file the Form I-134A, be considered for travel authorization, or parole. Beware of any scams or potential exploitation by anyone who asks for money associated with participation in this process.

DHS has announced processes through which nationals of Cuba, Haiti, Nicaragua, and Venezuela, and their immediate family members, may request to come to the United States in a safe and orderly way. Qualified beneficiaries who are outside the United States and lack U.S. entry documents may be considered, on a case-by-case basis, for advanced authorization to travel and a temporary period of parole for up to two years for urgent humanitarian reasons or significant public benefit. To participate, eligible beneficiaries must:

- Have a supporter in the United States;
- Undergo and clear robust security vetting;

- Meet other eligibility criteria; and
- Warrant a favorable exercise of discretion.

Individuals participating in these processes must have a supporter in the United States who agrees to provide them with financial support for the duration of their parole in the United States. The first step in the process is for the U.S.-based supporter to file a Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, with USCIS for each beneficiary they seek to support, including minor children. The U.S. government will then review the supporter information provided in the Form I-134A to ensure that they are able to financially support the beneficiaries they are agreeing to support.

See below for additional information on the processes and country specific eligibility requirements. Additional information is also available on our Frequently Asked Questions About the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans page.

Close All Open All

Eligibility

Term	Definition
Supporter	An individual who holds lawful status in the United States or is a parolee or beneficiary of deferred action or Deferred Enforced Departure (DED) who has passed security and background vetting and demonstrated sufficient financial resources to receive, maintain, and support the individual(s) whom they commit to supporting for the duration of their stay in the United States. Examples of individuals who meet the supporter requirement include: • U.S. citizens and nationals; • Lawful permanent residents, lawful temporary residents, and conditional permanent residents; • Nonimmigrants in lawful status (who maintain their nonimmigrant status and have not violated any of the terms or conditions of their nonimmigrant status); • Asylees, refugees, and parolees; • Individuals granted Temporary Protected Status (TPS); and Beneficiaries of deferred action (including deferred action for childhood arrivals) or DED.

Term	Definition
Beneficiary	A national of Cuba, Haiti, Nicaragua, or Venezuela (or their immediate family member of any nationality) who is outside the United States and who may be considered for parole under these processes. Immediate family members of any nationality in these processes include: • A spouse or common-law partner; and • Unmarried child(ren) under the age of 21. NOTE: If a child is under 18, they must be traveling with a parent or legal guardian in order to use this process.

Who May be Considered for Advance Travel Authorization

In order to be eligible to request and ultimately be considered for an advance authorization to travel to the United States to seek parole under these processes, beneficiaries must:

- Be outside the United States;
- Be a national of Cuba, Haiti, Nicaragua, or Venezuela; or be an immediate family member (spouse, common-law partner, and/or unmarried child under the age of 21) who is traveling with an eligible Cuban, Haitian, Nicaraguan, or Venezuelan;
- Have a U.S.-based supporter who filed a Form I-134A on their behalf that USCIS has vetted and confirmed;
- Possess an unexpired passport valid for international travel;
- Provide for their own commercial travel to an air U.S. POE and final U.S. destination;
- Undergo and pass required national security and public safety vetting;
- Comply with all additional requirements, including vaccination requirements and other public health guidelines; and
- Demonstrate that a grant of parole is warranted based on significant public benefit or urgent humanitarian reasons, and that a favorable exercise of discretion is otherwise merited.

An individual is ineligible to be considered for parole under these processes if that person is a dual national or permanent resident of, or holds refugee status in, another country, unless DHS operates a similar parole process for the country's nationals. This requirement does not apply to immediate family members (spouse, common-law partner, or unmarried child under the age of 21) of an eligible national of Cuba, Haiti, Nicaragua, or Venezuela with whom they are traveling.

In addition, a potential beneficiary is ineligible for advance authorization to travel to the United States as well as parole under these processes if that person:

- Fails to pass national security and public safety vetting or is otherwise deemed not to merit a favorable exercise of discretion;
- Has been ordered removed from the United States within the prior five years or is subject to a bar to inadmissibility based on a prior removal order;

- Has crossed irregularly into the United States, between the POEs, after the date the process was announced (for Venezuelans, after Oct. 19, 2022; for Cubans, Haitians, and Nicaraguans, after Jan. 9, 2023), except individuals permitted a single instance of voluntary departure pursuant to INA § 240B, 8 U.S.C. § 1229c or withdrawal of their application for admission pursuant to INA § 235(a)(4), 8 U.S.C. § 1225(a)(4) will remain eligible;
- Has irregularly crossed the Mexican or Panamanian border after the date the process was announced (for Venezuelans, after Oct. 19, 2022; for Cubans, Haitians, and Nicaraguans, after Jan. 9, 2023); or
- Is under 18 and not traveling through this process accompanied by a parent or legal guardian, and as such is a child whom the inspecting officer would determine to be an unaccompanied child.

Important Note about Venezuelan Passports

The beneficiary must have a valid, unexpired passport. Certified extensions of passport validity serve to meet this requirement. If a beneficiary's passport validity has been extended, the expiration date of the extension should be reflected as the passport expiration date. CBP will not authorize travel if the beneficiary's passport or extension is expired.

Consistent with the National Assembly decree of May 21, 2019, certain expired Venezuelan passports remain valid. A Venezuelan passport:

- Issued before June 7, 2019 (even if expired before this date), without a passport extension ("prórroga"), is considered valid and unexpired for five years beyond the expiration date printed in the passport.
- Issued before June 7, 2019 (even if expired before this date), with a "prórroga" issued before June 7, 2019, is considered valid and unexpired for five years beyond the expiration date of the "prórroga."
- Issued before June 7, 2019 (even if expired before this date), with a "prórroga" issued on or after June 7, 2019, is considered valid and unexpired through the expiration date of the "prórroga" or for five years beyond the expiration date printed in the passport, whichever is later.
- Issued on or after June 7, 2019, without a "prórroga" is not considered valid beyond the expiration date printed in the passport.
- Issued on or after June 7, 2019, with a "prórroga" issued on or after June 7, 2019, is considered valid and unexpired through the expiration date of the "prórroga."

Unaccompanied Children

Children under the age of 18 traveling without their parent or legal guardian are not eligible for advance authorization to travel or parole under these processes. Upon arrival at a U.S. port of entry, a child who is not traveling with their parent or legal guardian may be transferred to the custody of the Department of Health and Human Services (HHS), as required by law under the Trafficking Victims Protection Reauthorization Act of 2008. For more information, please visit the HHS Unaccompanied Children webpage.

Since they are ineligible to pursue travel authorization under these processes, children who are not traveling with a parent or legal guardian but are coming to the United States to meet a parent or legal guardian may instead seek parole through the standard Form I-131 parole process. In the Form I-131 parole process, children who wish to travel without a parent or legal guardian will need written permission from all adults with legal custody of the child (including parents or legal guardians) to travel to the United States.

Evidence to accompany the Form I-131 will need to include the duration of the stay in the United States and evidence of relationship between the child and the parent or legal guardian in the United States. If the legal guardian is providing the written permission, the requestor must include proof of legal guardianship issued by a government authority. In addition, the application should include a statement about the relationship of the child to the person filing the Form I-131, and if they intend to provide care and custody of the child in the United States or reunite the child with a parent or legal guardian in the United States. For more information, please see our Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole page, which has information about the requirements for requesting parole for children.

You may request a fee waiver when submitting a Form I-131 for a child as described in the above paragraph. For more information on how to request a fee waiver, please see the Form I-912, Request for Fee Waiver, webpage.

Who Can be a Supporter

U.S.-based supporters will initiate an online request on behalf of a named beneficiary, by submitting a Form I-134A to USCIS for each beneficiary, including minor children. Supporters can be individuals filing independently, filing with other individuals, or filing on behalf of organizations, businesses, or other entities. There is no fee required to file Form I-134A. The supporter will be vetted by the U.S. government to protect against exploitation and abuse and to ensure that they are able to financially support the beneficiary they are agreeing to support.

To serve as a supporter, an individual or individual representing an entity must:

- Be a U.S. citizen, national, or lawful permanent resident; hold a lawful status in the United States such as Temporary Protected Status or asylum; or be a parolee or recipient of deferred action or Deferred Enforced Departure;
- Pass security and background vetting, including for public safety, national security, human trafficking, and exploitation concerns; and
- Demonstrate sufficient financial resources to receive, maintain, and support the individual(s) they are agreeing to support for the duration of their parole period.

Supporters who file Form I-134A on behalf of a beneficiary under these processes must be willing and able to receive, maintain, and support the beneficiary listed in Form I-134A for the duration of their parole. Examples of the types of support for beneficiaries that supporters should keep in mind when considering their ability to meet this commitment include:

- Receiving the beneficiary upon arrival in the United States and transporting them to initial housing;

- Ensuring that the beneficiary has safe and appropriate housing for the duration of their parole and initial basic necessities;
- As appropriate, helping the beneficiary complete necessary paperwork such as for employment authorization, for a Social Security card, and for services for which they may be eligible;
- Ensuring that the beneficiary's health care and medical needs are met for the duration of the parole; and
- As appropriate, assisting the beneficiary with accessing education, learning English, securing employment, and enrolling children in school.

Supporters must include the name of the beneficiary on Form I-134A. Supporters may not file a Form I-134A on behalf of an unnamed beneficiary. A supporter may agree to support more than one beneficiary, such as for different members of a family group, but must file a separate Form I-134A for each beneficiary.

Supporters must file a separate Form I-134A for each beneficiary, even minor children. Multiple supporters may join together to support a beneficiary. In this case, a supporter should file a Form I-134A and in the filing include supplementary evidence demonstrating the identity of, and resources to be provided by, the additional supporters and attach a statement explaining the intent to share responsibility to support the beneficiary. These supporters' ability to support a beneficiary will be assessed collectively.

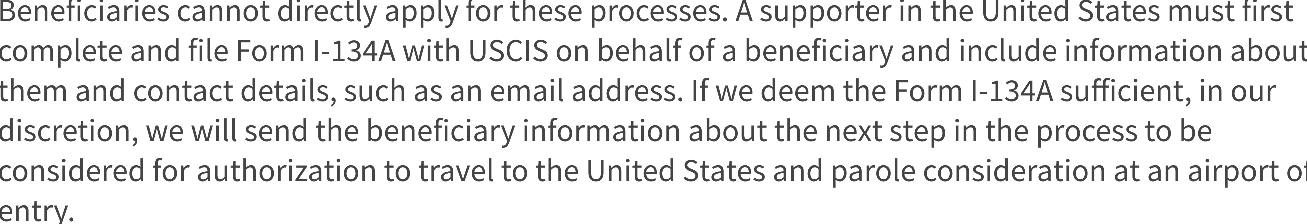
Organizations, businesses, and other entities can play a critical role in providing support for beneficiaries arriving through this process. Although an individual is required to file and sign the Form I-134A, they can do so in association with or on behalf of an organization, business, or other entity that will provide some or all of the necessary support to the beneficiary. Individual supporters filing with or on behalf of an organization, business, or other entity should submit evidence of the entity's commitment to support the beneficiary when they file the Form I-134A. This can be demonstrated through a letter of commitment or other documentation from an officer or other credible representative of the organization, business, or other entity describing the monetary or other types of support (such as housing, basic necessities, transportation, etc.) the entity will be providing to the specific beneficiary. Individuals who are filing in association with an organization, business, or other entity do not need to submit their personal financial information, if the level of support demonstrated by the entity is sufficient to support the beneficiary.

Organizations outside of the government may be able to help potential supporters and beneficiaries to prepare for this process. Two organizations that specialize in providing the public with information about providing welcome to newcomers and resources to support participation in these processes are listed below.

- Welcome.us provides information on welcoming and supporting newcomer populations.
- Community Sponsorship Hub has established the Sponsor Circle Program, which can provide resources and ongoing guidance to supporters.

This information is provided for informational purposes only. DHS does not endorse these entities. Using these entities in lieu of any other entity does not give any parolee preferential treatment in the adjudication of their application.

Process Steps



Beneficiaries cannot directly apply for these processes. A supporter in the United States must first complete and file Form I-134A with USCIS on behalf of a beneficiary and include information about them and contact details, such as an email address. If we deem the Form I-134A sufficient, in our discretion, we will send the beneficiary information about the next step in the process to be considered for authorization to travel to the United States and parole consideration at an airport of entry.

Once beneficiaries receive their travel authorization, they should arrange to fly directly to their final destination in the United States. Upon arrival at the interior port of entry, individuals will be inspected by CBP and required to submit additional information, to include fingerprints, for further biometric vetting, and then be considered for a discretionary grant of parole. Those who attempt to enter the U.S. at land ports of entry will not be considered for parole through this process and will generally be denied entry.

The key steps in the processes include:

Step 1: Financial Support

- A U.S.-based supporter will submit a Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, with USCIS through the online myUSCIS web portal to initiate the process. The Form I-134A identifies and collects information on both the supporter and the beneficiary. The supporter must submit a separate Form I-134A for each beneficiary they are seeking to support, including immediate family members and minor children.
- USCIS will then vet the supporter to ensure that they are able to financially support the individual they are agreeing to support and to protect against exploitation and abuse. USCIS, in our discretion, must vet and confirm supporters before they move forward in the process.

Step 2: Submit Biographic Information

- If USCIS confirms a supporter, the listed beneficiary will receive an email from USCIS with instructions on how to create a USCIS online account and other next steps. The beneficiary must confirm their biographic information in myUSCIS and attest to meeting the eligibility requirements.
- As part of confirming eligibility in their online account, individuals who seek authorization to travel to the United States must confirm that they meet public health requirements, including certain vaccination requirements.

Step 3: Submit Request in CBP One Mobile Application

- After confirming biographic information in their online account and completing required eligibility attestations, the beneficiary will receive instructions through myUSCIS on how to access the CBP One mobile application (PDF, 771.55 KB). The beneficiary must enter their biographic information into CBP One and provide a photo.

Step 4: Advance Travel Authorization to the United States

- After completing Step 3, the beneficiary will receive a notice in their online account confirming whether CBP will, in its discretion, provide them with advance authorization to travel to the United States to seek a discretionary grant of parole on a case-by-case basis.
- If approved, this authorization is valid for 90 days. Beneficiaries are responsible for securing their own travel via air to the United States. Approval of advance authorization to travel does not guarantee entry or parole into the United States at a U.S. port of entry. Parole is a discretionary determination made by CBP at the port of entry, based on a finding that parole is warranted due to urgent humanitarian reasons or significant public benefit.

Step 5: Seeking Parole at the Port of Entry

- When a beneficiary arrives a port of entry, CBP will inspect them and consider them for a grant of discretionary parole on a case-by-case basis.
- As part of the inspection, beneficiaries will undergo additional screening and vetting, to include additional fingerprint biometric vetting consistent with the CBP inspection process. Individuals who are determined to pose a national security or public safety threat, or otherwise not warrant parole as a matter of discretion upon inspection, will be processed under an appropriate processing pathway and may be referred to U.S. Immigration and Customs Enforcement (ICE).

Step 6: Parole

- Individuals granted parole under these processes generally will be paroled into the United States for a period of up to two years, subject to applicable health and vetting requirements, and will be eligible to apply for employment authorization under existing regulations.
- Individuals granted parole may request work authorization from USCIS by filing a Form I-765, Application for Employment Authorization, either online or via mail.

What to Expect After Filing Form I-134A

After the supporter files the Form I-134A with USCIS, we will review the form and supporting evidence to ensure that the supporter has sufficient financial resources to support the beneficiary for the duration of the parole period and conduct background checks on the supporter. We will determine whether the Form I-134A is sufficient, and we may request additional evidence to make our determination. If approved, beneficiaries will receive an email from USCIS with instructions on how to set up a USCIS online account and other next steps. Individuals should check their email, including spam and junk folders, for important messages from USCIS.

If the Form I-134A is Sufficient

If we confirm in our discretion that the Form I-134A is sufficient, the beneficiary will receive an email from USCIS with instructions on how to set up a USCIS online account and other next steps. The beneficiary must confirm their biographic information on myUSCIS and attest to completion of all requirements, including:

- An attestation affirming that

- you are not a permanent resident or dual national of any country other than your country of nationality, and that you do not currently hold refugee status in any country, unless DHS operates a similar parole process for the country's nationals; or
- you are the spouse, common-law partner, or unmarried child under the age of 21 and traveling with an eligible national;

- An attestation to certify understanding of the family relationship requirements for children under 18; and
- An attestation that you have completed vaccine requirements or are eligible for an exception to vaccine requirements for measles, polio, and the first dose of a COVID-19 vaccine approved or authorized by the U.S. Food and Drug Administration (FDA) or Emergency Use Listed (EUL) by the World Health Organization (WHO).

After arriving in the United States, the beneficiary must attest to receiving a medical screening for tuberculosis, including an Interferon-Gamma Release Assay (IGRA) test, within 90 days.

Find more information on vaccine requirements on the preview of the vaccine attestation page .

If the Form I-134A is Insufficient

If we are unable to confirm the Form I-134A is sufficient, that decision is final. The beneficiary will receive an email from USCIS notifying them that we determined the Form I-134A filed on their behalf was insufficient. We will not consider the beneficiary for parole under this parole process based on the insufficient Form I-134A. However, the supporter may file a new Form I-134A on behalf of the same or another beneficiary, or a different supporter may file a Form I-134A on behalf of the beneficiary.

Authorization to Travel to the United States

Once the beneficiary has confirmed their biographic information and attested to completing all other requirements, we will process their case further. Beneficiaries will receive an email instructing them to check their online account in myUSCIS for the result of their authorization to travel. This authorization is valid for 90 days.

If the beneficiary has been authorized to travel to the United States, they must arrange and fund their own travel. Beneficiaries must arrange to fly to the United States by air directly to an interior port of entry and their final destination.

After the Beneficiary is Paroled into the United States

Applying for Employment Authorization

After you (the beneficiary) are paroled into the United States, you are eligible to apply for discretionary employment authorization from USCIS. To apply for an Employment Authorization Document (EAD), you must submit Form I-765, Application for Employment Authorization, using the (c)(11) category code with the required fee or apply for a fee waiver.

To file Form I-765 online, eligible applicants will access their USCIS online account at my.uscis.gov.

Applicants who are requesting a waiver of the Form I-765 filing fee must submit Form I-765 by mail.

Obtaining a Social Security Number and Card

We encourage you to apply for a Social Security number (SSN) using Form I-765, Application for Employment Authorization, and following the form instructions. If you request an SSN in Part 2 (Items 13.a-17.b) of your Form I-765, and your application is approved, USCIS will electronically transmit that data to the Social Security Administration (SSA), and SSA will assign you an SSN and issue you a Social Security card. SSA will mail your Social Security card directly to the address you provide on Form I-765. Social Security numbers generally are assigned to people who are authorized to work in the United States. Social Security numbers are used to report your wages to the government and to determine eligibility for Social Security benefits.

If you do not request an SSN on your Form I-765, you can apply for an SSN after you receive your EAD from USCIS using the instructions on SSA's Social Security Number and Card webpage.

Address Updates

If you are residing in the United States longer than 30 days, you must report your physical address in the United States. You can change your address online and update your address on any pending applications and petitions at the same time using the USCIS Online Change of Address system. You must report a change of address within 10 days of moving within the United States or its territories.

The above method of changing your address will update the address on file with USCIS for all pending applications, petitions, or requests that you include receipt numbers for on the form.

It is important to include the receipt number for any pending cases with USCIS with your address change request, so we can update the address associated with those cases. We will mail secure documents to the address on file. You can find the receipt number on the receipt notice (Form I-797C, Notice of Action) that we issued after you filed your application or petition. We send receipt notices to the address listed on the application or petition.

Terminating Your Parole

If you have already been paroled into the United States, your parole will automatically be terminated if:

- You depart the United States; or
- Your parole period expires.

DHS may also decide to terminate your parole in its discretion for other reasons, such as violating any laws of the United States. Individuals with expired parole are expected to depart the country of their own accord. Individuals in the United States encountered after their parole has terminated generally will be placed in removal proceedings.

Contacting USCIS About Form I-134A

We recommend that you submit inquiries by sending a secure message from your USCIS online account. You may call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833). The number for those outside the United States is 212-620-3418. For more information, below are responses to frequently asked questions.

Q. What if I have an issue with account access or need a password reset?
A. Please use our online need help form.

Q. If I need to submit an inquiry on my case or have a general question about my account, how can I contact USCIS?
A. The best way to contact us depends on the type of inquiry. If you need to correct information on Form I-134A, you should send a secure message using your USCIS online account. For general questions or inquiries about status of a Form I-134A, you can send a secure message from your USCIS account or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833). If you are outside the United States, you can reach the USCIS Contact Center at +1-212-620-3418.

Q. If I (a supporter) entered an incorrect email address for the beneficiary on Form I-134A, what is the fastest way to submit the correction and get USCIS to resend the Account Access email to the beneficiary?
A. Log into your USCIS online account, go to the Notices tab, and use the Unsolicited Evidence feature to upload a letter the supporter has signed by hand (not electronically). The letter should:

- Explain that the email address for the beneficiary they entered on Form I-134A was incorrect; and
- Request that USCIS update the beneficiary's email address and send the USCIS Account Notice to the beneficiary's correct email address.

Note: The letter should list both the original, incorrect email address provided on the Form I-134A and the updated, correct email address for the beneficiary. Keep the original signed letter in case we ask for it later.

You should then send a secure message from your USCIS online account:

1. Log in to your online account, select the MyAccount dropdown, then select Inbox;
2. Select "New message," then "A case already filed online";
3. Select your receipt number for Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, from the drop-down menu; and
4. State in your message that the beneficiary's email address needs to be changed and that you have uploaded unsolicited evidence. Your message should include both the original, incorrect email address and the updated, correct email address for the beneficiary.

We will review the request, make appropriate updates, and issue the beneficiary a copy of the USCIS Account Notice using the updated, correct email address. We will also notify you by email that the issue has been resolved.

Q. How can I correct my passport information on Form I-134A?
A. If we have already confirmed the Form I-134A submitted by your supporter, and your passport information is incorrect, you will need to use your online account to:

- Upload a copy of your valid, unexpired passport as Unsolicited Evidence in your Notices tab; and
- Send USCIS a message from your Inbox. In the message, you must indicate that you have submitted evidence to correct passport information.

You will receive a response in your inbox. Do not submit your attestations to CBP until we respond to the request to update your passport information. Submitting the attestations before you receive a response from USCIS could affect your travel authorization and request for parole.

Q. USCIS has confirmed my Form I-134A, but you have not contacted my beneficiary yet. What should I do?
A. If your beneficiary has not received the emailed notices, you should review the Form I-134A and ensure you provided the correct email address. If the email address is correct, the beneficiary should check their spam and junk mail folders. While we cannot address case-specific questions, in general, in situations where the beneficiary has not received their Account Notice, call the USCIS Contact Center. The number for those outside the United States is +1-212-620-3418. Alternatively, the supporter can send USCIS a secure message regarding the issue through their own USCIS online account, and after we complete the verification process, we can email the Account Notice to the beneficiary's email that we have on file.

If the email address is incorrect, log in to your USCIS online account, go to the Notices tab, and use the Unsolicited Evidence feature to upload a letter you have signed by hand (not electronically). The letter should:

- Explain that the email address for the beneficiary you entered on Form I-134A was incorrect; and
- Request that USCIS update the beneficiary's email address and send the USCIS Account Notice to the beneficiary's correct email address.

Note: Your letter should list both the original, incorrect email address provided on the Form I-134A and the updated, correct email address for the beneficiary. You must also keep the original signed letter in case we ask for it later.

If a beneficiary still cannot find the notices, they should call the USCIS Contact Center at 800-375-5283. The number for those outside the United States is +1-212-620-3418.

Resources for Victims of Abuse, Violence, or Exploitation

Please note that beneficiaries are not obligated to repay, reimburse, work for, serve, marry, or otherwise compensate their supporter in exchange for filing Form I-134A on their behalf or for providing financial support while they are in the United States.

Access to these processes is free. Neither the supporter nor the beneficiary is required to pay the U.S. government a fee for the Form I-134A. Beware of any scams or potential exploitation by anyone who asks for money associated with the Form I-134A or participation in these processes.

DHS recommends the following actions to avoid intimidating situations:

- Avoid individuals who promise to "get you to the United States quickly" if you pay an exorbitant sum of money.
- Keep your passport and other identity documents in your possession at all times.
- If you are concerned that the individual who filed Form I-134A on your behalf is not a legitimate organization or entity or legal representative, see the Scams, Fraud, and Misconduct webpage.

Call the 24-hour National Human Trafficking Hotline at 1-888-373-7888 or report an emergency to law enforcement by calling 911. Trafficking victims, whether or not U.S. citizens, are eligible for services and immigration assistance.

There are many forms of abuse and exploitation, including domestic violence, forced marriage, and human trafficking. In the United States, there are laws that may help you avoid or escape an abusive situation.

- **Domestic Violence** is a pattern of behavior in a relationship that is used to gain or maintain power and control over an intimate partner, parent, or child. Domestic abuse can involve physical, sexual, emotional, financial, or psychological abuse or threats.
- **Forced marriage** is a marriage that takes place without the consent of one or both people in the marriage. Consent means that you have given your full, free, and informed agreement to marry your intended spouse and to the timing of the marriage. Forced marriage may occur when family members or others use physical or emotional abuse, threats, or deception to force you to marry without your consent. For additional information on forced marriage, please visit the Forced Marriage webpage.
- **Human Trafficking** involves exploiting someone to compel a commercial sex act or forced labor. Generally, this exploitation must involve force, fraud, or coercion to be considered human trafficking. However, if someone under 18 years old is induced to perform a commercial sex act, that is considered human trafficking even if there is no force, fraud, or coercion.

If you have experienced or fear forced marriage, domestic violence, human trafficking, or other abuse, please contact the resources below to receive free help in your language:

- **National Domestic Violence Hotline:** 800-799-7233, 800-787-3224 (TTY), www.ndvh.org
- **National Center for Missing and Exploited Children:** 800-843-5678, www.missingkids.com
- **The National Center for Victims of Crime:** 800-394-2255, 800-211-7996 (TTY), www.victimsofcrime.org
- **National Human Trafficking Hotline:** 888-373-7888, Text: 233733

For more information and additional resources related to gender-based violence, see the DHS Gender-Based Violence Pamphlets.

Protect Yourself from Immigration Scams

- We do not want you to become the victim of an immigration scam. If you need legal advice on immigration matters, make sure the person helping you is authorized to give legal advice. Only an attorney or accredited representative working for a Department of Justice recognized

organization can give you legal advice. Visit the Avoid Scams page for information and resources.

Some common scams to be aware of include:

- **Government impersonators:** Look out for individuals who pose as USCIS officials. USCIS will only contact you through official government channels and will not contact you through your personal social media accounts (such as Facebook, Twitter, LinkedIn, etc.).
- **Misleading offers of support:** Look out for individuals who attempt to contact you online or through your social media accounts to offer to be your supporter or connect you to a supporter in exchange for a fee or other form of compensation. Similarly, look out for individuals seeking biographic information from you, such as your passport number or date of birth, through your social media accounts, to offer to support you for parole. Supporters should be able to provide financial support to beneficiaries for up to a 2-year period of parole. Beneficiaries are not obligated to repay, reimburse, work for, serve, marry, or otherwise compensate their supporter in exchange for the potential supporter submitting Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, on their behalf or for providing financial support while they are in the United States. Find more information on potential exploitation and abuse in the Understand Your Rights (PDF) guide.
- **Scam Websites:** Some websites claim to be affiliated with USCIS and offer step-by-step guidance on completing a USCIS application or petition. Make sure your information is from uscis.gov, dhs.gov, or is affiliated with uscis.gov. Make sure the website address ends with .gov.
- **Payments by Phone or Email:** USCIS will never ask you to transfer money to an individual. We do not accept Western Union, MoneyGram, PayPal, or gift cards as payment for immigration fees. In addition, we will never ask you to pay fees to a person on the phone or by email.
- **Notarios Públicos and unauthorized practitioners of immigration law:** In the United States, a notario público is not authorized to provide you with any legal services related to immigration benefits. Only an attorney or an accredited representative working for a Department of Justice (DOJ)-recognized organization can give you legal advice. For more information about finding legal services, visit our website.

Related Links

- Form I-134A, Online Request to be a Supporter and Declaration of Financial Support
- Form I-134A, Online Request to be a Supporter and Declaration of Financial Support (PDF, 556.5 KB)
- Frequently Asked Questions About the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans

Close All Open All

Last Reviewed/Updated: 02/03/2023

United States District Court
Northern District of Texas
Amarillo Division

STATE OF TEXAS, *Plaintiff,* v. ALEJANDRO MAYORKAS, in his official capacity as Secretary of Homeland Security, *et al.*, *Defendants.*	Case 2:22-cv-00094

Declaration of Sheri Gipson

1. My name is Sheri Gipson. I am over the age of 18 and fully competent in all respects to make this declaration. Each statement in this declaration is within my personal knowledge.

2. I am the Chief of the Texas Department of Public Safety ("DPS") Driver License Division. In this capacity, I oversee DPS's issuance of driver licenses and identification cards to residents of the State of Texas.

3. I was appointed to my current position and confirmed by the Texas Public Safety Commission in February 2020. Before that, I served as Assistant Chief of the Driver License Division from March 2016 through February 2020. I have worked for the Driver License Division of DPS for 39 years.

4. An individual applying for an original driver license "who is not a citizen of the United States must present to [DPS] documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States before the applicant may be issued a driver's license." Tex. Transp. Code § 521.142(a). DPS "may not deny a driver's license to an applicant who provides documentation described by Section 521.142(a) based on the duration of the person's authorized stay in the United States, as indicated by the documentation presented…." *Id.* § 521.1425(d).

5. An individual applying for an original personal identification certificate "who is not a citizen of the United States must present to [DPS] documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States." Tex. Transp. Code § 521.101(f-2). DPS "may not deny a personal identification certificate to an application who complies with Subsection (f-2) based on the duration of the person's authorized stay in the United States, as indicated by the documentation presented…." *Id.* § 521.101(f-4).

6. If an individual presents documentation issued by the federal government showing authorization to be in the United States (such as an Employment Authorization Document), and otherwise meets eligibility requirements, DPS will issue a limited-term driver license or personal identification certificate to a non-citizen resident of Texas. A license or identification certificate issued to such an applicant is limited to the term of the applicant's lawful presence, which is set by the federal government when it authorizes that individual's presence. In fiscal year 2019 (September 2018 through August 2019), DPS issued 386,898 limited-term licenses and identification certificates. In fiscal year 2020 (September 2019 through August 2020), DPS issued 304,031 limited-term licenses and identification certificates. Driver license and identification card transactions for FY 2020 were impacted by office closures and reduced customer capacity in offices due to the pandemic. In fiscal year 2021 (September 2020 through August 2021), DPS issued 363,288 limited term licenses and identification certificates.

7. For each non-citizen resident of Texas who seeks a limited term driver license or personal identification certificate, DPS verifies the individual's lawful presence status with the United States government using the Systematic Alien Verification of Entitlements ("SAVE") system. The State of

Texas currently pays $0.30 per customer for SAVE verification purposes. Approximately 18% of customers must complete additional SAVE verification at $0.50 per transaction.

8. For each non-United States citizen resident of Texas who seeks a limited term driver license, DPS verifies the individual's social security number and that person's eligibility through Social Security Online Verification ("SSOLV") and the American Association of Motor Vehicle Administrators' ("AAMVA") Problem Drivers Pointer System ("PDPS") and, if applicable, the Commercial Driver License Information System ("CDLIS"). The State of Texas currently pays $0.05 per customer for SSOLV and PDPS verification purposes. There is a cost of $0.028 for CDLIS verification purposes, which is about 2% of all limited-term licenses.

9. Each additional customer seeking a limited term driver license or personal identification certificate imposes a cost on DPS. DPS estimates that for an additional 10,000 driver license customers seeking a limited term license, DPS would incur a biennial cost of approximately $2,014,870.80. The table below outlines the estimated costs that DPS would incur based on the additional number of customers per year for employee hiring and training, office space, office equipment, verification services, and card production cost.

Customer Volume Scenario	Additional Employees Required	Additional Office Space Required (SqFt) (96 per employee)	Biennial Cost for Additional Employees, Leases, Facilities and Technology	Biennial Cost for Verification Services	Biennial Cost for Card Production	Total Cost to DPS
10,000	9.4	902.4	$1,978,859.60	$9,011.20	$27,000.00	$2,014,870.80
20,000	18.8	1,804.8	$3,957,719.20	$18,022.40	$54,000.00	$4,029,741.60
30,000	28.2	2,707.2	$5,936,578.80	$27,033.60	$81,000.00	$6,044,612.40
40,000	37.6	3,609.6	$7,915,438.40	$36,044.80	$108,000.00	$8,059,483.20
50,000	46.9	4,502.4	$9,894,298.00	$45,056.00	$135,000.00	$10,074,354.00
100,000	93.9	9,014.4	$19,788,596.01	$90,112.00	$270,000.00	$20,148,708.01
150,000	140.8	13,516.8	$29,682,894.01	$135,168.00	$405,000.00	$30,223,062.01
200,000	187.8	18,028.8	$39,577,192.01	$180,224.00	$540,000.00	$40,297,416.01

For every 10,000 additional customers above the 10,000-customer threshold,

DPS may have to open additional driver license offices or expand current facilities to meet that increase in customer demand.

10. Standard-term licenses issued to most citizens are valid for eight years with an allowance to renew online once after an office visit. Therefore, most license holders only have to visit a driver license office once every sixteen years. Because limited-term licenses are limited to the term of the applicant's lawful presence, it is possible for individuals to have to renew their limited-term license sixteen or more times during the same sixteen-year span. The frequency of renewing the license would depend on the length of time the appropriate United States agency authorizes the applicant to be in the United States. Every renewal for a limited-term license requires an additional in-person visit to a DPS facility and therefore requires additional costs related to employee hiring and training, verification of lawful presence status through the SAVE system, office space, office equipment, and infrastructure. Thus, the estimated costs identified above that DPS would incur would only increase as more limited term licenses are issued.

11. The added customer base that may be created by an increase in the number of individuals authorized to be in the United States who chose to reside in Texas will substantially burden driver license resources without additional funding and support.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 23, 2022.

Sheri Gipson

Sheri Gipson

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS, STATE OF LOUISIANA Plaintiffs, v. UNITED STATES OF AMERICA, *et al.* Defendants.	)	No. 6:21-cv-00016

DECLARATION OF LEONARDO R. LOPEZ

My name is Leonardo R. Lopez, and I am over the age of 18 and fully competent in all respects to make this declaration. I have personal knowledge and expertise of the matters herein stated.

1. I am the Associate Commissioner for School Finance/Chief School Finance Officer at the Texas Education Agency ("TEA"). I have worked for TEA in this capacity since June 2016, having previously served as the Executive Director of Finance for the Austin Independent School District ("AISD") for four years. Prior to my time at AISD, I served for ten years in a variety of roles for TEA, including six years as the Foundation School Program Operations Manager for the TEA's State Funding Division.

2. In my current position, I oversee TEA's school finance operations, including the administration of the Foundation School Program and analysis and processing of financial data. My responsibilities also include representing TEA in legislative hearings and school finance-related litigation.

3. TEA estimates that the average funding entitlement for fiscal year 2022 will be $9,211 per student in attendance for an entire school year. If a student qualifies for the additional Bilingual and Compensatory Education weighted funding (for which most, if not all, UAC presumably would qualify), it would cost the State $11,500 to educate each student in attendance for the entire school year.

4. TEA has not received any information directly from the federal government regarding the precise number of unaccompanied children ("UAC") in Texas. However, I am aware that data from the U.S. Health and Human Services ("HHS") Office of Refugee Resettlement (accessed on December 30, 2021 at 11:43 p.m. CST at https://www.acf.hhs.gov/orr/grant-funding/unaccompanied-children-released-sponsors-state) (attached as Exhibit 1), indicates that in Texas, 3,272 UAC were released to sponsors during the 12-month period covering October 2014 through September 2015; 6,550 UAC were released to sponsors during the 12-month period covering October 2015 through September 2016; 5,391 UAC were released to sponsors during the 12-month period covering October 2016 through September 2017; 4,136 UAC were released to sponsors during the 12-month period covering October 2017 through September 2018; 9,900 UAC were released to sponsors during the 12-month period covering October 2018 through September 2019; 2,336 UAC were released to sponsors during the 12-month period covering October 2019 through September 2020; and 15,341 UAC were released during the 12-month period covering October 2020 through September 2021. If each of these children is educated in the Texas public school system and qualifies for Bilingual and Compensatory Education weighted funding (such that the State's annual cost to educate each student for fiscal years 2016, 2017, 2018, 2019, 2020, 2021, and 2022 would be roughly $9,573, $9,639, $9,841, $10,330, $11,323, $11,536, and $11,500 respectively), the annual costs to educate these groups of children for fiscal years 2016, 2017,

2018, 2019, 2020, 2021, and 2022 would be approximately $31.32 million, $63.13 million, $53.05 million, $42.73 million, $112.10 million, $26.95 million, and $176.42 million, respectively.

5. School formula funding is comprised of state and local funds. The state funding is initially based on projections made by each school district at the end of the previous biennium. Districts often experience increases in their student enrollment from year to year, and the State plans for an increase of approximately 36,000 students in enrollment growth across Texas each year.

6. The Foundation School Program serves as the primary funding mechanism for providing state aid to public schools in Texas. Any additional UAC enrolled in Texas public schools would increase the State's cost of the Foundation School Program over what would otherwise have been spent.

7. Based on my knowledge and expertise regarding school finance issues impacting the State of Texas, I anticipate that the total costs to the State of providing public education to UAC will rise in the future to the extent that the number of UAC enrolled in the State's public school system increases.

8. All of the facts and information contained within this declaration are within my personal knowledge and are true and correct.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3rd day of January 2022.

LEONARDO R. LOPEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS; STATE OF LOUISIANA, *Plaintiffs*, v. The UNITED STATES OF AMERICA; ALEJANDRO MAYORKAS, Secretary of the United States Department of Homeland Security, in his official capacity; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; TROY MILLER, Senior Official Performing the Duties of the Commissioner of U.S. Customs and Border Protection, in his official capacity; U.S. CUSTOMS AND BORDER PROTECTION; TAE JOHNSON, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TRACY RENAUD, Senior Official Performing the Duties of the Director of the U.S. Citizenship and Immigration Services, in her official capacity; U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *Defendants*.	Civ. Action No. 6:21-cv-00016

Exhibit 1

to

PLAINTIFFS' TRIAL EXHIBIT H

Unaccompanied Children Released to Sponsors by State

Listen

Publication Date: June 24, 2021

When a child who is not accompanied by a parent or legal guardian is apprehended by immigration authorities, the child is transferred to the care and custody of the Office of Refugee Resettlement (ORR). Federal law requires that ORR feed, shelter, and provide medical care for unaccompanied children until it is able to release them to safe settings with sponsors (usually family members), while they await immigration proceedings. These sponsors live in many states.

Sponsors are adults who are suitable to provide for the child's physical and mental well-being and have not engaged in any activity that would indicate a potential risk to the child. All sponsors must pass a background check. The sponsor must agree to ensure the child's presence at all future immigration proceedings. They also must agree to ensure the minor reports to ICE for removal from the United States if an immigration judge issues a removal order or voluntary departure order.

HHS is engaging with state officials to address concerns they may have about the care or impact of unaccompanied children in their states, while making sure the children are treated humanely and consistent with the law as they go through immigration court proceedings that will determine whether they will be removed and repatriated, or qualify for some form of relief.

HHS has strong policies in place to ensure the privacy and safety of unaccompanied children by maintaining the confidentiality of their personal information. These children may have histories of abuse or may be seeking safety from threats of violence. They may have been trafficked or smuggled. HHS cannot release information about individual children that could compromise the child's location or identity.

The data in the table below shows **state-by-state** data of unaccompanied children released to sponsors as of October 31, 2021. ACF will update this data each month. **Additional data on unaccompanied children released to sponsors by state is available on the HHS website** .

View unaccompanied children released to sponsors by county.

Please note: ORR makes considerable effort to provide precise and timely data to the public, but adjustments occasionally occur following review and reconciliation. The FY2014 release data posted in the chart below were updated on March 13, 2015. The FY2015 release data were updated May 9, 2016. The FY2017 release data were updated May 22, 2018. The FY2018 release data were updated December 3, 2019. Questions may be addressed to ORR directly, at (202) 401-9246.

Unaccompanied Children Release Data

STATE	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY15 (OCT. 2014 — SEPT. 2015)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY16 (OCT. 2015 — SEPT. 2016)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY17 (OCT. 2016 — SEPT. 2017)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY18 (OCT. 2017 — SEPT. 2018)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY19 (OCT. 2018 — SEPT. 2019)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY20 (OCT. 2019 — SEPT. 2020)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY21 (OCT. 2020 — SEPT. 2021)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY22 (OCT. 2021 — OCT. 2021)
Alabama	808	870	598	736	1,111	247	1,946	208
Alaska	2	5	3	0	4	0	4	1
Arizona	167	330	322	258	493	162	631	56
Arkansas	186	309	272	193	359	87	790	85

STATE	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY15 (OCT. 2014 — SEPT. 2015)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY16 (OCT. 2015 — SEPT. 2016)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY17 (OCT. 2016 — SEPT. 2017)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY18 (OCT. 2017 — SEPT. 2018)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY19 (OCT. 2018 — SEPT. 2019)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY20 (OCT. 2019 — SEPT. 2020)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY21 (OCT. 2020 — SEPT. 2021)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY22 (OCT. 2021 — OCT. 2021)
California	3,629	7,381	6,268	4,675	8,447	2,225	10,773	1,195
Colorado	248	427	379	313	714	172	1,088	125
Connecticut	206	454	412	332	959	260	1,447	123
Delaware	152	275	178	222	383	107	519	57
DC	201	432	294	138	322	48	307	53
Florida	2,908	5,281	4,059	4,131	7,408	1,523	11,145	1,190
Georgia	1,041	1,735	1,350	1,261	2,558	559	4,358	485
Hawaii	2	4	4	1	16	6	23	4
Idaho	11	39	11	28	62	19	84	10
Illinois	312	519	462	475	863	211	1,712	204
Indiana	240	354	366	394	794	209	1,593	196
Iowa	201	352	277	238	489	119	677	74
Kansas	245	326	289	305	453	95	718	66
Kentucky	274	503	364	370	710	158	1,042	114
Louisiana	480	973	1,043	931	1,966	355	2,851	291
Maine	4	9	11	22	26	11	64	12
Maryland	1,794	3,871	2,957	1,723	4,671	825	5,471	609
Massachusetts	738	1,541	1,077	814	1,756	448	2,549	263
Michigan	132	227	160	136	248	74	451	56
Minnesota	243	318	320	294	624	151	1,002	113
Mississippi	207	300	237	299	482	108	707	53
Missouri	170	261	234	203	431	93	794	90
Montana	2	0	2	3	0	2	28	4
Nebraska	293	486	355	374	563	130	889	90
Nevada	137	283	229	132	324	79	465	50
New Hampshire	14	25	27	20	25	8	67	7
New Jersey	1,462	2,637	2,268	1,877	4,236	921	5,911	668

STATE	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY15 (OCT. 2014 — SEPT. 2015)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY16 (OCT. 2015 — SEPT. 2016)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY17 (OCT. 2016 — SEPT. 2017)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY18 (OCT. 2017 — SEPT. 2018)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY19 (OCT. 2018 — SEPT. 2019)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY20 (OCT. 2019 — SEPT. 2020)	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY21 (OCT. 2020 — SEPT. 2021)*	TOTAL NUMBER OF UC RELEASED TO SPONSORS IN FY22 (OCT. 2021 — OCT. 2021)
New Mexico	19	65	46	43	89	34	116	14
New York	2,630	4,985	3,938	2,845	6,367	1,663	8,534	857
North Carolina	844	1,493	1,290	1,110	2,522	610	4,249	467
North Dakota	2	10	3	2	10	1	14	2
Ohio	483	693	584	547	1,091	260	1,675	183
Oklahoma	225	301	267	286	581	120	906	72
Oregon	122	188	170	200	318	71	438	47
Pennsylvania	333	604	501	563	1,229	271	2,103	237
PR	0	0	0	1	3	3	0	0
Rhode Island	185	269	234	235	453	92	520	59
South Carolina	294	562	483	508	1,012	255	1,743	213
South Dakota	61	81	81	96	149	44	233	30
Tennessee	765	1,354	1,066	1,173	2,191	510	4,267	427
Texas	3,272	6,550	5,391	4,136	9,900	2,336	15,341	1,681
Utah	62	126	99	97	179	75	307	27
Vermont	1	1	0	2	6	1	8	0
Virginia	1,694	3,728	2,888	1,650	4,215	770	5,400	629
Washington	283	476	494	435	723	237	1,113	135
West Virginia	12	26	23	23	41	4	60	5
Wisconsin	38	85	94	98	246	62	531	60
Wyoming	6	23	14	15	15	6	22	4
Virgin Islands	0	0	3	0	0	0	0	0
TOTAL	**27,840**	**52,147**	**42,497**	**34,953**	**72,837**	**16,837**	**107,686**	**11,701**

*The FY2015 numbers have been reconciled.

*The FY2017 numbers have been reconciled.

*The FY2018 numbers have been reconciled.

*The FY2021 numbers have been reconciled.

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For more information, please read **ORR's reunification policy**.

Topics:
Unaccompanied Children (UC)

Types:
Grants & Funding

Audiences:
Unaccompanied Alien Children (UAC)

Current as of: November 26, 2021

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS, STATE OF LOUISIANA Plaintiffs, v. UNITED STATES OF AMERICA, *et al.* Defendants.	)	No. 6:21-cv-00016

DECLARATION OF SUSAN BRICKER

1. My name is Susan Bricker. I am an adult and competent to testify. The information and opinions contained in this declaration are based upon my personal knowledge, my review of the relevant documents, and my knowledge, skills, training, and experience.

2. I am currently the manager (Manager V) of the Health Program Outcomes and Epidemiology Team ("HPOE") within the Office of Data, Analytics and Performance ("DAP") (the office formerly known as the Center for Analytics and Decision Support -CADS) at the Texas Health and Human Services Commission ("HHSC").

3. A true and correct copy of my current curriculum vitae is attached to this declaration as Exhibit 1, and it sets out the details of my education, qualifications, and my work experience. I graduated from Emory University in May of 2001 with a master's degree in the science of epidemiology. Except for a brief eight-month period in 2014 when I worked in the private sector, I've been employed at HHSC since 2007. In that time, I have worked as an Epidemiologist II (2007-2012), Research Specialist V (2012-Jan. 2014), a Research Specialist V (Sept. 2014-Apr. 2018), a Program Specialist VII (May 2018-May 2021), and Manager V (June 2021-current). The

HPOE Team conducts and/or coordinates legislative and HHS-directed research on health care utilization, demographic trends, and enrollment patterns for the state's health care and human service programs.

4. In 2007, as part of the 2008-2009 General Appropriations Act, the Texas Legislature required HHSC to report the cost of services and benefits provided by HHSC to undocumented immigrants in the State of Texas. This report, also known as the Rider 59 Report, was first completed by HHSC in 2008. Due to numerous requests for more recent information following the issuance of the 2008 report, the Rider 59 Report was updated in 2010, 2013, 2014, 2017, and 2021. The Rider 59 Report completed in 2021 covered state fiscal year (SFY) 2019.

5. HHSC provides three principal categories of services and benefits to undocumented immigrants in Texas: (i) Texas Emergency Medicaid; (ii) the Texas Family Violence Program (FVP); and (iii) Texas Children's Health Insurance Program (CHIP) Perinatal Coverage. Undocumented immigrants also receive uncompensated medical care from public hospitals in the State.

6. Emergency Medicaid is a federally required program jointly funded by the federal government and the states. The program provides Medicaid coverage, limited to emergency medical conditions including childbirth and labor, to undocumented immigrants living in the United States. Because HHSC Medicaid claims data do not conclusively identify an individual's residency status, the portion of Emergency Medicaid payments attributable to undocumented immigrants must be estimated. Attached as Exhibit 2 is a document that explains the methodology HHSC utilized to obtain the estimates provided in this declaration. It is the same methodology relied upon by HHSC for preparing internal estimates and for preparation of the Rider 59 Report. The total estimated cost to the State for the provision of Emergency Medicaid services to

undocumented immigrants residing in Texas was approximately $80 million in SFY 2007, $62 million in SFY 2009, $71 million in SFY 2011, $90 million in SFY 2013, $73 million in SFY 2015, and $85 million in SFY 2017; the estimate in SFY 2019 was $80 million.

7. The Family Violence Program contracts with non-profit agencies across the State to provide essential services to family violence victims, including undocumented immigrants, in three categories: shelter centers, non-residential centers, and Special Nonresidential Projects. Because the FVP does not ask individuals about their residency status, the portion of the FVP's expenditures attributable to undocumented immigrants must be estimated. Attached as Exhibit 2 is a document that explains the methodology HHSC utilized to obtain the estimates provided in this declaration. It is the same methodology relied upon by HHSC for preparing internal estimates and for preparation of the Rider 59 Report. The total estimated cost to the State for the provision of direct FVP services to undocumented immigrants residing in Texas was $1.2 million in SFY 2007, $1.3 million in SFY 2009, $1.3 million in SFY 2011, $1.4 million in SFY 2013, $1.0 million in SFY 2015, and $1.2 million in SFY 2017; the estimate for SFY 2019 is $1.0 million.

8. Texas CHIP Perinatal Coverage provides prenatal care to certain low-income women who do not otherwise qualify for Medicaid. There is no way to definitively report the number of undocumented immigrants served by CHIP Perinatal Coverage because the program does not require citizenship documentation. Attached as Exhibit 2 is a document that explains the methodology HHSC utilized to obtain the estimates provided in this declaration. It is the same methodology relied upon by HHSC for preparing internal estimates and for preparation of the Rider 59 Report. CHIP Perinatal Coverage expenditures were not included in HHSC's original Rider 59 Report because a full year of program data was not available when the report was prepared. The total estimated cost to the State for CHIP Perinatal Coverage to undocumented

immigrants residing in Texas was $33 million in SFY 2009, $35 million in SFY 2011, and $38 million in SFY 2013, $30 million in SFY 2015, and $30 million in SFY 2017; the estimate for SFY 2019 is $6 million.

9. In the 2008 and 2010 versions of the Rider 59 Report, HHSC also provided estimates of the amount of uncompensated medical care provided by state public hospital district facilities to undocumented immigrants. In these reports, HHSC estimated that the State's public hospital district facilities incurred approximately $596.8 million in uncompensated care for undocumented immigrants in SFY 2006 and $716.8 million in SFY 2008. HHSC has not provided any estimates of uncompensated care for undocumented immigrants in more recent versions of the Rider 59 Report.

10. Although all of these numbers are estimated costs for the respective programs, it is a certainty that each of these programs has some positive cost to the State of Texas due to utilization by undocumented immigrants.

11. DAP can produce an updated report on the cost of services and benefits provided by HHSC to undocumented immigrants in the State of Texas. Because of other DAP workload, including ongoing reporting on the impacts of COVID-19 on Texas's vulnerable populations and demands associated with other litigation, and because the necessary data is not considered complete until eight months after the end of the fiscal year, we estimate that the report will be ready in December 2022.

12. All of the facts and information contained within this declaration are within my personal knowledge and are true and correct.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 7th day of January 2022.

Susan Bricker Digitally signed by Susan Bricker
Date: 2022.01.07 14:32:52
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SUSAN BRICKER

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS, STATE OF LOUISIANA Plaintiffs, v. UNITED STATES OF AMERICA, *et al.* Defendants.	No. 6:21-cv-00016

DECLARATION OF REBECCA WALTZ

My name is Rebecca Waltz, and I am over the age of 18 and fully competent in all respects to make this declaration. I have personal knowledge and expertise of the matters herein stated.

1. I am the Budget Director for the Texas Department of Criminal Justice. The Texas Department of Criminal Justice (TDCJ) is the state agency responsible for the care, custody, and rehabilitation of persons convicted of a criminal offense in the state of Texas.

2. I have been employed with TDCJ since June 2004, and I have served in my current position since January 2020. Prior to that, I served as TDCJ's Deputy Budget Director from December 2017 to December 2019, a Senior Budget Analyst from October 2007 to November 2017, and a Junior Budget Analyst from September 2004 to September 2007.

3. The Bureau of Justice Assistance (BJA) administers the State Criminal Alien Assistance Program (SCAAP) in conjunction with the U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (OHS). SCAAP provides federal payments to states and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for

violations of state or local law, and incarcerated for at least 4 consecutive days during the reporting period.

4. As a part of my employment with TDCJ, I am responsible for compiling the data to be included in TDCJ's application for federal reimbursement to the State Criminal Alien Assistance Program. These data sets include the number of correctional officers and their salary expenditures (correctional officer is defined as a person whose primary employment responsibility is to maintain custody of individuals held in custody in a correctional facility) for the reporting period, information regarding maximum bed counts and inmate days, and information about the eligible inmates - (1) whom the agency incarcerated for at least four consecutive days during the reporting period; and (2) who the agency knows were undocumented criminal aliens, or reasonably and in good faith believes were undocumented criminal aliens.

5. TDCJ has sought reimbursement from the federal government through SCAAP since 1998.

6. For the most recently completed SCAAP application (reporting period of July 1, 2018, through June 30, 2019), TDCJ reported data for 8,893 eligible inmates and a total of 2,385,559 days. An estimate of the cost of incarceration for these inmates can be calculated by multiplying the systemwide cost per day per inmate for Fiscal Year 2020 ($69.27) as reported by the Texas Legislative Budget Board by the number of days. For example ($69.27 x 2,385,559 days = $165,247,672).

7. SCAAP awards have not been distributed yet for this application period.

8. It is my belief that to the extent the number of aliens in TDCJ custody increases, TDCJ's unreimbursed expenses will increase as well.

9. TDCJ incurs costs of housing, supervising, and providing health care to individuals whose detainers are canceled by federal immigration authorities. When those individuals are on parole or mandatory supervision, TDCJ incurs costs. Keeping detainees in TDCJ custody, or adding them to parole or mandatory supervision, who could have otherwise been detained and/or removed by federal immigration authorities, imposes greater burdens on the system. An estimate of the cost of parole or mandatory supervision for these inmates can be calculated by multiplying the average cost per inmate for active parole supervision for Fiscal Year 2020 ($4.64) as reported by the Texas Legislative Budget Board by the number of days. For example ($4.64 x 2,385,559 days = $11,068,994).

10. All of the facts and information contained within this declaration are within my personal knowledge and are true and correct.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of January 2022.

REBECCA WALTZ

United States District Court
Southern District of Texas
Victoria Division

STATE OF TEXAS, *et al.*, *Plaintiffs,* v. U.S. DEPARTMENT OF HOMELAND SECURITY, *et al.*, *Defendants.*	Case 6:23-cv-7

Preliminary Injunction

On the Plaintiff States' Motion, Dkt. 19, the Court:

1. Finds that the States are likely to prevail on the merits of their claims on final judgment;

2. Finds that the States are suffering, and will continue to suffer, irreparable harm if the Defendants are not enjoined; and

3. Finds that the balance of the equities and the public interest favor enjoining the Defendants pending a final judgment.

Therefore, the Defendants are enjoined from implementing, operating, or continuing to operate the program set forth and described in the notices published at 88 Fed. Reg. 1243 (Jan. 9, 2023), 88 Fed. Reg. 1255 (Jan. 9, 2023), 88 Fed. Reg. 1266 (Jan. 9, 2023), and 88 Fed. Reg. 1279 (Jan. 9, 2023).

Signed on February __, 2023.

____
Drew S. Tipton
United States District Judge