

# MAKE THE MIGRANT PROTECTION PROTOCOLS MANDATORY ACT OF 2021

Senator Blackburn is introducing legislation to reinstate the Migrant Protection Protocols, also known as Remain in Mexico program. The Make the Migrant Protection Protocols Mandatory Act of 2021 requires aliens seeking asylum at the Southern border or without proper documentation to return to Mexico to wait for their immigration proceedings.

**Background.** In January 2019, the Department of Homeland Security (DHS) launched the hugely successful [Migrant Protection Protocols](#) (MPP), which ended the failed policies of catch and release and restored orderly processing of illegal immigrants. Upon arriving at the border, migrants were given a Notice to Appear for an immigration court hearing at a later date and returned to Mexico. While migrants awaited their hearing, Mexico agreed to provide humanitarian aid under the [U.S.-Mexico Joint Declaration and Supplementary Agreement](#). President Biden backtracked on these treaty obligations when he suspended the program on January 21, 2021. Biden's policy reversal quickly spiraled into the current border crisis. Over 172,000 migrants poured across the border in March 2021, a 72% increase from February 2021.

**Mandate Restoration of Migrant Protection Protocols.** There is longstanding statutory authority for returning illegal immigrants to Mexico as part of the proceedings for reviewing their status and asylum claims. Section 235(b)(2)(C) of the [Immigration and Nationality Act](#) provides that "in the case of an alien . . . who is arriving on land . . . from a foreign territory contiguous to the U.S.," the DHS Secretary "may return the alien to that territory pending a [removal] proceeding." This legislation amends the Immigration and Nationality Act to state that the DHS Secretary "shall" return the alien to the contiguous territory the alien arrived from (as opposed to "may"). Reforming the law now makes it mandatory for the DHS Secretary to return migrants to Mexico to await court proceedings.

**End Asylum Abuse.** Only 54% of credible fear screenings referred to immigration court actually file for asylum. The Remain in Mexico program greatly curtailed affirmative asylum filings by 25% between 2017 and 2018 and reduced apprehension of aliens illegally crossing the border from 144,116 in May 2019 to 36,687 in January 2020. Under the program, DHS more effectively assisted legitimate asylum-seekers and individuals fleeing persecution, while removing incentives for filing fraudulent claims.

**Stop Catch and Release.** Many aliens never return to court once released into the U.S. Almost half of all non-detained or MPP removal cases in FY 2020 resulted in an in-absentia order of removal because the alien failed to attend a scheduled hearing. Overburdened immigration courts are already backlogged with 1.3 million pending cases, about 360,000 of which are asylum cases. Biden's rollback of the Remain in Mexico program is a clear signal to migrants and human traffickers that now is the time to cross the border. Thousands of migrants are camped near ports of entry awaiting news on how to proceed with their claims. Reversing the Remain in Mexico policy has triggered a humanitarian disaster. It is time to reinstate the practice of returning migrants to Mexico and put an end to the zero accountability of catch and release.

**For more info, contact Jessica Vu in Senator Blackburn's Office (4-3344)**