

To Stop Administrative Abuse, Congress Must Narrow Scope of Immigration Parole

THE ISSUE

Congress gave the Secretary of Homeland Security the authority to “parole into the United States temporarily...only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the U.S.” Despite Congress twice amending this authority to express the intended narrowness of immigration parole, Secretary Alejandro Mayorkas has kept, created, and re-created several types of mass-parole programs in violation of this law. Congress should further amend section 212(d)(5) of the Immigration and Nationality Act (INA) to explicitly match its intended narrow scope: for life-threatening medical emergencies or for urgent assistance in a law enforcement matter when there is insufficient time to obtain a visa. Parole is not to be used to circumvent normal visa processes and timelines.

CONGRESS HAS TWICE AMENDED PAROLE TO EXPRESS NARROW INTENT

The executive branch has used parole on many occasions to allow large populations of aliens to enter the U.S. ever since the benefit was created in the 1952 INA. Congress amended the statute in the Refugee Act of 1980 to state that the Attorney General could not parole a refugee into the U.S. unless “compelling reasons in the public interest with respect to that particular alien require that the alien be paroled...rather than be admitted as a refugee.”

After Congress’s amendment, multiple presidential Administrations still abused

parole to bring large numbers of aliens into the U.S. for lengthy or even indefinite periods of time. Congress again amended the parole statute in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act to add the current “only on a case-by-case basis for urgent humanitarian reasons or significant public benefit” language. Administrations have not only ignored Congress’s second clarification, but the Biden Administration has even brazenly created new mass-parole programs in defiance of the courts.

NATIONALITY-BASED PAROLE PROGRAMS

The Biden Administration has kept, created, and re-created numerous parole programs, most based on nationality, including:

- The Cuban Family Reunification Parole Program (created in 2007);
- The Haitian Family Reunification Parole Program (created in 2014);
- The Central American Minor Refugee/Parole Program (created in 2014 and recreated in 2021, both by press release);
- The Filipino World War II Veterans Parole Program (created in 2016);
- The Interagency Task Force on the Reunification of Families (created in February 2021);
- The Immigrant Military Members and Veterans Initiative (created in July 2021);

This paper, in its entirety, can be found at <http://report.heritage.org/fs249>

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- [Operation Allies Welcome](#) (created in August 2021 for Afghan evacuees);
- [Uniting for Ukraine](#) (created in April 2022, despite European countries offering Ukrainians resettlement);
- Parole for 24,000 [Venezuelans](#) (created in October 2022); and
- Parole for 30,000 [Cubans, Haitians, Nicaraguans, and Venezuelans](#) monthly (created in January 2023).

Parole is the Biden Administration's go-to tool to bring large numbers of illegal aliens into the U.S. In addition, the Administration provides [work authorization](#) for these populations as a default. While the Department of Homeland Security (DHS) parole guidance states that the benefit is for two years, the Administration's practice is to [extend "temporary" benefits and automatically renew work authorization](#). With the Administration's extremely [low deportation numbers](#) there is no expectation of an end to this benefit for an illegal alien. This is a clear violation of the "temporarily" requirement of the parole statute.

This mass-parole practice also violates the case-by-case basis. The Administration repeats the language that it grants parole on a case-by-case basis, but with these numbers, that claim is simply not credible. Nor can the Administration justify that each alien should be paroled for an urgent humanitarian reason or significant public benefit. The vast majority of the aliens paroled into the U.S. by the Biden Administration are not seeking urgent medical treatment or participating in time-sensitive activities, such as criminal trials. As such, they have the time to seek a visa or to apply for protection using the existing [U.S. Refugee Admissions Program](#).

In December 2021, the [Fifth Circuit Court of Appeals](#) rebuked the DHS for its abuse of parole in *Texas v. Biden*, stating: "Deciding to parole aliens *en masse* is the opposite of *case-by-case* decisionmaking." The court further stated that the "DHS's pretended power to parole aliens while ignoring the limitations Congress imposed on the parole power...[is] not *nonenforcement*; it's *misenforcement*, suspension of the INA, or both."

In March 2023, the [U.S. District Court for the Northern District of Florida](#) likewise found in *Florida v. U.S.* that the Biden Administration's frequent use of a particular parole tool violates the law because it does not contemplate a return to custody once the purposes of parole have been served, it does not comply with the case-by-case requirement, and it does not limit parole to urgent humanitarian reasons or significant public benefit.

The Biden Administration is currently being sued by 21 states in *Texas v. U.S. Department of Homeland Security* for its most recent mass-parole program that allows 30,000 illegal aliens from Cuba, Haiti, Nicaragua, and Venezuela to enter the U.S. each month.

CONGRESS NEEDS TO CLARIFY PAROLE'S NARROW SCOPE YET AGAIN

Congress needs to take back its statutory authority from the executive branch and further narrow the scope of the parole statute to expressly match congressional intent. Congress should again amend section 212(d)(5) of the INA to explicitly state that parole must be used only in life-threatening medical emergencies or for urgent assistance in a law enforcement matter when there is no time to obtain a visa. Parole is not to be used to circumvent normal visa processes and timelines. To ensure rare use of parole, Congress should also consider an annual parole cap of 1,000 aliens.