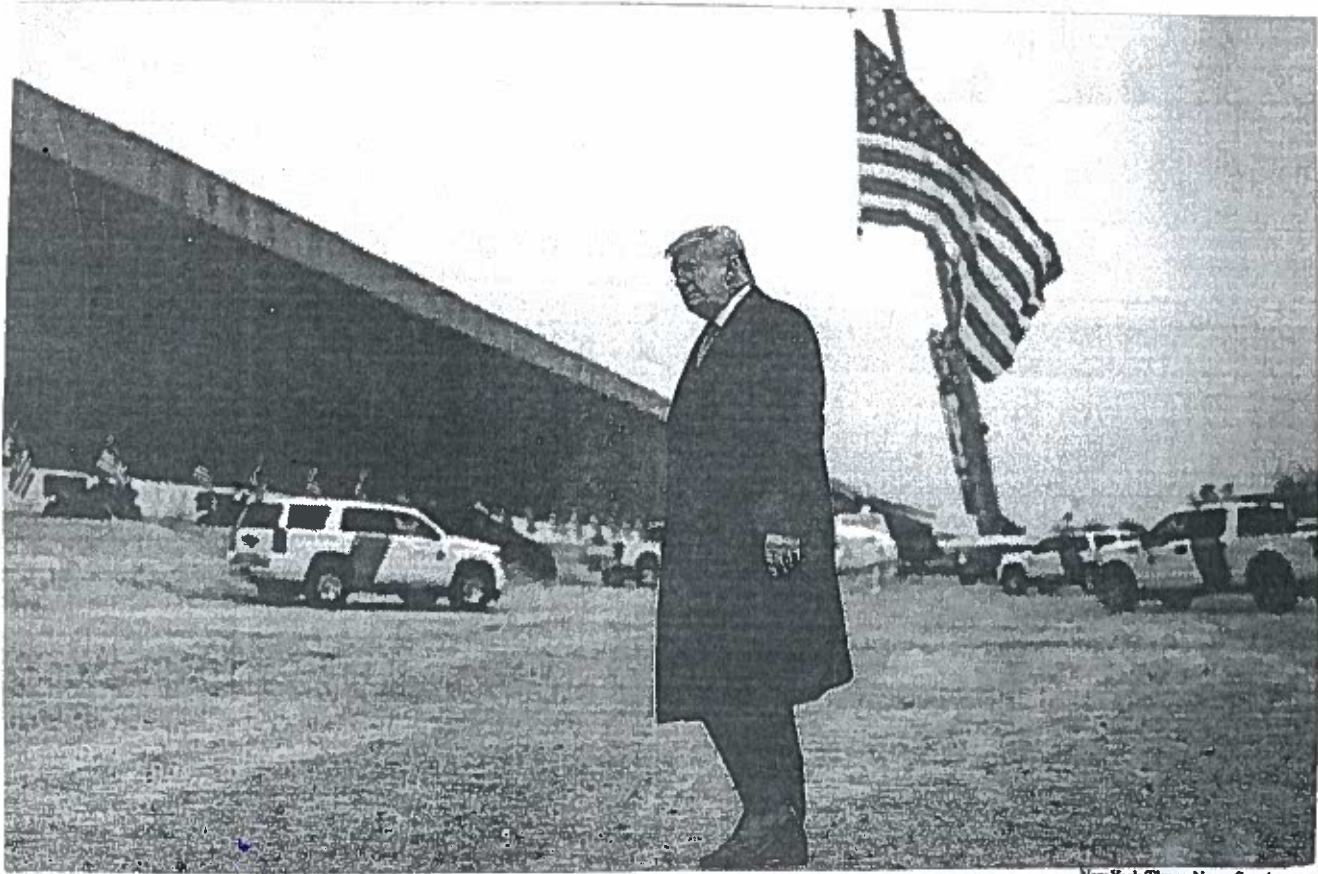


A new era of immigration law under the Biden administration



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On President Joe Biden's first day of office, he sent landmark comprehensive immigration reform legislation to Congress. The U.S. Citizenship Act of 2021 will not merely reverse four years of former President Donald Trump's restrictionist immigration policy, but will be the most ambitious immigration law since President Ronald Reagan's "Amnesty" of 1986. Significantly, it will create a pathway for citizenship for 11 million undocumented individuals.

Pathway to Citizenship

The bill allows for undocumented individuals to apply for temporary legal status, with the ability to apply for green cards after five years if they pass criminal and national security background checks and pay their taxes. Dreamers, temporary protected status holders,

and immigrant farm workers who meet specific requirements are eligible for green cards immediately under this legislation. After three years, all green card holders who pass additional background checks and demonstrate knowledge of English and U.S. civics can apply to become citizens. Applicants must be physically present in the U.S. on or before Jan. 1, 2021. The secretary of Department of Homeland Security may waive the presence requirement for those deported on or after Jan. 1, 2017 who were physically present for at least three years prior to removal for family unity and other humanitarian purposes.

Family Reunification

The bill will also keep families together through: reinforcing the family based immigration system by clearing backlogs; recapturing unused visas; eliminating lengthy wait times; increasing per-country visa caps; eliminating the three- and 10-year bars for persons who have overstayed their visas or who have had unauthorized

employment. The bill will also include a No Ban Act that prohibits discrimination based on religion and limits presidential authority to issue future bans.

Border Security

Instead of building a wall, the bill will supplement existing border resources with technology and infrastructure. The legislation builds on record budget allocations for immigration enforcement by authorizing additional funding for the secretary of DHS to develop and implement a plan to deploy technology to expedite screening and enhance the ability to identify narcotics and other contraband at every land, air and sea port of entry. This includes scanning technologies to ensure that all commercial and passenger vehicles and freight rail traffic entering the United States at land ports of entry and rail-border crossings along the border undergo scanning.

Crackdown on Criminal Organizations

The bill expands the investigations, intelligence collection and analysis pursuant to the Foreign Narcotics Kingpin Designation Act to increase sanctions against foreign traffickers, their organization, and network. The bill also requires the FBI, DEA and DHS in coordination with the secretary of state, to improve and expand transnational anti-gang task forces in Central America.

Asylum

The bill expands family case management programs, reduces immigration court backlogs, expands training for immigration judges, and improves technology for immigration courts.

It will also support asylum seekers by eliminating the one-year deadline for filing asylum claims and provide funding to reduce asylum application backlogs. The bill will also raise the cap on U visas from 10,000 to 30,000.

Executive Orders

On his very first day in office, President Biden issued six executive orders reversing four years of Trump's immigration policies:

Ending the travel ban from certain Muslim-majority countries: Biden signed an executive order that repealed Trump's travel restrictions against individuals from certain Muslim-majority countries such as Eritrea, Iran, Kyrgyzstan, Libya, Somalia, Syria and Yemen, as well as other countries such as Myanmar, Nigeria, North Korea, Tanzania and Venezuela.

Border wall construction has been halted: In a separate executive order, Biden terminated the U.S. Mexico Border wall construction project. The executive order states that the Biden administration will review the legality of the funding and contracting methods used and determine how to redirect the diverted funds of the construction project.

Restoring Deferred Action for Childhood Arrivals: Biden signed a presidential memorandum ordering the U.S. Secretary of Homeland Security to preserve the Deferred Action for Childhood Arrivals program. DACA provides deportation relief and

work authorization to undocumented immigrants brought to the U.S. at a young age, which had been terminated by President Trump.

Undocumented immigrants and the census: Biden signed an executive order to reinstate undocumented immigrants in the 2020 census, which is used to allocate federal resources and draw congressional districts. Biden's order called on the U.S. secretary of commerce to take all necessary measures to ensure that the population count is lawful and accurate.

Draconian interior enforcement priorities are being reversed: Trump had issued an executive order that eliminated immigration enforcement priorities, placing all undocumented individuals at risk of deportation, including families and long-time residents.

Biden's executive order reverses that policy and directs a DHS-wide review of immigration enforcement. DHS will implement a 100-day moratorium on almost all deportations effective as of Jan. 22 and utilize interim enforcement priorities that focus on national security threats, recent border arrivals, and certain other people determined to be a public safety risk.

Deferred enforced departure for Liberians has been extended: Deferred enforced departure has been extended for thousands of Liberians who have lived in the U.S. for many years. The extension gives people more time to apply for permanent residence under a December 2019 law — without risk of deportation.

Conclusion

While the executive orders went into effect immediately, President Biden still must get the Citizenship Act through the Senate, which is equally divided 50-50, though Vice President Kamala Harris can provide the tie-breaking vote. We will have to wait and see what the final bill looks like, but since Biden has made immigration reform one of his top priorities, it appears likely that a major new immigration law will be passed this year. ■

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