



Written by [Luis Miguel](#) on October 11, 2023

GOP AG's Call on Mayorkas to Close Catch-and-release "Loophole"

With the federal government increasingly facing accusations of failure on the migration crisis, Republican states are taking a more proactive role on the issue.

On Tuesday, a group of GOP attorneys general sent a [petition](#) to Joe Biden's Secretary of Homeland Security Alejandro Mayorkas in which they called on DHS to make changes that would "close the catch-and-release loophole that [DHS] is currently exploiting to implement its mass release policy at the Southwest border."

Participating in the petition were the AG's of 27 states, including Florida's Ashley Moody, Kansas' Kris Kobach, and Texas' Ken Paxton.



AP Images
Alejandro Mayorkas

The petition points to language in U.S. Code 1225, which states that migrants caught illegally crossing the border "shall be detained."

But they also noted that U.S. Code 1226 says foreign nationals who have unlawfully entered "may" be detained or released. In the view of the Republican attorneys general, this contradictory language constitutes a loophole which the Biden administration has been using to justify its catch-and-release policy, by which detained illegal aliens are being allowed to walk free into the interior of the country.

The AGs cited statistics claiming that over 100,000 illegal migrants have been released into the country under this status quo just since August. Moreover, they argue that the "may" language is supposed to apply only to those who are already in the United States — not those apprehended at the border.

"It is not at all clear that any regulation expressly authorizes DHS's uses of 1226(a) at the Southwest border," the petition reads, urging DHS to "amend its regulations to expressly prohibit these releases."

The AGs give three arguments for DHS to do so. First, the current practice of using 1226(a) for catch-and-release is "unlawful." Second, it is "having horrendous effects" on the country, with DHS "releasing aliens at a rate of over one million per year."

The AG's articulated their third point in the following words:

Making matters worse, DHS is giving aliens released under 1226(a) their first court date ten or more years in the future. This means that released aliens remain in the interior ten years before their immigration proceedings even begin, which can take "five years or more" from that time to complete.... And this does not account for aliens who fail to show up for their hearings, many of whom DHS has difficulty locating because the aliens provided false addresses. All told, DHS's unlawful decisions to release aliens subject to mandatory detention are allowing millions of unauthorized aliens to remain in the interior of the country for fifteen years or longer before they can be removed.



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In a statement to [Fox News](#), Moody invoked the recent Hamas attack in Israel as an argument for the national security importance of securing America's borders.

"The Biden administration has let more than 7 million illegal immigrants across the U.S. border — including more than 1.5 million gotaways and 264 suspected terrorists. Given the massive flood of unvetted migrants into the interior of our country, there is no way to know who is in the U.S. or if they plan to enact terror on Americans," she told the outlet.

"Given the risks illustrated by what happened this weekend in Israel, I am leading a coalition of 27 attorneys general taking action to force the Biden administration to enact responsible rulemaking to ensure our nation's security at our Southern Border," the Florida AG added.

As [The New American](#) previously reported, New York City Mayor Eric Adams recently went on a trip to Latin America, during which he urged the populations of the nations he has visited to not come to the United States.

In Mexico City, he told anyone thinking of illegally crossing the border that their experience would be a "nightmare" if they were to make the cross-border journey in an attempt to claim asylum.

The migrant crisis has had devastating consequences for the City that Never Sleeps. It's estimated that the roughly 120,000 migrants that have entered the Big Apple since Spring of this year will cost taxpayers \$12 billion by next year.

Amid the outcry from elected officials such as Adams, the Biden administration has recently taken some measures to reduce the flow of illegal migration. For example, Mayorkas issued a waiver of over 25 federal laws, including environmental protection laws, to expedite the construction of barriers and roads along the border. The move is ironic, given that it was the Biden administration that had halted border-wall construction (citing, among other factors, environmental considerations) and has even been auctioning off unused border wall components.

And the White House announced last week that it will resume the deportation of Venezuelan migrants. The announcement was made just days after the White House assured those migrants of protected status.

But so long as catch-and-release remains, those overtures will be inconsequential to comprehensively stem the tide of human traffic making its way into the heart of America.



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