

# Biden Administration Sues Texas Over Governor's Order Restricting Transportation of Illegal Immigrants



Texas Gov. Greg Abbott announced restrictions on the ground transportation of illegal migrants in federal custody who could spread COVID-19 around Texas communities. Pictured: Abbott speaks during a border security briefing at the Texas State Capitol on July 10, 2021, in Austin. (Photo: Tamir Kalifa/Stringer/Getty Images)

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The Biden administration filed a lawsuit against the state of Texas challenging Gov. Greg Abbott's executive order targeting the transportation of migrants spreading COVID-19 in the state, according to court documents filed Friday.

Abbott, a Republican, announced restrictions on the ground transportation of illegal migrants in federal custody who could spread COVID-19 around Texas communities and directed law enforcement officials to intervene and reroute any vehicles suspected of violating the order, according to the executive order

released on Wednesday.

The Biden administration's lawsuit argues the executive order violates U.S. law and could harm migrants in federal custody while risking the safety of law enforcement officials, court documents show.

"The executive order violates the Supremacy Clause and causes injury to the United States and to individuals whom the United States is charged to protect, jeopardizing the health and safety of noncitizens in federal custody, risking the safety of federal law enforcement personnel and their families, and exacerbating the spread of COVID-19 in our communities," the Department of Justice alleges in the lawsuit.

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BREAKING: The Department of Justice has sued Texas over the state's recent order restricting transportation of migrants. The DOJ wants a federal judge to block the order immediately.

#### **PRAYER FOR RELIEF**

WHEREFORE, the United States respectfully requests the following relief:

1. A declaratory judgment stating that the executive order violates the Supremacy Clause and the doctrine of intergovernmental immunity, and therefore is invalid, null, and void;
2. Preliminary and permanent injunctions against the State of Texas, and its officers, agents and employees, from enforcing the executive order;
3. The United States' costs in this action; and
4. Any other relief the Court deems just and proper.

Dated July 30, 2021

Respectfully submitted

**BRIAN M. BOYNTON**  
Acting Assistant Attorney General

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Abbott's executive order also allegedly interferes with nongovernmental partners and contractors working with the federal government and the "administration of federal immigration law," according to the DOJ. Further, the lawsuit alleges that Abbott's executive order is an obstruction since Congress is tasked with crafting immigration laws and federal officials are ultimately responsible for enforcing

them.

“The INA (Immigration and Nationality Act) further vests the United States with broad discretion to release noncitizens seeking admission to the United States from custody through various mechanisms including, inter alia, parole ... and conditional release from custody,” according to the lawsuit.

Unaccompanied migrant minors are often transported between federal detention facilities or to their designated sponsors while they await their court hearings, sometimes by private buses or rail lines through Texas and elsewhere in the U.S., according to the lawsuit. Other migrants need to travel around the U.S. to reach their scheduled court hearings or to report to local Immigration and Customs Enforcement offices for processing.

ICE spends over \$200 million each year on transportation contracts with private companies in Texas alone, court documents show. Federal agencies rely heavily on private contractors to transport illegal migrants around Texas in compliance with federal requirements for detention, especially to move unaccompanied minors out of crowded Border Patrol facilities or to their sponsors.

“If CBP (Customs and Border Protection) is unable to transfer noncitizens out of CBP facilities, CBP detention numbers and the average time individuals are in custody will rise, conditions will deteriorate, and there will be a greater risk of COVID-19 transmission to noncitizens and staff,” according to the lawsuit.

CBP officials have relied on private contractors to transport around 120,000 migrants this fiscal year to other long-term federal detention facilities, according to the lawsuit. Nongovernmental organizations are also responsible for testing illegal migrants for COVID-19 and arranging quarantine if needed.

“The dramatic rise in unlawful border crossings has also led to a dramatic rise in COVID-19 cases among unlawful migrants who have made their way into our state, and we must do more to protect Texans from this virus and reduce the burden on our communities,” Abbott said in a statement Wednesday. “This executive order will reduce the risk of COVID-19 exposure in our communities.

The Centers for Disease Control and Prevention instated public health order Title 42 in response to the COVID-19 pandemic, allowing border officials to rapidly expel most migrants shortly after apprehension, according to the lawsuit. The Biden

administration is expected to leave Title 42 restrictions in place in light of rising infection numbers due to COVID-19 variants, Reuters reported on Thursday.

Officials have encountered more than 900,000 migrants at the southern border since January and more than 500,000 migrants have been expelled under Title 42, though some of them have made several attempts to enter the U.S., according to CBP.

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