

ORDERLY REQUIREMENTS DESIGNED TO ENFORCE AND
REGULATE LATIN AMERICAN MIGRATION ACT

MAY 5, 2023.—Committed to the Committee of the Whole House on the State of the
Union and ordered to be printed

Mr. MCCAUL, from the Committee on Foreign Affairs,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1690]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 1690) to authorize the Secretary of State to negotiate regional immigration agreements, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Orderly Requirements Designed to Enforce and Regulate Latin American Migration Act” or the “ORDER Act”.

SEC. 2. UNITED STATES POLICY REGARDING WESTERN HEMISPHERE COOPERATION ON IMMIGRATION AND ASYLUM.

It is the policy of the United States to enter into agreements, accords, and memoranda of understanding with sovereign countries in the Western Hemisphere, the purposes of which are to advance the interests of the United States by reducing costs associated with illegal immigration and to protect the human capital, societal traditions, and economic growth of other sovereign nations in the Western Hemisphere. It is further the policy of the United States to ensure that humanitarian and development assistance funding aimed at reducing illegal immigration is not expended on programs that have not proven to reduce illegal immigrant flows in the aggregate.

SEC. 3. NEGOTIATIONS BY SECRETARY OF STATE.

(a) **AUTHORIZATION TO NEGOTIATE.**—The Secretary of State shall seek to negotiate agreements, accords, and memoranda of understanding between the United States, Mexico, Honduras, El Salvador, Guatemala, and other countries in the Western Hemisphere with respect to cooperation and burden sharing required for effective regional immigration enforcement, expediting legal claims by aliens for asylum, and the processing, detention, and repatriation of foreign nationals seeking to enter the United States unlawfully. Such agreements shall be designed to facilitate a regional approach to immigration enforcement and shall, at a minimum, provide that—

(1) the Government of Mexico authorize and accept the rapid entrance into Mexico of nationals of countries other than Mexico who seek asylum in Mexico, and process the asylum claims of such nationals inside Mexico, in accordance with both domestic law and international treaties and conventions governing the processing of asylum claims;

(2) the Government of Mexico authorize and accept both the rapid entrance into Mexico of all nationals of countries other than Mexico who are ineligible for asylum in Mexico and wish to apply for asylum in the United States, whether or not at a port of entry, and the continued presence of such nationals in Mexico while they wait for the adjudication of their asylum claims to conclude in the United States;

(3) the Government of Mexico commit to provide the individuals described in paragraphs (1) and (2) with appropriate humanitarian protections;

(4) the Government of Honduras, the Government of El Salvador, and the Government of Guatemala each authorize and accept the entrance into the respective countries of nationals of other countries seeking asylum in the applicable such country and process such claims in accordance with applicable domestic law and international treaties and conventions governing the processing of asylum claims;

(5) the Government of the United States commit to work to accelerate the adjudication of asylum claims and to conclude removal proceedings in the wake of asylum adjudications as expeditiously as possible;

(6) the Government of the United States commit to continue to assist the governments of countries in the Western Hemisphere, such as the Government of Honduras, the Government of El Salvador, and the Government of Guatemala, by supporting the enhancement of asylum capacity in those countries; and

(7) the Government of the United States commit to monitoring developments in hemispheric immigration trends and regional asylum capabilities to determine whether additional asylum cooperation agreements are warranted.

(b) **NOTIFICATION IN ACCORDANCE WITH CASE-ZABLOCKI ACT.**—The Secretary of State shall, in accordance with section 112b of title 1, United States Code, promptly inform the relevant congressional committees of each agreement entered into pursuant to subsection (a). Such notifications shall be submitted not later than 48 hours after such agreements are signed.

(c) **ALIEN DEFINED.**—In this section, the term “alien” has the meaning given such term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

SEC. 4. MANDATORY BRIEFINGS ON UNITED STATES EFFORTS TO ADDRESS THE BORDER CRISIS.

(a) **BRIEFING REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, and not less frequently than once every 90 days thereafter until the date described in subsection (b), the Secretary of State, or the designee of the Secretary of State, shall provide to the appropriate congressional committees an in-person

briefing on efforts undertaken pursuant to the negotiation authority provided by section 3 to monitor, deter, and prevent illegal immigration to the United States, including by entering into agreements, accords, and memoranda of understanding with foreign countries and by using United States foreign assistance to stem the root causes of migration in the Western Hemisphere.

(b) **TERMINATION OF MANDATORY BRIEFING.**—The date described in this subsection is the date on which the Secretary of State, in consultation with the heads of other relevant Federal departments and agencies, determines and certifies to the appropriate congressional committees that illegal immigration flows have subsided to a manageable rate.

(c) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SUMMARY AND PURPOSE

H.R. 1690, the Orderly Requirements Designed to Enforce and Regulate Latin American Migration (or “ORDER Act”), is critical to addressing the mass migration flows in Latin America. The bill directs the Secretary of State to seek to negotiate the reimplementation of the Migrant Protection Protocols (MPP) and Asylum Cooperative Agreements (ACA). Regarding MPP, the Secretary of State must renegotiate with Mexico to ensure that asylum seekers remain in Mexico for the duration of the adjudication of their U.S. asylum claims. The bill also requires the Secretary of State to seek to reestablish ACAs with El Salvador, Guatemala, and Honduras. Migrants are precluded from asylum eligibility in the United States if they have traveled through an ACA country without applying for asylum there. It also directs the Secretary to pursue additional agreements with other countries in the region if migration trends warrant such action. Finally, the bill requires regular briefings on the efforts undertaken to monitor, deter, and prevent illegal immigration, including by entering into such agreements, and by using foreign assistance to stem the root causes of migration in the Western Hemisphere.

Migrant Protection Protocols and Asylum Cooperative Agreements were successful policy tools implemented during the Trump administration that President Biden suspended early in his presidency. While those were in place, MPP kept over 60,000 asylum seekers within Mexico until their U.S. immigration court dates, rather than allowing them to get lost within the immigration system or in the interior of the United States. Terminating that process demonstrated complete disregard for the integrity of the U.S. immigration system and U.S. homeland security, and took away a useful tool for preventing the uncontrolled release of asylum seekers into the interior of the United States, to get lost in the system.

There are over two million pending cases in the U.S. immigration system, many of which are asylum seekers with illegitimate or fraudulent claims. Helping to alleviate this issue, ACAs prohibited asylum eligibility for migrants who traveled through any countries with existing asylum agreements with the United States. By requiring migrants to apply for asylum in safe third countries rather than in the U.S., many migrants’ U.S. asylum claims were invalidated. For the migrants who did not transit an ACA country, they had to wait in Mexico for the pendency of their asylum claim.

In Fiscal Year (FY) 2022, the U.S. Customs and Border Protection encountered nearly 2.4 million migrants and asylum seekers at the U.S. southern border—more than five times the encounters

in FY 2020. As an effective deterrent to the abuse of the U.S. asylum system, MPP and ACAs reduced illegal immigration to the United States. These effective policies must be reimplemented by the Secretary of State in order to protect the homeland, manage the vast numbers of migrants arriving at our southern border, secure operational control of the border, and return to a regional burden sharing model of migration.

HEARINGS

In compliance with clause 3(c)(6) of the rules of the House of Representatives, the full Committee held a hearing on March 23, 2023, on “The State of American Diplomacy in 2023: Growing Conflicts, Budget Challenges, and Great Power Competition,” with the Honorable Antony Blinken, Secretary of State, that included discussion of the Biden Administration’s abandonment of ACAs with El Salvador, Guatemala, and Honduras, and the regional migration dynamics that are feeding the crisis along our southern border. That hearing was used to develop H.R. 1690, particularly the base text that was considered at our April 26, 2023 markup.

COMMITTEE CONSIDERATION AND VOTES

The Committee considered H.R. 1690 pursuant to notice, in open session, at a markup that commenced on April 26, 2023 and concluded on April 28, 2023. McCaul amendment #40 (in the nature of a substitute) was considered base text for purposes of markup. The following additional amendments were considered by the Committee:

- Castro amendment #2 (*Requiring Senate ratification of agreements*) failed, by voice vote;
- Castro amendment #1 (*Restatement of right to petition for asylum*) failed by a record vote of 20 ayes and 22 noes.
 - Ayes (20): Meeks, Sherman, Keating, Cicilline, Bera, Castro, Titus, Wild, Phillips, Allred, A. Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, J. Jackson (IL), Costa, Crow.
 - Noes (22): McCaul, Smith, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, R. Jackson (TX), Y. Kim (CA), Huizenga, Hill, Davidson, Baird, Kean, Lawler, Mills, McCormick, Moran, James, Self.
- Castro amendment #8 (*Limitation on scope of agreements*) failed by a record vote of 23 ayes and 23 noes.
 - Ayes (23): Meeks, Sherman, Connolly, Keating, Cicilline, Bera, Castro, Titus, Lieu, Wild, Phillips, Allred, A. Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, J. Jackson (IL), Kamlager-Dove, Costa, Crow.
 - Noes (23): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, R. Jackson (TX), Y. Kim (CA), Huizenga, Hill, Davidson, Baird, Kean, Lawler, Mills, McCormick, Moran, James, Self.
- Kamlager-Dove amendment #9 (*Policy of the U.S. re. humanitarian and development assistance funding*) failed by a record vote of 23 ayes and 24 noes.
 - Ayes (23): Meeks, Sherman, Connolly, Keating, Cicilline, Bera, Castro, Titus, Lieu, Wild, Phillips, Allred,

A. Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, J. Jackson (IL), Kamlager-Dove, Costa, Crow.

- Noes (24): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, R. Jackson (TX), Y. Kim (CA), Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, Moran, James, Self.

McCaul amendment #40 (in the nature of a substitute) was adopted by a record vote of 25 ayes and 22 noes.

- Ayes (25): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, R. Jackson (TX), Y. Kim (CA), Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, Moran, James, Self, Allred.

- Noes (22): Meeks, Sherman, Connolly, Keating, Cicilline, Bera, Castro, Titus, Lieu, Wild, Phillips, A. Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, J. Jackson (IL), Kamlager-Dove, Costa, Crow.

H.R. 1690, as amended, was ordered favorably reported by a record vote of 25 ayes and 22 noes.

- Ayes (25): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, R. Jackson (TX), Y. Kim (CA), Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, Moran, James, Self, Allred.

- Noes (22): Meeks, Sherman, Connolly, Keating, Cicilline, Bera, Castro, Titus, Lieu, Wild, Phillips, A. Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, J. Jackson (IL), Kamlager-Dove, Costa, Crow.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with Clause 3(c)(1) of rule XIII of the rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under Clause 2(b)(1) of rule X of the House of Representatives, are incorporated in the “Summary and Purpose” section of this report, above.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

Clause 3(c)(2) of House rule XIII and the Unfunded Mandates Reform Act (Public Law 104–4) are inapplicable because H.R. 1690 does not provide new budget authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1690, Orderly Requirements Designed to Enforce and Regulate Latin American Migration Act			
As ordered reported by the House Committee on Foreign Affairs on April 28, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 1690 would require the Department of State to negotiate agreements with the governments of Mexico, Honduras, El Salvador, Guatemala, and other neighboring countries to cooperate on immigration enforcement in the region. The aim of those agreements would be to reduce the number of asylum seekers entering the United States, to help foreign countries protect asylum seekers and adjudicate their claims, to expedite the adjudication of asylum claims in the United States, and to facilitate the repatriation of foreign nationals. The United States has diplomatic relations with those foreign countries and CBO estimates that negotiating the agreements required under H.R. 1690 would not significantly increase the costs of the department's ongoing engagement related to immigration enforcement.

The bill also would require the department to regularly report to the Congress on those agreements. On the basis of information about similar reporting requirements, CBO estimates that implementing the bill would cost less than \$500,000 over the 2023–2028 period. Such spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Sunita D'Monte. The estimate was reviewed by Chad Chirico, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the Congressional Budget Office cost estimate on this measure.

NON-DUPLICATION OF FEDERAL PROGRAMS

Clause 3(c)(5) of House rule XIII is not applicable to this measure, as it is not a bill or joint resolution that establishes or reauthorizes a federal program.

PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 1690 is the reimplementing of the Migrant Protection Protocols (MPP) and Asylum Cooperative Agreements (ACA) between the United States and relevant nations of the Western Hemisphere, to promote the outcome-related objectives of: responsibly addressing mass migration flows in Latin America, securing operational control of the southern border of the United States, preventing the uncontrolled release of migrants with unproven asylum claims into the interior of the United States, and ensuring that asylum seekers have the opportunity to pursue asylum claims in third countries closer to their countries of origin.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 1690 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

NEW ADVISORY COMMITTEES

H.R. 1690 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

H.R. 1690 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House rule XXI.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. This Act may be cited as the “Orderly Requirements Designed to Enforce and Regulate Latin American Migration Act” or the “ORDER Act.”

Sec. 2. United States Policy Regarding Western Hemisphere Cooperation on Immigration and Asylum. States that it is U.S. policy to enter into agreements with countries in the Western Hemisphere to reduce the costs associated with illegal immigration, and to ensure that humanitarian and development assistance aimed at reducing illegal immigration is not spent on programs that have not proven to reduce the flows of illegal immigration.

Sec. 3. Negotiations by Secretary of State. Directs the Secretary of State to seek to negotiate agreements between the United States and Mexico, Honduras, El Salvador, Guatemala, and other countries in the Western Hemisphere for the cooperation and burden-sharing required for effective regional immigration enforcement, the expediting of legal claims by aliens for asylum, and the processing, detention, and repatriation of foreign nationals seeking to illegally enter the United States. Requires that any such agreements be notified to Congress in accordance with the Case-Zablocki Act.

Sec. 4. Mandatory Briefing on United States Efforts to Address the Border Crisis. Requires the Secretary of State to brief the House and Senate foreign affairs committees every 90 days on efforts to monitor, deter, and prevent illegal immigration to the United States pursuant to the authority provided by section 3. The briefing requirement terminates when the Secretary of State (in consultation with other relevant federal agencies) determines and certifies that illegal immigration flows have subsided to a manageable rate.

CHANGES IN EXISTING LAW

The bill, as reported, does not propose to repeal or amend a statute or part thereof.

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

COMMITTEE CORRESPONDENCE
ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives

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May 4, 2023

The Honorable Michael McCaul
Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515


Dear Chairman McCaul:

I write regarding H.R. 1690, the "Orderly Requirements Designed to Enforce and Regulate Latin American Migration Act." Provisions of this bill fall within the Judiciary Committee's Rule X jurisdiction, and I appreciate that you consulted with us on those provisions. The Judiciary Committee agrees that it shall be discharged from further consideration of the bill so that it may proceed expeditiously to the House floor.

The Committee takes this action with the understanding that forgoing further consideration of this measure does not in any way alter the Committee's jurisdiction or waive any future jurisdictional claim over these provisions or their subject matter. We also reserve the right to seek appointment of an appropriate number of conferees in the event of a conference with the Senate involving this measure or similar legislation.

I ask that you please insert this letter in the *Congressional Record* during consideration of H.R. 1690 on the House floor. I appreciate the cooperative manner in which our committees have worked on this matter, and I look forward to working collaboratively in the future on matters of shared jurisdiction. Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold Nadler, Ranking Member, Committee on the Judiciary
The Honorable Gregory Meeks, Ranking Member, Committee on Foreign Affairs
The Honorable Jason Smith, Parliamentarian

MICHAEL T. MCCAUL, TEXAS
CHAIRMAN

GREGORY W. MEEKS, NEW YORK
RANKING MEMBER



One Hundred Eighteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

May 4, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Jordan:

Thank you for consulting with the Foreign Affairs Committee and agreeing to be discharged from further consideration of H.R. 1690, the Orderly Requirements Designed to Enforce and Regulate Latin American Migration (or "ORDER Act"), so that the measure may proceed expeditiously to the House floor.

I agree that your forgoing further action on this measure does not in any way diminish or alter the jurisdiction of your committee, or prejudice its jurisdictional prerogatives on this measure or similar legislation in the future. I would support your effort to seek appointment of an appropriate number of conferees from your committee to any House-Senate conference on this legislation.

I will seek to place our letters on H.R. 1690 into the Congressional Record during any floor consideration of this bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work together as this measure moves through the legislative process.

Sincerely,

A handwritten signature in black ink that reads "Michael T. McCaul".

MICHAEL T. MCCAUL
Chairman

CC: Hon. Gregory Meeks, Ranking Member, Committee on Foreign Affairs
Hon. Jerrold Nadler, Ranking Member, Committee on the Judiciary
Hon. Jason Smith, Parliamentarian, U.S. House of Representatives

DISSENTING VIEWS

While there is undoubtedly a need to fix our broken immigration system, the “solutions” put forth under H.R. 1690 the Orderly Requirements Designed to Enforce and Regulate: Latin American Migration Act (ORDER Act) would only exacerbate disorder at the border and undermine long held American values. The legislation seeks to codify and reinstate Trump’s failed “Migrant Protection Protocols” (MPP), also known as the “remain in Mexico” policy. This proposed policy echoes the disturbing and ineffective Trump administration program which obligated many people seeking asylum at the U.S.-Mexico border to live in Mexico for the duration of their court cases, due to thousands of backlogged cases and too few judges to effectively handle them.

Mexican border towns do not have the capacity needed to safely house or protect the lives of thousands of immigrants at a time. The MPP removed nearly 70,000 people to Mexico, where they faced violence of all kinds including murder, rape, trafficking and kidnapping, as they awaited their court appearance.

We are facing a regional and global migration crisis. Moreover, we have strong and divergent opinions about improving an imperfect immigration process and how to address the recent surge in migration since the pandemic. But the sponsors of this measure seek to reinstate failed processes introduced under President Trump, that do not solve the real-life challenges we all face regarding the movement of people fleeing instability, lack of economic opportunity and education and training in their home countries.

The U.S. suspended and initiated the process to terminate Asylum Cooperative Agreements with El Salvador, Guatemala, and Honduras back in 2021 in favor of creating a comprehensive regional framework to address the root causes of migration, manage migration flows and expand legal pathways for protection and opportunity here and in the region. While we must protect our borders and enforce laws regarding irregular migration, the United States is also committed to a constructive agenda that provides safe and consistent processing for all who arrive at our border.

Committee Democrats understand that our ability to solve complex multi-country challenges is tied to our investment in multilateral solutions. The Los Angeles Declaration on Migration and Protection from the 2022 Summit of the Americas included proposals for collaborative problem solving on this issue.

Our strength is not rooted in the sticks we use to coerce outcomes but in the depth of our relationships and collaboration across the region to address the root causes of forced displacement and irregular migration, including by combating corruption and impunity, upholding our obligations to protect refugees, and partnering to promote opportunity and prosperity for people and communities—especially those most vulnerable across the region.

If the sponsors of this bill are truly interested in a constructive agenda aimed at providing viable solutions to migration challenges, Committee Democrats stand ready to collaborate on addressing the root causes of migration. Instead, this legislation sows seeds of chaos while shutting the door on mechanisms which can reunite families and keep people safe from journeys through the perilous unknown.

Sincerely,

GREGORY W. MEEKS,
Ranking Member.

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