

# [***Texas’ migrant arrest law will remain on hold under new court ruling***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BN5-X361-JC5B-G0GC-00000-00&context=1516831)

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**Body**

NEW ORLEANS — Texas’ plans to arrest migrants suspected of [*illegally entering the U.S.*](https://apnews.com/article/migrants-immigration-texas-e3c6bb365005047c837ec2f8666d95be) will remain on hold under a federal appeals court order that likely prevents enforcement of Republican Gov. Greg Abbott’s new immigration law until a broader decision on whether it is legal.

The 2-1 ruling late Tuesday is the second time a three-judge panel of the 5th U.S. Circuit Court of Appeals has put a temporary hold on the the Texas law. It follows a confusing few hours last week the Supreme Court allowed the law to take effect, setting off [*anger and anticipation along the U.S.-Mexico border*](https://apnews.com/article/supreme-court-migrant-arrests-texas-8e232b8a0c2979943c87c7309652ed34#:~:text=McALLEN%2C%20Texas%20%20%E2%80%94,and%20migrants%20waited%20for%20direction.).

The same panel of appeals judges will hear arguments on the law next week.

“I think what we can draw from this, from the chaos that this has been are several conclusions,” said Lisa Graybill, vice president of law and policy at the National Immigration Law Center. “One is that this is clearly a controversial law. Two is that the ***politics*** of the justices on the bench are very clearly playing out in their rulings.”

Texas authorities announced no arrests made under the law during that short window on March 19 before the appellate panel stepped in and blocked it.

In Tuesday's order, Chief Judge Priscilla Richman cited a 2012 Supreme Court decision that struck down portions of a strict Arizona immigration law, including arrest power. The Texas law is considered by opponents to be the most dramatic attempt by a state to police immigration since that Arizona law.

“For nearly 150 years, the Supreme Court has held that the power to control immigration — the entry, admission, and removal of noncitizens — is exclusively a federal power,” wrote Richman, an appointee of Republican President George W. Bush.

The Justice Department has argued that Texas’ law is a clear violation of federal authority and would create chaos at the border. Texas has argued that President Joe Biden’s administration isn’t doing enough to control the border and that the state has a right to take action.

The Texas law, Richman wrote, "creates separate, distinct state criminal offenses and related procedures regarding unauthorized entry of noncitizens into Texas from outside the country and their removal.”

She was joined in the opinion by Judge Irma Carrillo Ramirez, a Biden appointee.

Judge Andrew Oldham, an appointee of former President Donald Trump and a former aide to Abbott, dissented from the majority decision.

Oldham wrote that the Biden administration faced a high bar to take sovereign power that Texas has to enforce a law its people and leaders want.

“In our federal system, the State of Texas is supposed to retain at least some of its sovereignty," Oldham wrote. "Its people are supposed to be able to use that sovereignty to elect representatives and send them to Austin to debate and enact laws that respond to the exigencies that Texans experience and that Texans want addressed.”

The law was in effect for several hours on March 19 after the U.S. Supreme Court cleared the way. But the high court didn’t rule on the merits of the case. It instead sent the case back to the [*5th Circuit,*](https://apnews.com/article/5th-circuit-conservatives-migrants-supreme-court-72b16a044c310cceb7af51c5dcf0f786) which suspended enforcement while it considered the latest appeal.

The latest ruling keeps the block in place.

Phone messages were left Wednesday seeking comment from spokespersons for Abbott and state Attorney General Ken Paxton.

The law signed by Abbott allows [*any Texas law enforcement officer*](https://apnews.com/article/texas-immigration-migrants-arrest-explainer-306f644e8bb95333b078ed3923adacf0) to arrest people suspected of entering the country illegally. Once in custody, migrants could either agree to a Texas judge’s order to leave the U.S. or be prosecuted on misdemeanor charges of illegal entry. Migrants who don’t leave could face arrest again under more serious felony charges.

Authorities have offered various explanations for how they might enforce the law. Mexico has said it would refuse to take back anyone who is ordered by Texas to cross the border.

The brief window while the law was in effect revealed that many sheriffs were unprepared, unable or uninterested in [*enforcing it*](https://apnews.com/article/immigration-texas-2edc0f202156bf792cd531e814bbf2f5).

Sheriff Thaddeus Cleveland of Terrell County, which touches more than 50 miles (80 kilometers) of border, told The Associated Press last week said there’s [*no practical way*](https://apnews.com/article/texas-migrant-arrest-law-enforcement-8fcb8ed6a6b85070a551ef3c55255062) for him to enforce the law. Cleveland said he has no way to transport people, the county jail has space for just seven people and the closest port of entry is a drive of more than 2 1/2 hours away.

Smith County Sheriff Larry Smith, president of the Texas Sheriff’s Association, said the law will have little effect in his jurisdiction in East Texas, which is closer to Louisiana and Oklahoma than Mexico which is nearly 400 miles (644 kilometers) away.

Critics have said the Texas law could lead to civil rights violations and racial profiling.

Supporters have rejected those concerns, saying arresting officers must have probable cause, which could include witnessing the illegal entry or seeing it on video. They also say that they expect the law would be used mostly in border counties, though it would apply statewide.

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Associated Press writers Ken Miller in Oklahoma City, Acacia Coronado in Austin, Texas, and Elliot Spagat in San Diego contributed to this report.

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This story has been corrected to reflect that Sheriff Thaddeus Cleveland spoke to the AP and did not attend the gathering at the Capitol.

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