

# [***Supreme Court escalates high-stakes border drama between Biden, Texas and Trump***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BKN-1K71-JBSS-S005-00000-00&context=1516831)

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**Body**

(CNN) &#8212; For a few fleeting hours Tuesday, Texas was able to enforce a hardline immigration law blasted by critics as an affront to human rights - thanks to a huge assist from the conservative majority on the US Supreme Court.

The intervention by the nation's top bench triggered a day of twisting legal drama that only exacerbated the chaos over the nation's overwhelmed immigration system, reinforced the politicization of the court and stoked fresh controversy over an issue that threatens President Joe Biden's reelection.

The measure allows Texas to arrest and even deport people it suspects of crossing the border illegally - a flagrant challenge to the federal government's authority on such issues.

It came into force, briefly, after the Supreme Court said the law could proceed while an appeals process plays out in lower courts. But late Tuesday evening, the 5th Circuit Court of Appeals [*put the law on hold again*](https://www.cnn.com/2024/03/19/politics/texas-immigration-law-blocked-appeals/index.html) - muting celebrations in the Lone Star State. The panel of judges that issued the late-night ruling is already due to hear arguments Wednesday morning over the statute, known as SB 4.

The fresh uncertainty about the law will only supercharge a fierce debate over immigration fueled by Republican presumptive nominee Donald Trump as the general election heats up. And even though it was later overtaken, the Supreme Court's move allowed Republicans to showcase their tough immigration policies and claim that Biden has lost control of the border.

The legal back-and-forth will also set off more feuding between Washington and the ultra-conservative government of Texas Republican Gov. Greg Abbott over policy and enforcement.

The Supreme Court stepped into the controversy weeks after Republicans in Congress killed off a conservative compromise that stiffened border and asylum policy and included huge concessions from Biden as he seeks to ease his exposure on the issue at the risk of alienating progressives. Some top Republicans blamed Trump for working to scupper the measure to deprive Biden of an important win in during the election year.

A federal judge in Austin had blocked the state government from implementing the Texas law. But the 5th US Circuit Court of Appeals granted a temporary stay of the lower court's decision, which prompted a pair of emergency appeals from the Biden administration and others. The Supreme Court said Tuesday the law can go into force while the 5th Circuit appeals process plays out.

In a brief order Tuesday night, a three-judge panel at the 5th Circuit voted 2-1 to wipe away a previous ruling from a different panel that had temporarily put the law into effect. So a day of shifting legal fortunes ended with the Texas law still not implemented.

Republicans in Texas say that the law's enforcement mechanisms are well within their constitutional rights as a state. Texas Attorney General Ken Paxton, for example, hailed the Supreme Court move on X as "a huge win." But if the law does go back into effect, much will depend on how Texas and its law enforcement authorities in more conservative jurisdictions in the state implement the law and if they use its full extent - to arrest and deport suspected undocumented migrants.

Immigrant advocacy groups have warned that the law could lead to racial profiling and civil rights violations and arrests that could terrorize undocumented migrants far from border areas. "Today is March 19, a day that, I believe, will be known in infamy as a 'show me your papers day,'" said LULAC (League of United Latin American Citizens) national president Domingo Garcia. Abbott, however, has argued that police officers in Texas know that racial profiling is wrong.

A cascade of political consequences

Supreme Court justices are supposed to make decisions only with respect to the law, not potential political consequences. In a concurrence to the decision, conservative Justice Amy Coney Barrett stressed that it should not be up to the court to intervene when lower courts like the 5th Circuit issue a temporary stay of a decision.

But the Supreme Court's intervention was its latest foray into fraught political territory. It will play into criticisms among Democrats that the court is boosting conservative interests that helped build its majority and that it is in tacit alliance with right-wing legislators, governors and candidates. In the most controversial recent move, the court agreed to hear Trump's expansive claim of presidential immunity, delaying his federal election interference trial and raising the prospect the former president could avoid accountability for trying to overturn the 2020 election before he faces voters again in 2024.

Similar arguments played out when the Supreme Court ditched decades of precedent and overturned the nationwide constitutional right to an abortion in 2022 - a decision that led to the current patchwork of state restrictions and policies that has caused chaos in the health care system. The overturning of Roe v. Wade has also caused subsequent legal reverberations - for instance the pausing of some IVF fertility treatments in Alabama after the state's Supreme Court ruled that frozen embryos are children.

Immigration reform advocates fear that a similar web of contradicting state laws and tensions between federal and state power could be in store on immigration if the Texas law is ultimately allowed to go into effect for the long term.

White House warns of chaos

The White House issued a scathing response to the Supreme Court's decision, arguing it would make Texas less safe, burden law enforcement and "sow chaos and confusion at our southern border." Press secretary Karine Jean-Pierre warned that SB 4 was "another example of Republican officials politicizing the border while blocking real solutions."

Democratic Sen. Chris Murphy of Connecticut predicted on CNN Tuesday that the Supreme Court decision would lead to "a mess." He told Wolf Blitzer: "You can't have two immigration enforcement systems - one run by the federal government and one run by the state government." And Texas Democratic Rep. Joaquin Castro warned in a statement that the "Supreme Court has opted to allow for a trial run of a constitutional crisis."

Beyond the ***politics***, the Texas law comes with important constitutional and even international implications. It grants local and state law enforcement the power to arrest migrants and state judges the ability to issue orders to remove them to Mexico. The Department of Justice sued the state, arguing the federal government has exclusive authority to enforce immigration law. The prospect of Texas deporting migrants to Mexico also raises the possibility of an individual state taking actions that could have huge implications for relations between the United States and another sovereign power. The conduct of foreign affairs is reserved for the federal government in the constitution.

The dispute over the Texas law follows several previous occasions when conservative-run states have sought to take actions to implement their own hardline immigration policies, causing a clash with the federal government. Last year, for instance, Florida - at a time when GOP Gov. Ron DeSantis was running for president - organized flights of undocumented migrants from Texas to liberal jurisdictions. If Texas eventually succeeds in implementing its own new law challenging federal government power to administer immigration, it would not be a surprise if other states try to follow suit.

John Sandweg, who served as acting Immigration and Customs Enforcement director in the Obama administration, told CNN he was stunned by the Supreme Court decision that he said flew in the face of long-standing precedent. He argued that when other states had tried to enforce their own border enforcement schemes, "the court has shut them down."

The president is under huge pressure to address a glaring weakness over immigration. [*A CNN poll*](https://www.cnn.com/2024/02/02/politics/cnn-poll-economy/index.html) last released month showed just 30% of Americans approved of his performance on the issue and 79% of voters - including majorities across party lines - said that the situation on the border represents a crisis. While conservative media and politicians have spent years trolling the president with misleading coverage about migrant caravan invasions and open borders, the high interception of border crossers also deeply worries many non-conservative voters.

As he did when congressional Republicans thwarted the border bill recently, Biden is expected to argue that their hardline policies are making things worse. Even before Tuesday's ruling, the president significantly stepped up his own rhetoric on immigration, blasting his predecessor and rival for his tone over the weekend.

"He separated kids and parents at the border, and encaged children. Planning mass deportations of literally several million people who are here in the country. Several million people. And he wants to end birthright citizenship," Biden said on Univision Radio on Tuesday.

"I mean, this guy despises Latinos," the president said, as he headed off on a tour of swing states Arizona and Nevada, where the immigration issue is paramount and where he needs to shore up his defenses against Trump.

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