

# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 14, 2022

## **VIA ELECTRONIC TRANSMISSION**

The Honorable Dick Durbin  
Chair  
United States Senate Committee on the Judiciary

Dear Chair Durbin:

We write today to request a hearing of the full committee related to the Department of Homeland Security's (DHS) development and implementation of a plan to respond to a potential influx of migrant crossings at the southern border after of the rescission of the Title 42 public health order on May 23<sup>rd</sup>.

Termination of the Title 42 order will likely result in a large influx of migrants at the southern border – larger than the already record levels of illegal immigrant crossings currently taking place along the border. U.S. Border Patrol Chief Raul Ortiz recently stated that there are already approximately 7,000 encounters per day with illegal immigrants crossing the border, and that the number of encounters is likely to pass the 1 million mark for the first 6 months of FY2022 alone.<sup>1</sup> That puts the United States on track to break the all-time record for illegal border crossings that was set just last year. With current daily crossings already happening at a record pace, it's even more concerning that DHS officials have acknowledged the possibility of up to 18,000 encounters per day once Title 42 is rescinded.<sup>2</sup>

Given this reality, it is imperative that DHS have an effective and detailed plan in place to deal with such an influx before Title 42 is terminated. This is not a partisan issue, and senators of both parties have raised concerns about the Administration's recent announcement that it will rescind the Title 42 order in May.

Senator Sinema has noted that the “decision to announce an end to Title 42 despite not yet having a comprehensive plan ready shows a lack of understanding about the crisis at our border.”<sup>3</sup> Senator Kelly argued that it is “unacceptable to end Title 42 without a plan and coordination in place to ensure a secure, orderly, and humane process at the border” and that “it's clear that this administration's lack of a plan to deal with this crisis will further strain our border communities.”<sup>4</sup>

Senator Hassan has stated that “Ending Title 42 prematurely will likely lead to a migrant surge that the administration does not appear to be ready for.”<sup>5</sup> Senator Manchin has called the decision to

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<sup>1</sup> Mark Lungariello, *US on track to hit 1M border encounters in first 6 months of fiscal year*, NEW YORK POST, March 29, 2022, <https://nypost.com/2022/03/29/us-on-track-to-hit-1m-border-encounters-in-first-6-months-of-fiscal-year/>

<sup>2</sup> Eileen Sullivan, *Homeland Security Is Making Plans to Handle a Record Surge of Migrants*, NEW YORK TIMES, March 29, 2022, <https://www.nytimes.com/2022/03/29/us/politics/title-42-us-border-crossings.html>

<sup>3</sup> Press Release, Sinema & Kelly on the Biden Administration's Decision to End Title 42, Office of Senator Kyrsten Sinema (April 1, 2022), available at <https://www.sinema.senate.gov/sinema-kelly-biden-administrations-decision-end-title-42>.

<sup>4</sup> *Id.*

<sup>5</sup> Tweet by Senator Maggie Hassan (@SenatorHassan), April 1, 2022, <https://twitter.com/SenatorHassan/status/1509936999267983364>

terminate Title 42 at this point in time “frightening,”<sup>6</sup> and Senator Cortez-Masto has noted that the Biden Administration’s current course of action on Title 42 “is the wrong way to do this and it will leave the administration unprepared for a surge at the border.”<sup>7</sup> She went on to note that “the administration is acting without a detailed plan.”<sup>8</sup> Senator Warnock has pointed out that “this is not the right time, and we have not seen a detailed plan from the administration.”<sup>9</sup>

We share the concerns raised by our Democratic colleagues and are troubled by the potential consequences of rescinding Title 42 without a detailed plan in place to effectively deal with the aftermath. We have all consistently raised our own concerns regarding the situation at the southern border, and some of us also represent border states that continue to be severely impacted by the unprecedented levels of illegal migration to the southern border.

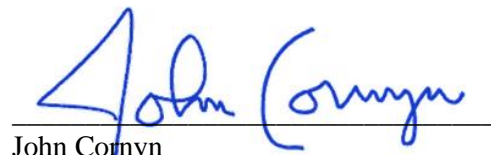
As such, we believe it is important that DHS develop an effective contingency plan, share the details of the plan with Congress, and come before the Judiciary Committee to discuss the plan and answer any questions committee members of both parties may have.


We appreciate your consideration of our request and look forward to a hearing on this topic in the near future – and certainly before the Title 42 order is rescinded on May 23<sup>rd</sup>.

Sincerely,

  
Charles E. Grassley  
Ranking Member, Senate Judiciary Committee


  
Lindsey O. Graham  
Member, Senate Judiciary Committee


  
John Cornyn  
Member, Senate Judiciary Committee

  
Mike Lee  
Member, Senate Judiciary Committee

  
Ted Cruz  
Member, Senate Judiciary Committee

  
Ben Sasse  
Member, Senate Judiciary Committee

  
Josh Hawley  
Member, Senate Judiciary Committee

  
Tom Cotton  
Member, Senate Judiciary Committee

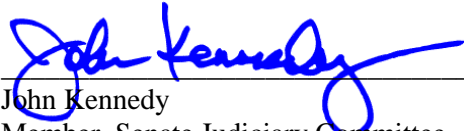
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<sup>6</sup> Rebecca Beitsch and Rafael Bernal, *Vulnerable Senate Democrats undercut Biden on Title 42*, THE HILL, April 7, 2022, <https://thehill.com/latino/3261056-vulnerable-senate-democrats-undercut-biden-on-title-42/>

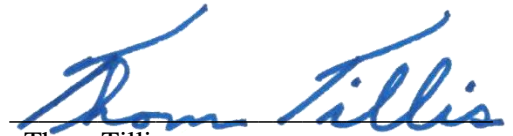
<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*



John Kennedy  
Member, Senate Judiciary Committee



Thom Tillis  
Member, Senate Judiciary Committee



Marsha Blackburn  
Member, Senate Judiciary Committee