



# ***The Kid Angle***

*Kid-focused news from First Focus on Children*

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## **5 ways the new asylum ban punishes children**

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Contact: Michele Kayal, VP Media and Communications,  
[MicheleK@FirstFocus.org](mailto:MicheleK@FirstFocus.org)

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As the whole world now knows, the Biden Administration announced a new rule this week that could disqualify most migrants at the southern border from seeking asylum. Unaccompanied children are exempt from [the proposed rule](#), but children arriving with families are not.

The proposed asylum ban is deeply unfair. It applies only to migrants at the southern border. It favors wealthy, white immigrants who can secure visas and arrive by plane. It inflicts grave hardship on Black, brown and Indigenous asylum seekers, as Human Rights First explains in this [fact sheet](#). But this deeply unfair rule is even more unfair to children. Here's how:

### **5 ways the asylum ban punishes children**

**1. Kids pay the price for the system's mistakes:** Children with families aren't separately asked whether they have a basis for protection. So **if their parents' due process is botched, the kids pay the price** by being returned to the very danger they and their family fled. And we're talking about a lot of kids: [The number of children arriving at the border is five times what it was 15 years ago](#) and that includes children who come with families.

**2. Children don't control their approach to the border :** Children arriving with families don't dictate where to cross, whether to apply for asylum elsewhere before reaching the U.S., whether to make an appointment to approach the border, or any other decisions required by the new ban. The process renders children invisible.



**3. Technology once again confounds parents and families:** Even if a family fleeing persecution and violence manages to secure a smartphone, the rule requires them to use [an app known to be routinely problematic, glitchy, and oversubscribed](#). In addition, the app is available only in English and Spanish, and rejects the photos of Black and other dark-skinned migrants. These issues almost ensure that thousands of families will be sent back to [long waits that have proven particularly dangerous for children](#).

**4. Expedited processes disproportionately harm children:** The proposed rule relies on “expedited removal,” which gives asylum seekers only a short window to make their claim for protection before potentially being at risk of deportation. Expedited removal has long proven harmful to children with families, who are typically not able to raise independent claims for protection and whose trauma, developmental stage, and potential disabilities add barriers when making their case to officials. By using this expedited process, which often denies legal counsel and adequate language services, the federal government also sets children and families up for failure and jeopardizes all children’s fundamental right to safety, liberty, and family integrity. *First Focus on Children and our partners at the Young Center plan to release a report next week documenting the danger of expedited processes for children.*



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**5. Family separation makes new inroads:** The rule theoretically attempts to keep families together if they arrive together. That said, families may still be separated under this rule ([as they were under the Trump Administration version of this rule](#)). The rule quite clearly excludes the common scenario in which one family member seeks protection first and petitions for spouse and children later. The rule eliminates a pathway for a parent who flees hoping to eventually bring their children to the U.S.

And in case all that's not enough, **the proposed rule blatantly disregards the plain text of asylum law.** U.S. asylum law ([8 U.S.C. sec. 1158\(a\)\(1\)](#), to be precise) explicitly says “any [noncitizen] who is physically present in the United States or arrives in the United States (**whether or not at a designated port of arrival . . .**), **irrespective of such [noncitizen’s] status**, may apply for asylum. . . .” No appointment required, no need to go to the “right part” of the border, no specific status required on arrival.

Immigration opponents often mention “the rule of law” when denigrating those seeking asylum. But when children and families arrive at our border seeking asylum, they *are* following the law. Our government should do the same.



First Focus on Children  
1400 I Street NW  
Suite \$50

Washington, DC 20005  
United States

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