



Written by [Peter Rykowski](#) on July 21, 2021

## As States Move to Secure Border, Republicans Plan to Challenge Pro-migration SCOTUS Rulings

With the United States experiencing [historic levels](#) of illegal migration — the result of the Biden administration's extreme open-borders policies — states are moving to secure the southern border themselves. Part of their strategy involves challenging previous Supreme Court rulings granting additional protections to illegal aliens and limiting the states' ability to enforce immigration law.

This was highlighted in recent statements by prominent Republicans. During a July 17 visit to the border at Del Rio, Texas, Florida Governor Ron DeSantis [stated his intent](#) to challenge the Court's decisions.



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In particular, DeSantis noted the 2012 case [Arizona v. United States](#). In it, the Supreme Court ruled 5-3 that most of a [2010 Arizona law](#) making illegal migration a state crime was preempted by federal law and, thus, unenforceable. DeSantis also noted the 1982 case [Plyler v. Doe](#), in which the Court ruled 5-4 that a Texas law denying school-district funding and enrollment for illegal minors violated the 14th Amendment's Equal Protection Clause.

In his comments, DeSantis [argued](#) for challenging those precedents, stating that the border situation is "so much more aggravated now." The governor further emphasized his intention "to disincentivize the migration into Florida" and noted that his state might take legislative action "to protect taxpayers and ... communities."

DeSantis's comments mirrored those made by Texas Attorney General Ken Paxton the previous day. Speaking to the *Epoch Times*, Paxton [noted](#) he is attempting to relitigate *Arizona v. United States*. Mirroring [similar comments](#) in May, he stated that the decision "was so wrongly decided" and promised that "if we find the right case, we'll take it back up."

Expounding on the court ruling, Paxton said Arizona officials "were just trying to protect their state from harm, and the federal government wouldn't protect them. And the Supreme Court said, 'Sorry, you guys are stuck with the consequences of the federal government not enforcing their laws and there's nothing you guys can do to protect yourselves — you just have to take it, whatever it is, whether it's more crime, whether it's higher costs, whether it's people dying — it's too bad, you have to accept all of that.'"

### States Move to Secure Border

The recent statements by DeSantis and Paxton follow multiple actions by the states to secure the U.S. southern border and to counter the Biden administration's radical open-borders policies.

For example, Texas has taken [multiple steps](#) toward these ends, including [increasing](#) border security



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[funding](#), [sending](#) National Guard troops and Texas State Troopers to the border, and [beginning](#) construction of its [own border wall](#). Several Texas counties are also [considering](#) taking their own actions. Meanwhile, [multiple states](#), at the [urging](#) of the governors of Arizona and Texas, have deployed National Guard soldiers to the border, while [Texas](#) and [other states](#) have blocked federal housing for illegal aliens.

Meanwhile, state governments are [challenging](#) the Biden administration in court. [Multiple states](#) have sued the administration for its pro-illegal migration actions, and they have already won cases challenging [DACA](#) and Biden's [deportation moratorium](#).

There is much more that the states can do to secure the southern border. In addition to challenging faulty Supreme Court precedents in court, the states can [nullify](#) them under [Article VI](#) of the Constitution, which states that only laws "made in pursuance" of the Constitution are valid.

Not only do many of the Biden administration's actions violate federal law, but [Article IV, Section 4](#), of the Constitution requires the federal government "protect each [state] against Invasion." As both [The John Birch Society](#) and [other organizations](#) have pointed out, the current illegal migration surge clearly meets the definition of an invasion.

Nonetheless, the fact that state officials are already seeking to challenge the Supreme Court's unconstitutional rulings is a positive sign. These officials would be wise to take even stronger actions to secure the border and enforce the [Constitution](#).

*To urge your state legislators to enforce the Constitution by nullifying unconstitutional federal laws and edicts, visit The John Birch Society's legislative alert [here](#). Additionally, to urge your U.S. representative and senators to oppose radical mass migration legislation, visit The JBS's alert [here](#).*



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