

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SM 1642

INTRODUCER: Senator Garcia

SUBJECT: Cuban Adjustment Act of 1966

DATE: February 16, 2016

REVISED: 02/08/16

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|    | ANALYST      | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|--------------|----------------|-----------|--------------------|
| 1. | <u>Davis</u> | <u>Cibula</u>  | <u>JU</u> | <b>Favorable</b>   |
| 2. | <u>Davis</u> | <u>Phelps</u>  | <u>RC</u> | <b>Pre-meeting</b> |

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**I. Summary:**

SM 1642 urges Congress to review and revise the Cuban Adjustment Act of 1966. The Cuban Adjustment Act (CAA) and subsequent legislation provide Cuban immigrants with unique benefits and an expedited path to citizenship. These legal and financial benefits are not available to any other group of immigrants. As the United States has reestablished diplomatic ties with Cuba, the number of Cubans entering this country has increased dramatically.

The memorial recounts recent changes in the relationship between the United States and Cuba and urges Congress to review and revise the CAA to reflect the changes that have occurred since the legislation was enacted over 50 years ago.

**II. Present Situation:**

Since Fidel Castro formally seized power in Cuba in 1959, thousands of Cubans have fled the island nation, often in makeshift boats, seeking refuge in this country. The flow of immigrants has been steady, punctuated by several noticeable surges. The generous and unique laws that welcome Cubans to this country, coupled with the various forms of aid available to them upon arrival, make it advantageous for Cubans to relocate here.

**Federal Laws and Policies**

***The Cuban Adjustment Act of 1966***

The foundation of American-Cuban immigration policy is the Cuban Adjustment Act of 1966 (CAA).<sup>1</sup> Congress passed the legislation to accommodate the migration of Cubans after the 1965 amendments to the Immigration and Nationality Act limited the number of Cubans and other

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<sup>1</sup> 8 U.S.C. 1255, Pub. L. No. 89-732, 80 Stat. 1161.

immigrants who could receive visas to enter this country.<sup>2</sup> Under the provisions of the CAA, all Cubans who arrive here are treated as political refugees and are eligible to become legal permanent residents after one year, and receive a green card, if they are otherwise admissible. Congress has passed additional immigration legislation<sup>3</sup> establishing the broader refugee and asylum system, but the favorable CAA provisions have not been changed.<sup>4</sup> No other immigrant group receives this favorable treatment.<sup>5</sup>

As boat migrations increased in 1993 and 1994, the U.S. and Cuba reached two migration agreements under the Clinton administration. Before the agreements, Cubans interdicted at sea by the U.S. Coast Guard or Navy were granted admission to this country. Some criticized this practice as unnecessarily encouraging Cubans to undertake the often perilous and sometimes fatal journey. In the 1994 agreement, Cuba committed to discourage the maritime journeys and the United States agreed to grant admission to at least 20,000 Cubans each year while placing interdicted Cubans in safe havens where they would be considered for asylum. With the 1995 agreement, the United States agreed to parole status for approximately 30,000 Cubans who were awaiting an asylum determination but changed the policy for returning interdicted Cubans. Cubans who were afraid of persecution if returned to Cuba were deemed to meet the definition of a refugee and would be relocated to third countries, but were no longer eligible for asylum here.<sup>6</sup>

### ***The “Wet Foot, Dry Foot” Policy***

The CAA and the 1994 and 1995 agreements have established what is commonly referred to as the “wet-foot, dry-foot” policy towards Cubans. In simple terms, a Cuban who does not reach the shore is returned to Cuba, unless he or she expresses a fear of persecution. A Cuban who successfully reaches the shore is inspected by the Department of Homeland Security and is generally permitted to remain and adjust to permanent resident status the following year under the CAA.<sup>7</sup>

### **The Effects of Normalization and Recent Developments**

President Obama announced a major policy change towards Cuba in December 2014. In moving away from a policy based on sanctions that originated in the Cold War, he announced a new policy of engagement characterized by the normalization of relations.<sup>8</sup> The policy change has involved:

- Restoring diplomatic relations, which were reestablished on July 20, 2015;

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<sup>2</sup> Marc R. Rosenblum and Faye Hipsman, Migration Policy Institute, *Normalization of Relations with Cuba May Portend Changes to U.S. Immigration Policy* (Jan. 13, 2015), available at <http://www.migrationpolicy.org/article/normalization-relations-cuba-may-portend-changes-us-immigration-policy>.

<sup>3</sup> This analysis does not address all legislation governing Cuban immigration policy. Only the laws identified in SM 1642 are discussed.

<sup>4</sup> *Supra* note 2.

<sup>5</sup> Ruth E. Wasem, Congressional Research Service, *Cuban Migration to the United States: Policy and Trends* (June 2, 2009), available at <http://www.fas.org/sgp/crs/row/R40566.pdf>

<sup>6</sup> *Supra* note 2.

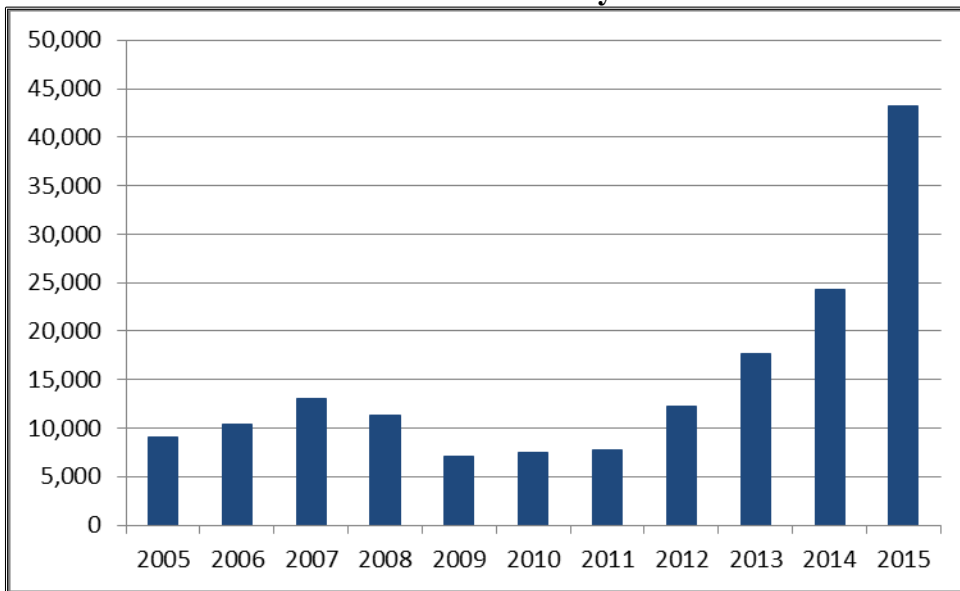
<sup>7</sup> *Supra* note 5.

<sup>8</sup> Mark P. Sullivan, Congressional Research Service, *Cuba: Issues for the 114th Congress* (Jan. 11, 2016), available at <http://fas.org/sgp/crs/row/R43926.pdf>.

- Reviewing Cuba’s designation as a state sponsor of terrorism, which was rescinded on May 29, 2015; and
- Increasing commerce, travel, and the flow of information to Cuba.<sup>9</sup>

According to the Pew Research Center, the number of Cubans who have entered the U.S. has risen dramatically since President Obama announced the policy changes toward Cuba. In fiscal year 2015, the number of Cubans entering the United States through a port of entry was 43,159. This is a 78 percent increase over fiscal year 2014, when 24,278 Cubans arrived.<sup>10</sup> In fiscal year 2013, after the Cuban government relaxed travel restrictions, the number was 17,679. In contrast, the number of Cubans coming to the U.S. for fiscal years 2009, 2010, and 2011 ranged from 7,037 to 7,759.<sup>11</sup> From January to March 2015, soon after the policy change announcement, 9,900 Cubans entered the country which is more than double the 4,746 who entered during those same three months in 2014. A new migration trend is emerging whereby a growing number of Cubans are flying to Ecuador and traveling north through Central America and Mexico and entering through the Border Patrol’s Laredo, Texas Sector. For fiscal year 2015, two-thirds of all entering Cubans came this way. In fiscal year 2015, the number of Cubans entering through the Miami Sector increased from 4,709 in 2014 to 9,999.<sup>12</sup>

**Number of Cubans Who Entered the U.S. by Fiscal Year<sup>13</sup>**



<sup>9</sup> *Id.* According to the Congressional Research Service, the Treasury and Commerce departments have relaxed the embargo regulations in the areas of travel, remittances, telecommunications, trade, and financial services. The broader embargo remains in place and may be lifted only by congressional action or if specified conditions in Cuba take place, in particular, having a democratically elected government.

<sup>10</sup> Jens Manuel Krogstad, Pew Research Center, *Cuban Immigration to U.S. Surges as Relations Warm* (Dec. 10, 2015), available at <http://www.pewresearch.org/fact-tank/2015/12/10/cuban-immigration-to-u-s-surges-as-relations-warm/>. The entry statistics were obtained through a public records request to the U.S. Customs and Border Protection.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> This chart was developed by Jens Krogstad, Writer/Editor, Pew Research Center, and is based on data he obtained from the U.S. Customs and Border Protection, U.S. Department of Homeland Security. Additional data was supplied in an email from Jens Krogstad (Feb. 1, 2016) (on file with the Senate Committee on Judiciary).

## Maritime Migration Statistics

According to the U.S. Coast Guard, attempts by Cubans to migrate to the U.S. through the Florida Straits, the Caribbean, and the Atlantic have surged as relations between the countries have improved. Their intelligence assessment is that, based on recent trends and the improving relationship between the two countries, Cuban migration will continue to increase during 2016. Their reported data shows a marked increase for the first months of fiscal year 2016 over that same time period in fiscal years 2014 and 2015.<sup>14</sup> The disrupted, interdicted, and completed migrations increased 46% between the same time periods in 2015 and 2016.

### Cuban Monthly Flow by Sea

| Fiscal Year | 2014 | 2015 | 2016              |
|-------------|------|------|-------------------|
| November    | 199  | 207  | 493               |
| December    | 222  | 507  | 619               |
| January     | 240  | 355  | 449 <sup>15</sup> |
| Totals      | 661  | 1069 | 1561              |

The Coast Guard reported 2,111 interdictions in fiscal year 2014 and 2,927 in fiscal year 2015. In January 2016, the Coast Guard interdicted 391 Cubans, or 87 percent of the flow of Cubans to the United States.<sup>16</sup>

## Federal Assistance for Eligible Cubans

When Cubans are classified as refugees, asylees, asylum applicants, parolees, or are in removal proceedings, federal laws and policies provide substantial resources to the state to help them integrate into local communities. If Cubans meet the necessary requirements to qualify, they may access the following benefits:

- Supplementary Social Income (SSI)
- Medicaid
- Supplemental Nutrition Assistance Program (SNAP)
- Temporary Assistance for Needy Families (TANF)
- Refugee Cash Assistance (RCA)
- Refugee Medical Assistance (RMA)

SSI and SNAP are federally funded programs, RCA and RMA are federally funded through a grant from the Office of Refugee Resettlement, and TANF and Medicaid are split federal and state funding.<sup>17</sup>

<sup>14</sup> U.S. Coast Guard, District Seven, *Cuban Maritime Migration Update* (Jan. 2016) (on file with the Senate Committee on Judiciary). The fiscal year for the federal government begins on October 1 and ends on September 30. Accordingly, fiscal year 2014 includes data from November and December 2013 and January 2014.

<sup>15</sup> *Id.*

<sup>16</sup> Email from CDR Timothy Cronin, Assistant Branch Chief, Enforcement, Coast Guard Seventh District (Feb. 1, 2016) (on file with the Senate Committee on Judiciary).

<sup>17</sup> Email from Patti Grogan, Director, Refugee Services, Department of Children and Families (Feb. 2, 2016) (on file with the Senate Committee on Judiciary).

## **Cuban Population Statistics**

### ***Cuban Immigrants Living in the United States***

After the revolution in Cuba, the number of Cuban immigrants living in the United States rose from 71,000 in 1950 to 163,000 in 1960. The U.S. government arranged “Freedom Flights” between 1965 and 1973, bringing approximately 300,000 Cubans to Miami. With the Mariel boatlift of 1980 an additional 125,000 Cubans arrived in South Florida over a 6 month period. Boat migrations continued to bring thousands more Cubans into Florida. The Cuban immigrant population rose from approximately 737,000 in 1990 to 1,144,000 in 2013. Presently, the United States has the largest number of Cuban immigrants in the world, followed by Spain, Italy, Puerto Rico, and Mexico.<sup>18</sup>

### ***Cuban Arrivals in Florida***

The last 5 years have seen a consistent increase in Cubans coming to Florida. Between 1996 and 2011, approximately 24,000 Cubans arrived in Florida each year for a monthly average of 2,000 people. Strategies changed and many Cubans began traveling to South America or Mexico to enter through Texas where the wet foot, dry foot policy permitted their entry without risking a maritime crossing. In 2012, however, the numbers began to rise and the trend has continued each year. The average number of Cubans coming to Florida in fiscal year 2012 was almost 2,300 per month, for fiscal years 2013 and 2014, the number rose to over 2,600 per month. In fiscal year 2015, the average monthly migration increased to 3,700 each month. The rate remains high and continues to increase.<sup>19</sup>

The population of newly arriving Cuban immigrants is concentrated in Miami-Dade County where approximately 75 percent of the new arrivals reside. The communities registering the next largest populations are Hillsborough, Palm Beach, Broward, and Orange counties.<sup>20</sup> While Florida received refugees from 57 countries in 2015, 94 percent were Cubans and 71 percent of them settled in Miami-Dade County.<sup>21</sup>

### **Media Accounts of Cubans Taking Advantage of the Migration Laws and Benefits**

The Sun Sentinel newspaper produced a series of articles last year detailing alleged abuses of the benefits available to Cubans. One article stated that Cuban immigrants are “cashing in on U.S. welfare” and returning to Cuba, making a “mockery” of the premise that Cuban refugees are fleeing persecution when they arrive here.<sup>22</sup> Another article detailed the generous benefits that

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<sup>18</sup> Sylvia Rusin, Jie Zong, and Jeanne Batalova, Migration Policy Institute, *Cuban Immigrants in the United States* (April 7, 2015), available at <http://www.migrationpolicy.org/article/cuban-immigrants-united-states>

<sup>19</sup> Patti Grogan, Director, Refugee Services, Department of Children and Families, *Increasing Cuban Arrivals to Florida, Recent History and Implications* (Jan. 28, 2016) (on file with the Senate Committee on Judiciary).

<sup>20</sup> *Id.*

<sup>21</sup> Florida Department of Children and Families, *Statistics for Florida 2015*, available at <http://www.myflfamilies.com/service-programs/refugee-services/statistics-florida>.

<sup>22</sup> Sally Kestin, Megan O'Matz, John Maines, with Tracey Eaton, *U.S. Welfare Flows to Cuba*, SUN SENTINEL, (Oct. 1, 2015), available at <http://www.sun-sentinel.com/us-cuba-welfare-benefits/sfl-us-cuba-welfare-benefits-part-1-htmlstory.html>.

are available to Cuban immigrants, but not to other immigrants.<sup>23</sup> A three-part series reported findings that “money stolen in the United States” was streaming back to Cuba thereby allowing thieves to come and quickly make money which returned with them to Cuba.<sup>24</sup> The second installment reported alleged Cuban organized crime rings that recruited Cubans to work in their organizations in Florida. The third installment detailed the response of members of Congress to the investigative reports. The installment also raised suspicions as to whether the Cuban government is behind the criminal activities.

### **Proposed Federal Legislation**

Several members of Congress have co-sponsored the Cuban Immigrant Work Opportunity Act of 2016 in an attempt to correct perceived abuses to the current system.<sup>25</sup> The act is supposed to eliminate the automatic eligibility that Cubans enjoy under the Refugee Resettlement Program and ensure that only Cubans who can demonstrate persecution are able to participate in the benefits. Additionally, the administration is held accountable to enforce regulations that will ensure that benefits are not received by persons living outside of the country.<sup>26</sup>

### **U.S. Department of State - Embassy Website**

The U.S. Department of State issued a fact sheet entitled the “Re-Establishment of Diplomatic Relations With Cuba” on July 6, 2015.<sup>27</sup> After discussing the normalization of relations, the article concludes with a position statement on Cuban immigration policy:

The Administration has no plans to alter current migration policy, including the Cuban Adjustment Act. The United States continues to support safe, legal and orderly migration from Cuba to the United States and the full implementation of the existing migration accords with Cuba.

### **III. Effect of Proposed Changes:**

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor’s approval nor is it subject to a veto. Memorials often

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<sup>23</sup> Sally Kestin and Megan O’Matz, *Aid favors Cuban immigrants*, SUN SENTINEL (Sept. 30, 2015), available at <http://www.sun-sentinel.com/sfl-aid-favors-cuban-immigrants-20150930-htmlstory.html>.

<sup>24</sup> Sally Kestin, Megan O’Matz, John Maines and Tracey Eaton, *Part I: Exploiting U.S. Laws Part II: Organized and Spreading*; and *Part III: Congress Reacts*, SUN SENTINEL, (Jan. 8, 2015) available at <http://interactive.sun-sentinel.com/plundering-america/>.

<sup>25</sup> H.R. 4247 by Reps. Carlos Curbelo, Ileana Ros-Lehtinen, Mario Diaz-Balart, Theodore Deutch, Ron DeSantis, Debbie Wasserman Schultz, Lois Frankel, Ander Crenshaw, and others. The companion measure, S.2441, is sponsored by Sen. Marco Rubio.

<sup>26</sup> Congressman Carlos Curbelo, *Protect the Refugee Assistance Program from Fraud and Abuse* (on file with the Senate Committee on Judiciary).

<sup>27</sup> U.S. Department of State, *Re-Establishment of Diplomatic Relations With Cuba* (July 6, 2015), available at <http://www.state.gov/r/pa/prs/ps/2015/07/244623.htm>.

express the Legislature's desire that Congress take action on a certain matter or request that Congress propose an amendment to the United States Constitution.<sup>28</sup>

SM 1642 urges Congress to review and revise the Cuban Adjustment Act of 1966. The current law and policies, which were enacted more than 50 years ago, provide Cuban immigrants with unique financial benefits and an expedited path to citizenship that is not available to any other immigrant group. These benefits were established during the Cold War and were designed to welcome Cubans and make their assimilation into the United States very smooth.

The memorial states that the Cuban Adjustment Act was enacted when the United States did not recognize the government of Cuba, there were no diplomatic relations between the nations, travel was restricted, and Cuban immigrants were politically oppressed refugees during the Cold War. However, since the Cold War has ended and the United States has recognized the Cuban government, diplomatic relations are maintained, and travel is less restricted, Congress should review and revise the Cuban Adjustment Act to reflect the changes that now exist in the relationship between the United States and Cuba. Congress is urged to specifically consider how Cubans are eligible to apply for social benefits under the "wet foot, dry foot" policy in light of the renewed diplomatic relationship between the nations. However, the memorial does not request that Congress enact any specific policy.

Copies of the memorial are to be sent to the President, the President of the United States Senate, the Speaker of the House of Representatives, and each member of the Florida delegation to Congress.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

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<sup>28</sup>Office of Bill Drafting Services, *Manual for Drafting Legislation*, The Florida Senate, at 137-138. (2009), available at <http://intranet.flsenate.gov/Publications>.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.