

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.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SM 1382

INTRODUCER: Senators Rodriguez and Torres

SUBJECT: Venezuela

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SM 1382 is a memorial recognizing the humanitarian aid crisis in Venezuela and the violations of its citizens' rights at the hands of the Venezuelan President, Nicolás Maduro, and the Venezuelan government. The memorial is addressed to the Congress of the United States, and makes three requests:

- (1) That Congress urge President Maduro to allow delivery of humanitarian aid, in particular food and medicine;
- (2) That Congress not only maintain current financial sanctions but intensify financial sanctions against President Maduro and the Venezuelan government; and
- (3) That Congress instruct all federal agencies to hold the President Maduro and officials of the Venezuelan government responsible for violations and abuses of internationally recognized human rights.

II. Present Situation:

Venezuela Today

Today, "Venezuela is formally a multiparty, constitutional republic[.]"¹ However, "for more than a decade, political power has been concentrated in a single party with an increasingly authoritarian executive exercising significant control over the legislative, judicial, citizen, and electoral branches of government."²

¹ U.S. Department of State, Bureau of Democracy, Human Rights and Labor. *Venezuela 2016 Human Rights Report, Executive Summary*, p. 1, <https://www.state.gov/documents/organization/265834.pdf> (last visited Jan. 27, 2018).

² *Id.*

Hugo Chávez and the Bolivarian Revolution

In 1998, military Lieutenant Colonel Hugo Chávez was elected president of Venezuela “amid disenchantment with established parties.”³ President Chávez launched the “Bolivarian Revolution,” named for Venezuelan hero, Simón Bolívar. As part of the Bolivarian Revolution, President Chávez brought in a “new constitution, socialist and populist economic and social policies funded by high oil prices, and increasingly vocal anti-US foreign policy.”⁴ Venezuela also officially became the Bolivarian Republic of Venezuela in 1999.⁵

From 2001 until his death in 2013, Chávez expanded “the state’s role in the economy through expropriations of major enterprises, strict currency exchange and price controls that discourage private sector investment and production, and overdependence on the petroleum industry for revenues, among others.”⁶ And Venezuela’s over-dependence on oil exports quickly became detrimental. “As oil prices rose during the 2000s and early 2010s, the Chávez government used oil revenues, as well as foreign borrowing, to spend generously on domestic social programs[,]” but “did not create a stabilization fund.”⁷ “When oil prices crashed by nearly 50% in 2014,” the government under Chávez’s successor, Nicolás Maduro, “was ill-equipped to soften the blow to the Venezuelan economy.”⁸

Chavos’s “Successor,” President Nicolás Maduro

Following Chavez’s death in April of 2013, his hand-picked successor, Nicolás Maduro of the United Socialist Party of Venezuela (PSUV) was elected president.⁹ Because Maduro was elected by an extremely narrow 1.5 percent margin “amid allegations of pre- and postelection fraud including government interference, the use of state resources by the ruling party, and voter manipulation[,]”¹⁰ the election results were challenged by the opposition.¹¹ By the end of 2013, Maduro was given emergency powers by the National Assembly for a year to deal with

³ See . BBC News, *Venezuela profile – Timeline* (Nov. 1, 2017), <http://www.bbc.com/news/world-latin-america-19652436>. In 1992, then Colonel Hugo Chavez made two coup attempts and was jailed for two years. *Id.*

⁴ *Id.*

⁵ Ministerio de Comunicación e Información, *Constitution of the Bolivarian Republic of Venezuela* (1999, English Translation), <http://venezuela-us.org/live/wp-content/uploads/2009/08/constitucioningles.pdf>.

⁶ See n. 3, *supra*. For example, in 2001, Chavez used an enabling act to pass 49 laws aimed at redistributing land and wealth. *Id.* In 2005, he signed a decree to eliminate large estates, which ranchers viewed as an attack on private property. In 2007, he announced that “key energy and telecommunications companies will be nationalised under [an] 18-month enabling act approved by parliament.” *Id.* Also that year, the Venezuelan government expropriated operations by two US oil companies after they refused to hand over majority control. *Id.* In 2010, Chavez devalued the Venezuelan currency, the bolivar, “by 17% against the US dollar for ‘priority’ imports and by 50% for items considered non-essential, to boost revenue from oil exports after [the] economy shrank 5.8% in [the] last quarter of 2009.” *Id.* In 2010, parliament granted Chavez special powers to deal with devastating floods, prompting opposition fears of greater authoritarianism.” *Id.* In 2012, to battle inflation, the Venezuelan government extended price controls on basic goods, and “President Chavez threatens to expropriate companies that do not comply with the price controls.” *Id.*

⁷ Congressional Research Service Report, *Venezuela: Background and U.S. Policy*, May 10, 2017, p. 10, https://www.everycrsreport.com/files/20170510_R44841_fa3ec514ed07bb711220465fb833d0432061f98a.pdf.

⁸ *Id.*

⁹ *Id.* at 1.

¹⁰ Bureau of Democracy, Human Rights, and Labor, United States Department of State, *Country Reports on Human Rights Practices for 2015, Venezuela 2015 Human Rights Report*, <https://www.state.gov/documents/organization/253261.pdf>.

¹¹ *Id.*

Venezuela's 50 percent inflation rate. This decision was also met with opposition protests. President Maduro used the temporary powers to limit profit margins.¹²

February and March 2014 Opposition Protests and Violence

In light of Maduro's "razor-thin victory and the rise of the opposition," in 2014 through the present, Maduro has attempted to "consolidate his authority" and suppress opposition.¹³ According to the Congressional Research Service, in 2014, Maduro's security forces and allied civilian groups "violently suppressed protests and restricted freedom of speech and assembly."¹⁴ An international non-government watch group, Human Rights Watch, documented "45 cases from Caracas and three states, involving more than 150 victims, in which security forces . . . abused the rights of protesters and other people in the vicinity of demonstrations."¹⁵ Specifically, in most of the cases documented by Human Rights Watch,

[A]buse victims were arbitrarily arrested and held for up [to] 48 hours or longer – frequently in military installations. There they were subjected to further abuse, including brutal beatings and, in several cases, electric shocks or burns.

Detainees with serious injuries – such as wounds from rubber bullets and broken bones from beatings – were denied or delayed access to medical attention, exacerbating their suffering, despite their repeated requests to see a doctor. In several cases, national guardsmen and police also subjected detainees to severe psychological abuse, including threatening them with death and rape.

In at least 10 cases documented, Human Rights Watch believes that the abusive tactics employed by security forces constituted torture.

The fact that the abuses were carried out repeatedly, by multiple security forces, in multiple locations across three states and the capital – including in controlled environments such as military installations and other state institutions, and over the six-week period Human Rights Watch reviewed – supports the conclusion that the abuses were part of a systematic practice, Human Rights Watch said.

¹² See n. 1. *supra*.

¹³ See n. 7. *supra* p. 1.

¹⁴ *Id.*

¹⁵ *Id.* Human Rights Watch, *Venezuela: Unarmed Protestors Beaten, Shot: Prosecutors, Judges Complicit in Rights Violations* (May. 5, 2014), <https://www.hrw.org/news/2014/05/05/venezuela-unarmed-protestors-beaten-shot>. Based on reports of the Human Rights Watch and other, in December 2014, the U.S. Congress passed the "Venezuela Defense of Human Rights and Civil Society Act," noting that,

As of September 1, 2014, 41 people had been killed, approximately 3,000 had been arrested unjustly, and more than 150 remained in prison and faced criminal charges as a result of antigovernment demonstrations throughout Venezuela. . . . Opposition leader Leopoldo Lopez was arrested on February 18, 2014, in relation to the protests and was unjustly charged with criminal incitement, conspiracy, arson, and property damage. . . . Since his arrest, Lopez has been held in solitary confinement and has been denied 58 out of 60 of his proposed witnesses at his ongoing trial. . . . As of September 1, 2014, not a single member of the public security forces of the Government of Venezuela had been held accountable for acts of violence perpetrated against antigovernment protesters.

PUBLIC LAW 113–278 (Dec. 18, 2014), <https://www.congress.gov/113/plaws/publ278/PLAW-113publ278.pdf> (last visited January 28, 2018). See also Irene Caselli, BBC News, *What lies behind the protests in Venezuela?* (March 27, 2014), <http://www.bbc.com/news/world-latin-america-26335287> (last visited January 27, 2018). See also n. 1, *supra*.

Nearly all of the 150 victims were denied basic due process rights. Many were held incommunicado and denied access to lawyers until minutes before their judicial hearings, which were often scheduled in the middle of the night without any plausible justification. Prosecutors and judges routinely turned a blind eye to evidence suggesting that detainees had been abused in detention, including obvious signs of physical abuse.

The scope of these and other due process violations in multiple jurisdictions across several states highlights the failure of the judicial body to fulfill its role as a safeguard against abuse of state power, Human Rights Watch said.¹⁶

December 2014 U.S. Response

Based on reports of Human Rights Watch and others, in December 2014, the U.S. Congress passed the “Venezuela Defense of Human Rights and Civil Society Act” (Act) authorizing the President to “impose targeted sanctions on persons responsible for violations of human rights of antigovernment protesters in Venezuela.”¹⁷ The Act’s findings indicate that, as of September 2014, “41 people had been killed, approximately 3,000 had been arrested unjustly, and more than 150 remained in prison and faced criminal charges as a result of antigovernment demonstrations throughout Venezuela.”¹⁸ The Act also notes that opposition leader, Leopoldo Lopez, who was arrested in February 2014 in connection with the protests, was “unjustly charged with criminal incitement, conspiracy, arson, and property damage,” had been “held in solitary confinement,” and had been “denied 58 out of 60 of his proposed witnesses at his ongoing trial.”¹⁹ Meanwhile, as noted by the Act, “not a single member” of the Government’s public security forces “had been held accountable for acts of violence perpetrated against antigovernment protesters.”²⁰

Additionally, the Act’s findings noted that Venezuela was experiencing serious criminal and economic problems. Venezuela’s murder rate rose sharply between 1999 and 2013 to a rate of 79 people out of every 100,000.²¹ Venezuela’s inflation rate in 2013 was 56.30, “the highest level of inflation in the Western Hemisphere and the third highest level of inflation in the world behind South Sudan and Syria.”²² The Venezuelan Government’s imposition of currency controls further exacerbated Venezuela’s economic problems and was deemed “the most problematic factor for doing business in Venezuela.”²³ As a result, the March 2014 scarcity index indicated that “fewer than one in 4 basic goods” was “unavailable at any given time” in Venezuela.²⁴

¹⁶*Id.*

¹⁷ PUBLIC LAW 113–278 (Dec. 18, 2014), <https://www.congress.gov/113/plaws/publ278/PLAW-113publ278.pdf>.

¹⁸*Id.*

¹⁹*Id.*

²⁰*Id.*

²¹*Id.* Venezuela’s rising crime rate was the reason student protestors took to the streets in February 2014. See Irene Caselli, BBC News, *What lies behind the protests in Venezuela?* (Mar. 27, 2014), <http://www.bbc.com/news/world-latin-america-26335287> (last visited January 27, 2018). See also n. 1, *supra*.

²² PUBLIC LAW 113–278 (Dec. 18, 2014), <https://www.congress.gov/113/plaws/publ278/PLAW-113publ278.pdf>.

²³*Id.*

²⁴*Id.*

2015 to Present: Venezuela Politics

Maduro’s government continued to “crack down” on political opposition in 2015, 2016, and 2017. According to the Congressional Reporting Service, “[t]he number of political prisoners detained remained relatively constant from 2014 to 2016 (at an average of 100 prisoners at any given time), but the total number of political arrests made from 2014 to 2016 exceeded 6,800.”²⁵

The opposition fought on and, in December 2015, won Venezuela’s legislative elections by a landslide, capturing “a two-thirds majority in Venezuela’s National Assembly—a major setback for Maduro.”²⁶ However, the Venezuelan Supreme Court, under extensive influence by Madero’s administration, issued a ruling blocking “three newly elected National Assembly representatives from the [opposition party] from taking office[.]”²⁷ As a result, the opposition in the National Assembly was “deprived . . . of the two-thirds majority needed to submit bills directly to referendum and remove Supreme Court justices, among other extensive powers.”²⁸

The Venezuelan Supreme Court went further in January 2016, blocking “numerous laws approved by the legislature,”²⁹ undermining its autonomy, ignoring the separation of powers, and enabling “the president to govern through a series of emergency decrees.”³⁰ As a result of these court decisions, Maduro’s party, the United Socialist Party, was able to thwart the opposition’s efforts to institute a constitutional recall of the president.³¹ Additionally, “gubernatorial elections slated for December 2016 were summarily postponed.”³²

Then on March 29, 2017, the Venezuelan Supreme Court made a “power grab” by attempting to dissolve the National Assembly and assume all legislative responsibilities. According to the Congressional Reporting Service, this sparked protests, international condemnation, and “a rare public rebuke by the attorney general (who was appointed by Chávez), who deemed the rulings illegal.” “President Maduro urged the court to revise those decisions on March 30[,] [a]lthough the Supreme Court’s reversal was incomplete[.]”³³

The opposition party began massive, sustained protests again on March 30, 2017, some of which were met with “repression by government forces (including the National Guard) and allied civilian militias.”³⁴ These protests intensified when it was announced on April 7, 2017, that Maduro’s opponent in the 2013 election, Henrique Capriles, “would be barred from seeking office for 15 years due to ‘administrative irregularities’ in the state government.”³⁵ As of April

²⁵ See n. 7, p. 6, *supra*.

²⁶ Bureau of Democracy, Human Rights and Labor, United States Department of State, *Venezuela 2016 Human Rights Report, Executive Summary*, p. 1, <https://www.state.gov/documents/organization/265834.pdf> and n. 7, *supra*.

²⁷ *Id.*

²⁸ See n. 7, *supra*.

²⁹ *Id.*

³⁰ See n. 26, *supra*.

³¹ *Id.*

³² *Id.*

³³ See n. 7, p. 7, *supra*.

³⁴ *Id.*

³⁵ *Id.*

26, 2017, “ongoing violent clashes between protesters and government forces . . . had claimed 26 lives and resulted in 1,300 detentions.”³⁶

President Maduro convened a Constituent Assembly in May 2017 through a presidential decree, “despite a constitutional requirement that a public referendum be held beforehand in order to rewrite the constitution.”³⁷ According to Human Rights Watch,

The assembly is made up exclusively of government supporters chosen through an election in July that Smartmatic, a British company hired by the government to verify the results, later alleged was fraudulent. The Constituent Assembly has sweeping powers that go well beyond drafting a constitution.

In August, as soon as the assembly started operating, its members assumed all legislative powers and fired Attorney General Ortega Díaz, a former government loyalist who had become an outspoken critic in late March, and appointed a government supporter to the position.³⁸

Between April and July 2017, government security forces along with armed, pro-government civilian groups, attacked anti-government protesters. As of July 31, 2017, Attorney General Díaz’s office reported that 124 people had been killed, and that her office had investigated nearly 2,000 cases of injuries during such crackdowns.³⁹ Between April and November 2017, about 5,400 people were arrested in connection to the protests.⁴⁰ After being fired, in August 2017, Attorney General Díaz went into exile.⁴¹

2015 to Present: Venezuela Economic Hardship and Humanitarian Crisis

Other protests occurred in 2016, accompanied by rioting and looting, due to a severe shortage of food, medicine, and other basic goods, as well as the 75 percent devaluation of Venezuela’s currency, the bolivar. Estimates put Venezuela’s 2016 rate of inflation at 254 percent and 2017 rate of inflation at 1,133 percent. Additionally, since 2013, Venezuela’s economy has contracted by 30 percent. In August 2016, six checkpoints at the border into Colombia were opened so that the people could enter and buy food and goods. “[A]ccording to a 2016 national survey . . . , 27% of people across the country eat only once a day and 93.3% of households lack enough income to purchase food.”⁴²

Due to the growing economic crisis in Venezuela, the Vatican mediated talks between Maduro’s administration and the opposition in October 2016. However, those talks failed, and President Maduro has not allowed international humanitarian aid into the country.⁴³

³⁶ *Id.*

³⁷ Human Rights Watch, *Venezuela, Events of 2017*, <https://www.hrw.org/world-report/2018/country-chapters/venezuela#56edeb> (last visited Jan. 28, 2017).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See n. 1, *supra*.

⁴² See n. 7, p. 7, *supra*.

⁴³ *Id.* at p. 6.

Additionally, healthcare in Venezuela is a serious concern:

Venezuela's health system has been affected severely by budget cuts, with shortages of medicines and basic supplies. Some hospitals face critical shortages of antibiotics, intravenous solutions, and even food, and 50% of operating rooms in public hospitals are not in use. Pharmacies also are facing shortages, with more than 85% of drugs reported to be unavailable or difficult to find, according to the Pharmaceutical Federation of Venezuela. Declining immunization rates have resulted in a resurgence of diseases that once were eradicated, including diphtheria, a disease that affected 324 people in 2016 (with no cases recorded in 2015). According to health ministry data, infant mortality reportedly increased by 30% from 2015 to 2016 and maternal mortality increased by 65.8%. Mosquito-borne illnesses also increased significantly, with cases of malaria climbing 76.4% from 2015 to more than 240,600. Zika cases rose from 51 in 2015 to more than 59,000 last year. The government has stopped sharing timely health surveillance statistics with the Pan American Health Organization, the regional arm of the World Health Organization, a development that could endanger neighboring countries.⁴⁴

U.S. Responses

President Trump and the State Department have called for the release of opposition leader Leopoldo Lopez and the rest of Venezuela's political prisoners.⁴⁵ Additionally, on August 24, 2017, President Trump signed Executive Order 13808 to impose financial sanctions on the government of Venezuela (defined as including the Central Bank and other entities owned or controlled by the government, such as the state-owned oil company). Executive Order 13808 restricts Venezuela's access to the U.S. financial system by prohibiting persons and entities in the U.S. from engaging in certain financial transactions with the government of Venezuela.⁴⁶

Recently, on January 24, 2018, Senator Marco Rubio sent a letter to President Trump requesting that the United States continue to increase pressure on the government of Venezuela. Senator Rubio also requested that President Trump direct United Nations Ambassador Nikki Haley to call an emergency session concerning Venezuela and that the U.N. create "a special envoy for Venezuela to monitor and address these issues."⁴⁷

Additionally, Senator Rubio sent a letter to Attorney General Jeff Sessions on January 24, 2018, requesting that the U.S. Department of Justice "immediately pursue an investigation into the credible allegations of drug trafficking and other illicit activities by senior Venezuelan

⁴⁴ *Id.*

⁴⁵ *Id.* at p. 17.

⁴⁶ Exec. Order No. 13808, 3 C.F.R. 41155 (2017).

⁴⁷ Letter from Senator Marco Rubio to President Donald J. Trump, Jan. 24, 2018

https://www.rubio.senate.gov/public/_cache/files/c84827a1-0820-44a4-81c2-0c60fac84780/420654A53A2B5EC99405DE6C9F9EC94E.1-24-18-letter-to-president-trump-on-venezuela-cc-ambassador-haley.pdf.

government officials in order to better understand the nexus between criminal actors and members of Maduro’s inner circle.”⁴⁸

III. Effect of Proposed Changes:

In recognition of the humanitarian aid crisis in Venezuela and the violations of its citizens’ rights at the hands of the Venezuelan President, Nicolás Maduro, and the Venezuelan government, the memorial makes three primary requests:

- (1) First, the memorial requests that the United States Congress urge Venezuelan President Nicolás Maduro to allow delivery of humanitarian aid, in particular food and medicine.
- (2) Second, the memorial requests that the United States Congress not only maintain current financial sanctions but intensify financial sanctions against President Maduro and the Venezuelan government.
- (3) Finally, the memorial requests that the Congress of the United States instruct all federal agencies to hold the President Maduro and officials of the Venezuelan government responsible for violations and abuses of internationally recognized human rights.

Additionally, the memorial directs that copies should be dispatched to the President U.S. Senate President, U.S. House Speaker, and to each member of Florida’s delegation in both houses of 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.

⁴⁸ Letter from Senator Marco Rubio to U.S. Attorney General Jeff Sessions, January 24, 2018, https://www.rubio.senate.gov/public/_cache/files/6f7169ca-57f2-4a14-b9ab-5a75f2f898dd/B121BE2FE5E397A987A89C9BA3134E9D.1-24-18-letter-to-attorney-general-jeff-sessions-re-venezuela.pdf. The letter also notes that “Luis Almagro, Secretary-General of the Organization of American States (OAS), has appointed international experts to assess the need for an international legal body to investigate corrupt acts and human rights abuses by the Maduro regime[.]” and requests that Attorney General Sessions support that effort. *Id.*

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.