

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1383 United States Department of State's List of Foreign Terrorist Organizations

SPONSOR(S): Fernandez-Barquin

TIED BILLS: IDEN./SIM. **BILLS:** CS/SR 1064

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N	Mwakyanjala	Miller
2) State Affairs Committee	22 Y, 0 N	Mwakyanjala	Williamson

SUMMARY ANALYSIS

The Revolutionary Forces of Colombia (FARC) was established in 1964 by the Colombian Communist Party purportedly to redistribute wealth to the poor. Activities of FARC included bombings, murder, mortar attacks, narco trafficking, kidnapping, extortion, and hijacking. Since 1997, FARC has been designated as a Foreign Terrorist Organization (FTO) under federal law. A peace accord with the Colombian government was signed in 2016 and FARC was formally dissolved and disarmed.

In November 2021, the United States Secretary of State released changes to the foreign terrorist designations list and among those modifications was the revocation of FARC as an FTO. The Revolutionary Armed Forces of Colombia – People's Army and Segunda Marquetalia were added to the Foreign Terrorist Organizations List as FARC's designation was revoked.

The State of Florida also identifies and designates organizations as FTOs. Florida designated FTOs are organizations designated as FTOs under federal law.

The memorial provides historical background of relations between the United States and the nation of Colombia and the role of FARC within that history. The memorial declares that the Florida House of Representatives is firm in its commitment to Colombia and urges Congress to oppose the removal of FARC from the federal list of FTOs. The memorial further urges Congress to use all means possible, including divestiture, to impede ties, commercial or otherwise, with FARC.

Legislative memorials are not subject to the Governor's veto powers and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Foreign Terrorist Organization

The United States Secretary of State (Secretary) is authorized to administer and enforce the immigration and nationality laws of the nation, including those laws which affect the nationality of a person not in the United States.¹ The Secretary is authorized to designate an organization as a foreign terrorist organization (FTO).² Terrorist activity is any activity which is unlawful under the laws of the place where it is committed and involves:³

- The high jacking or sabotage of any conveyance.
- The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.
- A violent attack upon an internationally protected person⁴ or upon the liberty of such a person.
- An assassination.
- The use of any biological, chemical, or nuclear weapon, or device or explosive, firearm, or other weapon or dangerous device, with the intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.
- A threat, attempt, or conspiracy to do any of the aforementioned.

An FTO is defined in federal law as an organization that includes two or more individuals who engage in any of the following activities:⁵

- Committing or inciting to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;
- Preparing or planning a terrorist activity;
- Gathering information on potential targets for terrorist activity;
- Soliciting funds or other things of value for a terrorist activity or a terrorist organization;
- Soliciting an individual to engage in conduct described by federal law as terrorist activities or solicits for membership in a terrorist organization;
- Committing an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons, explosives, or training for the commission of a terrorist activity;
- Training any individual who the actor knows or reasonably should know has committed or plans to commit a terrorist activity; or
- Providing training to a terrorist organization.

Upon the designation of an organization as a terrorist organization, a notice of the designation is sent to Congress, publication of the designation is made in the Federal Register, and a notification is delivered to financial institutions to freeze assets of the designated organization.⁶

¹ 8 U.S.C. s. 1104(a).

² 8 U.S.C. s. 1189(a)(1).

³ 8 U.S.C. s. 1182(a)(3)(B)(iii).

⁴ An internationally protected person means a Chief of State or the political equivalent, the head of government, or a Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him, or any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household. 8 U.S.C. s. 1116.

⁵ 8 U.S.C. s. 1182(a)(3)(B)(vi).

⁶ 8 U.S.C. s. 1189(a)(2)(A)(i).

Revolutionary Forces of Colombia

The Revolutionary Forces of Colombia (FARC) was established in 1964 by the Colombian Communist Party purportedly to redistribute wealth to the poor. Activities of FARC include bombings, murder, mortar attacks, narcotrafficking, kidnapping, extortion, and hijacking.⁷ Since 1997, FARC has been designated as an FTO.⁸

A peace accord with the Colombian government was signed in 2016 and FARC was formally dissolved and disarmed. Some dissidents disagreed with the peace accord, retained the FARC name, continued with the illegal activities, and re-armed themselves. Prior commanders and leaders once involved with the disbanded FARC are not excused from their past crimes and remain on the terrorist list for both their past and any future activities.⁹

In November 2021, the Secretary released changes to the foreign terrorist designations list and among those modifications was the revocation of the FARC designation as an FTO.¹⁰ Designation of FTOs are reviewed in five-year periods.¹¹

Additional organizations, such as the Revolutionary Armed Forces of Colombia – People’s Army (FARC – EP) and Segunda Marquetalia, developed after the Peace Accord and continued to mobilize and engage in terrorist activity according to the Department of State. FARC – EP and Segunda Marquetalia have been found responsible for the killing of former FARC members and other community leaders. Segunda Marquetalia and FARC – EP have been involved in the kidnappings and ransoming of government employees, attempted killings of political leaders, and engaging in mass destruction and assassinations. These two organizations were added to the Foreign Terrorist Organizations List as FARC’s designation was revoked on November 30, 2021. The leaders of the newly added organizations¹² have also been designated as Specially Designated Global Terrorists.¹³

Florida Provisions Against FTOs

The State of Florida also identifies and designates organizations as FTOs. Florida-designated FTOs are organizations designated as FTOs under federal law.¹⁴ A person commits a first-degree felony if the person:¹⁵

- Provides material support or resources or conceals or disguises the nature, location, source, or ownership of the material support or resources, knowing or intending that the support or resources are to be used in preparation for or in carrying out a violation of various laws of Florida;
- Conceals an escape for the commission of a violation of the law; or
- Attempts or conspires to commit a violation of the law.

Effect of the Memorial

⁷ *Encyclopedia Britannica*, FARC, available at <https://www.britannica.com/topic/FARC> (last visited on February 21, 2022).

⁸ 62 Fed. Reg. 52650.

⁹ Antony J. Blinken, United States Department of State, *Revocation of the Terrorist Designations of the Revolutionary Armed Forces of Colombia (FARC) and Additional Terrorist Designations*, November 30, 2021, available at <https://www.state.gov/revocation-of-the-terrorist-designations-of-the-revolutionary-armed-forces-of-colombia-farc-and-additional-terrorist-designations/> (last visited on February 21, 2022).

¹⁰ U.S. Department of State, *Foreign Terrorist Organizations*, available at <https://www.state.gov/foreign-terrorist-organizations/> (last visited on February 21, 2022).

¹¹ 8 U.S.C. s. 1189(a)(4)(C).

¹² Such leaders include Luciano Marin Arango, Hernan Dario Velasquez Saldarriaga, Henry Castellanos Garzon, Nestor Gregorio Vera Fernandez, Miguel Santanilla Botache, and Euclides Espana Caicedo.

¹³ *Id.* Executive Order 13224 authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate individuals and entities as Specially Designated Global Terrorists (SDGTs). SDGTs are added to a list of Specially Designated Nationals. Once added, effects include the blocking of all property and interests in property of the designated individual or entity, the prohibition of transactions of the property and interests of the designated individual or entity, and civil and criminal penalties onto the designated individual or entity.

¹⁴ S. 775.32(1)(b), F.S.

¹⁵ S. 775.33(2), F.S.

The memorial provides historical background of relations between the United States and the nation of Colombia and the role of FARC within that history.

The memorial declares the Florida House of Representatives is firm in its commitment to Colombia and urges Congress to oppose the removal of FARC from the federal list of FTOs. The memorial further urges Congress to use all means possible, including divestiture, to impede ties, commercial or otherwise, with FARC.

The memorial calls for copies to be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto powers and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This memorial does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The memorial neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.