

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 804

INTRODUCER: Senator Torres and others

SUBJECT: Humanitarian Assistance/Government of Venezuela

DATE: March 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	Pre-meeting
2.			RC	

I. Summary:

SM 804 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 the 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:

Formally, the government of Venezuela is "a multiparty, constitutional republic[.]"¹ However, for over a decade, beginning with the election of Hugo Chávez in 1998² to his successor, Nicolás Maduro, political power in Venezuela 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."³ The election of Hugo Chávez launched the "Bolivarian Revolution,"⁴ which brought Venezuela a new constitution as well as "socialist and

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 March 1, 2019).

² See BBC News, *Venezuela profile – Timeline* (Feb. 25, 2019), <http://www.bbc.com/news/world-latin-america-19652436>. After two unsuccessful coup attempts in 1992, in 1998, military Lieutenant Colonel Hugo Chávez was elected president of Venezuela "amid disenchantment with established parties." *Id.*

³ See n. 1, *supra*.

⁴ Named for Venezuelan hero, Simón Bolívar.

populist economic and social policies funded by high oil prices, and increasingly vocal anti-US foreign policy.”⁵

From 2001 until his death in 2013, Chávez expanded the government’s role in the Venezuelan economy by expropriating major enterprises, particularly petroleum, and discouraging private investment through strict currency exchange and price controls.⁶ “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

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 of the extremely narrow 1.5 percent margin of victory and “allegations of pre- and postelection fraud including government interference, the use of state resources by the ruling party, and voter manipulation[,]”¹⁰ Maduro’s election results were challenged by the opposition.¹¹ However, by the end of 2013, Maduro was given emergency powers by the National Assembly for a year to deal with Venezuela’s 50 percent inflation rate, which Maduro used to limit profit margins. This decision was also met with opposition protests.¹²

February and March 2014 Opposition Protests and Violence

Since the 2013 election, Maduro has attempted to “consolidate his authority” and suppress the 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

⁵ See n. 2, *supra*.

⁶ *Id.* 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.*

¹² See n. 1. *supra*.

¹³ See n. 7. *supra* p. 1.

¹⁴ *Id.*

security forces . . . abused the rights of protesters and other people in the vicinity of demonstrations.”¹⁵

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.”¹⁶ 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

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> (last visited March 1, 2019). 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 March 1, 2019). *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 March 1, 2019). *See also* n. 1, *supra*. 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.

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 PUBLIC LAW 113–278 (Dec. 18, 2014), <https://www.congress.gov/113/plaws/publ278/PLAW-113publ278.pdf> (last visited March 1, 2019).

throughout Venezuela.”¹⁷ 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.”¹⁸ 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.”¹⁹

The Act also noted that Venezuela was experiencing serious criminal and economic problems with the murder rate rising sharply between 1999 and 2013 to a rate of 79 people out of every 100,000.²⁰ 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.”²¹ 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.”²² As a result, the March 2014 scarcity index indicated that “fewer than one in 4 basic goods” was available at any given time in Venezuela.²³

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.”²⁴

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.”²⁵ 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[.]”²⁶ 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.”²⁷

¹⁷*Id.*

¹⁸*Id.*

¹⁹*Id.*

²⁰*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 March 1, 2019). See also n. 1, *supra*.

²¹PUBLIC LAW 113–278 (Dec. 18, 2014), <https://www.congress.gov/113/plaws/publ278/PLAW-113publ278.pdf>.

²²*Id.*

²³*Id.*

²⁴ See n. 7, p. 6, *supra*.

²⁵Bureau 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*.

²⁶ *Id.*

²⁷ See n. 7, *supra*.

The Venezuelan Supreme Court went further in January 2016, blocking “numerous laws approved by the legislature,”²⁸ undermining its autonomy, ignoring the separation of powers, and enabling “the president to govern through a series of emergency decrees.”²⁹ 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.³⁰ Additionally, “gubernatorial elections slated for December 2016 were summarily postponed.”³¹

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.”³²

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.”³³ 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.”³⁴ As of April 26, 2017, “ongoing violent clashes between protesters and government forces . . . had claimed 26 lives and resulted in 1,300 detentions.”³⁵

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.”³⁶

As of May 2017, the Venezuela human rights group *Foro Penal Venezolano* listed more than 140 political prisoners in Venezuela. The group reported more than 6,800 political arrests made from 2014 to 2016.³⁷ According to the United States Department of State, many of those detained have been subject to torture and other human rights abuses.³⁸

²⁸ *Id.*

²⁹ *See* n. 26, *supra*.

³⁰ *Id.*

³¹ *Id.*

³² *See* n. 7, p. 7, *supra*.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Human Rights Watch, *Venezuela, Events of 2017*, <https://www.hrw.org/world-report/2018/country-chapters/venezuela#56edeb> (last visited March 1, 2019). 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.” *Id.*

³⁷ *Id.* at pg. 6.

³⁸ U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2016-2017*, available at <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dclid=#wrapper> (last visited March 1, 2019).

Between April and July 2017, government security forces along with armed, pro-government civilian groups, attacked anti-government protestors. 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

On May 20, 2018, Maduro won reelection for a second six-year term with 67.7 percent of the vote amidst high voter abstention.⁴² The elections took place within a climate of state repression and, there has been widespread international condemnation since Maduro's inauguration in January 2019. Juan Guaidó, the leader of the opposition-controlled National Assembly of Venezuela, has declared himself interim president after asserting election was fraudulently conducted to ensure Maduro would win a second six-year term.⁴³ Guaidó cited Title V, Chapter II, Article 233 of the Constitution of the Bolivarian Republic of Venezuela, which states that if the president fails at his or her duties, or if there is an absence in leadership, the National Assembly's chief will take temporary charge of the nation.⁴⁴

Numerous Western Hemisphere governments, including the United States, have recognized Guaidó as the new interim President of Venezuela. President Trump released a statement stating that the United States would press to restore Venezuela's democracy and would "continue to hold the illegitimate Maduro regime directly responsible for any threats it may pose to the safety of the Venezuelan people."⁴⁵ Consequently, Maduro cut diplomatic ties with the United States and told American diplomats to leave the country.

Additionally, the Venezuela military has pledged its allegiance to Nicolás Maduro.

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.⁴⁶ "The International Monetary Fund projects that the

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See n. 1, *supra*.

⁴² Congressional Research Service Insight Report, *Venezuela's 2018 Presidential Elections*, available at <https://webcache.googleusercontent.com/search?q=cache:p67-ogCAUbsJ:https://fas.org/sgp/crs/row/IN10902.pdf+&cd=1&hl=en&ct=clnk&gl=u> (last visited March 1, 2019).

⁴³ Alex Ward, *Why thousands of protesters and Trump are demanding Venezuela's president step down*, Vox (Jan. 23, 2019), <https://www.vox.com/world/2019/1/23/18193533/venezuela-maduro-protest-guaido-pence-trump-23-enero> (last visited March 1, 2019).

⁴⁴ *Id.*

⁴⁵ White House statement, *Recognizing Venezuelan National Assembly President Juan Guaido as the Interim President of Venezuela*, January 23, 2019, available at <https://www.whitehouse.gov/briefings-statements/statement-president-donald-j-trump-recognizing-venezuelan-national-assembly-president-juan-guaido-interim-president-venezuela/> (last visited March 1, 2019).

⁴⁶ See n. 7, p. 7, *supra*.

Venezuelan economy will contract by 18 percent in 2018 under the weight of 1,370,000 percent inflation and with the prospect of 10,000,000 percent inflation in 2019.”⁴⁷

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.”⁴⁸

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 Maduro has not allowed international humanitarian aid into the country.⁴⁹

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.⁵⁰

U.S. Responses

President Trump and the State Department have called for the release of opposition leader Leopoldo López and the rest of Venezuela’s political prisoners.⁵¹ 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

⁴⁷ Center for American Progress, *Venezuela in Crisis: A Way Forward*, available at <https://www.americanprogress.org/issues/security/reports/2018/10/16/459352/venezuela-crisis-way-forward/> (citing International Monetary Fund, “Countries: República Bolivariana de Venezuela,” available at <https://www.imf.org/en/Countries/VEN>) (last accessed March 1, 2019).

⁴⁸ See n. 7, p. 7, *supra*.

⁴⁹ Congressional Research Service Report, *Venezuela: Background and U.S. Policy*, May 10, 2017, pg. 5, available at https://www.everycrsreport.com/files/20170510_R44841_fa3ec514ed07bb711220465fb833d0432061f98a.pdf (last visited March 1, 2019).

⁵⁰ *Id.*

⁵¹ *Id.* at p. 17.

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.⁵²

After the Venezuelan election on May 20, 2018, President Trump issued Executive Order 13835,⁵³ which, among other things, prohibits transactions by the United States or persons within the United States related to the purchase of any debt owed to the government of Venezuela, including Venezuela's state-owned oil company. The executive order also denies the Venezuelan regime the ability to earn money by selling off public assets at the expense of the Venezuelan people.⁵⁴

On March 1, 2019, President Trump announced sanctions against six of Maduro's security officials for blocking humanitarian aid at the border. "The Treasury Department said the six, including brass from the national guard and police . . . closed Venezuela's borders with Brazil and Colombia to prevent help from the US and other countries opposed to his continued hardline rule from entering."⁵⁵

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 the 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.

⁵² Exec. Order No. 13808, 3 C.F.R. 41155 (2017).

⁵³ Exec. Order No. 13835, 3 C.F.R. 24001 (2018).

⁵⁴ United States Department of State, *Venezuela-Related Sanctions*, available at <https://www.state.gov/e/eb/tfs/spi/venezuela/> (last visited March 1, 2019).

⁵⁵ New York Post, *Trump Administration Hits Venezuela with New Sanctions for Blocking Aid*, available at <https://nypost.com/2019/03/01/trump-administration-hits-venezuela-with-new-sanctions-for-blocking-aid/> (last visited March 1, 2019).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The use of the term “president” in reference to Maduro could be removed given the United States does not recognize Maduro as the rightful president of Venezuela.

VII. Related Issues:

None.

VIII. Statutes Affected:**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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
