

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 Rules

BILL: SM 1020

INTRODUCER: Senator Ingoglia

SUBJECT: Designation of Drug Cartels as Foreign Terrorist Organizations

DATE: January 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ingram</u>	<u>Proctor</u>	<u>MS</u>	Favorable
2.	<u>Ingram</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

I. Summary:

SM 1020 is a memorial to the United States Department of State urging the United States Secretary of State to designate drug cartels as Foreign Terrorist Organizations so that the appropriate means may be initiated to mitigate and, eventually, eliminate their operations.

The memorial directs the Secretary of State to dispatch copies to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the state delegation to the United States Congress.

A memorial is an official legislative document addressed to the United States 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.

II. Present Situation:

Measures Against Drug Cartels and Transnational Organizations

Executive Order 14059

On December 15, 2021, and in response to illicit drug trafficking into the United States, the President of the United States signed Executive Order 14059, to combat drug cartels, transnational criminal organizations (TCO), and their facilitators, which are the primary sources of illicit drugs and precursor chemicals that fuel the current opioid epidemic, as well as drug-related violence that harms American communities. Essentially Executive Order 14059 imposes sanctions on foreign persons involved in the global illicit drug trade¹ and authorizes the Secretary

¹ The White House, Briefing Room, *Presidential Actions - Executive Order on Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade*, (Dec. 15, 2021) available at <https://www.whitehouse.gov/briefing->

of the Treasury, in consultation with the United States Secretary of State, the United States Attorney General, and the Secretary of Homeland Security, to impose those sanctions.²

In November 2023, the Office of Foreign Assets Control (OFAC) within the United States Department of the Treasury, in accordance with Executive Order 14059, imposed sanctions on 13 members of a well-known drug cartel for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production. One of those members, Morgan Huerta, who manages the cartel's operations and oversees the trafficking of multi-ton quantities of illicit drugs from Mexico into the United States, was indicted in a United States District Court on various drug trafficking charges in April 2021 and is still a fugitive. OFAC also sanctioned four Mexico-based companies that were owned or controlled, directed by, having acted or purported to act for or on behalf of, directly or indirectly, those certain designated members of the drug cartel.³

Designation of Foreign Terrorist Organizations

In consultation with the United States Secretary of the Treasury and the United States Attorney General, the United States Secretary of State may designate an organization as a Foreign Terrorist Organization in accordance with section 219 of the Immigration and Nationality Act,⁴ as amended if the United States Secretary of State finds that:

- The organization is a foreign organization;
- The organization engages in terrorist activity⁵ or retains the capability and intent to engage in terrorist activity or terrorism⁶; and
- The terrorist activity or terrorism of the organization threatens the security of the United States nationals or the national security, which includes national defense, foreign relations, or the economic interests⁷ of the United States.⁸

Drug Cartels

Illicit drugs

Drug cartels⁹ engage in illicit activities that are penetrating the United States borders. These cartels have been responsible for the export and distribution of fentanyl and other illicit drugs

[room/presidential-actions/2021/12/15/executive-order-on-imposing-sanctions-on-foreign-persons-involved-in-the-global-illicit-drug-trade/](https://www.treasury.gov/room/presidential-actions/2021/12/15/executive-order-on-imposing-sanctions-on-foreign-persons-involved-in-the-global-illicit-drug-trade/) (Jan. 11, 2024).

² *Id.* at Section 1, Section 2.

³ Press Release, U.S. Dep't of the Treasury, *Treasury Sanctions Sinaloa Cartel Network Flush with Illicit Fentanyl on Southwest Border* (Nov. 7, 2023) available at <https://home.treasury.gov/news/press-releases/jv1887> (last visited Jan. 10, 2024).

⁴ U.S. Dep't of Homeland Security, U.S. Citizenship and Immigration Services, *Immigration and Nationality Act*, available at <https://www.uscis.gov/laws-and-policy/legislation/immigration-and-nationality-act> (last visited Jan. 5, 2024).

⁵ 8 U.S.C. §1182(a)(3)(B).

⁶ 22 U.S.C. §2656f(d)(2).

⁷ U.S. Dep't of State, Bureau of Counterterrorism, *Foreign Terrorist Organizations*, available at <https://www.state.gov/foreign-terrorist-organizations/> (last visited Jan. 5, 2024).

⁸ 8 U.S.C. §1189(a).

⁹ U.S. Dep't of Justice, Archives, *Drug Trafficking Organizations*, defines "drug cartels" as large, highly sophisticated organizations composed of multiple drug trafficking organizations and cells with specific assignments such as drug transportation, security/enforcement, or money laundering. Drug cartel command-and-control structures are based outside the

which have caused extensive drug-related overdoses and deaths in the United States. According to provisional data from the Centers for Disease Control and Prevention, over 100,000 drug overdose deaths in the United States were reported each year in 2021 and 2022.¹⁰

On January 26, 2023, the United States Drug Enforcement Administration (DEA) indicated the nationwide seizure totals as of December 2022, were over 50.6 million fentanyl pills and more than 10,500 pounds of fentanyl powder.¹¹ The DEA Laboratory estimates that these seizures represent more than 379 million potentially deadly doses of fentanyl, which equates to enough fentanyl to kill every American.¹² The seizure totals represent only a portion of the illicit drugs being created or illegally imported in to the United States.

During the federal fiscal year 2023, the Department of Homeland Security seized over 43,000 pounds of fentanyl,¹³ with the United States Customs and Border Protection (CBP) seizing 27,000 pounds of fentanyl.¹⁴

One of the many tasks performed by CBP agents is to combat drug smuggling and drug trafficking into the United States across the southern border and via ports of entry. In May 2023, drug smugglers attempted to smuggle illicit drugs into the country when CBP agents in California conducted a vehicular stop and, at the checkpoint, the agents discovered 112 pounds of narcotics that tested positive for fentanyl with an estimated street value of about \$1.5 million.¹⁵ The San Diego Sector Chief Patrol Agent said that “[transnational] criminal organizations do everything they can to distribute these harmful narcotics and earn their profits with no regard for the destructive effects they have on our communities.”¹⁶ In another seizure on December 21, 2023, smugglers were intercepted in Texas where CBP officers seized 1,018 pounds of methamphetamine and 65 pounds of cocaine with a street value of \$10.2 million.¹⁷ A drug smuggling seizure via the Ysleta port of entry occurred in December 2023, when CBP

United States; however, they produce, transport, and distribute illicit drugs domestically with the assistance of drug trafficking organizations that are either a part of or in an alliance with the cartel. (February 2010) *available at* <https://www.justice.gov/archive/ndic/pubs38/38661/dtos.htm> (last visited Jan. 10, 2024).

¹⁰ Centers for Disease Control and Prevention, NCHS: A Blog of the National Center for Health Statistics, *Provisional Data Shows U.S. Drug Overdose Deaths Top 100,000 in 2022* (May 18, 2023) *available at* <https://blogs.cdc.gov/nchs/2023/05/18/7365/> (last visited on Jan. 5, 2024).

¹¹ Press Release, U.S. Drug Enforcement Administration, *DEA Washington Division Announces the Seizure of Over 8 Million of Deadly Doses of Fentanyl in 2022*, *available at* <https://www.dea.gov/press-releases/2023/01/26/dea-washington-division-announces-seizure-over-8-million-deadly-doses> (last visited on Jan. 10, 2024).

¹² *Id.*

¹³ Press Release, Dep’t of Homeland Security, *Fact Sheet: DHS is on the Front Lines Combating Illicit Opioids, Including Fentanyl, Over 5,500 pounds of Fentanyl Seized Already in FY2024* (Dec. 22, 2023) *available at* <https://www.dhs.gov/news/2023/12/22/fact-sheet-dhs-front-lines-combating-illicit-opioids-including-fentanyl> (last visited on Jan. 11, 2024).

¹⁴ U.S. Customs and Border Protection, *Drug Seizure Statistics*, *available at* <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics> (last visited on Jan. 10, 2024).

¹⁵ Press Release, U.S. Customs and Border Protection, *U.S. Border Patrol seizes fentanyl worth more than \$1.5 million at Pine Valley checkpoint* (May 26, 2023) *available at* <https://www.cbp.gov/newsroom/local-media-release/us-border-patrol-seizes-fentanyl-worth-more-15-million-pine-valley> (last visited Jan. 10, 2024).

¹⁶ *Id.*

¹⁷ Press Release, U.S. Customs and Border Protection, *CBP officers seize 1,018 pounds of methamphetamine, 165 pounds of cocaine valued at \$10.2 million at World Trade Bridge* (Dec. 26, 2023) *available at* <https://www.cbp.gov/newsroom/local-media-release/cbp-officers-seize-1018-pounds-methamphetamine-165-pounds-cocaine> (last visited Jan. 5, 2024).

officers intercepted a combined 123 pounds of fentanyl and methamphetamine in failed smuggling attempts over 3 consecutive days.¹⁸

In a 2018 hearing before the United States Senate Subcommittee on Border Security and Immigration, the DEA reported that certain TCOs, which included six named drug cartels, remain the greatest criminal drug threat to the United States.¹⁹ On April 14, 2023, the United States Justice Department announced “significant enforcement actions, against the largest, most violent, and most prolific fentanyl trafficking operation in the world” run by a drug cartel.²⁰ According to Deputy Attorney General Lisa O. Monaco, fueled in a large part by the indicted cartel, “[the] fentanyl crisis in America...threatens our public health, our public safety, and our national security.”²¹

Abduction and Deadly Shooting

In March 2023, it was reported that four Americans traveled to Mexico and got caught up in a drug cartel shootout after entering Matamoros from the southernmost tip of Texas near the Gulf coast.^{22,23} At the time, the Federal Bureau of Investigation reported that four Americans were placed in a vehicle and taken from the scene by armed men.²⁴ Two of the Americans died and two were held captive for days until being found by authorities.²⁵ A drug cartel reportedly claimed responsibility for the abduction and murder of the Americans.²⁶

Human Smuggling and Human Trafficking

Although human smuggling and human trafficking can be related and the actions of which may overlap, there are significant distinctions between the two. Human smuggling requires a payment

¹⁸ Press Release, U.S. Customs and Border Protection, *CBP officers seize fentanyl and methamphetamine at the Ysleta port of entry*, (Dec. 23, 2023) available at <https://www.cbp.gov/newsroom/local-media-release/cbp-officers-seize-fentanyl-and-methamphetamine-ysleta-port-entry> (last visited Jan. 11, 2024).

¹⁹ Dep’t of Justice, *Narcos: Transnational Cartels And Border Security, Statement Of Paul E. Knierim, Deputy Chief Of Operations Office Of Global Enforcement Drug Enforcement Administration, U.S. Department Of Justice, Before The Subcommittee On Border Security And Immigration United States Senate*, p. 6 (Dec. 12, 2018) available at <https://www.dea.gov/sites/default/files/2018-12/DEA%20Testimony%20-%20Mexican%20Cartels%20-%20SJC-12-12-2018.pdf> (last visited Jan. 10, 2024).

²⁰ Press Release, Office of Public Affairs, U.S. Department of Justice, *Justice Department Announces Charges Against Sinaloa Cartel’s Global Operation* (April 14, 2023) <https://www.justice.gov/opa/pr/justice-department-announces-charges-against-sinaloa-cartel-s-global-operation> (last visited Jan.10, 2024).

²¹ *Id.*

²² Alfredo Peña et al., *Ciudad Victoria, Mexico - Survivors of deadly Mexico kidnapping being treated at Texas hospital*, AP, Mar. 7, 2023, available at <https://apnews.com/article/mexico-kidnapped-americans-killed-eaed854f1b16cd61fb79edcb5b87cfe6> (last visited Jan. 11, 2024).

²³ Alfredo Peña & Matthew Barakat, *Ciudad Victoria, Mexico - What we know about the 4 Americans kidnapped in Mexico*, AP, Mar. 7, 2023, available at <https://apnews.com/article/mexico-americans-kidnapped-gulf-drug-cartel-2700637729e8f3a5065005231aa8d4d3> (last visited Jan. 11, 2024).

²⁴ *Id.*

²⁵ Alfredo Peña et al., *supra* note 22.

²⁶ Ana Faguy, *Mexican Drug Cartel Reportedly Claims Responsibility—And Apologizes—For Abducting And Murdering Americans*, Forbes, Mar. 9, 2023, available at <https://www.forbes.com/sites/anafaguy/2023/03/09/mexican-drug-cartel-reportedly-claims-responsibility-and-apologizes-for-abducting-and-murdering-americans/?sh=368554dd58a7> (last visited Jan. 11, 2024).

to and cooperation with a smuggler or smuggling group, also known as a coyote,²⁷ and a smuggled person volunteers to participate and to travel across borders.²⁸ In contrast, a trafficked person is a victim who is coerced, defrauded, or forced into the position and who may not necessarily travel across borders.²⁹

In December 2023, in collaboration with Homeland Security Investigations (HSI) and the DEA and in coordination with the Government of Mexico, the OFAC sanctioned key members of a TCO with the aim of obstructing access to illicit profits from drug trafficking and human smuggling. According to an investigation by HSI, the TCO was found to be a human smuggling and narcotics trafficking organization, the act of which endangers human life and threatens national security.³⁰ According to the Secretary of Homeland Security, by “targeting cartels and smugglers [like the sanctioned TCO], we are disrupting the illicit financial networks of criminals who profit off of vulnerable migrants and devastate our communities with fentanyl and other dangerous narcotics.”³¹

According to the DEA, drug cartels will traffic women and children to smuggle drugs across the border in order to expand profits.³² Often times, human traffickers may use drugs as bait for individuals who have a substance abuse problem, or drugs can be used as a means of control over trafficking victims, such as forced submission, harder work, prolonged hours, or to simply keep the victims on the drugs so that they do not attempt escape.³³

Criminals engaged in human trafficking range from individuals to organized criminal groups according to the United Nations, Office on Drugs and Crime. The more organized groups are typically perpetrating other serious crimes, such as trafficking drugs, arms, and illicit commodities, and corruption and bribery of officials.³⁴ In 2004, Kofi A. Annan Secretary-General of the United Nations, condemned criminal groups who are terrorists, drug dealers, and human traffickers. He implored Member States to ratify not only the United Nations Convention against Transnational Organized Crime,³⁵ but also its supplement, the Protocol to

²⁷ NPR, *National, Talk of the Nation, Inside the Hidden World of Immigrant Smuggling* (Apr. 19, 2012) available at <https://www.npr.org/2012/04/19/150973748/inside-the-hidden-world-of-immigrant-smuggling> (last visited Jan. 5, 2024).

²⁸ Joe Whitley & Gus Coldebella, Council on National Security and Immigration, *White Paper: The Distinction Between and Response to Human Trafficking and Smuggling* available at https://www.cnsiusa.org/files/ugd/5b8edc_65cf39a0100b4c6e8f230b6ab7e872eb.pdf (last Jan. 10, 2024).

²⁹ *Id.*

³⁰ Press Release, U.S. Dep’t of Homeland Security, *Following DHS Investigation, Treasury Sanctions Human Smuggling and Drug Trafficking Organization Operating on Southwest Border* (Dec. 14, 2023) available at <https://www.dhs.gov/news/2023/12/14/following-dhs-investigation-treasury-sanctions-human-smuggling-and-drug-trafficking> (last visited Jan. 10, 2024).

³¹ *Id.*

³² Jarod Forget, Special Agent in Charge, Washington D.C. Division, U.S. Drug Enforcement Administration, *Violent drug organizations use human trafficking to expand profits* (Jan. 28, 2021) <https://www.dea.gov/stories/2021/2021-01/2021-01-28/violent-drug-organizations-use-human-trafficking-expand-profits> (last visited Jan 11, 2024).

³³ *Id.*

³⁴ United Nations, Office on Drugs and Crime, *Human Trafficking FAQs*, available at <https://www.unodc.org/unodc/en/human-trafficking/faqs.html#h10> (last visited Jan. 11, 2024).

³⁵ United Nations, Office on Drugs and Crime, *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto* (November 2000) available at <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf> (last visited Jan. 11, 2024).

Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children.³⁶

Congressional Legislation

A congressional bill introduced in 2023 designates certain drug cartels and TCOs as Foreign Terrorist Organizations and recognizes the threats those organizations pose to the people of the United States as terrorism, and for other purposes.³⁷

Memorial

A memorial is an official legislative document addressed to the United States 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.

III. Effect of Proposed Changes:

SM 1020 is a memorial to the United States Department of State urging the United States Secretary of State to designate drug cartels as Foreign Terrorist Organizations so that the appropriate means may be initiated to mitigate and, eventually, eliminate their operations.

The memorial directs the Secretary of State to dispatch copies to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the state delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁶ United Nations, United Nations Human Rights, Office of the High Commissioner, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted 15 November 2000, by General Assembly resolution, 55/25, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>* (last visited Jan. 11, 2024).

³⁷ S. 1048 – 118th Congress (2023-2024): Ending the Narcos Act of 2023, S. 1048, 118th. (2023) available at <https://www.congress.gov/bill/118th-congress/senate-bill/1048/text> (last visited Jan. 11, 2023).

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:

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.