

Manager's Substitute Amendment

AMENDMENT NO. _____

Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 396

To require the Secretary of State to submit an annual report to Congress regarding the ties between criminal gangs and political and economic elites in Haiti and impose sanctions on political and economic elites involved in such criminal activities.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. MENENDEZ

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haiti Criminal Collu-
5 sion Transparency Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) According to a United Nations estimate, ap-
9 proximately 167 criminal gangs operated in Haiti in

1 October 2021, exerting territorial control over as
2 much as two-thirds of the country.

3 (2) Haitian armed criminal gangs, the most
4 prominent of which are the G9 Family and Allies
5 and 400 Mawozo gangs, conduct violent crimes, in-
6 cluding murder, rape, arms and drug trafficking,
7 racketeering, kidnapping, and blockades of fuel and
8 aid deliveries. These crimes have perpetuated the on-
9 going security and humanitarian crises in Haiti,
10 which have worsened since the assassination of
11 President Jovenel Moïse on July 7, 2021.

12 (3) The United Nations Office of the High
13 Commissioner for Human Rights and the Human
14 Rights Service jointly found a 333 percent increase
15 in human rights violations and abuses against the
16 rights to life and security in Haiti between July
17 2018 and December 2019.

18 (4) At least 19,000 Haitians were forcibly dis-
19 placed during 2021 due to rising criminal violence.

20 (5) At least 803 kidnappings were reported in
21 Haiti during the first 10 months of 2021, including
22 the kidnapping of more than 16 United States citi-
23 zens, giving Haiti having the highest per capita kid-
24 napping rate of any country in the world.

1 (6) There is significant evidence of collusion be-
2 tween criminal gangs and economic and political
3 elites in Haiti, including members of the Haitian
4 National Police, which has resulted in widespread
5 impunity and directly contributed to Haiti’s current
6 security crisis.

7 (7) On December 10, 2020, the Office of For-
8 eign Assets Control of the Department of the Treas-
9 ury designated former Haitian National Police offi-
10 cer Jimmy Chérizier, former Director General of the
11 Ministry of the Interior Fednel Monchery, and
12 former Departmental Delegate Joseph Pierre Rich-
13 ard Duplan under the Global Magnitsky Human
14 Rights Accountability Act (subtitle F of title XII of
15 Public Law 114–328; 22 U.S.C. 2656 note) for their
16 connections to armed criminal gangs, including orga-
17 nizing the November 2018 La Saline massacre.

18 **SEC. 3. REPORTING REQUIREMENTS.**

19 (a) DEFINITIONS.—In this section:

20 (1) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—The term “appropriate congressional com-
22 mittees” means—

23 (A) the Committee on Foreign Relations of
24 the Senate;

1 (B) the Select Committee on Intelligence
2 of the Senate;

3 (C) the Committee on Foreign Affairs of
4 the House of Representatives; and

5 (D) the Permanent Select Committee on
6 Intelligence of the House of Representatives.

7 (2) ECONOMIC ELITES.—The term “economic
8 elites” means board members, officers, and execu-
9 tives of groups, committees, corporations, or other
10 persons and entities that exert substantial influence
11 or control over Haiti’s economy, infrastructure, or
12 particular industries.

13 (3) INTELLIGENCE COMMUNITY.—The term
14 “intelligence community” has the meaning given
15 such term in section 3(4) of the National Security
16 Act of 1947 (50 U.S.C. 3003(4)).

17 (4) POLITICAL AND ECONOMIC ELITES.—The
18 term “political and economic elites” means political
19 elites and economic elites.

20 (5) POLITICAL ELITES.—The term “political
21 elites” means current and former government offi-
22 cials and their high-level staff, political party lead-
23 ers, and political committee leaders.

24 (b) REPORT REQUIRED.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of the enactment of this Act, and annually
3 thereafter for the following 5 years, the Secretary of
4 State, in coordination with the intelligence commu-
5 nity, shall submit a report to the appropriate con-
6 gressional committees regarding the ties between
7 criminal gangs and political and economic elites in
8 Haiti. The report shall—

9 (A) identify prominent criminal gangs in
10 Haiti, describe their criminal activities, and
11 identify their primary geographic areas of oper-
12 ations;

13 (B) list Haitian political and economic
14 elites who have links to criminal gangs;

15 (C) describe in detail the relationship be-
16 tween the individuals listed pursuant to sub-
17 paragraph (B) and the criminal gangs identified
18 pursuant to subparagraph (A);

19 (D) list Haitian political and economic
20 elites with links to criminal activities who are
21 currently subjected to visa restrictions or sanc-
22 tions by the United States, its international
23 partners, or the United Nations, including in-
24 formation regarding—

1 (i) the date on which each such Hai-
2 tian political or economic elite was des-
3 igned for restrictions or sanctions;

4 (ii) which countries have designated
5 such Haitian political and economic elites
6 for restrictions or sanctions; and

7 (iii) for Haitian political and economic
8 elites who were designated by the United
9 States, the statutory basis for such des-
10 ignation;

11 (E) describe in detail how Haitian political
12 and economic elites use their relationships with
13 criminal gangs to advance their political and
14 economic interests and agenda;

15 (F) include an assessment of how the na-
16 ture and extent of collusion between political
17 and economic elites and criminal gangs threat-
18 ens the Haitian people and United States na-
19 tional interests and activities in the country, in-
20 cluding the provision of security assistance to
21 the Haitian government; and

22 (G) include an assessment of potential ac-
23 tions that the Government of the United States
24 and the Government of Haiti could take to ad-

1 (B) section 1263 of the Global Magnitsky
2 Human Rights Accountability Act (22 U.S.C.
3 10102); or

4 (C) any other provision of law.

5 (2) IMPOSITION OF SANCTIONS.—Not later than
6 30 days after the date on which the report is sub-
7 mitted pursuant to subsection (b), the President
8 shall impose, on individuals identified pursuant to
9 paragraph (1), to the extent applicable, the sanc-
10 tions referred to in subparagraphs (A) and (B) of
11 such paragraph.

12 (3) WAIVER.—The President may waive the re-
13 quirements under paragraphs (1) and (2) with re-
14 spect to a foreign person if the President certifies
15 and reports to the appropriate congressional com-
16 mittees before such waiver is to take effect that such
17 waiver—

18 (A) would serve a vital national interest of
19 the United States; or

20 (B) is necessary for the delivery of human-
21 itarian assistance or other assistance that sup-
22 ports basic human needs.

23 (4) PUBLIC AVAILABILITY.—The list of persons
24 identified pursuant to subsection (b)(1)(B) shall be
25 posted on a publicly accessible website of the De-

1 partment of State beginning on the date on which
2 the report required under subsection (b)(1) is sub-
3 mitted to Congress.

4 (d) SUNSET.—This section shall cease to have effect
5 on the date that is 5 years after the date of the enactment
6 of this Act.