

Calendar No. 47

118TH CONGRESS
1ST SESSION

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.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2023

Mr. MENENDEZ (for himself, Mr. RUBIO, Mr. KAINE, Mr. CRUZ, Mr. BOOKER, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

MAY 4, 2023

Reported by Mr. MENENDEZ, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) According to a United Nations estimate, ap-
7 proximately 167 criminal gangs operated in Haiti in
8 October 2021, exerting territorial control over as
9 much as two-thirds of the country.

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

19 (3) The United Nations Office of the High
20 Commissioner for Human Rights and the Human
21 Rights Service jointly found a 333 percent increase
22 in human rights violations and abuses against the
23 rights to life and security in Haiti between July
24 2018 and December 2019.

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

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

6 (6) There is significant evidence of collusion be-
7 tween criminal gangs and economic and political
8 elites in Haiti, including members of the Haitian
9 National Police, which has resulted in widespread
10 impunity and directly contributed to Haiti's current
11 security crisis.

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

23 **SEC. 3. REPORTING REQUIREMENTS.**

24 (a) **DEFINITIONS.**—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations of
5 the Senate;

6 (B) the Select Committee on Intelligence
7 of the Senate;

8 (C) the Committee on Foreign Affairs of
9 the House of Representatives; and

10 (D) the Permanent Select Committee on
11 Intelligence of the House of Representatives.

12 (2) ECONOMIC ELITES.—The term “economic
13 elites” means board members, officers, and execu-
14 tives of groups, committees, corporations, or other
15 entities that exert substantial influence or control
16 over Haiti’s economy, infrastructure, or particular
17 industries.

18 (3) INTELLIGENCE COMMUNITY.—The term
19 “intelligence community” has the meaning given
20 such term in section 3(4) of the National Security
21 Act of 1947 (50 U.S.C. 3003(4)).

22 (4) POLITICAL AND ECONOMIC ELITES.—The
23 term “political and economic elites” means political
24 elites and economic elites.

1 (5) **POLITICAL ELITES.**—The term “political
2 elites” means current and former government offi-
3 cials and their high-level staff, political party lead-
4 ers, and political committee leaders.

5 (b) **REPORT REQUIRED.**—

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

14 (A) identify prominent criminal gangs in
15 Haiti, describe their criminal activities, and
16 identify their primary geographic areas of oper-
17 ations;

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

20 (C) describe in detail the relationship be-
21 tween the individuals listed pursuant to sub-
22 paragraph (B) and the criminal gangs identified
23 pursuant to subparagraph (A);

24 (D) list Haitian political and economic
25 elites with links to criminal activities who are

1 currently subjected to visa restrictions or sanc-
2 tions by the United States, its international
3 partners, or the United Nations, including in-
4 formation regarding—

5 (i) the date on which each such Hai-
6 tian political or economic elite was des-
7 ignated for restrictions or sanctions;

8 (ii) which countries have designated
9 such Haitian political and economic elites
10 for restrictions or sanctions; and

11 (iii) for Haitian political and economic
12 elites who were designated by the United
13 States, the statutory basis for such des-
14 ignation;

15 (E) describe in detail how Haitian political
16 and economic elites use their relationships with
17 criminal gangs to advance their political and
18 economic interests and agenda;

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

1 (G) include an assessment of potential ac-
2 tions that the Government of the United States
3 and the Government of Haiti could take to ad-
4 dress the findings made pursuant to subpara-
5 graph (F).

6 (2) FORM OF REPORT.—The report required
7 under paragraph (1) shall be submitted in unclassi-
8 fied form, but may include a classified annex.

9 (c) DESIGNATIONS OF POLITICAL AND ECONOMIC
10 ELITES.—

11 (1) IN GENERAL.—The Secretary of State, in
12 coordination with other relevant Federal agencies
13 and departments, shall identify persons identified
14 pursuant to subparagraphs (A) and (B) of sub-
15 section (b)(1) who may be subjected to visa restric-
16 tions and sanctions under—

17 (A) section 7031(e) of the Department of
18 State, Foreign Operations, and Related Pro-
19 grams Appropriations Act, 2022 (division K of
20 Public Law 117–103; 8 U.S.C. 1182 note); or

21 (B) section 1263 of the Global Magnitsky
22 Human Rights Accountability Act (22 U.S.C.
23 10102).

24 (2) IMPOSITION OF SANCTIONS.—Not later than
25 30 days after the date on which the report is sub-

1 mitted pursuant to subsection (b), the President
 2 shall impose, on individuals identified pursuant to
 3 paragraph (1), to the extent applicable, the sanc-
 4 tions referred to in subparagraphs (A) and (B) of
 5 such paragraph.

6 (3) WAIVER.—The President may waive the re-
 7 quirements under paragraphs (1) and (2) with re-
 8 spect to a foreign person if the President certifies
 9 and reports to the appropriate congressional com-
 10 mittees before such waiver is to take effect that such
 11 waiver—

12 (A) would serve a vital national interest of
 13 the United States; or

14 (B) is necessary for the delivery of human-
 15 itarian assistance or other assistance that sup-
 16 ports basic human needs.

17 (4) PUBLIC AVAILABILITY.—The list of persons
 18 identified pursuant to subsection (b)(1)(B) shall be
 19 posted on a publicly accessible website of the De-
 20 partment of State beginning on the date on which
 21 the report required under subsection (b)(1) is sub-
 22 mitted to Congress.

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

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Haiti Criminal Collu-*
3 *sion Transparency Act of 2023”.*

4 **SEC. 2. FINDINGS.**

5 *Congress makes the following findings:*

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7 *proximately 167 criminal gangs operated in Haiti in*
8 *October 2021, exerting territorial control over as*
9 *much as two-thirds of the country.*

10 *(2) Haitian armed criminal gangs, the most*
11 *prominent of which are the G9 Family and Allies*
12 *and 400 Mawozo gangs, conduct violent crimes, in-*
13 *cluding murder, rape, arms and drug trafficking,*
14 *racketeering, kidnapping, and blockades of fuel and*
15 *aid deliveries. These crimes have perpetuated the on-*
16 *going security and humanitarian crises in Haiti,*
17 *which have worsened since the assassination of Presi-*
18 *dent Jovenel Moïse on July 7, 2021.*

19 *(3) The United Nations Office of the High Com-*
20 *missioner for Human Rights and the Human Rights*
21 *Service jointly found a 333 percent increase in*
22 *human rights violations and abuses against the rights*
23 *to life and security in Haiti between July 2018 and*
24 *December 2019.*

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

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2 *Haiti during the first 10 months of 2021, including*
3 *the kidnapping of more than 16 United States citi-*
4 *zens, giving Haiti having the highest per capita kid-*
5 *napping rate of any country in the world.*

6 (6) *There is significant evidence of collusion be-*
7 *tween criminal gangs and economic and political*
8 *elites in Haiti, including members of the Haitian Na-*
9 *tional Police, which has resulted in widespread impu-*
10 *nity and directly contributed to Haiti's current secu-*
11 *rity crisis.*

12 (7) *On December 10, 2020, the Office of Foreign*
13 *Assets Control of the Department of the Treasury des-*
14 *ignated former Haitian National Police officer*
15 *Jimmy Chérizier, former Director General of the Min-*
16 *istry of the Interior Fednel Monchery, and former De-*
17 *partmental Delegate Joseph Pierre Richard Duplan*
18 *under the Global Magnitsky Human Rights Account-*
19 *ability Act (subtitle F of title XII of Public Law 114–*
20 *328; 22 U.S.C. 2656 note) for their connections to*
21 *armed criminal gangs, including organizing the No-*
22 *vember 2018 La Saline massacre.*

23 **SEC. 3. REPORTING REQUIREMENTS.**

24 (a) *DEFINITIONS.—In this section:*

1 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
2 *TEES.*—*The term “appropriate congressional commit-*
3 *tees” means—*

4 (A) *the Committee on Foreign Relations of*
5 *the Senate;*

6 (B) *the Select Committee on Intelligence of*
7 *the Senate;*

8 (C) *the Committee on Foreign Affairs of the*
9 *House of Representatives; and*

10 (D) *the Permanent Select Committee on In-*
11 *telligence of the House of Representatives.*

12 (2) *ECONOMIC ELITES.*—*The term “economic*
13 *elites” means board members, officers, and executives*
14 *of groups, committees, corporations, or other persons*
15 *and entities that exert substantial influence or control*
16 *over Haiti’s economy, infrastructure, or particular*
17 *industries.*

18 (3) *INTELLIGENCE COMMUNITY.*—*The term “in-*
19 *telligence community” has the meaning given such*
20 *term in section 3(4) of the National Security Act of*
21 *1947 (50 U.S.C. 3003(4)).*

22 (4) *POLITICAL AND ECONOMIC ELITES.*—*The*
23 *term “political and economic elites” means political*
24 *elites and economic elites.*

1 (5) *POLITICAL ELITES.*—*The term “political*
2 *elites” means current and former government officials*
3 *and their high-level staff, political party leaders, and*
4 *political committee leaders.*

5 (b) *REPORT REQUIRED.*—

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

14 (A) *identify prominent criminal gangs in*
15 *Haiti, describe their criminal activities, and*
16 *identify their primary geographic areas of oper-*
17 *ations;*

18 (B) *list Haitian political and economic*
19 *elites who have links to criminal gangs;*

20 (C) *describe in detail the relationship be-*
21 *tween the individuals listed pursuant to sub-*
22 *paragraph (B) and the criminal gangs identified*
23 *pursuant to subparagraph (A);*

24 (D) *list Haitian political and economic*
25 *elites with links to criminal activities who are*

1 *currently subjected to visa restrictions or sanc-*
2 *tions by the United States, its international*
3 *partners, or the United Nations, including infor-*
4 *mation regarding—*

5 *(i) the date on which each such Hai-*
6 *tian political or economic elite was des-*
7 *ignated for restrictions or sanctions;*

8 *(ii) which countries have designated*
9 *such Haitian political and economic elites*
10 *for restrictions or sanctions; and*

11 *(iii) for Haitian political and eco-*
12 *nomical elites who were designated by the*
13 *United States, the statutory basis for such*
14 *designation;*

15 *(E) describe in detail how Haitian political*
16 *and economic elites use their relationships with*
17 *criminal gangs to advance their political and*
18 *economic interests and agenda;*

19 *(F) include an assessment of how the nature*
20 *and extent of collusion between political and eco-*
21 *nomical elites and criminal gangs threatens the*
22 *Haitian people and United States national in-*
23 *terests and activities in the country, including*
24 *the provision of security assistance to the Hai-*
25 *tian government; and*

1 (G) include an assessment of potential ac-
2 tions that the Government of the United States
3 and the Government of Haiti could take to ad-
4 dress the findings made pursuant to subpara-
5 graph (F).

6 (2) CONSULTATIONS.—In developing and imple-
7 menting the report required under paragraph (1), the
8 Secretary of State shall consult with Haitian dias-
9 pora communities in the United States and civil soci-
10 ety organizations on topics including humanitarian
11 assistance mechanisms for overcoming collusion be-
12 tween Haitian political and economic elites.

13 (3) FORM OF REPORT.—The report required
14 under paragraph (1) shall be submitted in unclassi-
15 fied form, but may include a classified annex.

16 (c) DESIGNATIONS OF POLITICAL AND ECONOMIC
17 ELITES.—

18 (1) IN GENERAL.—The Secretary of State, in co-
19 ordination with other relevant Federal agencies and
20 departments, shall identify persons identified pursu-
21 ant to subparagraphs (A) and (B) of subsection (b)(1)
22 who may be subjected to visa restrictions and sanc-
23 tions under—

24 (A) section 7031(c) of the Department of
25 State, Foreign Operations, and Related Pro-

1 *grams Appropriations Act, 2022 (division K of*
2 *Public Law 117–103; 8 U.S.C. 1182 note);*

3 *(B) section 1263 of the Global Magnitsky*
4 *Human Rights Accountability Act (22 U.S.C.*
5 *10102); or*

6 *(C) any other provision of law.*

7 (2) *IMPOSITION OF SANCTIONS.*—*Not later than*
8 *30 days after the date on which the report is sub-*
9 *mitted pursuant to subsection (b), the President shall*
10 *impose, on individuals identified pursuant to para-*
11 *graph (1), to the extent applicable, the sanctions re-*
12 *ferred to in subparagraphs (A) and (B) of such para-*
13 *graph.*

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

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22 *tarian assistance or other assistance that sup-*
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24 (4) *PUBLIC AVAILABILITY.*—*The list of persons*
25 *identified pursuant to subsection (b)(1)(B) shall be*

1 *posted on a publicly accessible website of the Depart-*
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3 *port required under subsection (b)(1) is submitted to*
4 *Congress.*

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6 *the date that is 5 years after the date of the enactment of*
7 *this Act.*

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