To impose sanctions with respect to persons responsible for violence and human rights abuses in Nicaragua, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Menendez (for himself, Mr. Cruz, Mr. Nelson, Mr. Rubio, Mr. Durbin, Mr. Perdue, Mr. Leahy, Mr. Kaine, Mr. Cardin, and Mr. Cotton) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To impose sanctions with respect to persons responsible for violence and human rights abuses in Nicaragua, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Nicaragua Human Rights and Anticorruption Act of 2018”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Sense of Congress on advancing a negotiated solution to Nicaragua’s crisis.
Sec. 4. Imposition of sanctions with respect to persons responsible for human rights violations and corruption in Nicaragua.
Sec. 5. Certification and waiver.
Sec. 7. Definitions.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On April 19, 2018, protests began in Managua, Nicaragua, as a result of changes made to the social security system by the Government of Nicaragua that would have raised workers’ contributions and cut retirees’ pensions.

(2) The Government of Nicaragua has responded to antigovernment protests with excessive force and killings perpetrated by its public security forces and, as of July 17, 2018, more than 273 people have been killed in the context of those protests, according to the Inter-American Commission on Human Rights of the Organization of American States.

(3) On May 21, 2018, the Inter-American Commission on Human Rights issued a statement that described the excessive use of force by Nicaraguan security forces and armed irregular groups that resulted in “dozens of persons killed and hundreds wounded; illegal and arbitrary detentions; practices
of torture, cruel, inhuman and degrading treatment; censorship and attacks on the press; and other forms of intimidation.”

(4) On May 29, 2018, Amnesty International released a report entitled “Shoot to Kill: Nicaragua’s Strategy to Repress Protest”, which documented the lethal use of weapons, specifically noting that gunshots fired by pro-government groups targeted specific individuals.

(5) Transparency International’s 2017 Corruption Perceptions Index ranks Nicaragua as tied for 151 of 180, the third worst ranking for a country in the Western Hemisphere, after Venezuela and Haiti.

(6) The Country Reports on Human Rights Practices for 2017 of the Department of State notes, with respect to Nicaragua, that actions by the ruling Sandinista National Liberation Front party have resulted in the de facto concentration of power in a single party, with an authoritarian executive branch exercising significant control over the legislative, judicial, and electoral functions of the Government of Nicaragua.

(7) The 2017 report of the Department of State also stated with respect to Nicaragua that
“the most significant human rights abuses included reports of arbitrary or unlawful killings; almost complete lack of judicial independence; unlawful interference with privacy; multiple obstacles to freedom of speech and the press, including government intimidation, and harassment of and threats against journalists and independent media; and partisan restrictions on freedom of peaceful assembly”.

(8) On July 5, 2018, pursuant to the Global Magnitsky Human Rights Accountability Act (subtitle F of title XII of Public Law 114–328; 22 U.S.C. 2656 note), the United States Government sanctioned 3 individuals from Nicaragua who have been involved in serious human rights abuses or engaged in corruption, including—

(A) Francisco Javier Diaz, Commissioner of the National Police of Nicaragua;

(B) Jose Francisco Lopez, Vice President of ALBANISA; and

(C) Fidel Antonio Moreno, a member of the Sandinista National Liberation Front party.

SEC. 3. SENSE OF CONGRESS ON ADVANCING A NEGOTIATED SOLUTION TO NICARAGUA’S CRISIS.

It is the sense of Congress that—
(1) credible negotiations between the Government of Nicaragua and representatives of the Catholic Church, civil society, student movement, private sector, and political opposition in Nicaragua represent the best opportunity to reach a peaceful solution to the crisis in Nicaragua that includes—

(A) a commitment to hold early elections that meet democratic standards and permit credible international electoral observation;

(B) the cessation of the violence perpetrated against civilians by the National Police of Nicaragua and by armed groups supported by the Government of Nicaragua; and

(C) independent investigations into the killings of more than 273 protesters; and

(2) negotiations between the Government of Nicaragua and representatives of the Catholic Church, civil society, student movement, private sector, and political opposition in Nicaragua have not resulted in an agreement as of the date of the enactment of this Act because the Government of Nicaragua failed to credibly participate in the process.
SEC. 4. IMPOSITION OF SANCTIONS WITH RESPECT TO PERSONS RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS AND CORRUPTION IN NICARAGUA.

(a) In General.—The President shall impose the sanctions described in subsection (b) with respect to any foreign person, including any current or former official of the Government of Nicaragua or any person acting on behalf of that Government, that the President determines—

(1) has perpetrated, or is responsible for ordering or otherwise directing, significant acts of violence or human rights violations in Nicaragua against persons associated with the protests in Nicaragua that began on April 18, 2018;

(2) is responsible for or complicit in ordering, controlling, or otherwise directing significant actions or policies that undermine democratic processes or institutions in Nicaragua; or

(3) is an official of the Government of Nicaragua, or a senior associate of such an official, that is responsible for or complicit in ordering, controlling, or otherwise directing acts of significant corruption, including the expropriation of private or public assets for personal gain, corruption related to government contracts, bribery, or the facilitation or
transfer of the proceeds of corruption to foreign jurisdictions.

(b) Sanctions Described.—

(1) In general.—The sanctions described in this subsection are the following:

(A) Asset blocking.—The exercise of all powers granted to the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in all property and interests in property of a person determined by the President to be subject to subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) Exclusion from the United States and revocation of visa or other documentation.—In the case of an alien determined by the President to be subject to subsection (a), denial of a visa to, and exclusion from the United States of, the alien, and revocation in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C.
1201(i)), of any visa or other documentation of 
the alien.

(2) Penalties.—A person that violates, at-
tempts to violate, conspires to violate, or causes a 
violation of paragraph (1)(A) or any regulation, li-
cense, or order issued to carry out paragraph (1)(A) 
shall be subject to the penalties set forth in sub-
sections (b) and (c) of section 206 of the Inter-
national Emergency Economic Powers Act (50 
U.S.C. 1705) to the same extent as a person that 
commits an unlawful act described in subsection (a) 
of that section.

(3) Exception relating to importation of 
goods.—The requirement to block and prohibit all 
transactions in all property and interests in property 
under paragraph (1)(A) shall not include the author-
ity to impose sanctions on the importation of goods 
(as that term is defined in section 16 of the Export 
Administration Act of 1979 (50 U.S.C. 4618) (as 
continued in effect pursuant to the International 
et seq.))).

(4) Exception to comply with United Na-
tions headquarters agreement.—Sanctions 
under paragraph (1)(B) shall not apply to an alien
if admitting the alien into the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

(c) REGULATORY AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to carry out this section.

(d) TERMINATION.—This section shall terminate on December 31, 2021.

SEC. 5. CERTIFICATION AND WAIVER.

(a) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter until December 31, 2021, the Secretary of State shall submit to the appropriate congressional committees a report certifying whether the Government of Nicaragua is taking effective steps—

(1) to strengthen the rule of law and democratic governance, including the independence of the judicial system and electoral council;

(2) to combat corruption, including by investigating and prosecuting officials of that Government who are credibly alleged to be corrupt; and
(3) to protect the right of political opposition parties, journalists, trade unionists, human rights defenders, and other civil society activists to operate without interference.

(b) Waiver.—

(1) Temporary general waiver.—If the Secretary of State certifies to the appropriate congressional committees under subsection (a) that the Government of Nicaragua is taking effective steps as described in that subsection, the President may waive the imposition of additional sanctions under section 4 for a period of not more than one year beginning on the date of the certification.

(2) Case-by-case waiver.—The President may waive the application of sanctions under section 4 with respect to a person if the President—

(A) determines that such a waiver is in the national interest of the United States; and

(B) not later than the date on which the waiver takes effect, submits to the appropriate congressional committees a notice of and justification for the waiver.

(e) Sense of Congress.—It is the sense of Congress that the President should exercise the waiver authority provided under subsection (b)(1) if the Secretary of
State certifies under subsection (a) that the Government of Nicaragua is taking effective steps as described in that subsection.

SEC. 6. REPORT ON HUMAN RIGHTS VIOLATIONS AND CORRUPTION IN NICARAGUA.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter until December 31, 2021, the Secretary of State, acting through the Assistant Secretary of State for Intelligence and Research, and in coordination with the Director of National Intelligence, shall submit to the appropriate congressional committees a report on the involvement of senior officials of the Government of Nicaragua, including members of the Supreme Electoral Council, the National Assembly, and the judicial system, in human rights violations and acts of significant corruption.

(b) ELEMENTS.—The report required by subsection (a) shall include, to the extent feasible, the following:

(1) For each senior official described in that subsection—

   (A) the estimated total amount of funds or other assets held in accounts at United States financial institutions or foreign financial institutions that are under the direct or indirect control of the senior official;
(B) a description of such funds or assets;

(C) an identification of any equity interest

held by the senior official—

(i) in an entity on the list of specially
designated nationals and blocked persons

maintained by the Office of Foreign Assets

Control of the Department of the Treas-

ury; or

(ii) in any other entity subject to

sanctions imposed by the United States;

(D) a description of how the senior official

acquired such funds, assets, or equity interests;

and

(E) a description of how such funds, as-

sets, or equity interests have been used.

(2) A description of any new methods used by

senior officials described in subsection (a) to evade

anti-money laundering and related laws, including

recommendations to improve techniques to combat

the illicit use of the United States financial system

by such senior officials.

(c) FORM.—The report required by subsection (a)

shall be submitted in unclassified form but may include

a classified annex.
(d) Public Availability.—The unclassified portion of the report required by subsection (a) shall be posted on a publicly available website of the Department of State.

SEC. 7. DEFINITIONS.

In this Act:

(1) Appropriate congressional committees.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Financial Services, and the Committee on Appropriations of the House of Representatives.

(2) United States person.—The term “United States person” means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.