

118TH CONGRESS
2D SESSION

S. 4385

To reform pattern or practice investigations conducted by the Department of Justice, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2024

Ms. WARREN (for herself, Ms. HIRONO, Ms. DUCKWORTH, Mr. WYDEN, Mr. SANDERS, Mr. MERKLEY, Mr. VAN HOLLEN, Mr. BOOKER, Mr. WELCH, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform pattern or practice investigations conducted by the Department of Justice, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Enhancing Oversight
5 to End Discrimination in Policing Act”.

6 **SEC. 2. CONSENT DECREE PROCEDURES.**

7 (a) IN GENERAL.—The Attorney General, acting
8 through the Assistant Attorney General of the Civil Rights
9 Division of the Department of Justice, shall—

1 (1) modify the procedures for civil consent de-
2 crees and consent agreements in civil litigation with
3 State and local governmental entities arising from
4 pattern or practice investigations under section
5 210401 of the Violent Crime Control and Law En-
6 forcement Act of 1994 (34 U.S.C. 12601) to ensure
7 that—

8 (A) the use of consent decrees and consent
9 agreements fosters the creation and use of rem-
10 edies that are not limited to law enforcement
11 reforms, such as mental health support, includ-
12 ing in cases where a pattern or practice of con-
13 duct is found to violate the Americans with Dis-
14 abilities Act of 1990 (42 U.S.C. 12101 et seq.),
15 or community-based restorative justice mecha-
16 nisms;

17 (B) community oversight requirements,
18 such as a community oversight body described
19 in subsection (b), are incorporated, when pos-
20 sible, into the terms of consent decrees and con-
21 sent agreements; and

22 (C) remedies are developed and imple-
23 mented expeditiously, when possible; and

24 (2) in carrying out paragraph (1)(A), request
25 guidance from the heads of other relevant agencies,

1 such as the Secretary of Housing and Urban Devel-
2 opment and the Secretary of Health and Human
3 Services, on the efficacy of the alternative remedies
4 described in that paragraph.

5 (b) COMMUNITY OVERSIGHT BODY DESCRIBED.—A
6 community oversight body described in this subsection is
7 an oversight entity that—

8 (1) is comprised of individuals who—

9 (A) represent the communities and organi-
10 zations within the State or unit of local govern-
11 ment to which the consent decree or consent
12 agreement applies; and

13 (B) do not work, and have not previously
14 worked, in a law enforcement capacity;

15 (2) has a role of—

16 (A) ensuring compliance with the provi-
17 sions of the consent decree or consent agree-
18 ment; and

19 (B) fostering transparency in the adminis-
20 tration and personnel of the law enforcement
21 agency; and

22 (3) has the authority to—

23 (A) ask questions of the law enforcement
24 agency;

1 (B) obtain documents, data, and informa-
2 tion from the law enforcement agency; and

3 (C) make recommendations—

4 (i) for modifications to the provisions
5 of the consent decree or consent agree-
6 ment, as necessary; and

7 (ii) to the law enforcement agency or
8 governmental officials overseeing the agen-
9 cy about changes in policing services.

10 **SEC. 3. FUNDING FOR PATTERN OR PRACTICE INVESTIGA-**
11 **TIONS.**

12 (a) **ADDITIONAL FUNDING.—**

13 (1) **IN GENERAL.—**There are authorized to be
14 appropriated, in addition to any other amounts au-
15 thorized, \$445,000,000 to the Civil Rights Division
16 of the Department of Justice for each of fiscal years
17 2025 through 2034, not less than \$100,000,000 of
18 which shall be made available each fiscal year for en-
19 forcement and technical assistance under section
20 210401 of the Violent Crime Control and Law En-
21 forcement Act of 1994 (34 U.S.C. 12601).

22 (2) **REPORTS TO CONGRESS.—**Not later than 1
23 year after the date of enactment of this Act, and an-
24 nually thereafter, the Attorney General shall submit
25 to the Committee on the Judiciary of the Senate and

1 the Committee on the Judiciary of the House of
2 Representatives a report on the use of amounts ap-
3 propriated pursuant to the authorization of appro-
4 priations under paragraph (1), which shall include a
5 detailed summary of how the amounts were used for
6 pattern or practice investigations.

7 (b) UNLAWFUL CONDUCT.—Subtitle D of title XXI
8 of the Violent Crime Control and Law Enforcement Act
9 of 1994 (34 U.S.C. 12601 et seq.) is amended—

10 (1) in the subtitle heading, by striking “**Po-**
11 **lice**”; and

12 (2) in section 210401(a) (34 U.S.C.
13 12601(a))—

14 (A) by striking “by law enforcement offi-
15 cers or by officials or employees of any govern-
16 mental agency with responsibility for the ad-
17 ministration of juvenile justice or the incarcer-
18 ation of juveniles” and inserting “by law en-
19 forcement officers, prosecutors, judges, officials
20 or employees of any governmental agency with
21 responsibility for the administration of juvenile
22 justice or the incarceration of juveniles, or other
23 officials or employees of any governmental
24 agency involved in the administration of jus-
25 tice”; and

1 (B) by inserting before the period at the
 2 end the following: “, provided that no pros-
 3 ecutor shall be deemed to have engaged in un-
 4 lawful conduct under this subsection on the
 5 basis of exercising discretion to decline to bring
 6 criminal charges”.

7 (c) AUTHORITY FOR STATE INVESTIGATIONS.—Sec-
 8 tion 210401(b) of the Violent Crime Control and Law En-
 9 forcement Act of 1994 (34 U.S.C. 12601(b)) is amend-
 10 ed—

11 (1) by striking “Whenever” and inserting the
 12 following:

13 “(1) FEDERAL ENFORCEMENT.—Whenever”;

14 (2) in paragraph (1), as so designated, by strik-
 15 ing “paragraph (1)” and inserting “subsection (a)”;
 16 and

17 (3) by adding at the end the following:

18 “(2) STATE ENFORCEMENT.—

19 “(A) IN GENERAL.—Whenever an attorney
 20 general of a State has reasonable cause to be-
 21 lieve that a violation of subsection (a) has oc-
 22 curred by a governmental authority, or agent
 23 thereof, of the State, including a prosecutor or
 24 other agency involved in the administration of
 25 justice, the attorney general, or another official

1 or agency designated by the State, may in a
2 civil action brought in any appropriate district
3 court of the United States obtain appropriate
4 equitable and declaratory relief to eliminate the
5 pattern or practice.

6 “(B) PREVENTION OF CONFLICTS OF IN-
7 TEREST.—

8 “(i) IN GENERAL.—No official or
9 agency may be designated under subpara-
10 graph (A) if—

11 “(I) upon such designation, the
12 Attorney General determines there is
13 reason to believe—

14 “(aa) the official or agency
15 would be unable to conduct an
16 independent investigation; or

17 “(bb) a conflict of interest
18 between the official or agency
19 and the governmental authority
20 under investigation exists; or

21 “(II) the official is employed by
22 or the agency is within, as the case
23 may be, the governmental authority
24 under investigation.

1 “(ii) INDEPENDENT ORGANIZATION
2 REQUIRED.—In the case of a governmental
3 authority under investigation that is a
4 State-wide office, an independent organiza-
5 tion that is unaffiliated with State or local
6 government shall be designated under sub-
7 paragraph (A).

8 “(C) TECHNICAL ASSISTANCE.—The At-
9 torney General shall provide technical assist-
10 ance and training to States and units of local
11 government to assist States and units of local
12 governments in carrying out pattern or practice
13 investigations and cases.

14 “(D) RULE OF CONSTRUCTION.—Nothing
15 in this paragraph shall be construed to preclude
16 a Federal investigation or other enforcement
17 under this section during the course of a State-
18 led investigation or claim.”.

19 (d) GRANT PROGRAM.—

20 (1) STATE DEFINED.—In this subsection, the
21 term “State” means each of the several States, the
22 District of Columbia, and each commonwealth, terri-
23 tory, or possession of the United States.

24 (2) AUTHORIZATION.—The Attorney General
25 may award grants to States to assist such States in

1 pursuing pattern or practice investigations and cases
2 under section 210401 of the Violent Crime Control
3 and Law Enforcement Act of 1994 (34 U.S.C.
4 12601).

5 (3) USE OF FUNDS.—A grant awarded under
6 this subsection may be used by a State to—

7 (A) conduct pattern or practice investiga-
8 tions and cases under section 210401 of the
9 Violent Crime Control and Law Enforcement
10 Act of 1994 (34 U.S.C. 12601);

11 (B) implement and enforce law enforce-
12 ment reforms to address patterns and practices
13 identified under such section 210401, provided
14 that no funds may be diverted to law enforce-
15 ment agencies for other law enforcement oper-
16 ations; and

17 (C) develop non-law enforcement programs
18 that reduce dependence on law enforcement
19 agencies, such as funding social workers, behav-
20 ioral health crisis experts, and public safety al-
21 ternatives to police enforcement of traffic rules.

22 (4) APPLICATION.—To be eligible to receive a
23 grant under this subsection, a State shall submit an
24 application to the Attorney General that—

1 (A) contains clearly defined and measur-
2 able objectives for the grant funds;

3 (B) describes how the State intends to use
4 the grant funds to pursue, implement, and en-
5 force pattern or practice investigations and
6 cases under section 210401 of the Violent
7 Crime Control and Law Enforcement Act of
8 1994 (34 U.S.C. 12601);

9 (C) outlines the qualifications and training
10 of the attorneys, staff, and other personnel who
11 are, or who may be, assigned to lead or assist
12 pattern or practice investigations and cases;
13 and

14 (D) demonstrates how the State will rem-
15 edy patterns or practices of unlawful law en-
16 forcement conduct through the creation of com-
17 munity-based programs designed to address un-
18 derlying challenges leading to law enforcement
19 interaction.

20 (5) REQUIRED REPORTING.—

21 (A) GRANTEE REPORTING.—Not later than
22 5 business days after the last day of each quar-
23 ter of each fiscal year for which a State receives
24 a grant under this subsection, the State shall

1 submit to the Attorney General a report detail-
2 ing, for that quarter—

3 (i) how the grant funds were used;

4 and

5 (ii) the progress made towards ad-
6 dressing patterns and practices identified
7 under section 210401 of the Violent Crime
8 Control and Law Enforcement Act of 1994
9 (34 U.S.C. 12601).

10 (B) REPORTS TO CONGRESS.—Not later
11 than 18 months after the date of enactment of
12 this Act, and annually thereafter, the Attorney
13 General shall submit to the Committee on the
14 Judiciary of the Senate and the Committee on
15 the Judiciary of the House of Representatives a
16 report on the grant program established under
17 this subsection, which shall include—

18 (i) a detailed summary of how grant
19 funds awarded under the grant program
20 were used; and

21 (ii) recommendations, if any, for im-
22 provements needed for the grant program.

23 (6) ACCOUNTABILITY MECHANISMS.—

24 (A) MONITORING & EVALUATION.—

1 (i) IN GENERAL.—Pursuant to rules
2 promulgated by the Attorney General, the
3 Attorney General shall—

4 (I) monitor the use of grant
5 funds by each recipient of a grant
6 under this subsection; and

7 (II) evaluate the results of pat-
8 tern or practice investigations carried
9 out using grants awarded under this
10 subsection.

11 (ii) TYPES OF EVALUATIONS.—An
12 evaluation conducted under clause (i) may
13 include an independent audit or assess-
14 ment of—

15 (I) the behavior of law enforce-
16 ment officers;

17 (II) the performance of a pattern
18 or practice investigation; or

19 (III) the implementation of rem-
20 edies following a pattern or practice
21 investigation.

22 (iii) DATA COLLECTION.—The Attor-
23 ney General may require 1 or more recipi-
24 ents of grants under this subsection to col-
25 lect data on the race, gender, socio-

1 economic status, and other demographic
2 characteristics of individuals subject to
3 deprivations of the rights, privileges, or im-
4 munities secured or protected by the Con-
5 stitution or laws of the United States.

6 (B) REVOCATION OF GRANT.—If the At-
7 torney General finds, based on reporting under
8 paragraph (5), monitoring and evaluation under
9 subparagraph (A) of this paragraph, or other
10 information, that grant funds awarded under
11 this subsection are being diverted to law en-
12 forcement operations or another purpose other
13 than pattern or practice investigations—

14 (i) the Attorney General shall revoke
15 the grant; and

16 (ii) the grantee shall repay to the
17 Federal Government any amounts that the
18 grantee—

19 (I) received through the grant;

20 and

21 (II) has not obligated or ex-

22 pended.

23 (7) AUTHORIZATION OF APPROPRIATIONS.—

24 There are authorized to be appropriated to the At-

- 1 torney General \$150,000,000 for each of fiscal years
- 2 2025 through 2034 to carry out this subsection.

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