

1 AN ACT relating to racial and ethnic community criminal justice and public safety
2 impact statements.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
5 READ AS FOLLOWS:

6 *The General Assembly finds:*

7 *(1) Public policymakers are increasingly concerned with the disparity between the*
8 *number of minorities in the population and the number incarcerated in jails and*
9 *prisons;*

10 *(2) Racial and ethnic disparities in America's criminal justice system result in*
11 *devastating consequences to society, including but not limited to:*

12 *(a) Offenders face daunting employment challenges, reduced lifetime*
13 *employment earnings, and lack of access to public benefits;*

14 *(b) Offenders' families face the shame and stigma associated with*
15 *incarceration, as well as the loss of financial and emotional support of a*
16 *loved one; and*

17 *(c) High rates of recidivism and burgeoning prison system costs affect all*
18 *communities;*

19 *(3) Nationally:*

20 *(a) One (1) of every nine (9) black males between twenty (20) and thirty-four*
21 *(34) years old is incarcerated;*

22 *(b) Thirty-seven percent (37%) of prisoners under federal and state jurisdiction*
23 *at the end of 2014 were black, thirty-two percent (32%) were white, and*
24 *twenty-two percent (22%) were Hispanic; and*

25 *(c) According to 2014 United States Census data, thirteen and two-tenths*
26 *percent (13.2%) of the United States population is black;*

27 *(4) In Kentucky, twenty-one percent (21%) of the prison population is African-*

1 American but, according to 2016 United States Census data, ten and two-tenths
2 percent (10.2%) of the Kentucky population is black or reports two (2) or more
3 racess;

4 (5) Criminal justice policies, while neutral on their face, often adversely affect
5 minority communities, and these unintended consequences could be more
6 adequately addressed prior to adoption of a new initiative, particularly since such
7 initiatives, once adopted, often are difficult to reverse;

8 (6) Racial and ethnic community criminal justice and public safety impact
9 statements are tools to guide policymakers in proactively assessing how proposed
10 sentencing initiatives affect racial and ethnic disparities of adults and juveniles in
11 the criminal justice system. Similar to fiscal and corrections impact statements,
12 they provide legislators and agencies with a statistical analysis of the projected
13 impact of policy changes before legislative deliberation or administrative
14 regulation adoption;

15 (7) It is altogether fitting and proper, and in the public interest, to require racial and
16 ethnic community criminal justice and public safety impact statements to be
17 prepared for bills, resolutions, or amendments that may result in an increase or a
18 decrease in adult and juvenile pretrial detention, sentencing, probation, or parole
19 populations; and

20 (8) It is also altogether fitting and proper, and in the public interest, to require racial
21 and ethnic community criminal justice and public safety impact statements to be
22 included in the notice of a proposed agency rule that could increase or decrease
23 adult and juvenile pretrial detention, sentencing, probation, or parole
24 populations.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) The Legislative Research Commission shall prepare a racial and ethnic

1 community criminal justice and public safety impact statement for each proposed
2 bill, resolution, committee substitute, or amendment that:

3 (a) Would affect pretrial detention, sentencing, probation, or parole policies
4 concerning adults and juveniles, including but not limited to any bill,
5 resolution, committee substitute, or amendment that establishes a new
6 crime or offense;

7 (b) Modifies a crime or offense or the penalties associated with a crime or
8 offense established under current law; or

9 (c) Modifies procedures under current law for sentencing, parole, or probation;
10 prior to any vote being taken on the bill, resolution, committee substitute, or
11 amendment.

12 (2) If a racial and ethnic community criminal justice and public safety impact
13 statement indicates a disparate impact on a racial or ethnic community, the
14 sponsor of the bill, resolution, committee substitute, or amendment shall consider
15 whether it may be amended to achieve its purpose with a lessened impact on
16 minorities.

17 (3) If a bill, resolution, committee substitute, or amendment is amended to lessen its
18 impact on minorities, the sponsor of the bill, resolution, committee substitute, or
19 amendment shall identify in writing, in comments appended to the racial and
20 ethnic community criminal justice and public safety impact statement, the
21 methodology used to lessen the impact on minorities in the amended proposal.

22 (4) If the sponsor of the bill, resolution, committee substitute, or amendment elects
23 not to amend it or if the racial and ethnic community criminal justice and public
24 safety impact statement for an amended bill, resolution, committee substitute, or
25 amendment continues to indicate a disparate impact on a minority, the sponsor
26 shall:

27 (a) Withdraw the proposed legislation; or

1 **(b) Identify in writing, in the proposed legislation and the racial and ethnic**
2 **community criminal justice and public safety impact statement, his or her**
3 **reasoning for proceeding with the bill, resolution, committee substitute, or**
4 **amendment despite the disparate impact.**

5 **(5) The racial and ethnic community criminal justice and public safety impact**
6 **statement required in subsection (1) of this section shall include but not be**
7 **limited to:**

8 **(a) An assessment of the potential impact of the proposed legislation on racial**
9 **and ethnic minorities, including whether it is likely to have a**
10 **disproportionate or unique impact on racial and ethnic communities and**
11 **the rationale, if any, for the proposed legislation having an identifiable**
12 **impact on racial and ethnic communities;**

13 **(b) A statistical analysis of how the change in policy would affect racial and**
14 **ethnic minorities;**

15 **(c) The impact of the change in policy on correctional facilities and services for**
16 **racial and ethnic minorities;**

17 **(d) The estimated number of criminal and juvenile justice matters involving**
18 **racial and ethnic minorities adjudicated each year; and**

19 **(e) The anticipated effect of the change in policy on public safety in racial and**
20 **ethnic communities and for victims and potential victims in those**
21 **communities.**

22 **(6) State agencies shall make data available to the Legislative Research Commission**
23 **for the purposes of preparing racial and ethnic community criminal justice and**
24 **public safety impact statements.**

25 **➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO**
26 **READ AS FOLLOWS:**

27 **In promulgating an administrative regulation impacting pretrial detention, sentencing,**

- 1 probation, or parole policies concerning adults or juveniles, the Justice and Public
2 Safety Cabinet or any unit thereof shall issue a racial and ethnic community criminal
3 justice and public safety impact statement setting forth how the proposed
4 administrative regulation would affect racial and ethnic minorities, including:
- 5 (1) Whether it is likely to have a disproportionate or unique impact on racial and
6 ethnic communities and the rationale for the proposed rule having an identifiable
7 impact on racial and ethnic communities; and
- 8 (2) Any anticipated impact upon correctional facilities and services for racial and
9 ethnic minorities, the adjudication of criminal and juvenile justice matters
10 involving racial and ethnic minorities, and public safety in racial and ethnic
11 communities and the victims and potential victims in those communities.