

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 black but,*

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

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

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

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

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

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

26 (1) The Legislative Research Commission shall prepare a racial and ethnic
27 community criminal justice and public safety impact statement for each proposed

- 1 bill, resolution, committee substitute, or amendment that:
- 2 (a) Would affect pretrial detention, sentencing, probation, or parole policies
- 3 concerning adults and juveniles, including but not limited to any bill,
- 4 resolution, committee substitute, or amendment that establishes a new
- 5 crime or offense;
- 6 (b) Modifies a crime or offense or the penalties associated with a crime or
- 7 offense established under current law; or
- 8 (c) Modifies procedures under current law for sentencing, parole, or probation.
- 9 (2) The racial and ethnic community criminal justice and public safety impact
- 10 statement required by subsection (1) of this section shall be published prior to any
- 11 vote being taken on the bill, resolution, committee substitute, or amendment.
- 12 (3) 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 (4) 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 prepared
- 21 for the amendment, the methodology used to lessen the impact on minorities in
- 22 the amended proposal.
- 23 (5) If the sponsor of the bill, resolution, committee substitute, or amendment elects
- 24 not to amend it or if the racial and ethnic community criminal justice and public
- 25 safety impact statement for an amended bill, resolution, committee substitute, or
- 26 amendment continues to indicate a disparate impact on a minority, the sponsor
- 27 shall:

1 (a) Withdraw the proposed legislation; or

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

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

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

15 (b) A statistical analysis of how the change in policy would affect incarceration
16 rates for racial and ethnic minorities;

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

19 (d) The estimated number of criminal and juvenile justice matters affected by
20 the change in policy involving racial and ethnic minorities which would be
21 adjudicated each year; and

22 (e) The anticipated effect of the change in policy on public safety in racial and
23 ethnic communities and for victims and potential victims in those
24 communities.

25 (7) State agencies shall make data available to the Legislative Research Commission
26 for the purposes of preparing racial and ethnic community criminal justice and
27 public safety impact statements.

1 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO
2 READ AS FOLLOWS:

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