

118TH CONGRESS
1ST SESSION

H. R. 613

To establish a process for the creation of minority impact assessments to determine whether pending bills, if enacted, are likely to create or exacerbate disparate outcomes among racial or ethnic minority groups, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2023

Mr. TORRES of New York (for himself, Ms. KAMLAGER-DOVE, and Ms. CROCKETT) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish a process for the creation of minority impact assessments to determine whether pending bills, if enacted, are likely to create or exacerbate disparate outcomes among racial or ethnic minority groups, 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 “Wayne Ford Racial
5 Impact Statement Act of 2023”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) Minority impact assessments are a tool for
2 lawmakers to evaluate potential disparities of pro-
3 posed legislation prior to adoption and implementa-
4 tion.

5 (2) There are 5,000 criminal penalties in Fed-
6 eral law and the number of Federal statutes car-
7 rying a criminal penalty has increased by 50 percent
8 since the 1980s.

9 (3) The enactment of criminal laws and pen-
10 alties is a serious matter and the legislative process
11 should reflect the gravity of this process.

12 (4) The United States Sentencing Commission
13 was created to reduce sentencing disparities, which
14 provides a strong foundation for equity action in this
15 branch of Government.

16 (5) Criminal laws conceived and voted on in
17 haste can lead to the enactment of unnecessary, du-
18 plicative, ineffective, or prejudicial criminal pen-
19 alties.

20 (6) In 2008, Iowa was the first State to enact
21 minority impact assessment legislation, authored by
22 former State Representative Wayne Ford, requiring
23 that criminal justice legislation be evaluated with re-
24 spect to whether it will disproportionately impact
25 specified minority groups.

1 (7) The Iowa law created a measurable decline
2 in Black incarceration rates from 13.6 per 1 White
3 resident to 9 to 1 White residents, demonstrating
4 that minority impact assessments can effectively ad-
5 dress disparities in lawmaking and sentencing.

6 (8) Similar legislation has since been considered
7 or enacted in New York, Arizona, Arkansas, Cali-
8 fornia, Florida, Hawaii, Illinois, Kentucky, Lou-
9 isiana, Maryland, Michigan, Minnesota, Mississippi,
10 Missouri, Nebraska, New Mexico, Ohio, Oklahoma,
11 Pennsylvania, Texas, Utah, Vermont, Washington,
12 Wisconsin, Connecticut, Oregon, New Jersey, Colo-
13 rado, Maine, and Virginia.

14 (9) The NAACP and the National Black Cau-
15 cus of State Legislators have adopted resolutions in
16 support of Federal legislation providing for the use
17 of minority impact assessments.

18 (10) Precedent for adopting procedural meas-
19 ures that increase critical deliberation and require
20 independent analysis at the Federal level of racial
21 disparities in criminal justice already exists in the
22 form of scores from the Congressional Budget Of-
23 fice.

24 (11) Deeply rooted discriminatory policies and
25 practices in our legal system fuel systemic inequal-

1 ities and cycles of poverty and hardship, stigmatize
2 and exclude people with criminal records, and im-
3 pede community integration.

4 (12) Requiring an independent assessment with
5 sobering information on the impact of legislation
6 that adds or increases criminal penalties is one way
7 to level the inequities that disproportionately impact
8 people of color, LGBTQ individuals, individuals with
9 disabilities, and other vulnerable groups in sen-
10 tencing.

11 (13) Congress must institutionalize a more de-
12 liberate and evidence-based process prior to voting to
13 criminalize conduct and impose harsh sentences.

14 (b) PURPOSE.—The purpose of this Act is to provide
15 a tool for lawmakers and Federal agencies to determine
16 whether pending bills and proposed rules, if enacted, are
17 likely to create or exacerbate disparate outcomes among
18 racial or ethnic minority groups.

19 **SEC. 3. MINORITY IMPACT ASSESSMENT REQUIREMENTS.**

20 (a) MINORITY IMPACT ASSESSMENTS ON LEGISLA-
21 TION.—The Comptroller General of the United States, in
22 consultation with the Sentencing Commission and the Ad-
23 ministrative Office of the United States Courts, shall pre-
24 pare and submit a minority impact assessment to Con-
25 gress on a covered bill or joint resolution prior to the con-

1 sideration of such a bill or joint resolution on the floor
2 of the House of Representatives or of the Senate.

3 (b) MINORITY IMPACT ASSESSMENTS ON RULES.—

4 The Comptroller General of the United States, in con-
5 sultation with the Sentencing Commission and the Admin-
6 istrative Office of the United States Courts, shall prepare
7 and publish in the Federal Register along with the general
8 notice of proposed rulemaking required under section 553
9 of title 5, United States Code, a minority impact assess-
10 ment to Congress on a covered rule.

11 (c) MINORITY IMPACT ASSESSMENT PREPARED

12 UPON REQUEST.—A member of Congress may request
13 from the Comptroller General of the United States a mi-
14 nority impact assessment on a covered bill or joint resolu-
15 tion. The Comptroller General of the United States shall
16 prepare and submit to Congress such a minority impact
17 assessment not later than 21 days after receiving such a
18 request.

19 (d) MINORITY IMPACT ASSESSMENT.—A minority
20 impact assessment shall include—

21 (1) detailed projections of the impact of the
22 covered bill or joint resolution or covered rule on
23 pretrial, prison, probation, and post-prison super-
24 vision populations, including—

1 (A) whether the covered bill or joint resolu-
2 tion or covered rule would have a negative im-
3 pact, no impact, a positive impact, a minimal
4 impact, or an unknown impact on such popu-
5 lations;

6 (B) the impact of the covered bill or joint
7 resolution or covered rule on correctional facili-
8 ties and services, including any changes to the
9 operation costs for correctional facilities, and
10 any decrease or increase in the populations of
11 individuals incarcerated in correctional facili-
12 ties; and

13 (C) a statistical analysis of how the cov-
14 ered bill or joint resolution or covered rule
15 would impact pretrial, prison, probation, and
16 post-prison supervision populations,
17 disaggregated by race, ethnicity, disability, gen-
18 der, and sexual orientation;

19 (2) an estimate of the fiscal impact of the cov-
20 ered bill or joint resolution or covered rule on Fed-
21 eral expenditures, including expenditures on con-
22 struction and operation of correctional facilities for
23 the current fiscal year and 5 succeeding fiscal years;

24 (3) an analysis of any other significant factor
25 affecting the cost of the covered bill or joint resolu-

1 tion or covered rule and its impact on the operations
2 of components of the criminal justice system; and

3 (4) a detailed and comprehensive statement of
4 the methodologies and assumptions utilized in pre-
5 paring the minority impact assessment.

6 (e) ANNUAL ASSESSMENT.—The Comptroller Gen-
7 eral of the United States shall prepare and transmit to
8 the Congress, by March 1 of each year, a minority impact
9 assessment reflecting the cumulative effect of all relevant
10 changes in the law taking effect during the preceding cal-
11 endar year.

12 (f) PUBLIC AVAILABILITY.—Not later than 30 days
13 after preparing a minority impact statement under sub-
14 section (a) or (c)—

15 (1) the Comptroller General of the United
16 States shall publish such minority impact statement
17 on the website of the Government Accountability Of-
18 fice; and

19 (2) the sponsor of such covered bill or joint res-
20 olution shall submit such minority impact statement
21 for publication in the Congressional Record.

22 (g) DEFINITIONS.—In this section:

23 (1) COVERED BILL OR JOINT RESOLUTION.—

24 (A) IN GENERAL.—The term “covered bill
25 or joint resolution” means a bill or joint resolu-

1 tion that is referred to the Subcommittee on
2 Crime, Terrorism, and Homeland Security of
3 the Committee on the Judiciary of the House of
4 Representatives or the Subcommittee on Crimi-
5 nal Justice and Counterterrorism of the Com-
6 mittee on the Judiciary of the Senate and
7 that—

8 (i) establishes a new crime or offense;

9 (ii) could increase or decrease the
10 number of persons incarcerated in Federal
11 penal institutions;

12 (iii) modifies a crime or offense or the
13 penalties associated with a crime or offense
14 established under current law; or

15 (iv) modifies procedures under current
16 law for pretrial detention, sentencing, pro-
17 bation, and post-prison supervision.

18 Such term includes a bill or joint resolution
19 that applies to youth or juveniles.

20 (B) TREATMENT OF CERTAIN BILLS CON-
21 sidered UNDER RULE.—A bill or joint resolu-
22 tion which, upon introduction in the House of
23 Representatives, is not referred to the Sub-
24 committee on Crime, Terrorism, and Homeland
25 Security of the Committee on the Judiciary

1 shall be treated as a covered bill or joint resolu-
2 tion under this Act if—

3 (i) the bill or joint resolution is con-
4 sidered in the House of Representatives
5 pursuant to a rule reported by the Com-
6 mittee on Rules; and

7 (ii) the bill or joint resolution would
8 have been referred to such subcommittee
9 upon introduction if the text of the bill or
10 joint resolution as introduced in the House
11 were identical to the text of the bill or joint
12 resolution as considered in the House pur-
13 suant to the rule.

14 (2) COVERED RULE.—The term “covered rule”
15 means a rule (as such term is defined in section 551
16 of title 5, United States Code) that—

17 (A) could increase or decrease the number
18 of persons incarcerated in Federal penal institu-
19 tions;

20 (B) modifies a crime or offense or the pen-
21 alties associated with a crime or offense estab-
22 lished under current law; or

23 (C) modifies procedures under current law
24 for pretrial detention, sentencing, probation,
25 and post-prison supervision.

- 1 Such term includes a rule that applies to youth or
- 2 juveniles.

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