

117TH CONGRESS
1ST SESSION

S. 1989

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

IN THE SENATE OF THE UNITED STATES

JUNE 9, 2021

Ms. WARREN (for herself, Mr. MARKEY, Mr. WYDEN, Mr. WHITEHOUSE, Mr.
VAN HOLLEN, Ms. HIRONO, Ms. DUCKWORTH, Mr. BLUMENTHAL, Mrs.
GILLIBRAND, Mr. SANDERS, and Mr. MERKLEY) 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 foster the creation and use of rem-
10 edies that are not limited to law enforcement
11 reforms, such as mental health support or com-
12 munity-based restorative justice mechanisms;
13 and

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

19 (2) in carrying out paragraph (1)(A), request
20 guidance from the heads of other relevant agencies,
21 such as the Secretary of Housing and Urban Devel-
22 opment and the Secretary of Health and Human
23 Services, on the efficacy of the alternative remedies
24 described in paragraph (1)(A).

1 (b) COMMUNITY OVERSIGHT BODY DESCRIBED.—A
2 community oversight body described in this subsection is
3 an oversight entity that—

4 (1) is comprised of individuals who—

5 (A) represent the communities and organi-
6 zations within the State or unit of local govern-
7 ment to which the consent decree or consent
8 agreement applies; and

9 (B) do not work, or have not previously
10 worked, in a law enforcement capacity; and

11 (2) has a role of—

12 (A) ensuring compliance with the provi-
13 sions of the consent decree or consent agree-
14 ment; and

15 (B) fostering transparency in the adminis-
16 tration and personnel of the law enforcement
17 agency; and

18 (3) has the authority to—

19 (A) ask questions of the law enforcement
20 agency;

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

23 (C) make recommendations—

1 (i) for modifications to the provisions
 2 of the consent decree or consent agree-
 3 ment, as necessary; and

4 (ii) to the law enforcement agency or
 5 governmental officials overseeing the agen-
 6 cy about changes in policing services.

7 **SEC. 3. FUNDING FOR PATTERN OR PRACTICE INVESTIGA-**
 8 **TIONS.**

9 (a) **ADDITIONAL FUNDING.**—There are authorized to
 10 be appropriated, in addition to any other amounts author-
 11 ized, \$445,000,000 to the Civil Rights Division of the De-
 12 partment of Justice for each of fiscal years 2021 through
 13 2030, of which not less than \$100,000,000 shall be made
 14 available each fiscal year for enforcement and technical
 15 assistance under section 210401 of the Violent Crime Con-
 16 trol and Law Enforcement Act of 1994 (34 U.S.C.
 17 12601).

18 (b) **UNLAWFUL CONDUCT.**—Section 210401(a) of
 19 the Violent Crime Control and Law Enforcement Act of
 20 1994 (34 U.S.C. 12601(a)) is amended by inserting “in-
 21 cluding a prosecutor, court, or other agency involved in
 22 the administration of justice,” before “to engage”.

23 (c) **AUTHORITY FOR STATE INVESTIGATIONS.**—Sec-
 24 tion 210401(b) of the Violent Crime Control and Law En-

1 enforcement Act of 1994 (34 U.S.C. 12601(b)) is amend-
2 ed—

3 (1) by inserting “(1) FEDERAL ENFORCE-
4 MENT.—” before “Whenever”;

5 (2) in paragraph (1), as so designated, by strik-
6 ing “paragraph (1)” and inserting “subsection (a)”;
7 and

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

9 “(2) STATE ENFORCEMENT.—

10 “(A) IN GENERAL.—Whenever an attorney
11 general of a State has reasonable cause to be-
12 lieve that a violation of subsection (a) has oc-
13 curred by a governmental authority, or agent
14 thereof, of the State, including a prosecutor or
15 other agency involved in the administration of
16 justice, the attorney general, or another official
17 or agency designated by a State, may in a civil
18 action brought in any appropriate district court
19 of the United States obtain appropriate equi-
20 table and declaratory relief to eliminate the pat-
21 tern or practice.

22 “(B) PREVENTION OF CONFLICTS OF IN-
23 TEREST.—

1 “(i) IN GENERAL.—No official or
2 agency may be designated under subpara-
3 graph (A) if—

4 “(I) upon such designation, the
5 Attorney General determines there is
6 reason to believe—

7 “(aa) the official or agency
8 would be unable to conduct an
9 independent investigation; or

10 “(bb) a conflict of interest
11 between the official or agency
12 and the jurisdiction under inves-
13 tigation exists; or

14 “(II) the official is employed by
15 or the agency is within, as the case
16 may be, the jurisdiction under inves-
17 tigation.

18 “(ii) INDEPENDENT ORGANIZATION
19 REQUIRED.—In the case of a jurisdiction
20 under investigation that is a State-wide of-
21 fice, an independent organization that is
22 unaffiliated with State or local government
23 shall be designated under subparagraph
24 (A).

“(C) TECHNICAL ASSISTANCE.—The Attorney General shall provide technical assistance and training to States and units of local government to assist States and units of local governments in carrying out pattern or practice investigations and cases.

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

(d) GRANT PROGRAM.—

(1) STATE DEFINED.—In this subsection, the term “State” means each of the several States, the District of Columbia, and each commonwealth, territory, or possession of the United States.

(2) AUTHORIZATION.—The Attorney General may award grants to States to assist such States in pursuing pattern or practice investigations and cases under section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12601).

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

1 (A) conduct pattern or practice investiga-
2 tions and cases under section 210401 of the
3 Violent Crime Control and Law Enforcement
4 Act of 1994 (34 U.S.C. 12601);

5 (B) implement and enforce law enforce-
6 ment reforms to address patterns and practices
7 identified under such section 210401; and

8 (C) develop non-law enforcement programs
9 that reduce dependence on law enforcement
10 agencies, such as funding social workers or be-
11 havioral health crisis experts.

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

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

17 (B) describes how the State intends to use
18 the grant funds to pursue, implement, and en-
19 force pattern or practice investigations and
20 cases under section 210401 of the Violent
21 Crime Control and Law Enforcement Act of
22 1994 (34 U.S.C. 12601);

23 (C) outlines the qualifications and training
24 of the attorneys, staff, and other personnel who
25 are, or who may be, assigned to lead or assist

1 pattern or practice investigations and cases;
2 and

3 (D) demonstrates how the State will rem-
4 edy patterns or practices of unlawful law en-
5 forcement conduct through the creation of com-
6 munity-based programs designed to address un-
7 derlying challenges leading to law enforcement
8 interaction.

9 (5) REQUIRED REPORTING.—

10 (A) GRANTEE REPORTING.—In each fiscal
11 year a State receives a grant under this sub-
12 section, the State shall submit to the Attorney
13 General a report detailing—

14 (i) how the grant funds were used;
15 and

16 (ii) the progress made towards ad-
17 dressing patterns and practices identified
18 under section 210401 of the Violent Crime
19 Control and Law Enforcement Act of 1994
20 (34 U.S.C. 12601).

21 (B) REPORTS TO CONGRESS.—Not later
22 than 1 year after the date of enactment of this
23 Act, and once each year thereafter, the Attor-
24 ney General shall submit to the Committee on
25 the Judiciary of the Senate and the Committee

1 on the Judiciary of the House of Representa-
2 tives a report on the grant program established
3 under this subsection, which shall include—

4 (i) a detailed summary of how grant
5 funds awarded under the grant program
6 were used; and

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

9 (6) AUTHORIZATION OF APPROPRIATIONS.—

10 There are authorized to be appropriated to the At-
11 torney General \$150,000,000 for each of fiscal years
12 2021 through 2030 to carry out this subsection.

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