

117TH CONGRESS  
2D SESSION

# S. 5081

To establish an Office of Environmental Justice within the Department of Justice, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 2022

Mr. PADILLA (for himself, Mr. MARKEY, Mr. BOOKER, Ms. DUCKWORTH, Mr. SANDERS, Mr. WHITEHOUSE, Ms. WARREN, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To establish an Office of Environmental Justice within 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 “Empowering and En-  
5 forcing Environmental Justice Act of 2022”.

6 **SEC. 2. OFFICE OF ENVIRONMENTAL JUSTICE.**

7 (a) IN GENERAL.—Chapter 31 of title 28, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 **“§ 530E. Environmental Justice**

2 “(a) OFFICE OF ENVIRONMENTAL JUSTICE.—

3 “(1) ESTABLISHMENT.—Not later than 90 days  
4 after the date of enactment of the Empowering and  
5 Enforcing Environmental Justice Act of 2022, the  
6 Attorney General shall establish the Office of Envi-  
7 ronmental Justice (hereinafter known as the ‘Of-  
8 fice’) within the Environment and Natural Re-  
9 sources Division of the Department of Justice.

10 “(2) PERSONNEL AND FUNDING.—The Attor-  
11 ney General shall provide to the Office such per-  
12 sonnel and funds as are necessary to establish the  
13 Office under paragraph (1).

14 “(3) LEADERSHIP.—The Office shall be headed  
15 by a Director, who shall be appointed by the Attor-  
16 ney General.

17 “(4) DUTIES.—The Director shall:

18 “(A) Develop, and update every 5 years  
19 thereafter, the environmental justice strategy  
20 for the Department, in accordance with Execu-  
21 tive Order 12898 (42 U.S.C. 4321 note; relat-  
22 ing to Federal actions to address environmental  
23 justice in minority populations and low-income  
24 populations).

1           “(B) Coordinate environmental justice  
2 matters that arise at the Department and  
3 United States Attorneys’ offices.

4           “(C) Administer the grant program estab-  
5 lished under section 3 of the Empowering and  
6 Enforcing Environmental Justice Act of 2022.

7           “(D) Promote and protect the right of the  
8 public to participate meaningfully in the deci-  
9 sion-making process on environmental justice  
10 matters and design communications efforts with  
11 the goal of maximizing community under-  
12 standing of how to participate in environmental  
13 justice matters, including how to file adminis-  
14 trative complaints with Federal agencies.

15           “(E) Counsel and assist State, local, and  
16 Tribal governments on how to coordinate their  
17 actions with the Federal Government with re-  
18 spect to environmental justice matters and  
19 counsel and assist State, local, and Tribal gov-  
20 ernments and Indigenous populations or com-  
21 munities in providing equal environmental pro-  
22 tection for all individuals.

23           “(F) Provide support for State and local  
24 environmental enforcement training in environ-  
25 mental justice communities.

1           “(G) Work with the Community Relations  
2 Service to facilitate a working relationship be-  
3 tween parties involved in environmental justice  
4 matters, including regulated industry, State,  
5 local, and Tribal decision-makers and minority  
6 or low-income communities.

7           “(H) Coordinate with the Council on Envi-  
8 ronmental Quality and the White House Envi-  
9 ronmental Justice Advisory Council, established  
10 under Executive Order 14008 (86 Fed. Reg.  
11 7619), with respect to implementation of the  
12 Justice40 Initiative.

13           “(I) Organize, at minimum, bimonthly  
14 calls or meetings with environmental justice or-  
15 ganizations and environmental justice commu-  
16 nities.

17           “(J) Manage the Senior Advisory Council  
18 established under paragraph (5).

19           “(K) Make recommendations to Federal  
20 agencies on community participation in the de-  
21 velopment of administrative settlement agree-  
22 ments relating to environmental justice matters.

23           “(5) SENIOR ADVISORY COUNCIL.—

24           “(A) ESTABLISHMENT.—There is estab-  
25 lished a Senior Advisory Council (hereinafter

1 referred to as the ‘Council’) to advise the As-  
2 sistant Attorney General of the Environment  
3 and Natural Resources Division on matters of  
4 environmental justice and recommend policy  
5 and initiatives with respect to environmental  
6 justice matters.

7 “(B) CO-CHAIR.—The Co-chairs of the  
8 Council shall be the Assistant Attorney General  
9 of the Environment and Natural Resources Di-  
10 vision and the Director of the Office.

11 “(C) MEMBERS.—The Council shall be  
12 composed of:

13 “(i) The Assistant Attorney General  
14 of the Environment and Natural Resources  
15 Division.

16 “(ii) The Director of the Office.

17 “(iii) One representative of the Office  
18 of the Deputy Attorney General.

19 “(iv) One representative of the Office  
20 of the Associate Attorney General.

21 “(v) One representative from the En-  
22 vironmental Enforcement Section of the  
23 Environmental and Natural Resources Di-  
24 vision.

1           “(vi) One representative from the En-  
2           vironmental Defense Section of the Envi-  
3           ronment and Natural Resources Division.

4           “(vii) One representative of the Civil  
5           Rights Division.

6           “(viii) One representative of the Civil  
7           Division.

8           “(ix) One representative of the Fed-  
9           eral Bureau of Investigation.

10          “(x) One representative of the Bureau  
11          of Prisons.

12          “(xi) One representative of the Com-  
13          munity Relations Service.

14          “(xii) One representative of the Office  
15          for Access to Justice.

16          “(xiii) One representative of the Of-  
17          fice of Legal Policy.

18          “(xiv) One representative of the Office  
19          of Legislative Affairs.

20          “(xv) One representative of the Office  
21          of Tribal Justice.

22          “(xvi) Two representatives from the  
23          Executive Office for United States Attor-  
24          neys.

1                   “(xvii) The Section Chief of the Envi-  
2                   ronmental Justice Section.

3                   “(D) REPORTING REQUIREMENT.—Not  
4                   later than 180 days after the date of enactment  
5                   of the Empowering and Enforcing Environ-  
6                   mental Justice Act of 2022, and annually there-  
7                   after, each member of the Council shall submit  
8                   to the Director a report on the implementation  
9                   of the progress of the component of which the  
10                  member is a representative in implementing the  
11                  environmental justice strategy of the Depart-  
12                  ment and any proposed revisions to the environ-  
13                  mental justice strategy of that component. The  
14                  Director may also request a report or briefing  
15                  from the head of any component not a member  
16                  of the Council explaining how the component  
17                  may facilitate the efforts of the Department in  
18                  meeting the obligations of the Department  
19                  under the environmental justice strategy.

20                  “(E) ADMINISTRATION.—The Director  
21                  shall coordinate and support the work of the  
22                  Council. The Director shall convene the Council  
23                  not later than 90 days after the date of enact-  
24                  ment of the Empowering and Enforcing Envi-  
25                  ronmental Justice Act of 2022 and shall con-

1           vene the Council not less than 4 times annually  
2           thereafter.

3           “(F) GUIDANCE FOR DEPARTMENT.—

4                   “(i) IN GENERAL.—Not later than  
5                   180 days after the date of enactment of  
6                   the Empowering and Enforcing Environ-  
7                   mental Justice Act of 2022, the Council  
8                   shall develop guidance with respect to envi-  
9                   ronmental justice and provide such guid-  
10                  ance to Department personnel, including  
11                  provisions for identifying, tracking, and  
12                  addressing environmental justice matters.

13                   “(ii) REVIEW AND UPDATE.—Not  
14                   later than 3 years after the development of  
15                   the guidance under clause (i), and every 3  
16                   years thereafter, the Department shall re-  
17                  view and update such guidance.

18           “(b) ENVIRONMENTAL JUSTICE SECTION.—

19                   “(1) ESTABLISHMENT.—Not later than 180  
20                  days after the date of enactment of the Empowering  
21                  and Enforcing Environmental Justice Act of 2022,  
22                  the Attorney General shall establish a section within  
23                  the Environment and Natural Resources Division of  
24                  the Department that shall be known as the ‘Envi-  
25                  ronmental Justice Section’ (hereinafter known as the



1 ‘Section’) with the responsibility to litigate environ-  
2 mental justice matters.

3 “(2) GENERAL OBJECTIVES.—The Section  
4 shall:

5 “(A) Initiate legal action to enforce envi-  
6 ronmental justice, civil rights, and criminal and  
7 civil laws with respect to environmental justice  
8 matters to achieve fair environmental and  
9 human health protection in all communities.

10 “(B) Collaborate with State, local, and  
11 Tribal governments to pursue litigation with re-  
12 spect to environmental justice to hold persons  
13 accountable for actions and inactions that have  
14 or will contribute to the climate crisis.

15 “(C) Ensure the enforcement of title VI of  
16 the Civil Rights Act of 1964 (42 U.S.C. 2000d  
17 et seq.) by coordinating with Federal agencies  
18 to effectively investigate civil rights complaints.

19 “(D) Facilitate the collection and analysis  
20 of data that will assist the Department in law  
21 enforcement, mediation, and counseling efforts  
22 involving environmental justice matters.

23 “(E) Provide technical assistance to other  
24 Federal agencies on creating permits and per-

1           mitting processes that are enforceable by the  
2           agencies and the Department.

3           “(3) CONSULTATION AND INVESTIGATION.—

4                   “(A) CONSULTATION ON PRIORITIES.—Not  
5           later than 180 days after the date of enactment  
6           of the Empowering and Enforcing Environ-  
7           mental Justice Act of 2022, the Section shall  
8           consult with United States Attorneys’ Offices,  
9           the Environmental Protection Agency, and  
10          other Federal agencies, as appropriate, to de-  
11          velop a list of environmental justice enforce-  
12          ment priorities and a strategy for addressing  
13          these priorities.

14                   “(B) REFERRAL GUIDANCE.—The Section  
15          shall provide guidance to other Federal agencies  
16          on appropriate actions with respect to environ-  
17          mental justice matters and whether such mat-  
18          ters should be transferred to the Department  
19          for further investigation or action.

20                   “(4) LITIGATION ACTIVITIES.—The Section  
21          shall coordinate with other litigating components of  
22          the Department, with the United States Attorneys’  
23          Offices to conduct investigations, and with other  
24          Federal agencies with respect to court cases raising  
25          environmental justice matters, including by—

1           “(A) initiating legal action to enforce envi-  
2           ronmental justice matters, civil rights, and  
3           criminal and civil laws with respect to environ-  
4           mental and criminal justice to achieve fair envi-  
5           ronmental and human health protection in all  
6           communities;

7           “(B) intervening in pending litigation or  
8           filing amicus curiae briefs to serve the interests  
9           of Federal agencies that address environmental  
10          justice matters;

11          “(C) coordinating with other Department  
12          components, and other Federal agencies, on ap-  
13          propriate action with respect to environmental  
14          justice matters; and

15          “(D) providing technical assistance to  
16          other Federal agencies to address environ-  
17          mental justice matters.

18          “(5) EDUCATION.—

19                  “(A) IN GENERAL.—The Section shall pro-  
20                  vide training and education with respect to—

21                          “(i) how to identify environmental jus-  
22                          tice matters;

23                          “(ii) the contexts in which environ-  
24                          mental justice matters may arise;

1           “(iii) the ways in which recognition of  
2 potential environmental justice matters  
3 may affect the work of the Department,  
4 Department personnel, and other Federal  
5 agencies; and

6           “(iv) the implementation of Executive  
7 Order 12898 (42 U.S.C. 4321 note; relat-  
8 ing to Federal actions to address environ-  
9 mental justice in minority populations and  
10 low-income populations), including the en-  
11 vironmental justice strategy developed by  
12 The Office and guidance developed by the  
13 Council pursuant to subsection (a)(5)(F).

14           “(B) DEVELOPMENT.—The Section shall  
15 develop—

16           “(i) instructional videos and other ma-  
17 terials for Department personnel to provide  
18 an overview of the scope of environmental  
19 justice matters and procedures for identi-  
20 fying and reporting such matters;

21           “(ii) education programs for environ-  
22 mental attorneys about criminal, civil, and  
23 civil rights laws;

24           “(iii) education programs for civil,  
25 criminal, and civil rights attorneys about

1 environmental laws for the purpose of  
2 identifying and effectively addressing envi-  
3 ronmental justice matters;

4 “(iv) an email address that Depart-  
5 ment attorneys and other Department per-  
6 sonnel may contact that enables Depart-  
7 ment attorneys and other Department per-  
8 sonnel to seek information and guidance  
9 on environmental justice matters;

10 “(v) joint education and training ac-  
11 tivities, where appropriate, with Federal  
12 agencies and State, local, and Tribal legal  
13 offices;

14 “(vi) a continuing legal education  
15 course on environmental justice matters,  
16 developed in coordination with the Office  
17 of Legal Education and the Environmental  
18 Protection Agency; and

19 “(vii) training programs with respect  
20 to environmental justice for individuals  
21 participating in the Attorney General’s  
22 Honors Program.

23 “(6) DATA ASSESSMENT.—The Section shall co-  
24 ordinate with all relevant components within the De-  
25 partment to develop and maintain an appropriate

1 system for tracking and assessing cases that raise  
2 environmental justice matters.

3 “(c) DEFINITIONS.—In this section:

4 “(1) DEPARTMENT.—The term ‘Department’  
5 means the Department of Justice.

6 “(2) ENVIRONMENTAL JUSTICE COMMUNITY.—  
7 The term ‘environmental justice community’ means  
8 a community with significant representation of com-  
9 munities of color, low-income communities, or Tribal  
10 and Indigenous communities, that experiences, or is  
11 at risk of experiencing higher or more adverse  
12 human health or environmental effects.

13 “(3) ENVIRONMENTAL JUSTICE MATTER.—The  
14 term ‘environmental justice matter’ includes any  
15 civil or criminal matter where the conduct or action  
16 at issue may involve a disproportionate and adverse  
17 environmental or human health effect on an identifi-  
18 able low-income, minority, Tribal, or Indigenous  
19 population or community in the United States.

20 “(4) INDIGENOUS POPULATION OR COMMU-  
21 NITY.—The term ‘Indigenous population or commu-  
22 nity’ includes populations or communities of Amer-  
23 ican Indians, Alaska Natives, and Native Hawaiians.

24 “(5) LOW-INCOME COMMUNITY.—The term  
25 ‘low-income community’ means any census block

1 group in which 30 percent or more of the population  
 2 are individuals with an annual household income  
 3 equal to, or less than, the greater of—

4 “(A) an amount equal to 80 percent of the  
 5 median income of the area in which the house-  
 6 hold is located, as reported by the Department  
 7 of Housing and Urban Development; and

8 “(B) 200 percent of the Federal poverty  
 9 line.

10 “(6) STATE.—The term ‘State’ means any  
 11 State of the United States, the District of Columbia,  
 12 the Commonwealth of Puerto Rico, the Virgin Is-  
 13 lands, Guam, American Samoa, and the Common-  
 14 wealth of the Northern Mariana Islands.”.

15 (b) TECHNICAL AMENDMENT.—The table of sections  
 16 for chapter 31 of title 28, United States Code, is amended  
 17 by adding at the end the following:

“530E. Environmental justice.”.

18 **SEC. 3. ENVIRONMENTAL JUSTICE MATTERS ENFORCE-**  
 19 **MENT GRANTS.**

20 (a) DEFINITIONS.—In this section:

21 (1) CERTAIN CONGRESSIONAL COMMITTEES.—

22 The term “certain congressional committees”  
 23 means—

24 (A) the Committee on Energy and Com-  
 25 merce of the House of Representatives;

1 (B) the Committee on Environment and  
2 Public Works of the Senate; and

3 (C) the Committees on the Judiciary of the  
4 House of Representatives and the Senate.

5 (2) ENVIRONMENTAL JUSTICE COMMUNITY.—

6 The term “environmental justice community” means  
7 a community with significant representation of com-  
8 munities of color, low-income communities, or Tribal  
9 and Indigenous communities, that experiences, or is  
10 at risk of experiencing higher or more adverse  
11 human health or environmental effects.

12 (3) ENVIRONMENTAL JUSTICE MATTER.—The

13 term “environmental justice matter” includes any  
14 civil or criminal matter where the conduct or action  
15 at issue may involve a disproportionate and adverse  
16 environmental or human health effect on an identifi-  
17 able low-income, minority, Tribal, or Indigenous  
18 population or community in the United States.

19 (4) INDIGENOUS POPULATION OR COMMU-

20 NITY.—The term “Indigenous population or commu-  
21 nity” includes populations or communities of Amer-  
22 ican Indians, Alaska Natives, and Native Hawaiians.

23 (5) LOW-INCOME COMMUNITY.—The term “low-

24 income community” means any census block group  
25 in which 30 percent or more of the population are



1 individuals with an annual household income equal  
2 to, or less than, the greater of—

3 (A) an amount equal to 80 percent of the  
4 median income of the area in which the house-  
5 hold is located, as reported by the Department  
6 of Housing and Urban Development; and

7 (B) 200 percent of the Federal poverty  
8 line.

9 (6) STATE.—The term “State” means any  
10 State of the United States, the District of Columbia,  
11 the Commonwealth of Puerto Rico, the Virgin Is-  
12 lands, Guam, American Samoa, and the Common-  
13 wealth of the Northern Mariana Islands.

14 (b) IN GENERAL.—Not later than 180 days after the  
15 date of enactment of this Act, the Attorney General shall  
16 establish a grant program (in this section referred to as  
17 the “Program”) within the Office of Environmental Jus-  
18 tice to improve the capacity of State, local, and Tribal gov-  
19 ernments to enforce environmental laws involving environ-  
20 mental justice matters.

21 (c) GRANT AUTHORITY.—In carrying out the Pro-  
22 gram, the Assistant Attorney General may award a grant  
23 on competitive basis to an eligible recipient.

24 (d) ELIGIBLE RECIPIENTS.—The Assistant Attorney  
25 General may award a grant under the Program to a State,

1 local, or Tribal government determined by the Assistant  
2 Attorney General to be capable of carrying out a project  
3 pursuant to subsection (e).

4 (e) GRANT FUNDS.—Grant funds awarded under the  
5 Program, shall only be used to—

6 (1) train State, local, and Tribal agencies re-  
7 sponsible for prosecuting and enforcing laws involv-  
8 ing environmental justice matters;

9 (2) hire staff to assist in the investigation,  
10 prosecution, and enforcement of laws involving envi-  
11 ronmental justice matters; or

12 (3) establish collaborative programs to provide  
13 technical and legal assistance to help environmental  
14 justice communities participate in decisions impact-  
15 ing the environment, health, and safety of those en-  
16 vironmental justice communities.

17 (f) APPLICATIONS.—To be eligible for a grant under  
18 the Program, an eligible recipient shall submit to the As-  
19 sistant Attorney General an application in such form, at  
20 such time, and containing such information as the Assist-  
21 ant Attorney General determines to be appropriate.

22 (g) LIMITATIONS ON GRANT AMOUNTS.—Subject to  
23 the availability of appropriations under subsection (j),  
24 each grant made under this section shall be for an amount  
25 not less than \$50,000 and not greater than \$1,000,000.

1       (h) FEDERAL SHARE.—The Federal share of a  
2 project under the Program shall not exceed 80 percent,  
3 unless the Attorney General waives, wholly or in part, this  
4 requirement.

5       (i) REPORT.—Not later than 18 months after the  
6 date of enactment of this Act, and every 2 years there-  
7 after, the Attorney General shall submit a report to cer-  
8 tain congressional committees on the grant program es-  
9 tablished under this section, including a description of the  
10 grantees and activities for which grantees used grants  
11 awarded under this section.

12       (j) AUTHORIZATION OF APPROPRIATIONS.—There is  
13 authorized to be appropriated to carry out this section  
14 \$50,000,000 for each of the fiscal years 2023 through  
15 2032.

○