

## WHAT'S AT STAKE



The COVID-19 pandemic has provided irrefutable evidence of the deep-rooted racial inequities that have caused disparate outcomes in New York and throughout the nation for far too long. These wide-ranging and longstanding inequities, encompassing such areas as healthcare access, involvement in the child welfare system, economic security, educational opportunity and workforce disparities, continue to harm New York's most vulnerable children and families.

Enacting new legislation and rules without first evaluating their potential to disproportionately impact racial minorities only perpetuates these disparities. In the absence of racial impact assessment, legislation that appears race-neutral at face value can, in practice, adversely – and disparately – affect New York's children and families of color. Just as our State legislators consider the fiscal and environmental impacts of new laws, so too must they examine the potential racial disparities of all legislation and rule-making activity – prior to enactment.

## NATIONAL CONTEXT

Since 2008, a total of **17 states** have proposed racial and ethnic impact statement legislation.

### I. States that Passed Racial and Ethnic Impact Statement Legislation

To date, **5 states** have passed racial and ethnic impact statement legislation ([Colorado](#), [Connecticut](#), [Iowa](#), [New Jersey](#) and [Oregon](#)), albeit with limitations:

- **Impact statements are limited in quantity.** *Colorado, Connecticut and Oregon* prepare racial and ethnic impact statements only upon request by legislators. *Colorado* limits the number of bills for which racial and ethnic impact statements can be requested each legislative session.
- **Impact statements are limited in scope.** *Iowa and New Jersey* prepare racial and ethnic impact statements only for legislation pertaining to criminal justice. *New Jersey* is the only state that incorporates racial and ethnic impact statements into the rule-making process, focusing on criminal justice impact.
- **Impact statements are largely informational.** *New Jersey* is the only state that stipulates action that must be taken if a racial and ethnic impact statement identifies disparate impact on minority populations, and only during rule-making.
- **Impact statements are not transparent.** *New Jersey and Oregon* are the only two states that make racial and ethnic impact statements publicly available (*New Jersey* only during rule-making).

## Who Prepares the Racial and Ethnic Impact Statements?

Racial and ethnic impact statements are prepared by various entities in states.

STATE	LEGISLATION (YEAR INTRODUCED)	ENTITY PREPARING RACIAL AND ETHNIC IMPACT STATEMENTS
Colorado	<a href="#">HB19-1184 (2019)</a>	Legislative council staff
Connecticut	<a href="#">S.B. No. 256 (2018)</a>	<i>Not specified</i>
Iowa	<a href="#">HF 2393 (2008)</a>	Legislative Services Agency, in cooperation with the Division of Criminal and Juvenile Justice Planning of the Department of Human Rights
New Jersey	<a href="#">S677 (2016)</a>	Office of Legislative Services (using data made available by state agencies) prepares racial and ethnic impact statements for proposed legislation and legislative amendments. State agencies prepare impact statements for proposed rule-making.
Oregon	<a href="#">SB 463 (2013)</a>	Oregon Criminal Justice Commission (Nine members - seven appointed by Governor, two appointed by President of Senate and Speaker of the House)

## II. States that Failed to Pass Racial and Ethnic Impact Statement Legislation

To date, **6 states** have attempted but failed to pass racial and ethnic impact statement legislation:

STATE	LEGISLATION (YEAR INTRODUCED)	LEGISLATIVE OUTCOME
Arkansas	<a href="#">SB 237 (2017)</a>	Approved by Senate but not adopted by House
Florida <sup>1</sup>	H.R. 237 / S. 336 (2014)	Died in House Government Operations Subcommittee / Died in Senate Judiciary Committee
Maryland	SB 679 (2012)	Unfavorable report by Senate Rules Committee
Mississippi	<a href="#">HC 51 (2019)</a>	Died in House Rules Committee
Texas	H.R. 930 (2009)	Left pending in subcommittee
Wisconsin	<a href="#">AB 752</a> / <a href="#">SB 538</a> (2014)	Died in Senate

<sup>1</sup> In July 2019, the Florida State Senate began a one-year paid consulting partnership with the Florida State University's College of Criminology & Criminal Justice to analyze the racial and ethnic impact of proposed criminal justice legislation.

### III. Pending Legislation

To date, **6 states** have pending racial and ethnic impact statement legislation:

STATE	LEGISLATION (YEAR INTRODUCED)	LEGISLATION STATUS
Illinois	<a href="#">HB 4428 (2020)</a>	Referred to House Rules Committee on 2/3/20
Kentucky	<a href="#">SB 97 (2020)</a>	Referred to Senate Licensing, Occupations & Administrative Regulations Committee on 1/21/20
Minnesota	<a href="#">SF 108 (2020)</a>	Referred to Senate Rules and Administration Committee on 6/15/20
New York	<a href="#">A 3422 / S 4388 (2019)</a>	Referred to Assembly Governmental Operations Committee on 1/8/20; Referred to Senate Investigations and Government Operations Committee on 1/8/20
	<a href="#">A 2116A / S 1739A (2019)</a>	Referred to Assembly Governmental Operations Committee on 1/8/20; Referred to Senate Investigations and Government Operations Committee on 1/8/20
Oklahoma	<a href="#">SB 1184 (2020)</a>	Referred to Senate Rules Committee on 2/4/20
Vermont	<a href="#">H.381 (2019)</a>	Referred to House Rules Committee on 2/22/19

## NEW YORK'S PATH FORWARD

New York's pervasive racial and ethnic disparities must be addressed through systemic change by no longer passing legislation or adopting rules without examining whether the policies could eliminate, perpetuate or create racial and ethnic disparities. To accomplish this, and to lead the nation in aiming towards equity in all policies, New York should adopt:



- (1) A requirement that all bills and amendments to bills in the legislature must be accompanied by a racial and ethnic impact statement.
- (2) A requirement that all proposed rules must be accompanied by a racial and ethnic impact statement when introduced.
- (3) A requirement that racial and ethnic impact statements must include an estimate of the impact of the bill, amendment or proposed rule on racial and ethnic minorities, and the basis for the estimate, including any specific data relied upon.
- (4) A prohibition against passing bills that increase racial or ethnic disparities.

Undoing generations of racial and ethnic disparities and institutionalized harm demands an anti-racist approach that actively examines the role of legislative and regulatory action in perpetuating inequality in New York. Now is the time to get it right.

**Contacts:** Kimberley Chin [kchin@childrensdefense.org](mailto:kchin@childrensdefense.org) or Ben Anderson [banderson@childrensdefense.org](mailto:banderson@childrensdefense.org)

The [Children's Defense Fund-New York](#) (CDF-NY) Leave No Child Behind® is the New York office of the Children's Defense Fund. CDF-NY serves as an independent voice for New York's children and our mission is to ensure every New York child *a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start* in life and a successful passage to adulthood. CDF-NY grew out of the Civil Rights Movement and is led by women of color.