

## WHAT'S AT STAKE



The COVID-19 pandemic has provided irrefutable evidence of the long-standing, deeply-rooted racial inequities that have caused increasingly disparate outcomes in New York and throughout the nation for far too long. These wide-ranging and long-standing 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 marginalized children and families.

Enacting new legislation and rules without first evaluating their potential to disproportionately impact communities of color only perpetuates these disparities. In the absence of racial and ethnic 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 and ethnic impact of *all* legislation and rule-making activity – prior to enactment.

## NATIONAL CONTEXT

Since 2008, a total of **22 states** (including New York) have proposed racial and ethnic impact statement legislation.

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

To date, **8 states** have passed racial and ethnic impact statement legislation ([Colorado](#), [Connecticut](#), [Iowa](#), [Maine](#), Maryland, [New Jersey](#), [Oregon](#) and [Virginia](#)), albeit with limitations:

- **Impact statements are limited in quantity.** *Colorado, Connecticut, Maine, Oregon and Virginia* prepare racial and ethnic impact statements only upon request by legislators. *Colorado and Virginia* limit the number of bills for which racial and ethnic impact statements can be requested each legislative session.
- **Impact statements are limited in scope.** *Iowa, New Jersey, Maryland and Virginia* prepare racial and ethnic impact statements only for legislation pertaining to criminal justice. *New Jersey and Oregon* are the only states that incorporate racial and ethnic impact statements into their rule-making processes.
- **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 communities of color, 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).
- **Impact statements are not guaranteed to be prepared permanently.** *Maine and Maryland* have created temporary pilot programs to inform their state's future course of action regarding the preparation of racial and ethnic impact statements.

## 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>	Office of Legislative Research and Office of Fiscal Analysis
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
Maine	<a href="#">LD 2 (2021)</a> <i>Pilot Program</i> (2021)	Commissioner or Director of a state agency or the Commissioner or Director's designee
Maryland <sup>1</sup>	<i>Pilot Program</i> (2021)	Department of Legislative Services in partnership with Bowie State University and the University of Baltimore Schaefer Center for Public Policy
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)
	<a href="#">HB 2993 (2021)</a>	State agencies are required to include in their notices of rulemaking a statement identifying how adoption of the rule will affect racial equity in the State.
Virginia	<a href="#">HB 1990 (2021)</a>	Joint Legislative Audit and Review Commission

<sup>1</sup> Maryland's [HB 1077 \(2022\)](#), which would require the State's Department of Housing and Community Development to complete an annual publicly available racial equity impact assessment, was referred to the House Environment and Transportation Committee on 2/11/22. Previously, Maryland's SB 679 / HB 709 (2012), which would have required fiscal notes created for certain criminal justice bills to include information on the potential impact of bills on racial and ethnic groups, received an unfavorable report by the Senate Rules Committee.

## II. States That Have Proposed Racial and Ethnic Impact Statement Legislation

To date, **14 states** (including New York) have proposed but not passed racial and ethnic impact statement legislation:

STATE	LEGISLATION (YEAR INTRODUCED)	LEGISLATION STATUS (AS OF 7/22/22)
Arkansas	<a href="#">SB 237 (2017)</a>	Approved by Senate but not adopted by House
Florida <sup>2</sup>	H.R. 237 / S. 336 (2014)	Died in House Government Operations Subcommittee / Died in Senate Judiciary Committee
Kentucky	<a href="#">SB 97 (2020)</a>	Referred to Senate Licensing, Occupations & Administrative Regulations Committee on 1/21/20
Illinois	<a href="#">HB 4428 (2020)</a>	Session Sine Die
Minnesota <sup>3</sup>	<a href="#">SF 108 (2020)</a>	Referred to Senate Rules and Administration Committee on 6/15/20
Mississippi	<a href="#">HC 51 (2019)</a>	Died in House Rules Committee
Nebraska	<a href="#">LB 657 (2021)</a>	Indefinitely postponed as of 4/20/22
	<a href="#">LB 814 (2022)</a>	Indefinitely postponed as of 4/20/22
New York	<a href="#">A 4348 / S 4745 (2021)</a>	Referred to Assembly Governmental Operations Committee on 1/5/22; Referred to Senate Investigations and Government Operations Committee on 1/5/22
	<a href="#">A 5567 / S 3067 (2021)</a>	Enacting Clause Stricken in Assembly on 9/15/21; Referred to Senate Investigations and Government Operations Committee on 1/5/22
Oklahoma	<a href="#">SB 1184 (2020)</a>	Referred to Senate Rules Committee on 2/4/20
Pennsylvania	<a href="#">SB 79 (2021)</a>	Referred to Senate State Government Committee on 1/22/21
	<a href="#">HB 1888 (2021)</a>	Referred to House Judiciary Committee on 9/21/21
Rhode Island	<a href="#">H 7736 (2022)</a>	House State Government & Elections Committee recommended measure be held for further study on 4/6/22
Texas	H.R. 930 (2009)	Left pending in subcommittee
Vermont	<a href="#">H.381 (2019)</a>	Referred to House Rules Committee on 2/22/19
Wisconsin	<a href="#">AB 752 / SB 538 (2014)</a>	Died in Senate

### 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.

<sup>2</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.

<sup>3</sup> Since 2008, the Minnesota Sentencing Guidelines Commission (MSGC) has voluntarily elected to prepare demographic impact statements on proposed crime bills pending before the State Legislature which meet certain stipulations or as requested by the Legislature.

- (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 communities of color, and the basis for the estimate, including any specific data relied upon.
- (4) A prohibition against passing bills that increase racial or ethnic disparities.
- (5) The establishment of an independent office or entity tasked with producing the racial and ethnic impact statements.

New York's A 4348 / S 4745 and A 5567 / S 3067 – which are cited above – do not provide a holistic solution to this urgent issue. Our holistic racial and ethnic impact statement proposal has received the support of the New York State Black, Puerto Rican, Hispanic and Asian Legislative Caucus and was featured in both their 2021 [The People's Budget: Budget Equity XXIX](#) and their 2022 [The People's Budget](#). 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.

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The [Children's Defense Fund-New York](#) (CDF-NY) Leave No Child Behind ® is the New York office of the Children's Defense Fund, an organization which grew out of the Civil Rights Movement. CDF-NY serves as an independent voice for New York's children and strives 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 with the help of caring families and communities. We envision a nation and a State where marginalized children flourish, leaders prioritize their well-being and communities wield the power to assure they thrive.