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## The Slow Race: Achieving Equity Through Legislative and Agency Minority Impact Statements

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## The Slow Race: Achieving Equity Through Legislative and Agency Minority Impact Statements

Jancy Nielson, Esq.<sup>†</sup>

### Abstract

The Iowa Legislature enacted the nation's first minority impact statement legislation in 2008. This legislation came after a study by Marc Mauer from the Sentencing Project ranked Iowa as the worst state in the country for racially disproportionate incarceration. Former Iowa State Representative Wayne Ford championed this legislation in Iowa, which has since become a national model for minority impact statement legislation due to its mandatory legislative triggers, partnership with an established state data collection warehouse, and record of roughly 200 minority impact statements drafted since 2008. Today, there are eight states across the country that follow this model. But how effective has minority impact statement legislation really been over the past fifteen years?

This Article is the first analysis of all eight states that have enacted impact statement legislation. It discusses which legislative provisions are working, and which are precluding the legislation from being effective. This Article also evaluates the drafting history of legislation enacting minority impact statements in all eight states to determine the efficacy of each enacted bill. Further, this Article details the legislative history in each state surrounding enactment to determine bipartisan or partisan support. Lastly, this Article highlights the growing need for federal legislation on minority impact statements and the specific actions taken by the Biden Administration to aid in alleviating negative minority impact.

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## Introduction

Minority impact statements serve as an integral tool for state and federal legislators. Often compared to environmental impact statements or fiscal notes, minority impact statements are analyses of the projected impact certain legislation will have on minority populations.<sup>1</sup> Minority populations generally include individuals of different races and ethnicities, but they sometimes also include individuals of varying genders and socioeconomic statuses. The intent behind minority impact statements is to provide state and federal legislators with data and analysis regarding predicted impact to inform the decision-making process around halting or passing certain legislation.<sup>2</sup> Minority impact statements are crucial, as even the most well-intentioned bills could have a negative impact on minorities that could go unnoticed without such analysis. Little in-depth research has been published on neither the key differences and efficacy of each state’s enacted statutory language, nor about prominent concerns voiced by state elected officials interested in proposing legislation. This Article seeks to provide a greater research record and dive deeper into what these minority impact statements are. The intention of the Article is to present and evaluate all available information surrounding each state’s actions in the subject, how well it is working in practice, and the concerns presented by states interested in proposing such legislation.

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1. See, e.g., Elaine S. Povich, *Black Lives Matter, Pandemic Inequalities Drive Racial Impact Laws*, PEW (Nov. 5, 2021), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/11/05/black-lives-matter-pandemic-inequalities-drive-racial-impact-laws> [https://perma.cc/5QEC-C74T].

2. See, e.g., Nicole D. Porter, *Racial Impact Statements*, SENT’G PROJECT (June 16, 2021), <https://www.sentencingproject.org/reports/racial-impact-statements/> [https://perma.cc/7928-GLHF]; Press Release, Congressman Ritchie Torres, Rep. Torres Introduces the Racial Impact Statement Act of 2022 (Sept. 9, 2022), <https://ritchietorres.house.gov/posts/rep-torres-introduces-the-racial-impact-statement-act-of-2022> [https://perma.cc/WVY6-QEAF].

## I. Historic Overview

The minority impact statement movement emerged in 2007 when Marc Mauer, former Executive Director of the Sentencing Project, and Ryan King, former Policy Analyst, reported that Iowa was the worst state in the nation for Black incarceration compared to white incarceration.<sup>3</sup> This report deeply disturbed former Democratic Iowa State Representative Wayne Ford. Following publication of the report, Representative Ford flew Mauer to Iowa for meetings with local and state officials that focused on the creation of a minority impact statement to further assess the disparity.<sup>4</sup> These meetings ultimately produced the nation's first minority impact statement legislation, introduced in 2008 as House File 2393.<sup>5</sup>

Although Representative Ford held the luxury of a Democratic trifecta in 2008 (a Democratic governor and both houses of the legislature being held by Democratic majority), he encountered some opposition from his own party.<sup>6</sup> Legislative negotiations resulted in women and disabled individuals being included in Iowa's codified definition of "minority," along with racial and ethnic minority-identifying populations.<sup>7</sup> On April 17, 2008, one day after being sent to former Governor Chet Culver's desk, the nation's first piece of legislation requiring a minority impact statement was signed into Iowa state law.<sup>8</sup>

This Article will evaluate why Iowa's language remains a national model despite notable flaws, whether partisan politics play a role in enacting this language, and the key differences in statutory language between states in which minority impact statement legislation is

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3. See MARC MAUER & RYAN S. KING, *UNEVEN JUSTICE: STATE RATES OF INCARCERATION BY RACE AND ETHNICITY* (2007) (finding that while the national average rate of incarceration was 5.6 Black people per one white person, Iowa had an incarceration rate of nearly 14 Black people per one white person); see also PAIGE M. HARRISON & ALLEN J. BECK, *PRISON AND JAIL INMATES AT MIDYEAR 2005* (2007) (providing incarceration rates based on data from the Bureau of Justice Statistics bulletin).

4. See Wayne Ford, *The History and Accomplishments of the Iowa Minority Impact Statement*, 24 J. GENDER RACE & JUST. 20, 21 (2021).

5. *Id.* at 21; see H.F. 2393, 82d Gen. Assemb., Reg. Sess. (Iowa 2008).

6. Former Iowa State Representative Wayne Ford has expressed these difficulties in conversations with the Author and other stakeholders during various speaking engagements.

7. See TRISTAN GAHN, BRYAN PORTER & ANTHONY DOPP, NAT'L JUV. JUST. NETWORK, *THE PROMISE OF RACIAL IMPACT STATEMENTS: FINDINGS FROM A CASE STUDY OF MINORITY IMPACT STATEMENTS IN IOWA* 8 (2020). In conversations with the National Juvenile Justice Network ("NJN"), Representative Ford shared the procedural hurdles and negotiations that took place to garner broad base support.

8. See, e.g., Marty Ryan, *Minority Impact Statements in Iowa: History and Continuing Efforts*, BLEEDING HEARTLAND (July 3, 2020), <https://www.bleedingheartland.com/2020/07/03/minority-impact-statements-in-iowa/> [<https://perma.cc/KJ5Y-5B5J>]; see also IOWA CODE § 2.56 (2023).

enacted.<sup>9</sup> Differences will be evaluated based upon three categories: (1) the scope of who is included under each bill; (2) when and how these statements are triggered in the legislative process; and (3) whether mandatory information included in each analysis is specified.

Iowa remains a national model for four reasons. The first is quantity. With almost 200 minority impact statements drafted to date, Iowa has more impact statements than most states.<sup>10</sup> The second is the statute's language, which includes a mandatory trigger in the legislative process.<sup>11</sup> The third is the inclusion of a specific codified definition for "minority" that includes women and people living with disabilities, among other historically disadvantaged racial and ethnic groups.<sup>12</sup> Finally, the fourth reason this legislation is effective is the strategic implementation and utilization of the Justice Data Warehouse for data collection.<sup>13</sup> This Article will discuss the importance of these elements, as a lack of any of these elements—particularly a lack of mandatory trigger or data collection mechanism—illustrates the surprising inefficacy in other jurisdictions to date.

Enacting minority impact statement legislation has been a slow race. Since the movement's emergence fifteen years ago, eight states have enacted a minority impact statement bill, with a majority being passed within the past five years.<sup>14</sup> The recent movement to enact this legislation arose from George Floyd's murder, the subsequent trial of Derek Chauvin, and the numerous social reckoning events that have flared the conversation regarding social and racial justice.<sup>15</sup> States are also racing to propose statutory language after the Biden Administration took office

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9. Notably, many states have differing names for these statements, including "minority impact statements," "racial impact statements," "racial and ethnic impact statements," and "demographic notes." The list of varying names grows when accounting for states that have proposed but not enacted legislation. This Article will generally employ the term "minority impact statement" except when talking specifically about a state that utilizes different terminology.

10. See GAHN ET AL., *supra* note 7, at 8 (demonstrating that between 2009 and 2019, there were 176 qualifying bills identified, 19 of which did not have a minority impact statement attached. There have been numerous minority impact statements drafted between publication in 2019 and 2023, with rough estimates being just below 200 impact statements drafted to date). NJJN analyzed 164 bills; 12 of the 176 qualifying bills were not included in this analysis for unknown reasons.

11. H.F. 2393, 82d Gen. Assemb., Reg. Sess. (Iowa 2008); IOWA CODE § 2.56(1) (2023).

12. H.F. 2393 § 3; IOWA CODE § 8.11(2)(b) (2020) ("Minority persons" includes individuals who are women, persons with a disability, African Americans, Latinos, Asians or Pacific Islanders, American Indians, and Alaskan Native Americans.").

13. See Ford, *supra* note 4, at 25–26.

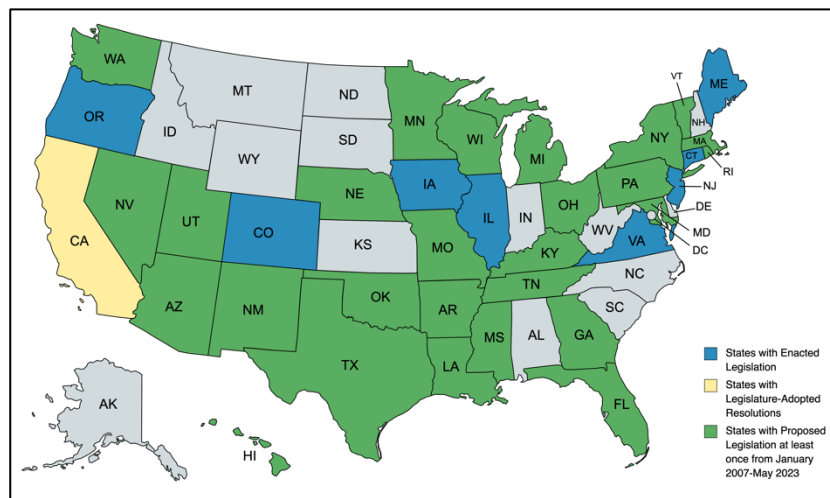
14. See *infra* Appendix for the Author's novel research and tracking of minority impact statement legislation.

15. See Povich, *supra* note 1.

and set forth its policy agenda, including racial and ethnic equity measures.<sup>16</sup>

Figure 1 illustrates the national legislative landscape as of May 2023.<sup>17</sup> To date, eight states have enacted language; twenty-eight states have proposed legislation at least once between 2007 and May 2023; and fourteen states have never proposed legislation on this subject matter.<sup>18</sup> This Article analyzes the eight states that have enacted legislation: Oregon, Colorado, Iowa, Virginia, New Jersey, Connecticut, Illinois, and Maine, signified in blue in Figure 1.

**Figure 1. Minority Impact Statement Legislative Landscape<sup>19</sup>**



To briefly summarize the relevant actions in other states that fall short of actually enacting legislation regarding minority impact statements: Maryland and Minnesota have established innovative statewide pilot programs providing for minority impact analysis

16. See *infra* Sections V.A–B for a discussion of the Biden Administration’s racial and ethnic equity policy agenda. Legislative partners revealed in conversations with the Author that this policy agenda influenced the adoption of minority impact legislation.

17. From January 2020 to February 2022, the Author worked with former Iowa State Representative Wayne Ford as a legal research assistant for the Wayne Ford Equity Impact Institute. The Institute is based upon the historic language Representative Ford passed in 2008. Representative Ford tasked the Author with researching all fifty states’ legislative history in proposing this language under the myriad of names noted above from 2007 to February 2022, which this Author has kept current as of May 2023.

18. See *infra* Appendix.

19. Map created by Author using mapchart.net.

procedures without a formal legislative process.<sup>20</sup> Florida formally partnered with Florida State University for further study on drafting procedures and data collection mechanisms; establishing a partnership like this is a trend that has caught significant interest in other states, as partnering with local colleges or universities can limit costs and/or political opposition.<sup>21</sup> California passed a House Resolution providing for informal processes to be implemented within interested state legislative committees; this Article analyzes language officially signed into law by Governor Gavin Newsom.<sup>22</sup>

The following research provides an in-depth analysis of each state's enacted language and the components that distinguish it from the others. It further provides an initial evaluation of the efficacy of each piece of legislation, which has never been published to date.<sup>23</sup> Lastly, it provides recommendations for statutory language based upon research and conversations with state elected officials, followed by analysis of current federal action.

## II. State Legislative Overview and Analysis

Iowa became the first state in the nation to enact minority impact statement language in 2008.<sup>24</sup> Connecticut followed by enacting its language one month later.<sup>25</sup> A five-year lull followed, with Oregon becoming third in the country to enact language in 2013.<sup>26</sup> Another five-year lull ensued, then New Jersey's language was enacted in 2018,<sup>27</sup> followed by quicker enactment from the remaining four states. Colorado

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20. See Wood, *supra* note 8; Porter, *supra* note 2.

21. See *Assessing the Statewide Racial/Ethnic Impact of Proposed Criminal Justice Legislation in Florida*, FLA. STATE UNIV., COLL. CRIMINOLOGY & CRIM. JUST. (2019), <https://criminology.fsu.edu/center-for-criminology-and-public-policy-research/center-general-projects/assessing-statewide-raciaethnic-impact-proposed-criminal-justice-legislation-florida> [<https://perma.cc/QUM2-WG67>]; Press Release, ACLU Fla., Statement on Florida Senate's Partnership with FSU's College of Criminology and Criminal Justice to Provide Racial Impact Statements for Criminal Justice Reform Bills (Nov. 5, 2019), <https://www.aclufla.org/en/press-releases/aclu-florida-statement-florida-senates-partnership-fsus-college-criminology-and> [<https://perma.cc/N5P8-S6N7>] (announcing partnership between Florida Senate and College of Criminology and Criminal Justice).

22. H.R. 39, St. Assemb., 2021–2022 Reg. Sess. (Cal. 2021) (enacted).

23. Further research regarding efficacy and specific language elements is in early stages with collaboration between the Wayne Ford Equity Impact Institute and Dr. Rebecca Fix, PhD, of Johns Hopkins University's Bloomberg School of Public Health.

24. See Ford, *supra* note 4, at 25.

25. H.B. 5916, Gen. Assemb., Reg. Sess. (Conn. 2008); CONN. GEN. STAT. ANN. § 2-24b (West 2023).

26. S.B. 463, 77th Leg. Assemb., 1st Sess. (Or. 2013).

27. S. 677, 218th Leg., 1st Sess. (N.J. 2018).



enacted language in 2019, becoming the fifth state in the nation to do so.<sup>28</sup> Most recently, Illinois,<sup>29</sup> Maine,<sup>30</sup> and Virginia<sup>31</sup> enacted language in 2021. Virginia was the first state in the historical South to enact minority impact statement language.

Fifteen years have passed since minority impact statement legislation first passed in 2008, and differences in key statutory language components, procedural triggers, and data capacity have resulted in Iowa drafting more than fifteen times as many minority impact statements as the other four states combined that enacted language prior to 2021.<sup>32</sup>

#### *A. Enacted Bill Analysis*

This Section serves to evaluate the most notable statutory language differences among each state's legislation. In-depth textual research into each state identified six main differences: (1) subject areas of legislation included; (2) mandatory versus requested procedural triggers; (3) existence of procedural limitations; (4) whether there is a statutory definition of the populations included; (5) whether specific methodologies used by drafters have to be included in the statement; and arguably the most important for efficacy, (6) data retrieval mechanisms or lack thereof.

##### *i. Iowa*

Iowa's minority impact bill came from the 2008 Iowa Legislative Session as House File 2393.<sup>33</sup> Concerning the first key difference between enacted bills, Iowa's statutory language applies to criminal justice bills as well as state grant applications.<sup>34</sup> The inclusion of state grant applications establishes a commonality with only one other enacted state: Oregon.<sup>35</sup> However, the procedural triggers for these subject areas establish Iowa as the nation's leader in minority impact statements.

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28. H.B. 19-1184, 72d Gen. Assemb., 1st Reg. Sess. (Colo. 2019) (describing an impact statement as a "Demographic Note"); COLO. REV. STAT. § 2-2-322.5 (2019).

29. H.B. 0158, 102nd Gen. Assemb., Reg. Sess. (Ill. 2021); 25 ILL. COMP. STAT. 83/110 (2021).

30. L.D. 2, 130th Leg., 1st Sess. (Me. 2021); ME. STAT. tit. 2, § 201 (2021).

31. H.B. 1990, Gen. Assemb., Spec. Sess. I (Va. 2021); VA. CODE ANN. § 30-19.1:13 (2022).

32. Maine, Illinois, and Virginia are not included as their statutory language was enacted in 2021, with data unavailable until the conclusion of the end of the 2022 legislative session. There is no publicly available data on how many drafts have been done in the 2022 or 2023 legislative sessions.

33. See H.F. 2393, 82d Gen. Assemb., Reg. Sess. (Iowa 2008).

34. *Id.* §§ 1, 3; IOWA CODE § 2.56 (2023); IOWA CODE § 8.11 (2020).

35. See S.B. 463, 77th Leg. Assemb., 1st Sess. (Or. 2013).

Iowa was the first of only two states that enacted mandatory trigger language.<sup>36</sup> This crucial mandate provides that when any bill, resolution, or amendment is proposed that adjusts penalties, provides for new penalties, or changes parole, sentencing, or probation procedures, a minority impact statement “shall be attached.”<sup>37</sup> Further, the legislation requires attachment prior to debate on the floor of either chamber.<sup>38</sup> Therefore, a bill must be voted out of committee before the procedure triggers an impact statement to be written and attached. Identical mandatory language applies to state grant application processes: each state grant application “shall include a minority impact statement.”<sup>39</sup> Significantly, Iowa places no limitation on the number of impact statements to be drafted per legislative session nor a limitation on which elected officials are allowed to request a drafted statement due to such mandatory language. Thus, Iowa is seemingly not afflicted with procedural clutter that could lead to inefficacy.

What further sets Iowa apart is that the mandatory language is coupled with a specific codified definition of “minority persons.” Iowa Code Section 8.11(2)(b) includes the following populations in the definition of “minority persons”: women, people with disabilities, African Americans, Latinos, Asians or Pacific Islanders, American Indians, and Alaskan Native Americans.<sup>40</sup> While other enacted states defer to census qualifications for minority populations or do not include a definition at all,<sup>41</sup> Iowa clearly sets forth the population groups to be included within the impact statements.

Another key difference between Iowa and other states is that Iowa requires the following data be included during the state grant application process: any disproportionate or unique impact on minorities; any rationale for the existence of organizations with such an impact on minority populations; and evidence of consultation with representatives of the minority population upon whom the organization would have an

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36. H.F. 2393 § 1; IOWA CODE § 2.56(1) (2023); *see also* S. 677, 218th Leg., 1st Sess. § 2 (N.J. 2018) (directing the Office of Legislative Services to draft a racial and ethnic impact statement before any bill relating to criminal justice is voted on).

37. IOWA CODE § 2.56(1) (2023).

38. *Id.*

39. *Id.* § 8.11 (emphasis added).

40. *Id.* § 8.11(2)(b).

41. *See, e.g.*, S.B. 256, 2018 Reg. Sess. (Conn. 2018) (showing the Connecticut bill does not include a definition for covered populations); L.D. 2, 130th Leg., 1st Sess. (Me. 2021) (showing language including the term “historically disadvantaged racial populations”); S. 677, 218th Leg., 1st Sess. (N.J. 2018) (showing language including adults and juveniles of racial and ethnic backgrounds, but does not provide a definition); S.B. 463, 77th Leg. Assemb., 1st Sess. (Or. 2013) (does not include a definition); H.B. 1990, Gen. Assemb., Spec. Sess. I (Va. 2021) (showing language deferring to racial and ethnic disparities without identifying which populations are affected).

impact.<sup>42</sup> The statutory language does not require any methodologies be included in analyses on criminal justice legislation, which has led to the State's impact statements becoming less extensive over time.<sup>43</sup>

Finally, the Iowa legislation has key differences from other states' data collection mechanisms. Iowa's utilization of, and collaboration with, the Justice Data Warehouse (JDW) is a key element that no other state possesses. This nationally renowned warehouse allows legislators to quickly and easily pull criminal justice statistics for minority impact statements.<sup>44</sup> The JDW receives data and statistics from the Iowa Judicial Branch and the Iowa Department of Corrections.<sup>45</sup> Statistical data categories include race, ethnicity, juvenile age groups, adult age groups, offense class, offense subtypes, and judicial districts.<sup>46</sup> Data retrieval mechanisms such as the JDW are crucial for enacting effective impact statement language. Without them, efficacy is incredibly limited.<sup>47</sup>

Recently, Iowa legislators sought to expand the language of the statute. Representative Ako Abdul-Samad proposed House File 194 in the 2023 Legislative Session, which would have provided for minority impact statements to be attached to any appropriations bill before debate on the floor of either chamber.<sup>48</sup> The bill was referred to the Appropriations Committee, where it died via adjournment *sine die* on May 4, 2023, without a hearing.<sup>49</sup> If House File 194 had passed, Iowa would have been the first state to specifically include appropriations bills under minority impact statement requirements, although Colorado requires analyses of economic outcome disparities.<sup>50</sup>

Mandatory language, specific codified definitions for covered populations, and a clear mechanism for data collection make Iowa's

42. H.F. 2393 §3.

43. The term "methodologies" within this context is used to detail at which data points analysts are looking at, which data collections they are using, and how they are retrieving data within larger state agency databases (such as if any filters are used or narrowed by location, age, race, etc.).

44. *Justice Data Warehouse*, IOWA DEP'T OF HUM. RTS., <https://humanrights.iowa.gov/cjpp/justice-data-warehouse> [<https://perma.cc/H8PP-6YHJ>] (Mar. 6, 2023); *see also Iowa's Statistical Analysis Center Research and Data Projects*, BUREAU OF JUST. STAT., <https://bjs.ojp.gov/funding/awards/2020-86-cx-k017> [<https://perma.cc/BS65-NLJ3>] (detailing financial award to support criminal justice data collection).

45. IOWA DEP'T OF HUM. RTS., *supra* note 44.

46. *Id.*

47. *See, e.g., infra* Section II.B.iii (detailing the limited success of Connecticut's minority impact statement legislation and connecting this failure to the lack of a centralized data repository system); *infra* notes 201–204 and accompanying text (describing the limitations of New Jersey's data retrieval mechanisms and the corresponding effect on efficacy).

48. H.F. 194, 90th Gen. Assemb., 1st Sess. (Iowa 2023).

49. *Id.*

50. *See* H.B. 19-1184, 72d Gen. Assemb., 1st Reg. Sess. (Colo. 2019); COLO. REV. STAT. § 2-2-322.5 (2019).

approach a national model and illustrate why it has published almost 200 minority impact statements since its passage in 2008.<sup>51</sup>

ii. Connecticut

Connecticut became the second state to enact minority impact statement language with the passage of House Bill 5933, introduced by the Judiciary Committee using the terminology “racial and ethnic impact statement.”<sup>52</sup> House Bill 5933 applies only to criminal justice bills and, more specifically, “bills and amendments that could, if passed, increase or decrease the pretrial or sentenced population of the correctional facilities in [the] state.”<sup>53</sup> As enacted in 2008, the Connecticut statute provided that a racial and ethnic impact statement “shall be prepared” with respect to these eligible bills.<sup>54</sup> There were no limitations on the number of statements that may be requested per legislative session.

Notably, the passage of Senate Bill 256 on June 1, 2018, expanded the statutory language to allow *any* legislator to request a drafted racial and ethnic impact statement.<sup>55</sup> This amendment made Connecticut the first state to require the creation of statements in such a manner. Procedural deadlines prohibit making requests “later than ten days after the deadline for the committee that introduced the bill to vote to report favorably under the joint rules,” and regarding amendments, requests “shall be made at least ten days prior to the deadline for adjournment sine die of the regular session.”<sup>56</sup> Therefore, the only trigger for production in Connecticut is via request by any member of the General Assembly within the time constraints described above.

The procedure for producing statements was initially set via Senate Joint Resolution 1 (S.J. 1), providing for the joint rules of both chambers.<sup>57</sup> Notably, S.J. 1 sets forth methods for data collection and other required methodologies. Its broad data collection language states that the Office of Legislative Research and the Office of Fiscal Analysis “may, in the preparation of such statement, consult with any person or agency including, but not limited to, the Judicial Branch, the Office of Policy and Management, the Department of Correction and the Connecticut

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51. See GAHN ET AL., *supra* note 7, at 8.

52. H.B. 5933, 2008 Reg. Sess. (Conn. 2008); *see also* 2008 Conn. Legis. Serv. P.A. 08-143 (West); CONN. GEN. STAT. ANN. § 2-24b (West 2008).

53. CONN. GEN. STAT. ANN. § 2-24b(a) (West 2008).

54. *Id.* The statute also provided that the procedure for preparing and drafting these statements must be recommended by January 1, 2009.

55. S.B. 256, 2018 Reg. Sess. (Conn. 2018); *see also* 2018 Conn. Legis. Serv. P.A. 18-78 (West); CONN. GEN. STAT. ANN. § 2-24b (West 2023).

56. CONN. GEN. STAT. ANN. § 2-24b(a) (West 2023).

57. S.J. Res. No. 1, 2009 Reg. Sess. (Conn. 2009).

Sentencing Task Force.”<sup>58</sup> Broad and unspecified language surrounding data collection very likely caused the historical lack of impact statement production in the state. However, Connecticut does delineate which pieces of information need to be included, such as:

(A) [w]hether [a] bill would have a disparate impact on the racial and ethnic composition of the correctional facility population and an explanation of that impact, (B) that it cannot be determined whether the bill would have a disparate impact on the racial and ethnic composition of the correctional facility population, or (C) that the offices cannot determine within the time limitation specified in Rule 13(c) whether the bill would have a disparate impact . . . .<sup>59</sup>

Request-centered language like Connecticut’s quickly became the norm, and every subsequent state-enacted statute has contained such language (besides New Jersey). This new norm explains in part why every state besides Iowa has drafted so few minority impact statements. Even further, a lack of data collection mechanisms has proven to be the other primary concern for how effective the legislation will be.<sup>60</sup>

### iii. Oregon

After repeated attempts to enact legislation in every session since 2007,<sup>61</sup> former Oregon State Senator Chip Shields found success during the 2013 Legislative Session.<sup>62</sup> Senate Bill 463, partly titled “Racial and Ethnic Impact Statement,” was finally signed into law on July 1, 2013.<sup>63</sup>

Senate Bill 463 provided the first expansion into additional subject areas, including for recipients of human services, along with criminal justice and state grant applications.<sup>64</sup> However, Oregon’s statutory language also follows a request-based structure,<sup>65</sup> which allows limitations to persist. Oregon was the first state to require one member

58. *Id.* at 32:945–48.

59. *Id.* at 32:948–33:956.

60. See *infra* Section II.B for a detailed discussion of the efficacy of minority impact statement legislation.

61. See H.B. 2933, 74th Legis. Assemb., Reg. Sess. (Or. 2007); H.B. 2352, 75th Legis. Assemb., Reg. Sess. (Or. 2009); H.B. 3086, 76th Legis. Assemb., Reg. Sess. (Or. 2011); S.B. 654, 76th Legis. Assemb., Reg. Sess. (Or. 2011); H.B. 2053, 76th Legis. Assemb., Reg. Sess. (Or. 2011).

62. S.B. 463, 77th Legis. Assemb., Reg. Sess. (Or. 2013).

63. See *2013 Session: Senate Bill 463*, OREGONIAN: YOUR GOV’T, <https://gov.oregonlive.com/bill/2013/SB463/> [<https://perma.cc/G9C9-9VPP>]. The January 2, 2018 sunset provision contained in Senate Bill 463 was cured by the passage of House Bill 2238. H.B. 2238, 79th Gen. Assemb., Reg. Sess. (Or. 2017); see also OR. REV. STAT. § 137.683–685 (2023).

64. See S.B. 463 §§ 1(1)(a)–(b), 1(2)(a)–(b), 4(1).

65. *Id.* § 1(2); OR. REV. STAT. § 137.683(2)(a) (2023); OR. REV. STAT. § 137.685(1)(a) (2023).

of the Legislative Assembly from each major political party to sign a written request for drafting a statement for a bill.<sup>66</sup>

Concerning the existence of specified definitions, Oregon provides partial definitions for the people covered under the statute. These include definitions of “criminal offender population” and “recipients of human services.”<sup>67</sup> Notably, “recipients of human services” includes persons within the juvenile court system or receiving child welfare,<sup>68</sup> which makes Oregon the first state to include juveniles. Further, the statute does not define the races and ethnicities included in analysis. Statutory definitions for “minority persons” within the state grant application code section mirror those of Iowa, but nothing in the statute indicates that such definitions or verbiage also apply to the racial and ethnic impact statement language.<sup>69</sup>

However, Oregon added an important element for clarity: requiring the inclusion of specific data points in drafted statements. Those data points and analysis requirements are as follows:

(3) A racial and ethnic impact statement must be impartial, simple and understandable and must include, for racial and ethnic groups for which data are available, the following:

(a) An estimate of how the proposed legislation would change the racial and ethnic composition of the criminal offender population or recipients of human services;

(b) A statement of the methodologies and assumptions used in preparing the estimate; and

(c) If the racial and ethnic impact statement addresses the effect of proposed legislation on the criminal offender population, an estimate of the racial and ethnic composition of the crime victims who may be affected by the proposed legislation.<sup>70</sup>

Including this language is paramount for the production of quality impact statements that will serve as a tool for state legislators, community partners, and constituents. A lack of this language in other jurisdictions has lessened the impact of these statements over time. Concerning the data retrieval mechanisms within Oregon’s statutory language, the Criminal Justice Commission—which houses a Statistical Analysis Center<sup>71</sup>—is tasked with drafting these statements.<sup>72</sup> However, there are no specific provisions in the statute for data collection.

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66. S.B. 463 § 1(1)(2).

67. *Id.* § 1(1).

68. *Id.* § 1(1)(b).

69. *Id.* § 4(5)(a).

70. *Id.* § 1(3)(a)–(c).

71. See *Equity Dashboard: 2015-2019 Race, Ethnicity, and Gender Demographic Dashboard*, STAT. ANALYSIS CTR. CJC RSCH. DEP’T, <https://www.oregon.gov/CJC/SAC/Pages/equity-dashboard.aspx> [<https://perma.cc/R9UK-DVZJ>].

72. S.B. 463 § 1(2), 77th Legis. Assemb., Reg. Sess. (Or. 2013).

Oregon proposed numerous amendments to expand their original language. In 2015, efforts to include all education bills<sup>73</sup> proved fruitless, with the amendment dying early in the committee process.<sup>74</sup> In 2019, legislators proposed to include sexual orientation and other demographic information as part of the legislative impact that must be considered,<sup>75</sup> but this bill also failed in committee.<sup>76</sup> During the 2021 Session, one proposed bill would have required “[a] public hearing to consider ways to eliminate or mitigate estimated negative impact on traditionally marginalized groups” for bills with a negative impact statement attached to them.<sup>77</sup> Another bill attempted to modify the statutory language to allow two members of the legislative assembly who are not from the same major political party to request an impact statement.<sup>78</sup> Both bills died in committee upon adjournment.<sup>79</sup> To date, House Bill 2991, if passed, would have been the first mandate requiring a legislative response to a documented minority impact.

Thus, efficacy issues, which are discussed in greater depth later in this Article, can be attributed to limiting procedural language, lack of adequate statutory definitions for people covered, and lack of specified methodologies and data points to be considered.

#### iv. New Jersey

On January 16, 2018, the New Jersey Legislature approved Senator Ronald Rice’s proposed Senate Bill 677,<sup>80</sup> establishing New Jersey as the

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73. See S.B. 633, 78th Legis. Assemb., Reg. Sess. (Or. 2015) (expanding “Oregon Criminal Justice Commission requirement to create racial and ethnic impact statement to include proposed legislation relating to education policy”).

74. See *2015 Regular Session: SB 633*, <https://olis.oregonlegislature.gov/liz/2015R1/Measures/Overview/SB0633> [<https://perma.cc/NNT8-78NC>] (showing the bill died in committee).

75. See H.B. 2635, 80th Legis. Assemb., Reg. Sess. (Or. 2019) (stating that reports are necessary on how legislative changes would ensure funds are effectively serving “[l]esbian, gay, bisexual, transgender, queer and other minority gender identity communities”).

76. See *2019 Regular Session: HB 2635*, <https://olis.oregonlegislature.gov/liz/2019R1/Measures/Overview/HB2635> [<https://perma.cc/59ZA-PGW6>] (showing the bill died in committee).

77. H.B. 2991, 81st Legis. Assemb., Reg. Sess. (Or. 2021).

78. H.B. 3270, 81st Legis. Assemb., Reg. Sess. 9:20–21 (Or. 2021); *2021 Regular Session: HB 3270*, <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB3270> [<https://perma.cc/NS5N-YZ8D>].

79. See *2021 Regular Session: HB 2991*, <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB2991> [<https://perma.cc/D8SX-P7ND>]; *2021 Regular Session: HB 3270*, <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB3270> [<https://perma.cc/NS5N-YZ8D>].

80. S.B. 677, 217th Leg., 1st Sess. (N.J. 2016).

fourth state to enact racial impact statement language.<sup>81</sup> Senate Bill 677 requires the use of “racial and ethnic impact statements” to criminal justice bills *and* regulations affecting sentencing.<sup>82</sup> New Jersey remains the only state to apply minority impact statement language to state agency rulemaking processes.

New Jersey’s statutory language mirrors Iowa’s language in an important regard; New Jersey so far is the only other state to have mandatory procedural triggers for impact statements, rather than producing them only upon request. New Jersey’s statute *requires* an impact statement for any bill, resolution, or amendment that “may result in an increase or decrease in the State’s adult and juvenile pretrial detention, sentencing, probation, or parole populations” before either chamber of the legislature may take a vote on the bill.<sup>83</sup> The mandatory nature of this procedural trigger is further made clear with the language that “[t]he Legislative Services Commission *shall* direct the Office of Legislative Services to prepare a racial and ethnic community criminal justice and public safety impact statement for *each* proposed criminal justice bill” that falls under the statute’s requirements.<sup>84</sup>

Further, agencies must also issue a racial and ethnic impact statement concerning the nature and extent of the impact a proposed rule would have on pretrial detention, sentencing, probation, or parole policies; this statement is required in the initial notice of the proposed rule.<sup>85</sup> Finally, a section of Senate Bill 677 requiring the Criminal Sentencing and Disposition Commission to review the impact statement pursuant to the proposed rule during the public comment and meet with the agency prior to adoption if an adverse impact were reported period was amended out of the final version of the bill.<sup>86</sup>

Concerning codified definitions, New Jersey is the second state after Oregon to include juvenile justice language. While the statutory language specifies that proposals are to consider adults and juveniles in the criminal justice context in the drafting of impact statements,<sup>87</sup> no clear codified definition section exists setting forth which populations or groups of incarcerated people are covered by the statute.

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81. See *Bill S677 ScaAca w/GR (3R): Session 2016-2017*, N.J. LEG., <https://njleg.state.nj.us/bill-search/2016/S677> [<https://perma.cc/2TPF-HHDV>] (showing that the bill was approved on January 16, 2018); N.J. STAT. ANN. §§ 2C:48B-1, B-2 (West 2018).

82. See § 2C:48B-1(h)–(i).

83. See § 2C:48B-1(g)–(h).

84. N.J. STAT. ANN. § 52:11-57.1(a) (West 2018) (emphasis added).

85. § 2C:48B-2.

86. See S.B. 677, § 3(b), 217th Leg., 1st Reg. Sess. (N.J. 2016).

87. § 2C:48B-1(g).



New Jersey's statute critically includes a requirement for specific information to be included in the racial and ethnic impact statements:

[1] a statistical analysis of how the change in policy would affect racial and ethnic minorities, [2] the impact of the change in policy on correctional facilities and services for racial and ethnic minorities, [3] the estimated number of criminal and juvenile justice matters involving racial and ethnic minorities adjudicated each year, and [4] the anticipated effect of the change in policy on public safety in racial and ethnic communities in the State and for victims and potential victims in those communities.<sup>88</sup>

However, this methodology lacks efficacy, because New Jersey fails to provide a process for data collection to gather such information.

#### v. Colorado

Colorado's House Bill 19-1184, co-authored by Representatives Leslie Herod and Yadira Caraveo, marks the most unique and expansive bill enacted into law as of 2021.<sup>89</sup> The first aspect that makes it unique is the use of the term "demographic notes," which broadens the people included in the statements beyond the previous "minority" or "racial and ethnic" impact statement headings.<sup>90</sup> Colorado seeks to address broader disparities within the state, expanding covered subject areas to include "economic[s], employment, health, education, [and] public safety outcomes."<sup>91</sup> The statute also clearly defines specific classes of individuals beyond the scope of more traditional minority or racial and ethnic impact statement populations. Colorado's statute factors in "socioeconomic status, race, ethnicity, sex, gender identity, sexual orientation, disability, [and] geography" into disparate impact analyses.<sup>92</sup> Thus, this statutory language is the most expansive inclusion of subgroups within proposed or enacted measures, even after the conclusion of the 2021 Legislative Session.

Colorado uses a production-upon-request process, as previously seen in Connecticut and Oregon. Colorado goes a step further, however, by limiting the members who can request the drafting of statements to the following positions: "the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, and the minority leader of the senate."<sup>93</sup> Colorado places additional limitations on requests by allowing each of these four

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88. § 52:11-57.1(b).

89. H.B. 19-1184, 72d Gen. Assemb., 1st Reg. Sess. (Colo. 2019); *see also* COLO. REV. STAT. § 2-2-322.5 (2019).

90. *See* § 2-2-322.5(1)(a).

91. *Id.* § (1)(b).

92. *Id.*

93. *Id.* § (2)(b).

individuals only five requests per regular legislative session, meaning they may only collectively request a maximum of twenty statements each session.<sup>94</sup> To request beyond the allotted number requires the discretion of the Director of Research of the Legislative Council.<sup>95</sup> This numbered cap on impact statements is the first of its kind enacted. It unfortunately seems to have sparked a trend in more recent bills, including Virginia's enacted legislation in 2021.<sup>96</sup>

Before work can begin on creating a demographic note, yet another procedural requirement occurs once a request for such a note is made. The requestor, the sponsor of the bill, and the Legislative Council must first meet to discuss whether a note can practically be done for the proposed bill.<sup>97</sup> If they find that it cannot be practically done, then the requesting leader may use that request toward another bill.<sup>98</sup> Limiting procedures such as these may be desirable to highly partisan states, as they can help quell the ongoing fear that drafting entities will be overwhelmed or that elected officials' power may be diminished.

Lastly, Colorado's statute provides for data collection, mandating "[e]ach state department, agency, or institution" to provide information toward demographic note production.<sup>99</sup> While providing for timeframes established by the legislative council to produce information,<sup>100</sup> this statutory language is still problematic, as it necessitates a piecemeal collection of data from agencies, which are left with wide discretion in reporting data.

#### vi. Illinois

Illinois' "Racial Impact Note Act" began as a standalone bill introduced every year from 2016 through 2020.<sup>101</sup> However, in 2021, the provision was only introduced within a larger omnibus health care and

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94. *Id.*

95. *Id.*

96. *See infra* Section II.A.viii.

97. § 2-2-322.5(2)(c).

98. *Id.*

99. *Id.* § (3)(a).

100. *Id.* § (3)(b).

101. *E.g.*, S.B. 1798, 99th Gen. Assemb., Reg. Sess. (Ill. 2016); S.B. 0697, 100th Gen. Assemb., Reg. Sess. (Ill. 2017); H.B. 5877, 100th Gen. Assemb., Reg. Sess. (Ill. 2018); H.B. 5194, 100th Gen. Assemb., Reg. Sess. (Ill. 2019); H.B. 4428, 101st Gen. Assemb., Reg. Sess. (Ill. 2020). In 2016, House Bill 1437, the Criminal Diversion Racial Impact Data Collection Act, was signed into law. 2016 Ill. Legis. Serv. 099-0666 (West). This law required data reporting on the "racial and ethnic composition" of "adults diverted from the criminal justice system before the filing of a court case." *Id.* § 5. The Act was repealed on December 31, 2020. *Id.* § 20.

human services bill.<sup>102</sup> Finally, with the signing of House Bill 158 on April 27, 2021,<sup>103</sup> Illinois became one of three states to enact minority impact statement legislation in the 2021 Session alone.<sup>104</sup>

Illinois' statutory language provides for the production of a racial impact note upon request of any member of the legislature.<sup>105</sup> However, Illinois's five-day production time constraints<sup>106</sup> are similar to, yet more stringent than, Connecticut's ten-day deadline,<sup>107</sup> which has proven to be ineffective.<sup>108</sup> To account for bills that may require a more complex analysis—and therefore would likely require more time—Illinois' statute allows for an extension to be requested by the responding agency.<sup>109</sup>

Illinois also specifically delineates which agencies are responsible for the production of data in various circumstances.<sup>110</sup> For instance, “[i]f a bill concerns arrests, convictions, or law enforcement, a statement shall be prepared by the Illinois Criminal Justice Information Authority specifying the impact on racial and ethnic minorities.”<sup>111</sup>

Additional requirements include a procedural trigger in which the note must be prepared and produced prior to the second reading in the chamber in which it was introduced.<sup>112</sup> Procedural triggers such as this are crucial so that the information may be properly considered by the legislative body prior to robust floor debate. What sets Illinois apart, however, is the enumeration of what must be included within a racial impact note:

Each racial impact note must include, for racial and ethnic minorities for which data are available: (i) an estimate of how the proposed legislation would impact racial and ethnic minorities; (ii) a statement of the methodologies and assumptions used in preparing the estimate; (iii) an estimate of the racial and ethnic composition of the population who may be impacted by the proposed legislation, including those persons who may be negatively impacted and those

102. *See, e.g.*, H.B. 159, 102d Gen. Assemb., Reg. Sess. (Ill. 2021); H.B. 158, 102d Gen. Assemb., Reg. Sess. (Ill. 2021).

103. *See* H.B. 158; 25 ILL. COMP. STAT. 83/110 (2021).

104. Virginia and Maine also enacted legislation.

105. 25 ILL. COMP. STAT. 83/110-5 (2021).

106. *Id.* at 110-10.

107. *See supra* note 56 and accompanying text.

108. *See infra* Section II.B.iii (describing the inefficacy of Connecticut's minority impact statement legislation).

109. 25 ILL. COMP. STAT. 83/110-10(a) (2021).

110. *Id.* at 110-10(b).

111. *Id.* This section also parses when the Department of Corrections, Department of Commerce and Economic Opportunity, the Illinois Community College Board, the Illinois State Board of Education, the Illinois Board of Higher Education, or any other agency that may be affected by this Act—provided for in a catchall provision—are responsible for the production of a racial impact note. *Id.*

112. *Id.* at 110-5.

persons who may benefit from the proposed legislation; and (iv) any other matter that a responding agency considers appropriate in relation to the racial and ethnic minorities likely to be affected by the bill.<sup>113</sup>

However, House Bill 158 did not provide a definition for which racial and ethnic minorities are covered under the bill. While Illinois' statutory language is concerning because of the five-day production deadline, lack of definitions for individuals covered under the statute, and the discretionary request-driven language, Illinois is the first state to require education, commerce, and economic development bills be analyzed through a racial and ethnic impact lens.<sup>114</sup>

vii. Maine

Representative Rachel Talbot Ross jumpstarted the 2021 Legislative Session by proposing Legislative Document 2, which provides for "racial impact statements."<sup>115</sup> This bill was the first time statutory language for racial and ethnic impact statements was proposed in Maine. It was enacted in the spring of 2021.<sup>116</sup>

What differentiates Maine from other states is that Maine's law provided for the creation of a process pilot program to study the best method of establishing racial impact statements.<sup>117</sup> The report regarding a racial impact statement process was submitted in December 2021 for the legislature to follow during the 2022 Legislative Session.<sup>118</sup> A sunset provision also applied to Maine's statutory language, however, allowing the Legislative Council to recommend expansion or elimination of racial impact statements by December 15, 2022.<sup>119</sup> On October 27, 2022 the 130th Legislative Council voted unanimously to recommend that the 131st Legislature continue the Racial Impact Statement Pilot Project.<sup>120</sup> It was recommended the following six elements be included:

1. That, early in the First Regular Session of the 131st Legislature, joint standing committees identify those bills for which the

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113. *Id.*

114. *See id.* at 110-10(b). While Colorado's statutory language spans any subject matter area, their "demographic note" language analyzes bills under a much wider array of populations, rather than analyzing the specific impact to racial and ethnic populations. *See supra* Section II.A.v.

115. L.D. 2, 130th Leg., 1st Reg. Sess. (Me. 2021).

116. *See* ME. REV. STAT. ANN. tit. 2, § 201 (2021).

117. *See* 2021 Me. Legis. Serv. Ch. 21, Sec. 2 § 2 (West).

118. OFF. OF POL'Y & LEGAL ANALYSIS, LEGISLATIVE COUNCIL SUBCOMMITTEE TO IMPLEMENT A RACIAL IMPACT STATEMENT PROCESS PILOT (2021).

119. *See* 2021 Me. Legis. Serv. Ch. 21, Sec. 2 (West).

120. 130TH ME. STATE LEG. LEGIS. COUNCIL, LEGISLATIVE COUNCIL MEETING SUMMARY 2-3 (2022).

committee, prior to beginning work on the bills, requests preparation of a Racial Impact Statement (“RIS”) over the course of the interim;

2. That each joint standing committee that votes to request an RIS for a bill or bills transmit to the Presiding Officers the RIS request(s) in a manner to be prescribed by the Presiding Officers;

3. That a bill for which an RIS request has been approved by the Presiding Officers not be scheduled for hearings or work sessions until the RIS is completed, and be included in the Carry-Over Order passed at the end of the First Regular Session;

4. That the Executive Director identify savings in the legislative accounts for the Legislature to contract with research organizations to perform the analysis necessary to prepare the RIS for the identified and approved bills;

5. That in order to prepare RIS, research organizations with whom the Legislature contracts perform qualitative analysis by, among other methods, engaging with and eliciting input from impacted communities; and

6. That researchers performing the qualitative and quantitative analysis be authorized and encouraged to engage and communicate together and with legislators to identify and refine those avenues of inquiry that will provide information most relevant to the needs of the Legislature.<sup>121</sup>

The 131st Legislature was also recommended to support the introduction of legislation to clarify the Racial Impact Statement Process.<sup>122</sup>

While the implementation of these recommendations would enhance the current law, there are multiple reasons why Maine’s legislation may still not be effective. First, the legislation does not specify which information to include within minority impact statements. Second, the only procedural trigger included is that legislators are to draft statements upon request of a legislative committee.<sup>123</sup> Third, proposals must produce information from various state entities in a “timely manner.”<sup>124</sup> This provision appears to mimic Colorado’s data collection language, but it does not define what a reasonable amount of time is or which state entities are included. Lastly, the limited definition provides that “racial impact statement” means “an assessment of the potential impact that legislation could have on historically disadvantaged racial populations.”<sup>125</sup> The legislation’s definition does not clearly specify whether disadvantaged ethnicities are included within this definition.

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121. *Id.* at 3.

122. *Id.*

123. ME. REV. STAT. ANN. tit. 2, § 201(2) (2021).

124. *Id.*

125. *Id.* § 1(b).

The Legislative Council's Subcommittee to Implement a Racial Impact Statement Process Pilot released a final report in December 2021 establishing specific areas for the pilot process to examine.<sup>126</sup> The subcommittee, in partnership with the Permanent Commission on Racial, Indigenous and Maine Tribal Populations, and the University of Maine System (hereinafter "the research team"), selected seven bills carried over from the 2021 Legislative Session for which to draft minority impact statements.<sup>127</sup> The analysis framework created by the research team included five different questions that minority impact statements must answer:

1. What problem is this policy/legislation addressing?
2. Is the problem the legislation is addressing one that is worse or exacerbated for historically disadvantaged racial populations?
3. What factors contribute to or compound racial inequities around this problem?
4. More specifically, what policies, institutions, or actors have shaped these inequalities, disparities, and/or disparate impacts?
5. If inequities are exacerbated, what actors, at what levels of influence, could reduce these inequities?<sup>128</sup>

The final report provided a thorough look into the thought process and considerations of the Subcommittee in expanding production requirements for racial impact statements.<sup>129</sup> Not only must the analysis answer these five questions, but when a conclusion is not feasible, the research team recommends including a description of limitations or barriers that impeded this conclusion and "whether relevant regional or national trends exist which may provide helpful information."<sup>130</sup> Including expanded explanations of both methodologies used and barriers present is an innovative approach that would bolster the effectiveness of minority impact statements by providing a greater level of detail.

#### viii. Virginia

House Bill 1990, authored by Delegate Lashrecse Aird, solidified Virginia as the first state in the historical South to enact "racial and ethnic impact statements."<sup>131</sup> Like Maine, Virginia enacted this minority impact

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126. OFF. OF POL'Y & LEGAL ANALYSIS, *supra* note 118.

127. *Id.* at subd. I; L.D. 270, 130th Leg., 2d Sess. (Me. 2021); L.D. 372, 130th Leg., 2d Sess. (Me. 2021); L.D. 1574, 130th Leg., 2d Sess. (Me. 2021); L.D. 1693, 130th Leg., 2d Sess. (Me. 2021); L.D. 982, 130th Leg., 2d Sess. (Me. 2021); L.D. 1068, 130th Leg., 2d Sess. (Me. 2021); L.D. 965, 130th Leg., 2d Sess. (Me. 2021).

128. OFF. OF POL'Y & LEGAL ANALYSIS, *supra* note 118, at i–ii, 5.

129. *See id.* at 5.

130. *Id.* at 6.

131. *See* H.B. 1990, Gen. Assemb., Spec. Sess. I (Va. 2021); VA. CODE § 30-19.1:13(B).

statement legislation the first time it was proposed. Virginia racial and ethnic impact statements only apply to criminal justice bills.<sup>132</sup>

There are some significant procedural limitations in Virginia's statute. Namely, only the Chair of the House Committee for Courts or Justice or the Chair of the Senate Committee on the Judiciary may request a racial and ethnic impact statement.<sup>133</sup> Further, both of these individuals get only three requests per regular session.<sup>134</sup> There is neither specific language establishing what information is to be included in such statements nor definitions for which populations are covered. Similar to Colorado, state agencies are required to provide data upon request of the Joint Legislative Audit and Review Commission.<sup>135</sup> These agencies must "expeditiously provide" the requested data, but no exact timeframe is provided, and the exact data that needs to be collected is not specified.<sup>136</sup>

### *B. Efficacy of Minority Impact Statements*

Evaluating the six key differences in the currently enacted language provides a critical foundation for analysis of each statute's efficacy.<sup>137</sup> The following procedural elements have led to widespread inefficacy: limitations on the number of requests that may be made; limitations as to who may request statements; requiring a formal request rather than having a mandatory procedural trigger; lack of clearly defined populations covered under the legislation; and lack of clarification on which data points need to be included for analysis.

The number of statements produced is one crucial indicator of the effectiveness of minority impact statement legislation. This Article fills a gap in previous analyses by providing data on each state's impact statement production. The data reveal that Iowa has drafted almost 200 minority impact statements from 2009 to 2019, while additional analysis needs to be done on statements filed from 2020 to 2023.<sup>138</sup> Connecticut, Oregon, Colorado, and New Jersey have published a total of twelve impact statements in the same time frame, nine of which came from Colorado during the 2020 through 2023 legislative sessions alone.<sup>139</sup>

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132. § 30-19.1:13(B).

133. *See id.*

134. *Id.* § 30-19.1:13(D).

135. *Id.* § 30-19.1:13(E).

136. *See id.*

137. The following analysis will exclude Illinois and Virginia due to the lack of publicly available data on any production history; it will also exclude Maine, as Maine is undergoing its pilot project.

138. GAHN ET AL., *supra* note 7, at 8.

139. Colorado's statutory language also provides for analysis outside of racial and ethnic populations, so not all nine statements published concerned racial or ethnic disparities.

The lag in productivity appears to be linked to a lack of legislative education on minority impact statement procedure. This lag has led to almost completely ineffective legislation in numerous states. As a result, national organizations look to Iowa as a research model,<sup>140</sup> with the state garnering such a robust data set from which to analyze and provide further recommendation.

i. 2020 National Juvenile Justice Network Report Analyzing  
Iowa's Robust Number of Minority Impact Statements

The National Juvenile Justice Network (NJJN), collaborating with the University of Iowa College of Law's Community Empowerment Law Project, used Iowa as a case study to measure the effectiveness of state minority impact statements.<sup>141</sup> This team reviewed every bill with an attached minority impact statement drafted by the Fiscal Services Division within the Legislative Services Agency between 2009 and 2019 to determine the degree to which the statements were impacting legislative decision-making as intended.<sup>142</sup> Their research categorized the statements' impact as either having a negative effect, having an unknown effect, having minimal effect, having no effect, or having a positive effect on minority populations as defined by state statute.<sup>143</sup> Out of 164 impact statements analyzed, NJJN found that 41 bills had a negative impact, 52 had an unknown effect, 18 had a minimal effect, 23 had no effect, 11 had a positive effect, and 19 qualified bills never had a statement attached to them.<sup>144</sup>

Based upon these statistics, NJJN illuminated key takeaways that should be considered in Iowa, other enacted states, and states proposing language. First, to provide for a more informed legislative body and electorate, minority impact statements should be available to all stakeholders as early in the legislative process as possible, and "preferably before lobbyists, advocates, and constituents must express support for or opposition to a bill."<sup>145</sup>

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140. See, e.g., GAHN ET AL., *supra* note 7 (presenting NJJN's report on Iowa as a research model); ASHLEY NELLIS, THE SENT'G PROJECT, THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS 7, 10 (2021), <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf> [<https://perma.cc/8PDL-5CTJ>] (providing the Sentencing Project's analysis of Iowa's minority impact statements).

141. See GAHN ET AL., *supra* note 7.

142. *Id.* at 5, 8.

143. *Id.* at 8.

144. *Id.*

145. *Id.* at 10 (finding that, due to Iowa's procedure being triggered only after a bill has been voted out of committee, there is limited information for the public to form an opinion on the matter and inform their elected representatives on their position, thus lessening the depth of discussion possible between the electorate and their elected officials).



Second, minority/racial impact statements should maintain a consistent and comprehensive analysis.<sup>146</sup> The research revealed that Iowa's minority impact statements began as two to three paragraphs of analysis but eroded over time to now be roughly two to three sentences in length.<sup>147</sup> In addition, the more recent statements limited their analysis to Black Iowans only, which excluded analysis for women, people with disabilities, and other people of color or ethnicities as provided under the Iowa Code.<sup>148</sup> Even further, within the ten-year time span that this study examined, 52 bills were concluded to have an unknown effect on minority populations, 31 of which were published in the 2018 and 2019 sessions alone.<sup>149</sup> Thus, even in a state like Iowa that has such a high production rate of minority impact statements, the extent of useful analysis or attention to quality analysis has sorely diminished over time.

The third takeaway from NJJN's study was that minority impact legislation should mandate that a bill cannot be enacted if it is determined to have a negative impact on minority communities.<sup>150</sup> Since minority impact statements currently serve only as tools that may be used, mostly without any mandate in place, they do not block legislation with negative impacts nor spur legislation with positive or neutral impacts; this allows demonstrably inequitable legislation to be enacted without further consideration.<sup>151</sup>

At the conclusion of this case study, NJJN set forth recommendations on how to ensure greater efficacy in minority impact statements. Two notable recommendations were ensuring that juveniles are included as a population of interest, and emulating New Jersey by including state agency regulations within the scope of minority impact statement requirements.<sup>152</sup> Recommendations regarding procedural elements that should be enumerated in model minority impact legislation included: making statements "available to the public before public committee hearings begin[;]" establishing a standardized procedure with defined impact categories for analysis (i.e., negative, positive, or no impact) to ensure meaningful and consistent statements; requiring annual reports encapsulating how many statements were produced, their respective impact categories, and how many of each category were attached to bills that were ultimately signed into law; requiring that statements include an explanation of methodology used to determine impact, such as in Oregon;

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146. *Id.* at 11.

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.* at 16.

151. *Id.*

152. *Id.*

and requiring detailed and comprehensive analysis of the specific bill beyond census data on the state's general population.<sup>153</sup> Notably, two of NJJN's recommendations could revolutionize impact statements: prohibiting legislation with negative impacts from being enacted to ensure a mechanism for accountability and oversight; and including retroactive language to allow opportunities to determine the impact of current law versus proposed legislation.<sup>154</sup>

ii. Efficacy in Iowa

Again, Iowa's history with minority impact statements began with Marc Mauer and Ryan King's research piece identifying Iowa as the state with the highest ratio of Black-to-white incarceration in the country.<sup>155</sup> Black-to-white incarceration ratios are critical as a standardized measurement for comparing state incarceration disparities. Incarceration ratios are found by comparing the racial breakdown of prison population numbers to the general state population racial representation.<sup>156</sup> In 2007, when Mauer and King published their national data, Iowa's Black-to-white incarceration ratio was 13.6 to 1.<sup>157</sup>

By 2016, Iowa's Black-to-white incarceration ratio declined to 11 to 1—a slight but notable improvement.<sup>158</sup> While the drop in incarceration disparities cannot be directly connected to the passage of minority impact legislation, and although the NJJN study also noted ways in which Iowa is failing to use minority impact statements to their fullest potential, this decline “underscores minority impact statements as a tool to help educate decision makers about disparities.”<sup>159</sup> Further, recent data from 2019 indicates Iowa's ratio is 9.3 to 1.<sup>160</sup> While the improvement is slow, Iowa transitioned from being the worst state in the country for disparate incarceration rates to being tied for fifth in just over a decade.<sup>161</sup>

Iowa's minority impact statement statute is still contentious over a decade since its enactment. In the 2021 Legislative Session, Senate File 342<sup>162</sup> illuminated how, through amendments, lawmakers can

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153. *Id.*

154. *Id.* at 16–17.

155. MAUER & KING, *supra* note 3, at 10.

156. See Marc Mauer, *Incarceration Rates in an International Perspective*, OXFORD RSCH. ENCYCLOPEDIA (2017), <https://doi.org/10.1093/acrefore/9780190264079.013.233> [<https://perma.cc/WH6Z-QDGX>].

157. MAUER & KING, *supra* note 3, at 10.

158. GAHN ET AL., *supra* note 7, at 13 (citing NELLIS, *supra* note 140).

159. *Id.*

160. NELLIS, *supra* note 140, at 10.

161. *Id.*

162. S.F. 342, 89th Gen. Assemb., Reg. Sess. (Iowa 2021).

circumvent the requirements of impact statements while avoiding accountability. Iowa law requires that:

*Prior to debate* on the floor of a chamber of the general assembly, a correctional impact statement *shall be attached* to any bill, joint resolution, or amendment which proposes a change in the law which *creates a public offense, significantly changes an existing public offense or the penalty for an existing offense,* or changes existing sentencing, parole, or probation procedures.<sup>163</sup>

However, in the case of Senate File 342, this statutory procedure was avoided. Senate File 6 began as a bill pertaining to officer disciplinary actions, specifically concerning discharging or disciplining officers whose names were included on a *Brady* list.<sup>164</sup> The Judiciary Committee approved Senate File 6 on February 11, 2021, wherein it was renumbered Senate File 342,<sup>165</sup> and it passed unanimously in the Senate on March 8, 2021.<sup>166</sup> However, lawmakers amended the bill again in the same year to overhaul entire sections of Iowa Code including, among others, Section 723.4, which defines and provides penalties for “disorderly conduct.”<sup>167</sup> This section was amended to add:

2. A person commits a serious misdemeanor when the person, without lawful authority or color of authority, obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.
3. A person commits an aggravated misdemeanor when the person commits disorderly conduct as described in subsection 2 and does any of the following:
  - a. Obstructs or attempts to obstruct a fully controlled-access facility on a highway, street, or road in which the speed restriction is controlled by section 321.285, subsection 3, or section 321.285, subsection 5.
  - b. Commits property damage.
  - c. Is present during an unlawful assembly as defined in section 723.2.
4. A person commits a class “D” felony when the person commits disorderly conduct as described in subsection 2 and does any of the following:

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163. IOWA CODE § 2.56(1) (2023) (emphasis added).

164. S.F. 6, 89th Gen. Assemb., Reg. Sess. (Iowa 2021). *Brady* lists, or *Giglio* lists as they are sometimes called, are lists maintained by prosecutorial or law enforcement offices containing the names and details of law enforcement officers who have sustained incidents of untruthfulness, criminal convictions, candor issues, or some other type of issue placing their credibility into question when testifying in court.

165. See *Bill Information: S.F. 6, IOWA LEG.: BILLBOOK*, <https://www.legis.iowa.gov/legislation/BillBook?ba=SF%206&ga=89> [<https://perma.cc/RBG4-TZP3>].

166. See *Bill Information: S.F. 342, IOWA LEG.: BILLBOOK*, <https://www.legis.iowa.gov/legislation/BillBook?ba=SF%20342&ga=89> [<https://perma.cc/Z5VH-EMB3>].

167. See S-3158, 89th Gen. Assemb., Reg. Sess. (Iowa 2021) (House Amendment).

- a. Is present during a riot as defined in section 723.1.
  - b. Causes bodily injury.
5. A person commits a class “C” felony when the person commits disorderly conduct as described in subsection 2 and the person causes serious bodily injury or death.<sup>168</sup>

Other statutory modifications included adding unmarked law enforcement vehicles to a statutory provision regarding eluding law enforcement,<sup>169</sup> and adding assaults involving a laser to Iowa Code Section 708.1.<sup>170</sup> Even further, enhancements to Iowa Code Section 723.1 provided for increasing riot penalties from an aggravated misdemeanor to a class “D” felony,<sup>171</sup> and increasing the penalty for unlawful assembly from a simple to an aggravated misdemeanor in Iowa Code Section 723.2.<sup>172</sup> All of the aforementioned provisions either added a new public offense or altered existing public offenses, which should have automatically triggered the production of a minority impact statement.

Iowa’s minority impact statement law requires that the statement be filed prior to a bill’s consideration on the floor of the originating chamber so that the data may be thoughtfully considered and help inform debate and subsequent voting on a proposed bill. Yet Senate File 342, as amended, passed the Iowa House of Representatives on April 14, 2021 by a vote of 63 yays to 30 nays with no minority impact statement filed.<sup>173</sup> A minority impact statement was finally filed on April 19, 2021,<sup>174</sup> five days after the floor debate in the House. Thus, contrary to state law,<sup>175</sup> there was no minority impact statement to consider prior to either debate in the House or the Senate. Incorrect application of Iowa Code Section 2.56, subsection 6, providing that a *revised* correctional impact statement shall not delay action on a bill,<sup>176</sup> allowed for partisan politics to circumvent state law and led to enactment despite procedural defects.<sup>177</sup>

168. *Id.* § 25 (amending IOWA CODE § 723.4 (2021)).

169. *Id.* § 16 (amending IOWA CODE § 321.279 (2021)).

170. *Id.* § 19 (amending IOWA CODE § 708.1(2) (2021)).

171. *Id.* § 39 (amending IOWA CODE § 723.1 (2021)).

172. *Id.* § 40 (amending IOWA CODE § 723.2 (2021)).

173. See H.R. JOURNAL, 89TH GEN. ASSEMB., REG. SESS. 959 (Iowa 2021), [https://www.legis.iowa.gov/docs/publications/HJNL/20210414\\_HJNL.pdf#page=9](https://www.legis.iowa.gov/docs/publications/HJNL/20210414_HJNL.pdf#page=9) [<https://perma.cc/VB6U-AHXY>].

174. See LEG. SERV. AGENCY, FISCAL NOTE: SF 342 — PUBLIC SAFETY OMNIBUS (Iowa 2021), <https://www.legis.iowa.gov/docs/publications/FN/1219256.pdf> [<https://perma.cc/HLF8-KZ38>].

175. See IOWA CODE § 2.56(1) (2023).

176. *Id.*

177. State Representative Mary Wolfe most clearly sets forth the issue that no original correctional impact statement was filed prior to debate on the proposed amendment creating new penalties and enhancing other penalties, as required by state law. See *House Video*, THE IOWA LEG., at 5:50 (Apr. 14, 2021),

Iowa's statute does not provide remedies for the failure to file a minority impact statement according to statutory procedures. In the case of Senate File 342, it is unclear whether the filing of a minority impact statement prior to the Senate's floor debate satisfied the state statute for purposes of challenging the bill's legality, even though an impact statement was not filed prior to the House of Representative's floor debate. Due to this uncertainty, the State needs to clarify whether the minority impact statement must be filed before the first floor debate is held on the bill.

Aside from Senate File 342 and the procedural issues it illuminated, an enacted bill from 2021 demonstrated the effectiveness of minority impact statements. Firearms omnibus bill House File 756 provided various alterations to existing acquisition and possession of firearms laws, notably removing the requirement of obtaining a permit prior to purchasing a handgun in the State of Iowa.<sup>178</sup> Such alteration of criminal penalties triggered the production of a minority impact statement. The fiscal note containing such analysis was published on March 16, 2021,<sup>179</sup> and initial floor debate in the House of Representatives occurred on March 17, 2021.<sup>180</sup> Date specificity is crucial for analysis, as current statutory language mandates production of a minority impact statement prior to debate on either floor of the legislature.<sup>181</sup> The fiscal note containing the minority impact statement was published the day before debate on the floor of the House of Representatives, thus complying with statutory procedure.

Notably, analysis from this fiscal note showed positive impacts to minority disparate incarceration rates within Divisions I and II of the bill, and Divisions III, IV, and V had no estimated impact to minority populations.<sup>182</sup> On April 2, 2021, Governor Reynolds signed House File 756, enacting its positive impacts to minorities and reductions in

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<https://www.legis.iowa.gov/dashboard?view=video&chamber=H&clip=h20210414042300075&dt=2021-04-14&offset=2205&bill=SF%20342&status=i> [<https://perma.cc/327J-22BE>]. Opposition from the moving party argued that Iowa Code section 2.56(6) prohibited the delay of a bill due to the production of a correctional impact statement. This grossly misapplies state law, in that subsection 6 pertains to the filing of *revised* correctional impact statements, not original impact statements as is the issue in this case. Therefore, misapplication of state law by partisan politics led to the unlawful debate and vote of an amendment that became enacted law.

178. See H.F. 756, 89th Gen. Assemb., Reg. Sess. (Iowa 2021).

179. See LEG. SERV. AGENCY, FISCAL NOTE: HF 756 — FIREARMS OMNIBUS (LSB1852HV) (2021), <https://www.legis.iowa.gov/docs/publications/FN/1217197.pdf> [<https://perma.cc/UN2H-3FS8>].

180. See Iowa Leg., *Bill Information: S.F. 342*, <https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=hf756> [<https://perma.cc/MWE4-WF94>].

181. IOWA CODE § 2.56(1) (2023).

182. FISCAL NOTE: HF 756 — FIREARMS OMNIBUS, *supra* note 179, at 3–5.

disparity in incarceration rates.<sup>183</sup> This bill shows the success of minority impact statements.

While this example illustrates one successful outcome due to minority impact statement processes, the overall decline in efficiency and quality in recent years cannot be understated. A majority of recent impact statements have claimed an “unknown impact” due to insufficient data,<sup>184</sup> thereby decreasing their efficacy and quality analysis. Without proper data, legislators “are making decisions about legislation even though they lack critical information on a criminal bill’s potential impact on minority communities, completely undermining the intent of the law.”<sup>185</sup> Over the past decade, the quality of impact statements in Iowa has also been declining.<sup>186</sup> The majority of recent impact statements have consisted of merely a three-sentence conclusory paragraph.<sup>187</sup> This rote language often refers legislators to a “Minority Impact Statement” census memo released at the beginning of each session by the Legislative Services Assembly, but this memo is incredibly generic.<sup>188</sup> These declines can likely be attributed to a lack of legislative education on the purpose and use of minority impact statements as a tool, shorter analysis over time due to insufficient data, and lack of public knowledge about these statements. Notably, since a minority impact statement must be produced prior to a floor debate—and there is no centralized location where filed minority impact statements can be found—constituents do not have the time or ability to contact their elected officials and provide comment on proposed legislation before it is voted upon.

Despite decreasing efficiency, again, Iowa’s incarceration disparities have improved since the enactment of minority impact statement legislation.<sup>189</sup> Having automatic trigger language for production of minority impact statements and access to a centralized data warehouse are likely the two most critical factors providing foundation for the success Iowa has found with reducing incarceration disparities. Automatic procedural trigger language—in Iowa, requiring production of a statement prior to floor debate in the originating chamber—is crucial

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183. See H.F. 756, 89th Gen. Assemb., Reg. Sess. (Iowa 2021).

184. GAHN ET AL., *supra* note 7, at 11 (“Over the past ten years, there have been fifty-two bills with ‘unknown’ impact on minority communities. . . . Thirty-one of the fifty-two unknown impact statements – more than sixty percent – have been published within the past two years.”).

185. *Id.* at 11–12.

186. *Id.*

187. See *id.* at 11 (“[F]rom 2009 to 2019, the length of the analysis of Iowa’s minority impact statements sharply decreased from two to three paragraphs to two to three sentences.”).

188. *Id.*

189. See sources cited *supra* notes 158–161 and accompanying text.

to eliminate politically-charged decision-making on which bills get an impact statement, as can be seen with language providing for production only upon request by legislative members. Having access to a centralized data warehouse is also crucial to eliminate lag time or fragmented data coming from various agencies. Having both automatic procedural trigger language and a centralized data warehouse informing impact statement analysis is crucial for ensuring that the quantity and the quality of produced impact statements comply with the intent to reduce disparities. While other enacted states may have mandatory language or access to data, only Iowa has both.

From the enactment of minority impact statement legislation in 2008 to 2019, Iowa improved from being the worst state for disparate racial incarceration ratios to tied for fifth.<sup>190</sup> During this time, it has drafted almost 200 impact statements.<sup>191</sup> This correlation suggests that while minority impact statements clearly cannot singlehandedly solve incarceration disparities, they are a crucial legislative tool to provide education and highlight disparities—if the right statutory components are implemented.

### iii. Efficacy in Connecticut

Although Connecticut enacted minority impact statement language over a decade ago, very few statements have been produced. One of the only racial and ethnic impact statements<sup>192</sup> drafted in the state was attached to Substitute House Bill 6581 within the 2009 Legislative Session.<sup>193</sup> The bill enhanced penalties to the sale or possession of drugs near school zones, day care centers, or public housing projects.<sup>194</sup> However, the bill's racial and ethnic impact statement was incomplete due to insufficient data. Specifically, the insufficient data led to the boundary maps for the specified zones to not be updated in sufficient time for quality analysis to be done.<sup>195</sup> Having such stringent time constraints for analysis in this case led to one of the few racial and ethnic impact statements produced in Connecticut being entirely inadequate.

There is no evidence of Connecticut having a centralized repository for data collection. The only specification for data collection procedure

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190. NELLIS, *supra* note 158, at 10.

191. See GAHN ET AL., *supra* note 7, at 8.

192. See CHRISTOPHER REINHART, DRUG ZONE MAPS FOR SHB 6581 RACIAL AND ETHNIC IMPACT STATEMENT (2009). <https://www.cga.ct.gov/2009/rpt/2009-R-0184.htm> [<https://perma.cc/Z8ZA-27NF>].

193. S.H.B. 6581, 2009 Reg. Sess. (Conn. 2009).

194. *Id.*

195. REINHART, *supra* note 192 (“We were not able to update these maps to show the affect of the bill's changes on individual towns within the time frame for producing the racial and ethnic impact statement.”)

comes from Senate Joint Resolution 1, in that it provides that the Office of Legislative Research and the Office of Fiscal Analysis *may* consult with any person or agency.<sup>196</sup> However, there is no provision accounting for agency response. Such lack of data procedures, combined with insufficient time to complete helpful and meaningful analysis and ambiguous and discretionary request-centered language, are likely the driving factors behind Connecticut's dearth of minority impact statements.

#### iv. Efficacy in Oregon

Similarly, there have been minimal requests for a racial and ethnic impact statement in Oregon since its statute became effective in 2014.<sup>197</sup> During the 2020 Legislative Session, one request for production came in response to a ballot initiative—the Drug Addiction Treatment and Recovery Act—which was to appear on voter's 2020 ballots.<sup>198</sup>

The quality of the analysis in the impact statement for the ballot measure is notable. Consisting of a six-page analysis on methodology used to determine the impact, this report compared statistics under current law and projections under the new initiative, the reduction in incarceration among each minority population, and the projected differences in incarceration disparities for each affected charging category (misdemeanor or felony).<sup>199</sup> It contained statistical models and graphs to illustrate the impact of current law and the projected impact of the new law.<sup>200</sup> If used consistently, this extensive analysis could serve as a national model to be implemented in other jurisdictions.

However, further expansion of Oregon's data retrieval mechanism needs to be implemented to fully utilize its potential in providing quality information for impact statement analysis. Oregon tasks the Oregon Criminal Justice Commission—which houses a Statistical Analysis

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196. S. J. Res. No. 1, 2009 Reg. Sess. (Conn. 2009).

197. See Hillary Borrud, *Oregon Lawmakers Request First-Ever Racial Impact Analysis for Drug Decriminalization Initiative*, OREGONIAN (July 25, 2020), <https://www.oregonlive.com/news/2020/07/oregon-lawmakers-request-first-ever-racial-impact-analysis-for-drug-decriminalization-initiative.html> [https://perma.cc/8FFA-9AV8] (“[A]fter seeking the Criminal Justice Commission analyses on ‘a handful’ of bills in 2015, lawmakers stopped seeking the reports, according to the commission’s interim Executive Director Ken Sanchagrin. Until now, they have not requested a racial and ethnic impact analysis on a ballot measure.”).

198. See *id.* (discussing Initiative Petition 44, otherwise known as the 2020 Drug Addiction and Treatment Recovery Act).

199. CRIM. JUST. COMM’N, RACIAL AND ETHNIC IMPACT STATEMENT HISTORICAL DATA (2019), <https://www.oregon.gov/cjc/CJC%20Document%20Library/AdultCJSystemRacialandEthnicStatementBackground.pdf> [https://perma.cc/Y8XV-7VQB].

200. See *id.* at 3–7.



Center—with drafting minority impact statements.<sup>201</sup> Even if the Criminal Justice Commission utilizes the statistical data at its disposal, such data only includes probation and local control intakes, in addition to prison intakes.<sup>202</sup> These two categories may only be filtered by county and gender; they show data for Asian/Pacific Islanders, Black Americans, Latinx people, Native Americans, and Whites.<sup>203</sup> No year-by-year isolated analysis is available, as the equity dashboard shows compiled data for 2015 through 2019.<sup>204</sup> Despite these limitations, the quality of analysis shown via the impact statement for the 2020 ballot initiative demonstrates how consequential these entities can be.

Lastly, while Oregon’s statutory language requires preparation of an impact statement upon the request of one member from each major political party, there is no data on the Criminal Justice Commission’s website, the Secretary of State’s website, or the state legislature’s website that memorializes any previous statement requests—aside from the ballot initiative request from 2020. Former Senator Lew Frederick, original co-author of the bill, has attributed the dearth of requests to a lack of education within the legislative body.<sup>205</sup>

#### v. Efficacy in New Jersey

New Jersey has also only produced one racial and ethnic impact statement since its statute was enacted in 2018.<sup>206</sup> Similar to Oregon,<sup>207</sup> this statement was drafted in relation to a proposed constitutional amendment legalizing marijuana that was a ballot measure in November 2020.<sup>208</sup> The primary issue is that this impact statement, while provided to legislators prior to debate, is not published anywhere on the legislature’s website or elsewhere online.<sup>209</sup> New Jersey enacted statutory language that any impact statement on a proposed agency rule must be published in the New Jersey Register.<sup>210</sup> However, there is no

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201. See OR. CRIM. JUST. COMM’N, STAT. ANALYSIS CTR., EQUITY DASHBOARD, <https://www.oregon.gov/CJC/SAC/Pages/equity-dashboard.aspx> [https://perma.cc/R9UK-DVZJKB8F-77RR].

202. *Id.*

203. *Id.*

204. *Id.*

205. Borrud, *supra* note 197.

206. Ashley Balcerzak, *In Two Years, NJ Wrote Only One ‘Racial Impact Statement’ to Study Criminal Justice Disparities*, NORTH JERSEY (Aug. 4, 2020), <https://www.northjersey.com/story/news/new-jersey/2020/08/04/nj-crafted-only-one-racial-impact-statement-examine-disparities/5530310002/> [https://perma.cc/3L5A-XTBM].

207. See *supra* notes 197–198.

208. Balcerzak, *supra* note 206.

209. See *id.*

210. N.J. STAT. ANN. § 52:14B-4(a)(1) (West 2018).

such language mandating similar legislative disclosure, and thus, that impact statement is not available to the general public. Therefore, analysis into its conclusions and subsequent efficacy cannot be determined. Further, Governor Christie's veto over-broadened the six criteria of analysis so that implementation has proven near impossible.<sup>211</sup>

Thus, although New Jersey has mandatory trigger language, there is no centralized data collection mechanism, the mandatory data requirements are too broad to implement, and the data are not published anywhere for the public to engage with its analysis. These factors again illustrate the necessity for *both* mandatory language *and* data collection mechanisms.

#### vi. Efficacy in Colorado

Colorado has effectuated the most transparent and efficient disclosure system regarding drafted demographic notes. The state's legislative website brilliantly provides a page devoted to demographic notes, including a table of all notes drafted for the 2021 Legislative Session, with a search function for previous sessions.<sup>212</sup>

Since Colorado's legislation went into effect at the beginning of 2020, the State has produced nine demographic notes.<sup>213</sup> In 2020, one demographic note was produced, attached to a bill limiting mobile electronic devices while driving.<sup>214</sup> Within the 2021 Legislative Session, demographic notes were attached to four bills: Student Equity Education Funding Programs; Standardized Health Benefit Plan Colorado Option; Sustainability of the Transportation System; and Income Tax.<sup>215</sup> Demographic notes from the 2021 session were around ten to thirteen pages in length, detailing the impact to every demographic subcategory to the extent possible.<sup>216</sup> During the 2022 Legislative, two demographic notes were produced, both with a lengthy analysis.<sup>217</sup> Finally, in the 2023

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211. Balcerzak, *supra* note 206.

212. See *Demographic Notes*, COLO. GEN. ASSEMB.: LEGIS. COUN. STAFF., <https://leg.colorado.gov/agencies/legislative-council-staff/demographic-notes> [<https://perma.cc/3CQ9-VPE2>].

213. *Id.*

214. *Previous Session Demographic Notes*, COLO. GEN. ASSEMB.: LEGIS. COUNCIL STAFF, <https://leg.colorado.gov/agencies/legislative-council-staff/previous-session-demographic-notes> [<https://perma.cc/UAT9-K97G>]; LEG. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR SB 20-065 (2020).

215. See *Previous Session Demographic Notes*, *supra* note 214.

216. See LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR HB 21-1311 (2021); LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR SB 21-037 (2021); LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR SB 21-260 (2021); LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR HB 21-1232 (2021).

217. See LEGIS. COUNCIL STAFF, DEMOGRAPHIC NOTE FOR HB 22-1064 (2022); LEGIS. COUNCIL STAFF, DEMOGRAPHIC NOTE FOR HB 22-1021 (2022).

Legislative Session, two demographic notes have been created.<sup>218</sup> However, these analyses were nine and eight pages in length respectively and quite detailed.<sup>219</sup> Colorado's dedication to quality analysis needs to be specified in any bill language moving forward.

Of the four demographic notes produced during 2021, two revealed a decrease in socioeconomic status and racial and ethnic disparities,<sup>220</sup> and two revealed indeterminate impact statuses due to the nature of health care variables (but still provided a detailed analysis which included all available data points).<sup>221</sup> Of the bills for which these four demographic notes were produced in the 2021 session, one bill detailing a decrease in disparity was enacted,<sup>222</sup> and the two bills providing for an indeterminate impact were enacted.<sup>223</sup> However, no bills detailing a negative impact were enacted, thus solidifying a more neutral efficacy.

Notably, Colorado remains the only state that provides for public comment on demographic notes, and it provides an email address for constituents to submit their public comments.<sup>224</sup> Colorado further provides the option to subscribe to a mailing list that sends email notifications when demographic analyses are being prepared and again when they are available for review.<sup>225</sup> Features like this are innovative and crucial for engaging the voter base with information about demographic notes; these features allow for opinions to be vocalized, which upholds the heartbeat of our democracy.

Overall, Colorado has produced more demographic notes in the past four years than every other enacted state combined,<sup>226</sup> aside from Iowa.<sup>227</sup> Further, Colorado provides the most detailed reports of any of the enacted states, with clear disclosure mechanisms and allowance for public involvement. Thus, although Colorado has a more expansive reach with its legislation and does not contain mandatory language, its reports

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218. *Previous Session Demographic Notes*, *supra* note 214.

219. See LEGIS. COUNCIL STAFF, DEMOGRAPHIC NOTE FOR HB 23-1063 (2023); LEGIS. COUNCIL STAFF, DEMOGRAPHIC NOTE FOR HB 23-1112.

220. See LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR HB 21-1311 (2021); LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR SB 21-037 (2021).

221. See LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR SB 21-260 (2021); LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR HB 21-1232 (2021).

222. See LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR HB 21-1311 (2021).

223. See LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR SB 21-260 (2021); LEGIS. COUNCIL STAFF, FINAL DEMOGRAPHIC NOTE FOR HB 21-1232 (2021).

224. *Demographic Notes*, *supra* note 212.

225. *Id.*

226. See *Previous Session Demographic Notes*, *supra* note 214; see also *Demographic Notes*, *supra* note 212 (stating the Legislative Council Staff must prepare demographic analyses for up to twenty bills every year).

227. GAHN ET AL., *supra* note 7, at 7 (noting that demographic findings are incorporated into "approximately 170 fiscal notes per year" and an annual "Minority Impact Statement" restating general census data is released every year).

are of utmost quality, and states should consider emulating Colorado moving forward.

### III. Challenges and State Officials' Concerns

Four main concerns have repeatedly been raised in conversations with state officials looking to propose minority impact statement language.<sup>228</sup> The most pervasive concern is whether this statutory language will be effective. The National Juvenile Justice Network's study<sup>229</sup> and this Author's research begins the evaluation of the efficacy of minority impact statements.

Concerns surrounding a state's ability or likelihood to enact minority impact statement legislation due to the partisan politics of the state are common among state officials and stakeholders.<sup>230</sup> Another significant concern shared with the Author in conversations with various state officials is not just a lack of data collection mechanisms, but concerns about data collection entities in general. Lastly, state officials are hesitant over what their reactions should be if a statement concludes a negative minority impact.

Prior to 2019—when racial justice issues gained increasing attention and urgency<sup>231</sup>—the data show enactment of racial impact statement legislation was remarkably bipartisan. The data also show specific examples of bipartisan utilization as recently as the 2021 legislative session in jurisdictions with request-driven legislation. Finally, this Part presents and evaluates alternative methods states are turning to for data collection.

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228. The concerns identified in this section were raised repeatedly in interviews conducted by the Author with state legislators across the country.

229. See GAHN ET AL., *supra* note 7 (analyzing the efficacy of minority impact statements in Iowa).

230. Various state legislators expressed this inhibition to the Author during interviews. Cf. Ryan J. Foley, *Racial-Impact Law Has Modest Effect in Iowa*, DES MOINES REG. (Jan. 21, 2015), <https://www.desmoinesregister.com/story/news/politics/2015/01/21/racial-impact-law-effect-iowa-legislature/22138465/> [https://perma.cc/23CD-HUPY] (expressing Republican Representative Chip Baltimore's concerns that impact statements can be "political tool[s]"); Elaine S. Povich, *Black Lives Matter, Pandemic Inequalities Drive Use of Racial Impact Statements in State Policy*, USA TODAY (Nov. 7, 2021), <https://www.usatoday.com/story/news/nation/2021/11/07/states-consider-use-racial-impact-statements-policy/6330281001/> [https://perma.cc/XHM6-3TWT] (including critics' concerns that demographic impact statements are unnecessary, discriminatory, and unconstitutional).

231. See, e.g., Audra D.S. Burch, Amy Harmon, Sabrina Tavernise & Emily Badger, *The Death of George Floyd Reignited a Movement. What Happens Now?*, N.Y. TIMES (Apr. 20, 2021) ("The moment of collective grief and anger [after George Floyd's murder in May 2020] swiftly gave way to a yearlong, nationwide deliberation on what it means to be Black in America.").

*A. Partisan or Bipartisan Passage in Enacted States*

A prevalent concern state legislators say they face when proposing minority impact statement legislation is that it is “too partisan” or that it will never pass in their state because “X” political party is the majority.<sup>232</sup> Contrarily, however, the data presented in Table 1 illustrates that Iowa, Connecticut, Oregon, New Jersey, and Maine garnered significant bipartisan support for their legislation. It was only beginning in 2019 that states such as Colorado and Virginia showed vote counts almost strictly along party lines.<sup>233</sup>

**Table 1. Minority Impact Statement Legislation Vote Breakdown by Chamber and Political Party<sup>234</sup>**

State	House of Representatives / General Assembly	Senate
Iowa (2008) <sup>235</sup>	Yes: 54 (D), 45 (R) No: 0 (D), 0 (R) Absent: 1 Abstaining: 0	Yes: 29 (D), 18 (R) No: 0 (D), 2 (R) Absent: 1 Abstaining: 0
Connecticut (2008) <sup>236</sup>	Yes: 94 (D), 32 (R) No: 1 (D), 10 (R) Absent: 14 Abstaining: 0	Yes: 23 (D), 13 (R) No: 0 (D), 0 (R) Absent: 0 Abstaining: 0
Connecticut (2018) <sup>237</sup>	Yes: 77 (D), 27 (R) No: 2 (D), 42 (R) Absent: 2 Abstaining: 0	Yes: 23 (D), 13 (R) No: 0 (D), 0 (R) Absent: 0 Abstaining: 0

232. This is a sentiment expressed by various state legislators to the Author during interviews.

233. Partisanship increased generally across a myriad of subjects during this time and through the present day when this Article is published. *See, e.g.*, PEW RSCH. CTR., IN A POLITICALLY POLARIZED ERA, SHARP DIVIDES IN BOTH PARTISAN COALITIONS (2019) (discussing broadening partisan gaps on political values generally and noting that the second widest partisan difference in 2019 involved racial attitudes).

234. Vote counts and political party affiliation compiled manually by the Author. Political party affiliation indicated as Democrat (D) or Republican (R).

235. H.F. 2393, 82d Gen. Assemb., Reg. Sess. (Iowa 2008).

236. H.B. 5916, Gen. Assemb., 2008 Reg. Sess. (Conn. 2008).

237. S.B. 256, 2018 Reg. Sess. (Conn. 2018).

Oregon (2013) <sup>238</sup>	Yes: 33 (D), 25 (R) No: 0 (D), 1 (R) Absent: 1	Yes: 15 (D), 9 (R) No: 1 (D), 5 (R) Absent: 0
New Jersey (2018) <sup>239</sup>	Yes: 50 (D), 16 (R) No: 0 (D), 3 (R) Absent: 6 Abstaining: 5	Yes: 23 (D), 13 (R) No: 0 (D), 0 (R) Absent: 4 Abstaining: 0
Colorado (2019) <sup>240</sup>	Yes: 41 (D), 0 (R) No: 0 (D), 23 (R) Absent: 1 Abstaining: 0	Yes: 19 (D), 1 (R) No: 0 (D), 15 (R) Absent: 0 Abstaining: 0
Illinois (2021) <sup>241</sup>	Yes: 72 (D), 0 (R) No: 0 (D), 41 (R) Absent: 4 Abstaining: 0	Yes: 39 (D), 2 (R) No: 0 (D), 16 (R) Absent: 2 Abstaining: 0
Maine (2021) <sup>242</sup>	* No Vote Breakdown Provided	Yes: 22 (D), 3 (R) No: 0 (D), 7 (R) Absent: 3 Abstaining: 0
Virginia (2021) <sup>243</sup>	Yes: 54 (D), 8 (R) No: 0 (D), 36 (R) Absent: 2 Abstaining: 0	Yes: 20 (D), 0 (R) No: 1 (D), 17 (R) Absent: 1 Abstaining: 0

Despite not exhibiting bipartisanship in the enactment of its legislation, Colorado illustrates bipartisanship in the use of minority impact statements. Colorado held a Democratic trifecta at the time of enactment, with Democrats holding the majority in both houses of the

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238. S.B. 463, 77th Leg. Assemb., 1st Sess. (Or. 2013).

239. S. 677, 218th Leg., 1st Sess. (N.J. 2018).

240. H.B. 19-1184, 72d Gen. Assemb., 1st Reg. Sess. (Colo. 2019).

241 H.B. 158, 102d Gen. Assemb., 1st Sess. (Ill. 2021).

242. L.D. 2, 130th Leg., 1st Sess. (Me. 2021).

243. H.B. 1990, Gen. Assemb., Spec. Sess. I (Va. 2021).

state legislature and having a Democratic Governor.<sup>244</sup> While the Republican caucus voted strictly against this legislation,<sup>245</sup> their caucus has almost exclusively reaped the benefits ever since. Three out of the four demographic notes requested in the 2021 Legislative Session came from the Republican caucus, one of which provided for “Student Equity Education Funding Programs.”<sup>246</sup> While these notes pertained to transportation, student equity, and standardized health plans, all of them projected a positive impact to varying demographic groups.<sup>247</sup> Thus, Colorado’s request-driven language has predominantly been used by the party that strictly opposed enacting the language in the first place.

However, partisan politics in this Author’s home state of Iowa should not be ignored. This partisanship notably came to light in analysis of Senate File 342 in 2021.<sup>248</sup> As previously noted, this bill passed in the House of Representatives without a minority impact statement attached<sup>249</sup> despite one being required by state law.<sup>250</sup> Although this incident was an example of how mandatory statutory language may be circumvented, successful passage of a firearms omnibus bill showed how implementation of this legislation does not need to be tainted by partisan politics. House File 756, a Republican-led piece of legislation, provided numerous provisions for the possession and acquisition of certain firearms,<sup>251</sup> which garnered a projected overall positive impact on minorities.<sup>252</sup> This bill garnered some bipartisan support in the House.<sup>253</sup> Minority impact statements are not enacted to thwart the opposing political party’s agenda. They are in place to ensure that any unintended impact on minorities is considered before legislation is passed.

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244. See April Simpson, *New Democratic Majorities Lead to Rush of Bills — and Conflict*, PEW (July 29, 2019), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/07/29/new-democratic-majorities-lead-to-rush-of-bills-and-conflict> [<https://perma.cc/R8Z7-2VVC>].

245. See HB19-1184, COLO. GEN. ASSEMB., <https://leg.colorado.gov/content/hb19-1184vote5b87f8> [<https://perma.cc/E47H-TTWC>] (providing the vote count for H.B. 19-1184, Colorado’s enacting legislation for minority impact statements).

246. House Bill 21-1232, Senate Bill 21-260, and Senate Bill 21-037 came from the Republican Caucus. See *Previous Session Demographic Notes*, *supra* note 212.

247. See *id.*

248. See S.F. 342, 89th Gen. Assemb., 1st Sess. (Iowa 2021).

249. See *supra* notes 162–177 and accompanying text.

250. IOWA CODE § 2.56 (2023).

251. H.F. 756, 89th Gen. Assemb., 1st Sess. (Iowa 2021).

252. See LEGIS. SERVS. AGENCY, FISCAL NOTE HF 756 — FIREARMS OMNIBUS 5 (2021) (outlining that all sections of the bill will have no minority impact or a positive minority impact).

253. See STATE OF IOWA, HOUSE JOURNAL: WEDNESDAY, MARCH 17, 2021, at 752–53 (2021) (listing the legislators who voted to pass House File 756, including legislators from both political parties).

Thus, while current messaging around minority impact statement legislation is inherently partisan, historically that has not always been the case. Enacting this legislation has historically been overwhelmingly bipartisan, though recent increasing political polarization may continue to undermine this bipartisanship. Further, Colorado and Iowa demonstrate how both parties benefit from enacting this kind of legislation. Minority impact statements provide additional analysis and knowledge of how legislation will affect *every* elected official's constituents, regardless of political party affiliation. Thus, minority impact statement legislation should not be viewed as a political issue, but a dedication to one's constituents that due consideration will be given to the effects of proposed legislation.

### B. Data Collection and Drafting Entities

Iowa is uniquely situated by virtue of the Justice Data Warehouse (JDW).<sup>254</sup> The JDW provides a data collective from which criminal justice statistics may be quickly and easily pulled for minority impact statements.<sup>255</sup> Not all states have the luxury of this centralized data repository, and thus must rely on sources like U.S. Census data, data from the FBI, crime reports, and local police information to compile necessary data points for analysis.<sup>256</sup> The need to search for data in scattered locations causes concern for states wishing to implement minority impact statement legislation that do not have a data collection mechanism in place.<sup>257</sup>

Due to this data collection difficulty, collaboration with local universities or academic institutions to conduct the necessary data analysis is becoming more popular. Examples of this include the Florida Senate officially partnering with Florida State University to analyze and provide minority impact statements on proposed criminal justice legislation,<sup>258</sup> and the Maryland General Assembly partnering with Bowie State University and the University of Baltimore in a pilot program to add

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254. See *Justice Data Warehouse*, IOWA DEP'T OF HUM. RTS., <https://humanrights.iowa.gov/cjpp/justice-data-warehouse> [<https://perma.cc/H8PP-6YHJ>].

255. See *id.*

256. See, e.g., *Pilot Program to Examine Bills for Racial Disparity*, WMDT (Feb. 3, 2021), <https://www.wmdt.com/2021/02/pilot-program-to-examine-bills-for-racial-disparity/> [<https://perma.cc/7TYE-VC7M>].

257. This hesitation was expressed to the Author during interviews with various legislators across the country.

258. *Assessing the Statewide Racial/Ethnic Impact of Proposed Criminal Justice Legislation in Florida*, *supra* note 21. The College of Criminology & Criminal Justice at Florida State University will be able to collect and analyze "publicly-available state demographic and criminal justice system data" to produce these reports. *Id.* at 9.



racial impact statements during the legislative process.<sup>259</sup> Similarly, the Nebraska State Legislature worked with Creighton University to study the feasibility of implementing racial impact statements in Nebraska.<sup>260</sup> The Arkansas legislature has tried to establish a partnership with the University of Arkansas-Little Rock William H. Bowen School of Law, along with the Policy Program of Hendrix College Arkansas, for data collection and production of impact statements.<sup>261</sup> Currently, Florida and Maryland are the only two states with official partnerships with universities to conduct data collection and analysis, and this trend will likely continue.

Mounting hesitation among elected officials also surrounds the drafting entity charged with authoring impact statements.<sup>262</sup> Thus, states are turning toward partnerships with local law schools or public policy academic programs to draft the impact statements themselves, not just collect and analyze the data necessary for the statements.<sup>263</sup> For example, the Louisiana legislatures launched a three-month pilot program in March 2022 with the Southern University Law Center to have law students help legislators prepare racial impact statements.<sup>264</sup> In Nebraska, the Social Sciences Data Lab at Creighton University produced four draft minority impact statements as part of the study regarding the implementation of minority impact statements.<sup>265</sup> For a pilot program in Maine, the legislature will work with the Permanent Commission on Racial, Indigenous and Maine Tribal Populations and the University of Maine System to conduct analyses and prepare racial impact statements.<sup>266</sup> However, while these partnerships may work in an initial study context, they likely will not provide longevity unless the academic institutions enter into an ongoing partnership with the state. Further, more research needs to be conducted on the efficacy of these partnerships.

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259. *Pilot Program to Examine Bills for Racial Disparity*, *supra* note 256 (noting that Bowie University's main objective in the partnership is data collection).

260. See SUE CRAWFORD & TONY VARGAS, LR 217 INTERIM STUDY REPORT: THE FEASIBILITY OF PREPARATION AND CONSIDERATION OF RACIAL IMPACT STATEMENTS ON LEGISLATION, app. (2020) (reporting that the Creighton University Social Sciences Data Lab relied in part upon data it collected and analyzed from the Nebraska Crime Commission and the U.S. Census).

261. See, e.g., S.B. 237, 91st Gen. Assemb., 1st Sess. (Ark. 2017). This legislation died in the Arkansas House Judiciary Committee.

262. This hesitation has been expressed to the Author during interviews with state legislators across the country.

263. See, e.g., *supra* note 21 and accompanying text (detailing such a partnership in Florida).

264. *Racial Impact Study Overview*, S. UNIV. L. CTR., <https://www.sulc.edu/page/racialimpactstudy> [<https://perma.cc/8JFL-5T84>]; H.R. 164, 2021 Leg. Sess. (La. 2021).

265. CRAWFORD & VARGAS, *supra* note 260, at app.

266. OFF. OF POL'Y & LEGAL ANALYSIS, LEGISLATIVE COUNCIL SUBCOMMITTEE TO IMPLEMENT A RACIAL IMPACT STATEMENT PROCESS PILOT 5 (2021).

Accordingly, elected officials must keep an eye toward which state agency will be tasked with drafting impact statements. For instance, Iowa relies upon the non-partisan Legislative Services Agency;<sup>267</sup> Connecticut employed the Office of Fiscal Analysis and Office of Legislative Research;<sup>268</sup> Oregon assigned the Oregon Criminal Justice Commission;<sup>269</sup> New Jersey employs their Office of Legislative Services;<sup>270</sup> Colorado tasked their Staff of the Legislative Council;<sup>271</sup> a subcommittee of Maine's Legislative Council chose to work with the Permanent Commission on Racial, Indigenous, and Maine Tribal Populations, as well as the University of Maine System, to draft impact statements during a pilot project;<sup>272</sup> and Virginia assigned their Joint Legislative Audit and Review Commission for their drafting needs.<sup>273</sup>

The primary concern with charging a state agency with drafting these statements is that there will be such an influx in statements to be drafted that it will overwhelm the agency.<sup>274</sup> The procedural language that the state chooses to trigger the drafting of an impact statement is imperative to assessing this concern. For instance, Iowa's legislation effectively requires that bills must first be voted out of committee before they require a minority impact statement.<sup>275</sup> Not all filed bills are even guaranteed a committee hearing,<sup>276</sup> so this is not an overwhelming

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267. IOWA CODE § 2.56(3) (2023).

268. See OFF. OF LEG. RSCH., PUBLIC ACT SUMMARY: PA 17-78—SB 256 1.

269. OR. REV. STAT. § 137.683(2)(a) (2022).

270. See S. 677, 218th Leg., 1st Sess. (N.J. 2018).

271. See H.B. 19-1184, 72d Gen. Assemb., 1st Reg. Sess. (Colo. 2019).

272. OFF. OF POL'Y & LEGAL ANALYSIS, *supra* note 266; L.D. 2, 130th Leg., 1st Reg. Sess. (Me. 2021).

273. H.B. 1990, Gen. Assemb., Spec. Sess. I (Va. 2021).

274. This hesitation was expressed to the Author in interviews conducted with various state legislators.

275. GAHN ET AL., *supra* note 7, at 7; see IOWA CODE § 2.56(2)(a) (2023) ("When a committee of the general assembly reports a bill, joint resolution, or amendment to the floor, the committee shall state in the report whether a correctional impact statement is or is not required.")

276. In Iowa, all bills must be assigned a subcommittee of three members (two from the majority party and one from the minority party); however, there is no requirement to actually schedule a subcommittee meeting. See, e.g., IOWA CONSTITUTIONAL AND LEGISLATIVE RULE PROVISIONS OF CONSEQUENCE TO THE DRAFTING AND STAFFING FUNCTIONS OF THE LEGAL SERVICES DIVISION OF THE LEGISLATIVE SERVICES AGENCY, at B.3.b.i (2013). Neglecting to schedule a subcommittee meeting is a common tactic used to kill bills early in the process, as this Author has witnessed in practice as a full time government agency liaison.

drafting demand. In other states, such as Maryland<sup>277</sup> and Nebraska,<sup>278</sup> every bill is guaranteed a committee hearing. These jurisdictions would not want to use legislative language that requires a statement once a bill is voted out of committee, as it could elicit an overwhelming number of impact statements to be drafted. Thus, state officials can alleviate the potential volume via the procedural language chosen in impact statement legislation.

While partnering with local academic institutions is a new and innovative occurrence, more research needs to be done to evaluate the effectiveness of this process. State officials' concerns over data collection mechanisms and overwhelming drafting work are legitimate and should be considered before any minority impact legislation is proposed.

### *C. Legislative Response to a Negative Impact*

Conversations this Author had with various state officials showed a growing concern over whether the production of a minority impact statement with a negative impact would mean they automatically had to vote against the proposed measure. While it may not be realistic that mandates be included requiring that legislation not be passed if there is a negative impact reported, there are additional mechanisms that should be considered to provide for a more informed discussion surrounding proposed legislation with negative findings. Such mechanisms could include requiring an attached statement explaining why a certain bill was passed even though it projected a negative impact to minorities; requiring an attached minority impact statement for any eligible bill sent to the Governor; or even providing for an additional round of committee hearings to address the proposed negative impact to minority populations.

The purpose of minority impact statements is to provide legislators with a tool to address any unintended or unknown impacts to minority populations. The purpose is also to provide the public with a greater voice and consideration in their respective statehouses. Transparency, due care, and consideration of the impact on constituents are the primary focuses of this type of legislation. Therefore, these statements are a powerful tool that may be used by legislators of any party to make sure legislation is crafted and passed with educated consideration.

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277. See *The Legislative Process: How a Bill Becomes a Law*, GEN. ASSEMB., <https://msa.maryland.gov/msa/mdmanual/07leg/html/proc.html#:~:text=Senate%20Standing%20Committees%20%26%20House%20Standing,33%3B%20House%20Rule%2033> [https://perma.cc/5DQE-38E3].

278. See *Committees*, NEB. LEG., <https://nebraskalegislature.gov/committees/committees.php#:~:text=With%20the%20exception%20of%20a,hearing%20by%20a%20legislative%20committee> [https://perma.cc/RGP6-HU6F].

#### IV. Recommendations

The emergence and continued progress of minority impact statements produces hope and a good foundation from which to expand. It is imperative that all states strongly consider the recommendations set forth by the National Juvenile Justice Network in their 2020 research piece out of Iowa.<sup>279</sup> For Iowa specifically, in addition to the recommendations contained in the NJJN case study, another recommendation is to bolster the data sets within the JDW. Further research and collaboration with the JDW is needed to form a more detailed and rich analytical process, one that actually informs legislators about the impact of the legislation they are passing.<sup>280</sup>

Further efficacy research needs to be conducted in Iowa, starting with an audit of all published impact statements to date, their noted impact, and where they ended up in the legislative process. Research into any bills that failed to have a minority impact statement attached would be beneficial for determining efficacy—or a lack thereof—in practice. Lastly, a retroactive evaluation comparing projected minority impact with subsequent data after enactment would provide another critical look into this language's efficacy.

Expanding legislative and community stakeholder education needs to be addressed immediately before more states begin enacting minority impact statement statutory language. Workshops with legislators, community partners, and lobbyists on what impact statements are, how they are drafted, where the data must come from, mechanisms that are feasible within their respective legislative processes, as well as mechanisms for when a statement produces a projected negative impact need to be conducted prior to proposing legislation.

After broad education, states must consider data collection mechanisms conducive to their respective jurisdictions. It cannot be left to individual state agencies to produce information at the request of the legislature, as there is too great a risk of skewed data and a muddled legislative process. To streamline the process, a centralized data warehouse like Iowa's JDW would provide the greatest benefit to states moving forward. It cannot be emphasized enough that data collection measures should be addressed in detail before minority impact statement language is proposed, otherwise it can be all but guaranteed that the statute will not be effective.

Another key recommendation is to include methodologies and specified points for analysis within each impact statement so that they do

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279. See discussion *supra* Section II.B.i.

280. See *supra* notes 184–188 (discussing the decline in efficiency and quality of Iowa's minority impact statements).

not become bleak and unhelpful—as exemplified by recent Iowa impact statements.<sup>281</sup> Including methodologies and specified analyses into each point outlined in the statute provides more information to elected officials to pass the fairest and most equitable legislation possible. States should look at Oregon’s<sup>282</sup> and Colorado’s<sup>283</sup> drafted statements for quality examples. Colorado’s statute includes more subject areas than all other enacted states, so employing identical or similar analytical measures as these demographic notes would create more quality impact statements.

Requiring public disclosure of minority impact statements would also support the original intent of this movement. Mechanisms for public disclosure and transparency would best be modeled after Colorado’s state legislature website and public comment section.<sup>284</sup> Consistent with NJJN’s recommendation, constituents should be provided ample opportunity to participate in the legislative process.<sup>285</sup> This level of participation requires the production and publication of impact statements earlier in the legislative process so constituents feel empowered to contact their representatives should they desire to do so.<sup>286</sup>

While the movement for minority impact statements is slightly over a decade old, it proves to be a slow race to enactment. It is not enough to simply get relevant language enacted into state law anymore; this legislation needs to have mechanisms for efficiency and sufficient use. States need to carefully consider each piece of the pie, starting primarily with data collection, then moving to where in the legislative process a statement needs to be triggered, measures for public disclosure, and standardized messaging that does not characterize the legislation as partisan. While minority impact statement legislation has made a significant positive impact in many states, its effectiveness can, and must, be improved.

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281. GAHN ET AL., *supra* note 7, at 12; discussion *supra* Section II.B.ii.

282. *See supra* text accompanying note 70 (discussing Oregon’s minority impact legislation).

283. *See supra* discussion Section II.B.vi (discussing Colorado’s minority impact legislation).

284. *See supra* note 212 and accompanying text (highlighting how Colorado’s website provides a page devoted to demographic notes).

285. GAHN ET AL., *supra* note 7, at 11.

286. *See, e.g., id.* (describing how Iowa requires minority impact statements after committee hearings, so the public does not have as robust of a chance to participate in the legislative process).

## V. Federal Action

While this Article has focused on state action—where most of the minority impact statement activity has occurred—federal action cannot be overlooked. There are several avenues where a federal minority impact statement is critical in accomplishing equity on a national level. The Biden Administration has announced an equity agenda,<sup>287</sup> which is the first presidential action to be taken putting equity analysis at the forefront of federal rulemaking and legislation since the emergence of minority impact statements in 2008. This Part analyzes the executive order and its implications for federal movement on minority impact statements. Lastly, this Article conducts the first analysis of the Wayne Ford Racial Impact Statement Act of 2022, the recently proposed Congressional language on the federal level.<sup>288</sup>

### A. *The Biden Administration: Executive Order 13985*

President Biden's first executive order after taking office was Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government."<sup>289</sup> He stated that "[e]qual opportunity is the bedrock of American democracy," and that "[e]ntrenched disparities in our laws and public policies, and in our public and private institutions, have often denied that equal opportunity to individuals and communities."<sup>290</sup> Most pointedly, the directive stemming from the Biden Administration is that:

It is therefore the policy of my Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. Because advancing equity requires a systematic approach to embedding fairness in decision-making processes, executive departments and agencies (agencies) must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.<sup>291</sup>

Advancing equity shall be done via an assessment of the effect of agency policies on historically underserved populations—"each agency must assess whether, and to what extent, its programs and policies

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287. Exec. Order No. 13,985, 86 Fed. Reg. 7009 (Jan. 20, 2021) (announcing the Administration's goal of "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government").

288. Wayne Ford Racial Impact Statement Act of 2022, H.R. 8795, 117th Cong. (2022).

289. Executive Order 13,985, 86 Fed. Reg. at 7009.

290. *Id.*

291. *Id.*

perpetuate systemic barriers to opportunities and benefits for people of other underserved groups.”<sup>292</sup>

Specific populations were defined within the executive order. The term “equity” means “the consistent and systematic fair, just, and impartial treatment of all individuals,” and this definition specifically includes “Black, Latin[x], and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color.”<sup>293</sup> It also encompasses non-racial/ethnic populations, such as “members of religious minorities, lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.”<sup>294</sup> “[U]nderserved communities” means “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life,” and this definition notes that these communities are exemplified by the list identified in the definition of equity.<sup>295</sup>

In his executive order, President Biden set forth a priority to identify equity assessment methods. One such process is a partnership of the Director of the Office of Management and Budget (OMB) with the heads of agencies.<sup>296</sup> In this partnership, the Director must (1) “study methods for assessing whether agency policies and actions create or exacerbate barriers to full and equal participation by all eligible individuals;” (2) “identify the best methods, consistent with applicable law, to assist agencies in assessing equity with respect to race, ethnicity, religion, income, geography, gender identity, sexual orientation, and disability;” and (3) “consider whether to recommend that agencies employ pilot programs to test model assessment tools and assist agencies in doing so.”<sup>297</sup>

Following the study above—by July 20, 2021—the Director of OMB was required to deliver a report to President Biden “describing the best practices identified by the study” and providing recommendations for the expansion of those best practices across the Federal Government.<sup>298</sup> The findings of this report<sup>299</sup> are discussed in the following section.

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292. *Id.*

293. *Id.*

294. *Id.*

295. *Id.*

296. *Id.* at 7010.

297. *Id.*

298. *Id.*

299. SHALANDA D. YOUNG, OFF. OF MGMT. & BUDGET, STUDY TO IDENTIFY METHODS TO ASSESS EQUITY: REPORT TO THE PRESIDENT 8 (2021).

The Executive Order further placed a call to action for all agencies to select a certain portion of the agency's programs and policies "for a review that will assess whether underserved communities and their members face systemic barriers in accessing benefits and opportunities available pursuant to those policies and programs."<sup>300</sup> The Executive Order required such a review and a report be provided to the Assistant to the President for Domestic Policy (APDP), within 200 days.<sup>301</sup> The report had to include the following:

- (a) Potential barriers that underserved communities and individuals may face to enrollment in and access to benefits and services in Federal programs;
- (b) Potential barriers that underserved communities and individuals may face in taking advantage of agency procurement and contracting opportunities;
- (c) Whether new policies, regulations, or guidance documents may be necessary to advance equity in agency actions and programs; and
- (d) The operational status and level of institutional resources available to offices or divisions within the agency that are responsible for advancing civil rights or whose mandates specifically include serving underrepresented or disadvantaged communities.<sup>302</sup>

While there are numerous provisions within Executive Order 13985 that lay the foundation for equitable policy making within federal agencies, Section Nine notably establishes the Equitable Data Working Group.<sup>303</sup> This group was established because most federal datasets were not "disaggregated by race, ethnicity, gender, disability, income, veteran status, or other key demographic variables."<sup>304</sup> The Equitable Data Working Group then released a report in April 2022 identifying their vision for the collection of equitable data.<sup>305</sup> The report made five key recommendations: (1) "make disaggregated data the norm while protecting privacy;" (2) "catalyze existing federal infrastructure to leverage underused data;" (3) "build capacity for robust equity assessment for policymaking and program implementation;" (4) "galvanize diverse partnerships across levels of government and the research community;" and (5) "be accountable to the American public."<sup>306</sup>

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300. Executive Order 13,985, 86 Fed. Reg. at 7010.

301. *Id.* As a result of the 200 day deadline imposed by the executive order, these reports were due Monday, August 9, 2021.

302. *Id.*

303. *Id.* at 7011.

304. *Id.*

305. ALONDRA NELSON & MARGO SCHWAB, *EQUITABLE DATA WORKING GRP., A VISION FOR EQUITABLE DATA: RECOMMENDATIONS FROM THE EQUITABLE DATA WORKING GROUP 3-4* (2022).

306. *Id.* at 5, 7, 8, 10, 11.



The potential impact of these recommendations is still unfolding.<sup>307</sup> Even at the federal level, data collection proves to be one of the most predominant hurdles to performing substantive analyses on demographic impacts from legislation or agency action.

*B. Office of Management and Budget Study of Agency Processes: Findings and Recommendations*

On July 20, 2021, the Office of Management and Budget submitted its report to the Biden Administration outlining key areas of promising standards already in practice.<sup>308</sup> It also identified processes that need to be addressed to further the whole-Government equity charge within Executive Order 13985.<sup>309</sup>

As of May 2023, numerous federal departments and agencies have published Equity Action Plans.<sup>310</sup> While various federal agencies and organizations have employed an equity assessment tool that fits their respective missions,<sup>311</sup> one agency has already implemented an agency equivalent to a minority impact statement. The Department of Health and Human Services (HHS) employs Equity Impact Assessments that provide a systematic examination of how underserved populations will be affected by proposed actions or decisions.<sup>312</sup> Currently, HHS is the only example where this minority impact statement-style process is being employed at the federal level. While this style of assessment may not fit the processes and framework of all federal agencies, it has provided a valuable insight and opportunity for public commentary throughout the notice-and-comment stage at both the federal and state levels.<sup>313</sup> Therefore, more agencies should adopt similar measures.

One of the OMB's supported recommendations includes continuing "to identify methods, consistent with applicable law, to assess equity and

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307. *See, e.g.*, Notice of Request for Information, 87 Fed. Reg. 54259 (Sept. 9, 2022) (providing notice of a request from the Office of Science and Technology Policy for information that will help the agency support the equitable data efforts described in Executive Order 13985 and the Equitable Data Working Group's April 2022 report).

308. YOUNG, *supra* note 299, at 4.

309. *Id.*

310. *See Advancing an Equitable Government*, PERFORMANCE.GOV, <https://www.performance.gov/equity/> [<https://perma.cc/8AY5-FNR2>] (noting that over ninety federal agencies have submitted Equity Action Plans to the OMB). Each individual Department's Equity Action Plan, and a categorization by topic area, is available online. *See Advancing Equity and Racial Justice Through the Federal Government*, WHITEHOUSE.GOV, <https://www.whitehouse.gov/equity/> [<https://perma.cc/7QRS-CSNN>].

311. YOUNG, *supra* note 299, at 46–48.

312. *Id.* at 46.

313. *See, e.g.*, U.S. DEP'T OF HEALTH & HUM. SERVS., HHS EQUITY ACTION PLAN 3–4 (2022) (describing the early accomplishments of HHS's Equity Action Plan).

improve programs.”<sup>314</sup> Accomplishing this goal requires further exploration of methods to measure equity within “public policy, data science, and organizational change management” structures.<sup>315</sup> Most importantly, OMB recommends prioritizing investment in the “expertise, capacity, and capabilities needed to measure and advance equity through improved data collection and analysis.”<sup>316</sup> Thus, data collection remains a top priority at both the state<sup>317</sup> and federal level.

*C. Implications of Not Having Federal Legislation Relating to Racial Equity Data Collection : Minority Undercounting in Official 2020 Census Data*

The implications of not having federal legislation relating to robust data collection on issues of racial equity is illustrated by the 2020 Census data, which shows disproportionalities in how minorities are counted. The Official 2020 Census Data showed a continued trend of undercounting Black, Latinx, and Native American people, while overcounting those who identified as white.<sup>318</sup> Data showed that Black or African American people alone, or in combination populations, “had a statistically significant undercount of 3.30%.”<sup>319</sup> While statistically significant on its own, it is not statistically different from the 2010 undercount rate of 2.06%.<sup>320</sup> The Hispanic or Latinx population “had a statistically significant undercount rate of 4.99%”, which was determined to be statistically different from the “1.54% undercount in 2010.”<sup>321</sup> Therefore, Latinx Americans were left out of the 2020 Census at more than three times the rate of a decade earlier. On the other hand, Asian Americans had “an overcount rate of 2.62. This is statistically different from 0.00% in 2010.”<sup>322</sup> Lastly, the non-Hispanic white population had “a statistically significant overcount rate of 1.64%,” which is statistically

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314. YOUNG, *supra* note 299, at 50.

315. *Id.*

316. *Id.* at 51.

317. See *supra* Section III.B (discussing the main concerns of legislators with regard to data collection).

318. Hansi Lo Wang, *The 2020 Census Had Big Undercounts of Black People, Latinos and Native Americans*, NPR (Mar. 11, 2022), <https://www.npr.org/2022/03/10/1083732104/2020-census-accuracy-undercount-overcount-data-quality> [https://perma.cc/5A48-E7YS].

319. Press Release, U.S. Census Bureau, *Census Bureau Releases Estimates of Undercount and Overcount in the 2020 Census*, (May 10, 2022), <https://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html> [https://perma.cc/Q9ZU-6DRS].

320. *Id.*

321. *Id.*

322. *Id.*

different from the 2010 overcount rate of 0.83%.<sup>323</sup> Thus, white, non-Hispanic Americans were overcounted at almost double the rate as in 2010.

Notably, this racial/ethnic undercounting was also coupled with alarming undercount rates of children. Children under the age of five showed a statistically significant undercount of 2.79% in 2020, compared to 0.72% in 2010.<sup>324</sup>

The 2020 Census occurred during the COVID-19 pandemic, inevitably causing difficulties in collecting census data;<sup>325</sup> however, many important decisions are nonetheless made based on census data. For instance, redistricting, reallocation of congressional seats, and Electoral College votes are all contingent upon census data.<sup>326</sup> The Census Bureau took great care to emphasize that census results are “fit to use” for such purposes.<sup>327</sup> However, what is perhaps most alarming is that this data is also used for “distribution of an estimated \$1.5 trillion each year in federal money to communities for health care, education, transportation and other public services.”<sup>328</sup> Without federal legislation that mandates data collection on issues of racial equity, the over and undercounting of different racial/ethnic populations may continue, perpetuating inequities in the various arenas in which census data is relied upon.

*D. House Bill 8795: The Wayne Ford Racial Impact Statement Act of 2022*

Congress has now taken its first official action to address these equity issues by introducing federal minority impact statement language. Representative Ritchie Torres (NY-15) introduced Congress’s first minority impact statement legislation on September 9, 2022.<sup>329</sup> The bill is under the namesake of former Iowa Representative Wayne Ford,

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323. *Id.*

324. *Id.*

325. See, e.g., Ceci A. Villa Ross, Hyon B. Shin & Matthew C. Marlay, *Pandemic Impact on 2020 American Community Survey 1-Year Data*, U.S. Census Bureau: Census Blogs (Oct. 27, 2021), <https://www.census.gov/newsroom/blogs/random-samplings/2021/10/pandemic-impact-on-2020-ac-s-1-year-data.html> [https://perma.cc/FRS6-UMU3-] (discussing the impact of the COVID-19 pandemic on the collection of Census data, especially for communities of color).

326. See, e.g., Hansi Lo Wang, Connie Hanzhang Jin & Zach Levitt, *Here’s How The 1st 2020 Census Results Changed Electoral College, House Seats*, NPR (Apr. 26, 2021), <https://www.npr.org/2021/04/26/983082132/census-to-release-1st-results-that-shift-electoral-college-house-seats> [https://perma.cc/8PPY-53Z7] (discussing representative changes as a result of Census 2020 data).

327. Lo Wang, *supra* note 318.

328. *Id.*

329. Wayne Ford Racial Impact Statement Act of 2022, H.R. 8795, 117th Cong. (2022).

author of the nation's first state minority impact statement.<sup>330</sup> The bill currently awaits further action from the House Committee on the Judiciary.<sup>331</sup>

The bill requires collaboration between the Comptroller General of the United States, the Sentencing Commission, and the Administrative Office of the United States Courts in preparing minority impact assessments to Congress.<sup>332</sup> A procedural trigger requires that analysis of covered bills or joint resolutions be submitted prior to any consideration on the floor of either legislative body.<sup>333</sup> Identical analyses shall be prepared and published alongside notice-and-comment procedures prior to publication of a new rule in the Federal Register.<sup>334</sup>

As with state legislation, the definition section is critical for efficacy of a federal statute. House Bill 8795 defines “covered bill or joint resolution” as “a bill or joint resolution that is referred to the Subcommittee on Crime, Terrorism, and Homeland Security of the Committee on the Judiciary of the House of Representatives or the Subcommittee on Criminal Justice and Counterterrorism of the Committee on the Judiciary of the Senate.”<sup>335</sup> Such a bill or joint resolution necessitates a minority impact statement if it:

- (i) establishes a new crime or offense;
- (ii) could increase or decrease the number of persons incarcerated in Federal penal institutions;
- (iii) modifies a crime or offense, or the penalties associated with a crime or offense established under current law; or
- (iv) modifies procedures under current law for pretrial detention, sentencing, probation, and post-prison supervision.<sup>336</sup>

Crucially, the definition also includes bills or joint resolutions that apply to youth or juveniles.<sup>337</sup>

The term “covered rule” means a rule that:

- (A) could increase or decrease the number of persons incarcerated

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330. See *Rep. Torres Introduces the Racial Impact Statement Act of 2022*, RITCHIE TORRES (Sept. 9, 2022), <https://ritchietorres.house.gov/posts/rep-torres-introduces-the-racial-impact-statement-act-of-2022> [<https://perma.cc/V2RF-NHCS>].

331. *H.R.8795 - Wayne Ford Racial Impact Statement Act of 2022*, CONGRESS.GOV, <https://www.congress.gov/bill/117th-congress/house-bill/8795?s=1&r=4> [<https://perma.cc/8F2W-WUCM>].

332. H.R. 8795 § 3(a).

333. *Id.*

334. *Id.* § 3(b).

335. *Id.* § 3(g)(1)(A).

336. *Id.*

337. *Id.* Only two states, Oregon and New Jersey, have included juveniles in their statutes. See *supra* notes 68 and 88 and accompanying text. However, those states are facing other efficacy issues that preclude any analyses of whether inclusion of juveniles is having the intended effect.

in Federal penal institutions;

(B) modifies a crime or offense or the penalties associated with a crime or offense established under current law; or

(C) modifies procedures under current law for pretrial detention, sentencing, probation, and post-prison supervision.<sup>338</sup>

A catchall provision also exists for bills or joint resolutions that are not referred to the Subcommittee on Crime, Terrorism, and Homeland Security. The provisions provides that bills or joint resolutions shall be treated as a covered bill if:

(i) the bill or joint resolution is considered in the House of Representatives pursuant to a rule reported by the Committee on Rules; and

(ii) the bill or joint resolution would have been referred to such Subcommittee upon introduction if the text of the bill or joint resolution as introduced in the House were identical to the text of the bill or joint resolution as considered in the House pursuant to the rule.<sup>339</sup>

This catchall provision serves as a crucial deterrent to attempting to circumvent the legislation by introducing relevant bills in other committees.

Minority impact statements require detailed impact projections on “pretrial, prison, probation, and post-prison supervision populations.”<sup>340</sup> Such analyses must state: (1) whether there would be a negative, positive, minimal, or unknown impact on such populations, as well as if there would be no impact; (2) the impact on correctional facilities and services, including operation costs, and whether incarceration populations would increase or decrease; and (3) whether such populations would be impacted based upon “race, ethnicity, disability, gender, and sexual orientation.”<sup>341</sup>

Fiscal impact estimates detailing potential federal “expenditures on construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years” must also be included.<sup>342</sup> Lastly, analyses of any other significant factors affecting the cost and impact of the covered bill on the criminal justice system, and “a detailed and comprehensive statement of the methodologies and assumptions” used to create the minority impact statement must be included.<sup>343</sup>

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338. H.R. 8795 § 3(g)(2). The definition of “covered rule” also includes youths and juveniles. *Id.*

339. *Id.* § 3(g)(1)(B).

340. *Id.* § 3(d)(1).

341. *Id.*

342. *Id.* § 3(d)(2).

343. *Id.* § 3(d)(3) and (4).

The Wayne Ford Racial Impact Statement Act of 2022 requires public availability of minority impact statements by mandating the Comptroller General publish each statement on the website of the Government Accountability Office.<sup>344</sup> It also mandates the sponsor of a covered bill or joint resolution to “submit such minority impact statement for publication in the Congressional Record.”<sup>345</sup> Provisions requiring the Comptroller General to prepare an annual assessment reflecting the “cumulative effect of all relevant changes in the law,”<sup>346</sup> and processes allowing for a minority impact statement to be prepared upon request (rather than the automatic trigger),<sup>347</sup> also provide Congressional members greater flexibility and access to real-time information to keep equity at the center of our laws moving forward.

Until this legislation passes and completed minority impact statements can be analyzed, the main concern at the federal (and state) level remains data collection. The federal government retains access to the most comprehensive databases via each federal agency, but there is no acknowledgment or process for data collection within the preamble or text of the Wayne Ford Racial Impact Statement Act of 2022. Lack of data collection or agency collaboration mechanisms remains the kryptonite for effective state statutes, and that concern remains with this inaugural federal language. However, the inclusion of juveniles within covered populations presents a critical opportunity to evaluate legislation impacting one of the most vulnerable populations. Also, keeping transparency and public access at the forefront of this movement is critical for creating an engaged and informed electorate.

### Conclusion

Piecemeal data and information regarding the movement for minority impact statements has led to a severe lack of knowledge surrounding the benefits, considerations, and efficacy of having enacted statutory language. A lack of centralized research and data has resulted in inaccurate analyses and a fractured national picture on the status of minority impact statement legislation. A complete history of state action, both enacted and proposed, is crucial to understanding how to move forward. Therefore, reference to the Appendix can provide valuable knowledge regarding what other states have proposed, how many times they have attempted to pass legislation, and citations to their statutory language, should states be interested in what similar jurisdictions are

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344. *Id.* § 3(f)(1).

345. *Id.* § 3(f)(2).

346. *Id.* § 3(e).

347. *Id.* § 3(c).

drafting. The Appendix also provides contact information for respective state representatives filing this language across the country.

Minority impact statement legislation holds promise at both the state and federal level. A history of bipartisan support, bipartisan utilization in request-driven jurisdictions, and the slow reduction of disproportionate incarceration rates, as shown in Iowa, serves as a strong foundation from which to build upon for even greater efficacy. However, the recommendations presented throughout this Article, along with those made by the National Juvenile Justice Network, need to be closely considered by states with enacted legislation as well as states proposing legislation. The next phase needs to not only focus on expanding the number of jurisdictions using minority impact statement processes, but also on improving the provisions currently enacted to unlock the full potential of this legislation.<sup>348</sup>

### Appendix<sup>349</sup>

#### *Color-Code Key to Appendix*

Enacted Legislation
No Proposed Legislation
2023 Proposed Legislation
2018–2022 Proposed Legislation
2013–2017 Proposed Legislation
2006–2012 Proposed Legislation
Enacted or Proposed House Resolution

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348. To accomplish these recommendations, Wayne Ford, CEO and Director of the Wayne Ford Equity Impact Institute, provides a unique and robust skill set for accomplishing legislative goals. Author of the nation's first minority impact statement, Mr. Ford has built an institute in his name and uses the historic language enacted over a decade ago as the foundation from which to progress this movement. He and his team have compiled the most comprehensive research database surrounding any legislative action taken on this language and have been working with state and federal officials, national research institutions, and community partners to enact this legislation in more jurisdictions and expand education of this legislative tool. For more information about the Institute, please contact the Author.

349. This Article's Appendix is an updated, color-coded breakdown of each state's legislative action as of May 2023. This includes all bill numbers, which year the bill was proposed, where it ended up in the legislative process, and who brought the bill. The color-coding illustrates five-year intervals to track which time periods states have been most active. If a state proposes legislation falling within more than one five-year interval, the color code is determined based upon the most recent proposal year. A color-code key is provided at the beginning of the Appendix.

State	Legislative Action	Legislator Contact Information
Alabama	N/A	N/A
Alaska	N/A	N/A
Arizona	<p><b>2014</b> S.B. 1417, 51st Leg., 2d Reg. Sess. (Ariz. 2014) (died in committee)</p> <p><b>2017</b> S.B. 1503, 53d Leg., 1st Reg. Sess. (Ariz. 2017) (died in committee)</p> <p><b>2020</b> S.B. 1363, 54th Leg., 2d Reg. Sess. (Ariz. 2020) (died in committee)</p> <p><b>2021</b> S.B. 1710, 55th Leg., 1st Reg. Sess. (Ariz. 2021) (died in committee)</p>	<p>Senator Juan Mendez (D) – Maricopa Email: jmendez@azleg.gov Phone: (602) 926-4124</p>
Arkansas	<p><b>2013</b> S.B. 1093, 89th Gen. Assemb., Reg. Sess. (Ark. 2013) (<i>sine die</i> adjournment)</p> <p><b>2015</b> S.B. 604, 90th Gen. Assemb., Reg. Sess. (Ark. 2015) (<i>sine die</i> adjournment)</p> <p><b>2017</b> S.B. 237, 91st Gen. Assemb., Reg. Sess. (Ark. 2017) (<i>sine die</i> adjournment - fair amount of legislative action before it failed after the third reading)</p>	<p>Senator Joyce Elliot (D) Email: joyce.elliott@senate.ark.gov Phone: (501) 603-9546</p>
California	<p><b>2021–2022</b> H.R. 39, 2021–2022 Reg. Sess. (Cal. 2021) (enacted on July 5, 2021) S.B. 17, 2021–2022 Reg. Sess. (Cal. 2021) (died on the inactive file Nov. 30, 2022)</p> <p>*The California State Interagency Team Workgroup to Eliminate Disparities and Disproportionality has also researched and established a Racial Impact Statement tool for the state to use.</p>	<p>Assembly Member Mike Gipson (D) Legislative Aid: Brianna Leon Email: Brianna.Leon@asm.ca.gov</p>



State	Legislative Action	Legislator Contact Information
Colorado	<p><b>2017</b> H.B. 17-1191, 70th Gen. Assemb., 1st Reg. Sess. (Colo. 2017) (indefinitely postponed in Senate Finance Committee)</p> <p><b>2019</b> H.B. 19-1184, 72d Gen. Assemb., 1st Reg. Sess. (Colo. 2019) (enacted - "Demographic Notes")</p>	<p>Representative Leslie Herod (D) - Denver Email: illia.herod.house@state.co.us Phone: (303) 866-2959</p> <p>Rep. Yadira Caraveo (D) - Denver surrounding area Email: adira.caraveo.house@state.co.us Phone: (303) 866-2918</p> <p>Senator Angela Williams (D) - Denver Email: angela.williams.senate@state.co.us Phone: (303) 866-4864</p>
Connecticut	<p><b>2008</b> S.H.B. 5933, Gen. Assemb., Reg. Sess. (Conn. 2008) (enacted)</p> <p>H.B. 5916, Gen. Assemb., Reg. Sess. (Conn. 2008)</p> <p><b>2017</b> S.B. 482, Gen. Assemb., Reg. Sess. (Conn. 2017)</p> <p><b>2018</b> S.B. 256, Gen. Assemb., Reg. Sess. (Conn. 2018) (enacted)</p> <p>N/A</p>	<p>Co-sponsors of S.B. 256 included: Sen. Gary A. Winfield; Sen. Kevin D. Witkos; Sen. Terry B. Gerratana; Rep. Juan R. Candelaria; Rep. Andrew M. Fleischmann; Rep. Patricia Billie Miller; Rep. Hilda E. Santiago; Sen. Kevin C. Kelly; Sen. Catherine A. Osten; Sen. Bob Duff; Sen. George S. Logam; and Sen. Mae Flexer.</p>
Delaware Florida	<p>N/A</p> <p><b>2014</b> S.B. 336, Reg. Sess. (Fla. 2014) (died in Judiciary Committee)</p> <p>H.B. 237, Reg. Sess. (Fla. 2014) (died in Government Operations Subcommittee)</p> <p><b>2015</b> H.B. 1303, Reg. Sess. (Fla. 2015) (died in Government Operations Subcommittee)</p> <p><b>2017</b> H.B. 1188, Reg. Sess. (Fla. 2017) (died in Judiciary Committee)</p>	<p>N/A</p> <p>Senator Randolph Bracy (D) - Orlando Phone: (407) 297-2045</p>

State	Legislative Action	Legislator Contact Information
Florida	<p><b>2019</b> Partnership with Florida State University</p>	
Georgia	<p><b>2023</b> S.R. 293, Gen. Assemb., Reg. Sess. (Ga. 2023) (died in chamber) H.B. 233, Gen. Assemb., Reg. Sess. (Ga. 2023) (died in committee)</p>	<p>Senator Sonja Halpern (D) - Atlanta Email: <a href="mailto:sonya.halpern@senate.ga.gov">sonya.halpern@senate.ga.gov</a> Phone: (404) 463-1351</p> <p>Rep. Kim Schofield (D) - Southeast Atlanta Area Email: <a href="mailto:kim.schofield@house.ga.gov">kim.schofield@house.ga.gov</a> Phone: (404) 656-0298</p>
Hawaii	<p><b>2009</b> H.B. 1487, 25th Leg., Reg. Sess. (Haw. 2009) (carried over to 2010 session) S.B. 560, 25th Leg., Reg. Sess. (Haw. 2009) (carried over to 2010 session)</p>	<p>Rep. Faye Hanohano Email: <a href="mailto:rephanohano@Capitol.hawaii.gov">rephanohano@Capitol.hawaii.gov</a> Phone: (808) 586-6530</p> <p>Sen. Will Espero Email: <a href="mailto:senespero@capitol.hawaii.gov">senespero@capitol.hawaii.gov</a> Phone: (808) 586-6361</p> <p>N/A</p>
Idaho	N/A	N/A
Illinois	<p><b>2011</b> 20 ILL. COMP. STAT. 5025/1-20 (2011) (Racial and Ethnic Impact Research Task Force enacted)</p> <p><b>2013</b> H.B. 3245, 98th Gen. Assemb., Reg. Sess. (Ill. 2013) (<i>sine die</i> adjournment)</p> <p><b>2015</b> S.B. 0568, 99th Gen. Assemb., Sess. (Ill. 2015) (<i>sine die</i> adjournment)</p> <p><b>2016</b> H.B. 1437, 99th Gen. Assemb., Sess. (Ill. 2015) (enacted 2016)</p> <p><b>2017</b> S.B. 0691, 100th Gen. Assemb., Sess. (Ill. 2017) (<i>sine die</i> adjournment)</p> <p><b>2018</b> H.B. 5877, 100th Gen. Assemb., Sess. (Ill. 2018) (<i>sine die</i> adjournment)</p>	<p>Rep. Camille Lilly - (D) Oak Park Email: <a href="mailto:staterpcamillylilly@gmail.com">staterpcamillylilly@gmail.com</a> Phone: (217) 782-6400 and (773) 473-7300</p> <p>Rep. Elizabeth Hernandez (D) - Cicero Email: <a href="mailto:repehernandez@yahoo.com">repehernandez@yahoo.com</a> Phone: (217) 782-8173 and (708) 222-5240</p> <p>Rep. Linda Chapa LaVia (D) - Aurora Email: <a href="mailto:RepChapaLaVia@gmail.com">RepChapaLaVia@gmail.com</a> Phone: (217) 558-1002 and (630) 270-1848</p>

State	Legislative Action	Legislator Contact Information
Illinois	<b>2019</b> H.B. 5194, 100th Gen. Assemb., Sess. (Ill. 2019) ( <i>sine die</i> adjournment)	
	<b>2020</b> H.B. 4428, 101st Gen. Assemb., Sess. (Ill. 2020) ( <i>sine die</i> adjournment)	
	<b>2021</b> H.B. 0159, 102d Gen. Assemb., Sess. (Ill. 2021) (carried over)	
	H.B. 0158, 102d Gen. Assemb., Sess. (Ill. 2021) (enacted)	
	<b>2023</b> H.B. 3941, 103rd Gen. Assemb., Sess. (Ill. 2023) (referred to Rules Committee on Mar. 10, 2023)	
Indiana	N/A	N/A
Iowa	<b>2021</b> H.F. 478, 89th Gen. Assemb., Reg. Sess. (Iowa 2021) (died in the first funnel on Mar. 5, 2021)	Rep. Ako Abdul-Samad (D) - Des Moines Email: ako.abdul-samad@legis.iowa.gov Phone: (515) 281-3221
	<b>2023</b> H.F. 194, 90th Gen. Assemb., Reg. Sess. (Iowa 2023) (referred to Appropriations committee)	
	<b>2008</b> H.F. 2393, 82d Gen. Assemb., Reg. Sess. (Iowa 2008) (enacted)	Former Rep. Wayne Ford
Kansas	N/A	N/A
Kentucky	<b>2019</b> S.B. 45, Gen. Assemb., 2019 Reg. Sess. (Ky. 2019) (died in committee)	Sen. Gerald Neal (D) Email: Gerald.Neal@irc.ky.gov Home phone: (502) 776-1222 Work phone: (502) 584-8500
	<b>2020</b> S.B. 97, Gen. Assemb., 2020 Reg. Sess. (Ky. 2019) (died in committee)	
	<b>2021</b> S.B. 155, Gen. Assemb., 2021 Reg. Sess. (Ky. 2021) (died in committee)	Sen. Reginald Thomas (D) Email: Reginald.Thomas@irc.ky.gov Phone: (502) 564-8100 ext. 608

State	Legislative Action	Legislator Contact Information
Kentucky	<b>2022</b> S.B. 103, Gen. Assemb., 2022 Reg. Sess. (Ky. 2022) (died in committee)	
Louisiana	<b>2021</b> H.R. 164, St. Leg., Reg. Sess. (La. 2021) (rejected following House floor debate June 7, 2021)	Rep. Edward "Ted" James (D) Email: james.ted@legis.la.gov Phone: (225) 343-3633
Maine	<b>2021</b> L.D. 2, 130th Leg., 1st Reg. Sess. (Me. 2021) (enacted Mar. 17, 2021)  L.D. 132, 130th Leg., 1st Spec. Sess. (Me. 2021) (enacted July 15, 2021)	Rep. Rachel Talbot Ross (D) - Portland Email: Rachel.TalbotRoss@legislature.maine.gov Phone: (207) 653-3953  Rep. Craig Hickman (D) - Winthrop Email: Craig.Hickman@legislature.maine.gov Phone: (207) 377-3276
Maryland*	<b>2019</b> H.B. 1016, Gen. Assemb., Reg. Sess. (Md. 2019) (died in committee)  <b>2020</b> Montgomery County begins implementing impact statements in local government actions (see <i>Racial Equity and Social Justice</i> , Economic Impact Statements, and Climate Assessments, MONTGOMERY CNTY. COUNCIL, <a href="https://www.montgomerycountymd.gov/olo/impact-statements.html">https://www.montgomerycountymd.gov/olo/impact-statements.html</a> [ <a href="https://perma.cc/GP6S-XZ84">https://perma.cc/GP6S-XZ84</a> ])	Speaker of the House, Adrienne A. Jones (D) - Baltimore Co. Email: adrienne.jones@house.state.md.us Phone: (410) 655-3090  President of the Senate, Bill Ferguson (D) - Baltimore Cty. Email: bill.ferguson@senate.state.md.us Phone: (410) 841-3600  Delegate Jazz Lewis (D) - Prince George's Co. Email: jazz.lewis@house.state.md.us Phone: (410) 841-3691

State	Legislative Action	Legislator Contact Information
Maryland*	<p><b>2021</b> Enacted a pilot program *Maryland has not enacted legislation but has launched a pilot program for Racial Equity Impact Notes. <i>See Pilot Program to Examine Bills for Racial Disparity</i>, WMDT (Feb. 3, 2021), <a href="https://www.wmdt.com/2021/02/pilot-program-to-examine-bills-for-racial-disparity/">https://www.wmdt.com/2021/02/pilot-program-to-examine-bills-for-racial-disparity/</a> [https://perma.cc/7TYE-VC7M].</p> <p><b>2022</b> H.B. 1077, Gen. Assemb., Reg. Sess. (Md. 2022) (died in committee)</p>	
Massachusetts	<p><b>2022</b> S. 798, 192d Gen. Ct., Reg. Sess. (Mass. 2022)</p>	<p>Senator Joan B. Lovely (D) - Second Essex Email: <a href="mailto:Joan.Lovely@masenate.gov">Joan.Lovely@masenate.gov</a> Phone: (617) 722-1410</p>
Michigan	<p><b>2020</b> H.B. 6477, Mich. Leg., Reg. Sess. (Mich. 2020) (died in Judiciary Committee)</p> <p><b>2022</b> H.B. 6340, Mich. Leg., Reg. Sess. (Mich. 2022) (died in Appropriations Committee)</p>	<p>Rep. Felicia Brabec (D) Email: <a href="mailto:FeliciaBrabec@house.mi.gov">FeliciaBrabec@house.mi.gov</a> Phone: (517) 373-1792</p>
Minnesota	<p><b>2008</b> Sentencing Guidelines Commission began drafting "demographic statements" on legislation, though this is not a formal law</p> <p><b>2020</b> S.F. 108, 91st Leg., 1st Spec. Sess. (Minn. 2020) (died in Rules and Administration committee)</p>	<p>Representative Jamie Long (D) - Minneapolis Email: <a href="mailto:rep.jamie.long@house.mn">rep.jamie.long@house.mn</a> Phone: (651) 296-5375 Senator</p> <p>Senator Scott Dibble (D) - Minneapolis Email: General email form Phone: (651) 296-4191</p>

State	Legislative Action	Legislator Contact Information
Minnesota	<p><b>2022</b> H.F. 754, 92d Leg., Reg. Sess. (Minn. 2022) (died in Public Safety and Criminal Justice Reform Finance and Policy committee)</p> <p>H.F. 2297, 92d Leg., Reg. Sess. (Minn. 2022) (carried over from 2021 Regular Session).</p> <p>S.F. 2081, 92d Leg., Reg. Sess. (Minn. 2022) (carried over from 2021 Regular Session)</p> <p><b>2023</b> S.F. 3267, 93rd Leg., Reg. Sess. (Minn. 2023) (referred to Jobs and Economic Development committee on Apr. 14, 2023)</p>	<p>Senator John Marty (D) - St. Paul Email: General email form Phone: (651) 296-5645</p> <p>Senator Bobby Joe Champion (D) - Minneapolis Email: sen.bobbychampion@senate.mn Phone: (651) 296-9246</p> <p>Senator Kari Dziedzic (D) - Minneapolis Email: General email form Phone: (651) 296-7809</p>
Mississippi	<p><b>2014</b> S.B. 2561, Miss. Leg., Reg. Sess. (Miss. 2014) (died in committee)</p> <p><b>2015</b> S.B. 2499, Miss. Leg., Reg. Sess. (Miss. 2015) (died in committee)</p> <p><b>2017</b> H.R. 14, Miss. Leg., Reg. Sess. (Miss. 2017) (died in committee)</p> <p><b>2018</b> H.R. 7, Miss. Leg., Reg. Sess. (Miss. 2018) (died in committee)</p> <p>H.R. 11, Miss. Leg., Reg. Sess. (Miss. 2018) (died in committee)</p> <p><b>2019</b> H.C. 51, Miss. Leg., Reg. Sess. (Miss. 2019) (died in committee)</p> <p>H.R. 11, Miss. Leg., Reg. Sess. (Miss. 2019) (died in committee)</p>	<p>Rep. Kabir Karriem (D) - Lowndes Email: kkarriem@house.ms.gov Capitol phone: (601) 359-3339 Work phone: (662) 328-3063</p>

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Mississippi	<p><b>2019</b> H.R. 7, Miss. Leg., Reg. Sess. (Miss. 2019) (died in committee)</p> <p><b>2020</b> H.R. 22, Miss. Leg., Reg. Sess. (Miss. 2020) (died in committee) H.R. 23, Miss. Leg., Reg. Sess. (Miss. 2022) (died in committee)</p> <p><b>2021</b> H.R. 11, Miss. Leg., Reg. Sess. (Miss. 2021) (died in committee)</p> <p><b>2022</b> H.R. 8, Miss. Leg., Reg. Sess. (Miss. 2022) (died in committee)</p> <p><b>2023</b> H.R. 14, Miss. Leg., Reg. Sess. (Miss. 2023) (died in committee)</p>	
Missouri	<p><b>2009</b> H.B. 309, 95th Gen. Assemb., 1st Reg. Sess. (Mo. 2009) (died in Special Standing Committee on General Laws)</p>	Former State Senator Jamilah Nasheed (D) - St. Louis *New contact information not available
Montana	N/A	N/A
Nebraska	<p><b>2018</b> L.R. 458, 105th Leg., 1st Reg. Sess. (Neb. 2018) (died in special committee)</p> <p><b>2019</b> L.R. 217, 106th Leg., 1st Reg. Sess. (Neb. 2019) (died in committee)</p> <p><b>2021</b> L.B. 657, 107th Leg., 1st Reg. Sess. (Neb. 2021) (indefinitely postponed)</p>	<p>Senator Tony Vargas (D) - Omaha Email: tvargas@leg.ne.gov Phone: (402) 471-2721</p> <p>Senator Machaela Cavanaugh (D) - Omaha Email: mcavanaugh@leg.ne.gov Phone: (402) 471-2714</p> <p>Senator Terrell McKinney (D) - Omaha Email: tmckinney@leg.ne.gov Phone: (402) 471-2612</p>

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Nebraska	<p><b>2022</b> L.B. 814, 107th Leg., 1st Reg. Sess. (Neb. 2022) (indefinitely postponed)</p> <p><b>2023</b> L.B. 54, 108th Leg., 1st Reg. Sess. (Neb. 2023) (referred to Executive Board Jan. 9, 2023)</p>	<p>Senator Matt Hansen (D) - Lincoln Email: mhansen@leg.ne.gov Phone: (402) 471-2610</p>
Nevada	<p><b>2021</b> S.B. 302, 81st Sess. (Nev. 2021) (died in committee)</p>	<p>Senator Pat Spearman (D) - Las Vegas Email: Pat.Spearman@sen.state.nv.us N/A</p>
New Hampshire	N/A	N/A
New Jersey	<p><b>2014</b> S. 2053, 2014–2015 Sess. (N.J. 2014) (died after introduction)</p> <p><b>2016</b> A. 3677, 2016–2017 Sess. (N.J. 2016) (died after first committee meeting, substituted by S. 677)</p> <p><b>2018</b> S. 677, 2016–2017 Sess. (N.J. 2018) (introduced in the 2016 Session, enacted on Jan. 16, 2018)</p>	<p>Senator Ronald Rice (D) Email: general email intake form Phone: (973) 371-5665</p> <p>Senator Shirley Turner (D) Email: general email intake form Phone: (609) 323-7239</p> <p>Assemblyman Benjie Wimberly (D) Email: general email intake form Phone: (973) 925-7061</p> <p>Senator Troy Singleton (D) Email: general email intake form Phone: (856) 234-2790</p> <p>Assemblyman Jamel Holley (D) Email: general email intake form Phone: (908) 327-9119 and (908) 624-0880</p>



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New Jersey		<p>Assemblywoman Cleopatra Tucker (D)            Email: general email intake form            Phone: (973) 926-4320</p> <p>Assemblywoman Shavonda Sumter (D)            Email: general email intake form            Phone: (973) 925-7063</p> <p>Assemblywoman Annette Quijano (D)            Email: general email intake form            Phone: (908) 327-9119 and (908) 327-9119</p>
New Mexico	<p><b>2007</b>            H.J.M. 31, Leg., Reg. Sess. (N.M. 2007) (postponed indefinitely)</p> <p><b>2021</b>            S.B. 55, Leg., Reg. Sess. (N.M. 2021) (<i>sine die</i> adjournment)</p> <p>S.B. 81, Leg., Reg. Sess. (N.M. 2021) (<i>sine die</i> adjournment)</p>	<p>Senator Bill O'Neill (D) - Bernalillo County            Email: oneillsd13@billoneillfornm.com            Phone: (505) 450-9263</p> <p>Rep. Sheryl Stapleton (D) - Bernalillo County            Email: sheryl.stapleton@nmlegis.gov            Phone: (505) 265-6089</p> <p>Senator William Soules (D) - Doña Ana County            Email: bill.soules@nmlegis.gov            Phone: (575) 640-0409</p>
New York	<p><b>2017-2018</b>            S. 5921, St. Sen., 2017-2018 Leg. Sess. (N.Y. 2017) (referred to Investigations and Government Operations Committee)</p> <p>A. 7519, St. Assem., 2017-2018 Leg. Sess. (N.Y. 2017) (companion bill to S. 5921)</p>	<p>Senator Kevin Parker (D)            Email: parker@nysenate.gov            Phone: (718) 629-6401 and (518) 455-2580</p>

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New York	<p><b>2019-2020</b> S. 4388, St. Sen., 2019-2020 Leg. Sess. (N.Y. 2020) (referred to Investigations and Government Operations Committee)</p> <p>A. 3422, St. Assem., 2019-2020 Leg. Sess. (N.Y. 2020) (companion bill to S. 4388)</p> <p><b>2021-2022</b> S. 4745, St. Sen., 2021-2022 Leg. Sess. (N.Y. 2022) (carried over from 2021; referred to Investigations and Government Operations Committee)</p> <p>A. 4348, St. Assem., 2021-2022 Leg. Sess. (N.Y. 2022) (carried over from 2021; referred to Investigations and Government Operations Committee)</p> <p><b>2023-2024</b> S. 5690, St. Sen., 2023-2024 Leg. Sess. (N.Y. 2023) (in committee)</p> <p>A. 293, St. Assem., 2023-2024 Leg. Sess. (N.Y. 2023) (in committee) (companion bill to S. 5690)</p>	<p>Assemblywoman Latrice Walker (D) - Email: WalkerL@nyassembly.gov Phone: (518) 455-4466 and (718) 342-1256</p> <p>Senator Luis Sepúlveda (D) Email: sepulveda@nysenate.gov Phone: (518) 455-2511 and (718) 991-3161</p> <p>Legislative Director Email: Anthony@nysenate.gov</p> <p>Director of Operations Email: royees@nysenate.gov</p>
North Carolina	N/A	N/A
North Dakota	N/A	N/A
Ohio	<p><b>2015-2016</b> H.B. 519, 131st Gen. Assem., Reg. Sess. (Ohio 2016) (died in State Government Committee)</p> <p><b>2017-2018</b> H.B. 645, 132d Gen. Assem., Reg. Sess. (Ohio 2017) (died in Criminal Justice Committee)</p>	<p>Rep. Stephanie Howse (D) Email: General Email Intake Form Phone: (614) 466-1414</p> <p>Rep. Jeffrey Crossman (D) Email: General Email Intake Form Phone: (614) 466-3485</p>

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Ohio	<p><b>2019–2020</b> H.B. 690, 133rd Gen. Assemb., Reg. Sess. (Ohio 2019) (died in Criminal Justice Committee)</p> <p><b>2021–2022</b> H.B. 345, 134th Gen. Assemb., Reg. Sess. (Ohio 2021) (died in Criminal Justice Committee).</p>	
Oklahoma	<p><b>2019</b> S.B. 253, 57th Leg., 1st Reg. Sess. (Ok. 2019) (died in Rules Committee)</p> <p><b>2020</b> S.B. 1184, 57th Leg., 2d Reg. Sess. (Ok. 2020) (died in Rules Committee)</p> <p><b>2021</b> S.B. 209, 58th Leg., 1st Reg. Sess. (Ok. 2021) (died in Rules Committee)</p>	<p>Senator George Young (D) - Oklahoma City Email: George.Young@oksenate.gov Phone: (405) 521-5531</p> <p>Rep. Emily Virgin (D) - Norman Email: General Email Phone: (405) 557-7323</p>
Oregon	<p><b>2015</b> S.B. 633, 78th Legis. Assemb., Reg. Sess. (Or. 2015) (died in Education Committee)</p> <p><b>2019</b> H.B. 2635, 81st Legis. Assemb., Reg. Sess. (Or. 2019) (died in Judiciary Committee)</p> <p><b>2021</b> H.B. 2991, 81st Legis. Assemb., Reg. Sess. (Or. 2021) (died in Rules Committee)</p> <p>H.B. 3270, 81st Legis. Assemb., Reg. Sess. (Or. 2021) (died in Rules committee)</p>	<p>Senator Lew Frederick (D) - Portland Email: Sen.LewFrederick@oregonlegislature.gov Phone: (503) 986-1722</p>

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Oregon	<p><b>2022</b> H.B. 4107, 81st Legis. Assemb., Reg. Sess. (Or. 2022) (died in Ways and Means committee)</p> <p><b>2007</b> H.B. 2933, 74th Legis. Assemb., Reg. Sess. (Or. 2007) (died in Judiciary Committee)</p> <p><b>2009</b> H.B. 2352, 75th Legis. Assemb., Reg. Sess. (Or. 2009) (died in Public Safety subcommittee)</p> <p><b>2011</b> H.B. 3086, 76th Legis. Assemb., Reg. Sess. (Or. 2011) (died in Human Services Committee)</p> <p>S.B. 654, 76th Legis. Assemb., Reg. Sess. (Or. 2011) (died in Ways and Means Committee)</p> <p>H.B. 2053, 76th Legis. Assemb., Reg. Sess. (Or. 2011) (died in Ways and Means Committee)</p> <p><b>2013</b> H.B. 3405, 77th Legis. Assemb., Reg. Sess. (Or. 2013) (died in Rules Committee at adjournment)</p> <p>S.B. 463, 77th Legis. Assemb., Reg. Sess. (Or. 2013) (enacted July 1, 2013)</p>	
Pennsylvania	<p><b>2015-2016</b> S.B. 424, Gen. Assemb., Reg. Sess. (Penn. 2015) (died in Judiciary Committee)</p>	<p>Senator Vincent Hughes (D) Email: <a href="mailto:hughes@pasenate.com">hughes@pasenate.com</a> Phone: (215) 879-7777 and (717) 787-7112</p>

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Pennsylvania	<p><b>2017–2018</b> S.B. 206, Gen. Assemb., Reg. Sess. (Penn. 2017) (died in Judiciary Committee)</p> <p><b>2019–2020</b> S.B. 1197, Gen. Assemb., Reg. Sess. (Penn. 2019) (died in State Government Committee)</p> <p><b>2021–2022</b> S.B. 79, Gen. Assemb., Reg. Sess. (Penn. 2021) (died in State Government Committee)</p> <p>H.B. 1888, Gen. Assemb., Reg. Sess. (Penn. 2021) (died in Judiciary Committee)</p> <p>S.B. 1261, Gen. Assemb., Reg. Sess. (Penn. 2022) (died in Aging and Youth Committee)</p> <p><b>2023–2024</b> S.B. 79, Gen. Assemb., Reg. Sess. (Penn. 2023) (referred to State Government Committee) [an. 19, 2023]</p>	
Rhode Island	<p><b>2021</b> H.B. 6484, Gen. Assemb., Reg. Sess. (R.I. 2021) (died in State Government &amp; Elections committee)</p> <p><b>2022</b> H.B. 7735, Gen. Assemb., Reg. Sess. (R.I. 2022) (withdrawn at sponsor's request)</p> <p>H.B. 7736, Gen. Assemb., Reg. Sess. (R.I. 2022) (State Government &amp; Elections committee recommended measure be held for further study)</p>	Rep. Liana Cassar (D) Email: rep-cassar@rilegislature.gov

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Rhode Island	<p><b>2023</b> S.B. 636, Gen. Assemb., Reg. Sess. (R.I. 2023) (referred to Judiciary Committee)</p>	
South Carolina	N/A	N/A
South Dakota	N/A	N/A
Tennessee	<p><b>2023</b> S.B. 0939, 113th Gen. Assemb., 1st Reg. Sess. (Tenn. 2023) (referred to State and Local Government Committee Feb. 6, 2023)</p>	
Texas	<p><b>2009</b> S.B. 164, 81st Leg., Reg. Sess. (Tex. 2009) (died in Administration Committee)</p> <p><b>2021</b> S.B. 108, 87th Leg., Reg. Sess. (Tex. 2021) (died in Administration Committee) (companion bill to H.B. 710)</p> <p>H.B. 710, 87th Leg., Reg. Sess. (died in State Affairs Committee)</p> <p>H.B. 1459, 87th Leg., Reg. Sess. (Tex. 2021) (died in State Affairs committee)</p>	<p>Rep. Jasmine Crockett (D) Email: General Email Form Phone: (512) 463-0586</p> <p>Rep. Garnet Coleman (D) Email: General Email Form Phone: (512) 463-0524 and (713) 520-5355</p> <p>Senator Royce West (D) Email: General Email Form Phone: (512) 463-0123 and (214) 467-0123</p>
Utah	<p><b>2020</b> H.B. 224, 63rd St. Leg., Gen. Sess. (Utah 2020) (died in committee)</p> <p><b>2021</b> H.B. 90, 64th St. Leg., Gen. Sess. (Utah 2021) (died in the House)</p>	<p>Rep. Jennifer Dailey-Provost (D) Email: jdprovost@le.utah.gov Phone: (385) 321-7827</p>

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Vermont	<p><b>2019</b> H. 381, Gen. Assemb., Reg. Sess. (Vt. 2019) (died in Committee on Rules)</p> <p><b>2021</b> H. 247, Gen. Assemb., Reg. Sess. (Vt. 2021) (died in Committee on Government Operations)</p>	<p>Rep. Barbara Rachelson (D) - Chittenden Email: brachelson@leg.state.vt.us Phone: (802) 828-2228</p> <p>Rep. Kevin "Coach" Christie (D) - Hartford Email: kchristie@leg.state.vt.us Phone: (802) 828-2228</p>
Virginia	<p><b>2021</b> H.B. 1990, Gen. Assemb., Spec. Sess. I (Va. 2021) (signed by Governor Mar. 18, 2021)</p>	<p>Del. Lashrecse D. Aird (D) Email: DelLAird@house.virginia.gov Phone: (804) 698-1063</p> <p>Additional Sponsors: Del. Hala S. Ayala (D); Del. Lamont Bagby (D); Del. Jeffrey M. Bourne (D); Del. Betsy B. Carr (D); Del. Elizabeth R. Guzman (D); Del. Dan I. Helmer (D); Del. Mark L. Keam (D); Del. Kaye Kory (D); Del. Mark H. Levine (D); Del. Delores L. McQuinn (D); Del. Marcia S. "Sia" Price (D); Del. Sam Rasoul (D); and Del. Ibraheem S. Samirah (D).</p>
Washington	<p><b>2015-2016</b> S.B. 5752, H.B. 2076, St. Leg., 2015-2016 Reg. Sess. (Wash. 2015) (died in Government Operations &amp; Security)</p> <p>H.B. 2076, St. Leg., 2015-2016 Reg. Sess. (Wash. 2016) (died in State Government)</p> <p>H.B. 2376, St. Leg., 2015-2016 Reg. Sess. (Wash. 2016) (Section 125 within Budget Bill has impact statement language)</p>	<p>Rep. My-Linh Thai (D) Email: my-linh.thai@leg.wa.gov Phone: (206) 333-4107</p> <p>Rep. Gerry Pollet Email: gerry.pollet@leg.wa.gov Phone: (206) 307-0409</p>

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Washington	<p><b>2017-2018</b> S.B. 5588, St. Leg., 2017-2018 Reg. Sess. (Wash. 2017)</p> <p><b>2021-2022</b> S.B. 5274, St. Leg., 2021-2022 Reg. Sess. (Wash. 2021)</p> <p>H.B. 1264, St. Leg., 2021-2022 Reg. Sess. (Wash. 2021) (introduced in 2021 Regular Session, reintroduced and retained in 2022 Regular Session)</p>	<p>Sen. Bob Hasegawa (D) Email: bob.hasegawa@leg.wa.gov Phone: (360) 786-7616</p> <p>Sen. Jeannie Darneille (D) Email: j.darneille@leg.wa.gov Phone: (360) 786-7652</p>
West Virginia	N/A	N/A
Wisconsin	<p><b>2013-2014</b> A.B. 752, 2013-2014 St. Leg., Reg. Sess. (Wis. 2014) (<i>sine die</i> adjournment)</p> <p>S.B. 538, 2013-2014 St. Leg., Reg. Sess. (Wis. 2014) (<i>sine die</i> adjournment)</p> <p><b>2015-2016</b> A.B. 260, 2015-2016 St. Leg., Reg. Sess. (Wis. 2016) (<i>sine die</i> adjournment)</p> <p>S.B. 172, 2015-2016 St. Leg., Reg. Sess. (Wis. 2016) (<i>sine die</i> adjournment)</p>	<p>Senator Tim Carpenter (D) - Milwaukee Email: Sen. Carpenter@legis.wisconsin.gov Phone: (608) 266-8535</p>
Wyoming	N/A	N/A