

MEMORANDUM

Date: October 13, 2021
To: Subcommittee to Implement a Racial Impact Statement Process Pilot
From: Danielle Fox, subcommittee staff
RE: **Summary of analyses of the impact of racial impact statements (Iowa)**

At the subcommittee's first meeting on October 6, 2021, members requested information on the "impact of impact statements." The state of Iowa has been producing such statements for the longest period of time and has published a significant number. Thus, I was able to find information assessing racial impact statements which are attached to criminal justice-related legislation in that state.

Following is a summary of 3 separate analyses which vary in detail and focus.

The first is a simple breakdown of legislation for which a statement indicated that the proposed law would either have disproportionate negative impact on minorities, or those that cited a positive or neutral impact. This was completed by the Associated Press and published in the Des Moines Register.

The second is a primarily quantitative review of Iowa legislation which focused on statements specifically indicating an impact on incarceration of minorities. Although I do note that the report by Simpson College was initiated in collaboration with a former Iowa legislator who sponsored the legislation requiring minority impact statements. The author developed and implemented a sort of rating system to classify the overall impact of impact of statements by year.

Finally, this summary includes quantitative excerpts from a case-study which also includes analysis that could be viewed as qualitative, or even subjective. For the purposes of this memo, I only cited the quantitative aspects of this report, primarily because it included data on impact statements for the longest span of time.

Copies of the source documents will be emailed separately and soon be posted on the subcommittee's study webpage.

Associated Press Analysis as reported in Des Moines Register (January 2015)

The AP reviewed **61 bills** with impact statements from the enactment of House File 2393 in 2009 through 2014).

- 26 statements indicated that the proposed legislation would have a disproportionate (negative) effect on minorities
 - Of those 26 bills, 6 were passed by both chambers and became law
- 35 statements indicated that the proposed legislation had no impact or a positive impact
 - Of those 35 bills, 14 were passed by both chambers and became law

Simpson College, Urban Studies Institute

(The Urban Studies Institute conducted this analysis in collaboration with former Iowa representative Wayne Ford who sponsored House File 2393 because they determined that “an explorative, analytical research study should be conducted to assess effectiveness” of the law.)

The principal author, Clarence Key Jr., examined **52 bills** for which there were statements (from 2009 – 2013) to look specifically at the impact on the Iowa’s “disproportionate rate of incarceration of minorities” in the state’s prison systems (26%) using measures developed for the purpose of the analysis. Overall, the analysis found that the statements had a neutral effect on the disproportionate rate of incarceration of minorities but that the statements may have an encouraging effect of stabilizing the rate could be influential in its reduction within the next 10 years.

The analysis used the following measures to determine whether the effect of the statements in a fiscal year were:

Positive – meaning, the statement prevented the passage of criminal penalty bills which were determined (by statements) to have a disproportionate impact on minorities;

Negative – meaning, the statement was not successful in preventing the passage of criminal penalty bills which were determined (by statements) to have a disproportionate impact on minorities;

Neutral – meaning, neither of the above.

<u>Fiscal year</u>	<u>Impact of statements</u>	<u>Legislation/statement stats</u>
2009	Neutral	10 bills 2 passed All bills were determined to be neutral
2010	Neutral	16 bills 6 passed/4 positive, 2 neutral 10 unpassed/8 neutral, 1 positive, 1 negative

2011	Negative	7 bills 4 passed/4 negative 3 unpassed/2 neutral, 1 negative
2012	Neutral	10 bills 2 passed/1 positive, 1 negative 8 unpassed/1 positive, 1 negative, 6 neutral
2013	Positive	9 bills 2 passed/1 neutral, one negative 7 unpassed/6 negative, 1 neutral

Author acknowledges that other factors contribute to the passage (or failure) of legislation and indicated that his analysis was affected by the lack of data on individual minority populations. In his paper, minorities include, but are not limited to: African Americans, Asians, Pacific Islanders, Native Americans, Hispanics, disabled persons and women.

National Juvenile Justice Network (2020)

The Promise of Racial Impact Statements – Findings from a case study of minority impact statements in Iowa.

This report represents research conducted by the Juvenile Justice Network in collaboration with the Community Empowerment Law Project (CELP) at the Iowa College of Law. Compared to the other 2 items cited in this summary, this review is a more qualitative (and could be viewed as subjective) assessment of minority impact statements in which they asked questions about how they were completed and how they informed legislative decision-making and public opinion. What they found was based on their assertion of the purpose and intended outcomes of a racial impact statement. However, the analysis did include some basic statistics about legislation subject to Iowa’s impact statement requirement from 2009 – 2019, encompassing more years than the other analyses in this summary.

The research examined **176 bills** which met the criteria for having a minority impact statement and reached the one of the chamber floors. The statements, when attached by Legislative Services Agency – Fiscal Services Division (LSA), use the following categories to provide a general statement on impact (in addition to more detailed data).

Negative – disproportionate impact on minorities and could increase the number of minorities in jails or result in longer sentences for minorities.

Positive – will reduce the number of minorities in prison and/or result in shorter sentences for minorities

Minimal – minimal impact

No effect – no impact

Unknown – the LSA states that the minority impact of the bill “could not be determined”

No statement attached – No statement was attached (even though subject of bill qualified it for a statement)

Of the 164 bills*:

<u>Impact</u>	<u>Number</u>	<u>Bills passed/rate</u>
Negative	41 bills	4 bills/ 22%
Positive	11 bills	4 bills/ 36%
Minimal	18 bills	6 bills/ 33%
No effect	23 bills	6 bills/ 26%
Unknown	52 bills	16 bills/ 31%
None attached	19 bills	3 bills/ 16%

The report cites an examination of 176 bills, but the data provided with regard to the LSA's impact statements above total 164.

Des Moines Register

IOWA

Ryan J. Foley Associated Press

Published 7:47 p.m. CT Jan. 21, 2015 | Updated 7:47 p.m. CT Jan. 21, 2015

After a 2007 report showed that Iowa had the nation's highest disparity for sending blacks to prison, state lawmakers took a novel step: They passed a law requiring analysts to draft "racial-impact statements" on any proposals to create new crimes or tougher penalties.

The governor at the time said the statements would be "an essential tool" to understand how minority communities might be affected before any votes were cast.

A review by the Associated Press shows that the first-in-the-nation law appears to be having a modest effect, helping to defeat some legislation that could have exacerbated disparities and providing a smoother path to passage for measures deemed neutral or beneficial to minorities.

Since Iowa acted, similar proposals have been adopted in Connecticut and Oregon. And more are likely to surface this year in several states.

Supporters say the idea can improve public trust at a time when many Americans question the fairness of the justice system and prevent policies that have unintended racial consequences. Critics are concerned that it unfairly injects race into policymaking and potentially weakens public safety. And a researcher who helps draft the statements said the analysis can involve some guesswork.

But there has been little analysis of how the laws actually work once passed. Iowa's experience provides the richest data available.

A review of 61 Iowa impact statements issued since 2009 showed that only six out of 26 bills seen as having a disproportionate effect on minorities passed both chambers and became law. Meanwhile, bills that were rated as having no effect or a positive effect on minority incarceration rates were nearly twice as likely to pass. Fourteen out of 35 such proposals became law.

The precise effect of the statements is impossible to gauge because many factors, including cost and lobbying pressure, contribute to whether a bill becomes law. But legislators say any

Des Moines Register

It's made a difference already here in Iowa," said former Rep. Wayne Ford, a Des Moines Democrat who wrote the law and is advising lawmakers across the country on similar legislation. "There is no doubt in my mind that what we started years ago has begun a movement, with Ferguson and all the public safety issues that we've got now."

An example arose last year when lawmakers considered a bill to extend the crime of interference with official acts to anyone who resists jail guards. At first, it seemed like an uncontroversial proposal to close a legal loophole. Police, correctional officers and municipalities lined up in support. But the plan died in a committee after analysts warned that 35 percent of those who committed the new crime would probably be minorities.

In a state that is 88 percent white, the heightened focus on race irritates some critics.

"What we have done is take the blindfold off of lady justice," said Republican Rep. Clel Baudler, a retired state trooper who leads the public safety committee. "A crime is a crime is a crime."

The statements are drafted by the Legislative Services Agency using data on the prison population, arrests, convictions and sentences broken down by race. The agency has found disproportionate racial effects in proposals to increase penalties for child kidnappers, pimps who bring minors into prostitution and suspects who elude police officers, among others.

Senior legislative analyst Beth Lenstra acknowledged that analysts are sometimes "kind of guessing" as to how a new crime would affect minorities using data from similar existing offenses. But she said the studies lead to a more informed debate.

Marc Mauer, director of the Sentencing Project, a nonprofit that pushes for criminal justice system changes, called the AP's findings "intriguing."

"We need to be a little cautious about interpreting that, but nonetheless, it's a fairly substantial difference right off the bat," said Mauer, whose 2007 report found Iowa blacks were 13 times more likely than whites to be incarcerated.

Mauer promoted racial-impact statements in a 2007 law journal article and worked with Ford to pass Iowa's law. His group hosted a two-day strategy session in August with supporters seeking to require racial-impact statements in several states, including Wisconsin and Arkansas.

Des Moines Register

The AP's findings are in line with a 2013 study by researchers at Simpson College in Indianola, who concluded that Iowa's law has had a neutral effect on the prison population but may have a greater effect in coming years. With 2,130 blacks behind bars this month, they still make up 26 percent of the prison population and just 3 percent of Iowa residents.

Rep. Chip Baltimore, an Iowa Republican who heads the Judiciary Committee, said the statements were of little value because they do not consider the root causes of the racial disparity. But he said they offered political cover to lawmakers who oppose legislation for other reasons.

"I think at times it becomes a political tool," he said. "There are some legislators that, if it has any minority impact, they won't vote for it."

SIMPSON COLLEGE URBAN STUDIES INSTITUTE

PROJECT:

THE IOWA 2008 MINORITY IMPACT STATEMENT LEGISLATION

FISCAL YEARS 2009-2013



Principal Author:

Clarence Key Jr. Adjunct Professor

Co-Authors:

Joella Hanes, Mikaella Holstad, Jose Perez,
Jessica Prowant, Carly Rice, Shawn Schossow

Introduction

In 2008, the Iowa Minority Impact Legislation Bill (House File 2393) was introduced to and passed in the legislature with the intent of reducing Iowa's disproportionate incarceration rate of minorities, which includes but is not limited to: African Americans, Asians, Pacific Islanders, Native Americans, Hispanics, disabled persons, and women, of which African Americans have the highest disproportionate rate of incarceration; about 26%.

House File 2393 (H.F. 2393) made every future legislative bill, in particular all proposed criminal legislation, contain an "estimated" prediction of how it could affect the minority prison population. It was enacted in July of 2009.

The Simpson College Urban Studies Institute (SUSI), in collaboration with former Iowa representative Wayne Ford, who proposed H.F. 2393, determined that an explorative, analytical research study should be conducted to assess the effectiveness of H.F. 2393, how it relates to any possible decrease in the minority prison population rate, and whether policymakers were cognizant of any positive, negative, or neutral effect their legislative decisions may have on the disproportionate incarceration rate of minorities.

A total of 52 legislative bills from fiscal years 2009-2013 were collected, reviewed, and analyzed in order to respond to the aforementioned questions for this project.

Such a project would not have been possible without the support of Simpson College. Specifically, Steven J. Griffith, Senior Vice President and Academic Dean, and Dr. Fred Jones with the Department of Sociology and Criminal Justice, who is the Director of the Master of Arts in Criminal Justice program and our Research Supervisor.

Recognition must be given to the following for their cooperation and contribution to this project: the Iowa Legislative Agency, Beth Lenstra, Dr. Paul Stageberg, the administration and staff of the Division of Criminal and Juvenile Justice, the Iowa Department of Human Rights, and the Director of research for the Iowa Department of Corrections, Lettie Prell.

I would also like to recognize the six students who have worked very diligently as we pursued this project: Joella Hanes, Mikaella Holstad, Jose Perez, Jessica Prowant, Carly Rice, and Shawn Schossow.

Last but not least, we thank former Iowa representative Wayne Ford, the author of H.F. 2393, who has contributed greatly to our research.

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(A Copy of HF 2393)

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Executive Summary

House File 2393, or the Minority Impact Statement, was enacted in July of 2009. The objective of this legislation was to be an additional source of information for policy makers regarding criminal penalty legislation under consideration for passage and enactment that could reduce the disproportionate rate of incarceration of minorities in Iowa's prison system. Another objective was to attempt to reduce this rate.

House File 2393 has been in effect for the past five years. The 2014 legislative session is still in assembly and information relating to this research is not readily available.

The rate of incarceration of African Americans to the entire prison population has remained at 26% during the time period that this report reviews and analyzes (2009-2013).-

From these four years, we reviewed and analyzed fifty-two criminal penalty bills that included correctional, fiscal, and minority impact statements. Of these fifty-two bills, sixteen received passage and thirty six did not.

Various criminal justice system dynamics in reference to the disproportionate rate of incarceration of minority offenders in Iowa's prisons were discussed during the review and analysis process.

These dynamics included: review of the criminal penalty mandatory sentences, prosecutorial charging discretion, and varying judicial criminal sentencing practices. For example, two criminal offenders of differing races with similar criminal histories commit the same crime and receive different criminal sentences due to variation in race.

Discussions were also conducted with Dr. Paul Stageberg, Administrator for the Division of Criminal and Juvenile Justice Planning (CJJP), the Iowa Department of Human Rights, Lettie Prell, Director of Research for the Iowa Department of Corrections, and former Iowa State Representative Wayne Ford.

Upon completion of the review and analysis of the fifty-two legislative criminal penalty bills, the overall result, impact, and effectiveness of House File 2393 on the reduction of the disproportionate rate of minority offenders is considered to be *neutral*, in that it did not have a positive or negative impact on the reduction of the rate for the sixteen bills that received legislative passage in the legislative sessions of fiscal years 2009-2013.

Research and analysis appears to suggest that the 2008 implementation of House File 2393 has been and continues to be a useful tool for policy makers as they consider criminal penalty legislation that could possibly increase the disproportionate rate of incarceration of minority offenders in Iowa's prison population.

According to the CJJP Prison Population Forecast, it is projected that the disproportionate rate of incarceration of African Americans will more than likely remain at 26% over the next ten years (2013-2023).

Within the next ten years it is also favorable that House File 2393 may have an encouraging and constructive effect in not only stabilizing the disproportionate incarceration rate of minority offenders but also may be influential in the reduction of this rate.

Definitions

For the purposes of this report, we are using these definitions to describe whether or not H.F. 2393 was effective in its attempt to reduce the disproportionate rate of the incarceration of minorities in Iowa's prison system, in particular the African American incarceration rate of 26%.

These definitions include:

Positive Effect:

Where H.F. 2393 was successful in preventing legislative criminal penalty bills from passage that would increase the disproportionate rate of incarceration of minority offenders or successful in passing legislative criminal penalty bills that would decrease the disproportionate rate.

Negative Effect:

Where H.F. 2393 was not successful in preventing legislative criminal penalty bills from passage that would increase the disproportionate rate of incarceration of minority offenders.

Neutral Effect:

Where H.F. 2393 was neither successful nor unsuccessful in preventing passage of legislative criminal penalty bills that would affect the disproportionate rate of minority offenders.

Definitions (con't)

Minorities:

Minorities include but not limited to: African Americans, Asians, Pacific Islanders, Native Americans, Hispanics, disabled persons, and women.

Research and Analysis of Legislation for Fiscal Year 2009

Fiscal Year 2009 was the first year where H.F. 2393 was made a part of any proposed criminal penalty legislation. For the most part, information/data was limited or unavailable for the impacts covered under H.F. 2393.

During the legislative session of 2009, ten bills were introduced. Of these ten bills, two received passage and eight did not. The two passed bills were found to have a neutral impact on the minority incarceration rate. Among the unpassed legislation, all eight bills were also found to have a neutral impact on this rate. For fiscal year 2009, we concluded that H.F. 2393 had an overall neutral effect on the proposed criminal penalty bills.

Research and Analysis of Legislation for Fiscal Year 2010

During the legislative session of 2010, sixteen criminal penalty bills were introduced. Of these sixteen bills, six received passage and ten did not. Among the six passed bills, four had an anticipated positive impact on the disproportionate rate of incarceration of minorities, and the other two had an anticipated neutral impact. Among the ten bills that did not pass, eight had an anticipated neutral impact, one had an anticipated positive impact and the last bill had an anticipated negative impact.

Collectively, the ten bills that did not receive passage would not have made an impact on the disproportionate rate of incarceration of minority offenders. Therefore, we concluded that H.F. 2393 had a neutral effect in fiscal year 2010.

Research and Analysis of Legislation for Fiscal Year 2011

During the legislative session of 2011, seven criminal penalty bills were introduced. Of these seven bills, four received passage and three did not. Among the four passed bills, three had an anticipated negative impact on the disproportionate rate of incarceration of minority offenders. House File 2393 had a negative effect for the passed bills.

Of the three bills that did not pass, two had anticipated neutral impacts and one had an anticipated negative impact. House File 2393 was effective in preventing this bill from passage.

For fiscal year 2011, we concluded that House File 2393 had a negative effect on criminal penalty legislation.

Research and Analysis of Legislation for Fiscal Year 2012

During the legislative session of 2012, ten criminal penalty bills were introduced. Of these ten bills, two bills received passage and eight did not. Among the two passed bills, one had an anticipated positive impact, and the other had an anticipated negative impact on the disproportionate rate of incarceration of minorities.

Of the eight bills that did not pass, one had an expected positive impact and one had an expected negative impact. The other seven bills that did not pass all had anticipated neutral impacts.

Overall, we concluded for fiscal year 2012 that House File 2393 had a neutral effect on criminal penalty legislation.

Research and Analysis of Legislation for Fiscal Year 2013

During the legislative session of 2013, nine criminal penalty bills were introduced. Of these nine bills, two received passage and seven did not. Among the two passed bills, one had an anticipated neutral impact, and the other had an anticipated negative impact on the disproportionate rate of incarceration of minorities.

Of the seven bills that did not pass, six were expected to have a negative impact, and one had an expected neutral impact.

For fiscal year 2013, we concluded that H.F. 2393 had a positive effect on criminal penalty legislation.

Assessment

House File 2393 is a valuable tool for preventing a further increase in the disproportionate rate of incarceration of minority offenders; however, it is still in its beginning stages. Our research and analysis has indicated a *neutral effect* on the disproportionate rate of incarceration of minority offenders. We have also concluded that House File 2393 cannot single-handedly lower the disproportionate rate of incarceration of minority offenders.

African Americans are most often sentenced to prison for drug-trafficking or robbery 1st or 2nd offenses. These crimes generally have a mandatory sentencing law that contributes to the stagnant disproportionate rate of incarceration of minority offenders.

Other contributing factors include public safety, previous criminal penalty laws, prosecutorial charging discretion, and varying judicial criminal sentencing practices. For example, two criminal offenders of differing races or genders with similar criminal histories commit the same crime and receive different criminal sentences due to variation in race or gender.

Please note, the analysis of our research was affected due to the lack of data on individual minority populations. We were missing data on the incoming offenders and the offenders being released from prison. This could have changed our results.

Recommendations

Current mandatory criminal sentences should be reviewed by policy makers. These sentences require offenders to serve an overly prolonged amount of confinement that not only contributes to the overcrowding problem of Iowa's prison population, but also to the disproportionate rate of incarceration of minority offenders. These mandatory sentences should either be drastically reduced or eliminated entirely.

The collection of additional information and data is vital regarding incarcerated minority men, women, and disabled offenders. Such as: how many offenders of color, women, and disabled are imprisoned on a monthly and annual basis. This would strengthen House File 2393 in conjunction with the correctional and fiscal impact statements.

The criminal sentencing practices within the Iowa judicial system need to be re-examined for equality and fairness to all ethnicities and genders.

There also needs to be a re-evaluation of criminal penalty law for equality and fairness that have a disproportionate effect on minority offenders, including various criminal drug offenses.

State policy makers should give consideration to changing the emphasis of Iowa's current drug policies from incarceration to drug-rehabilitation.

Appendix A

Figure 1: Impact of Bills by Year

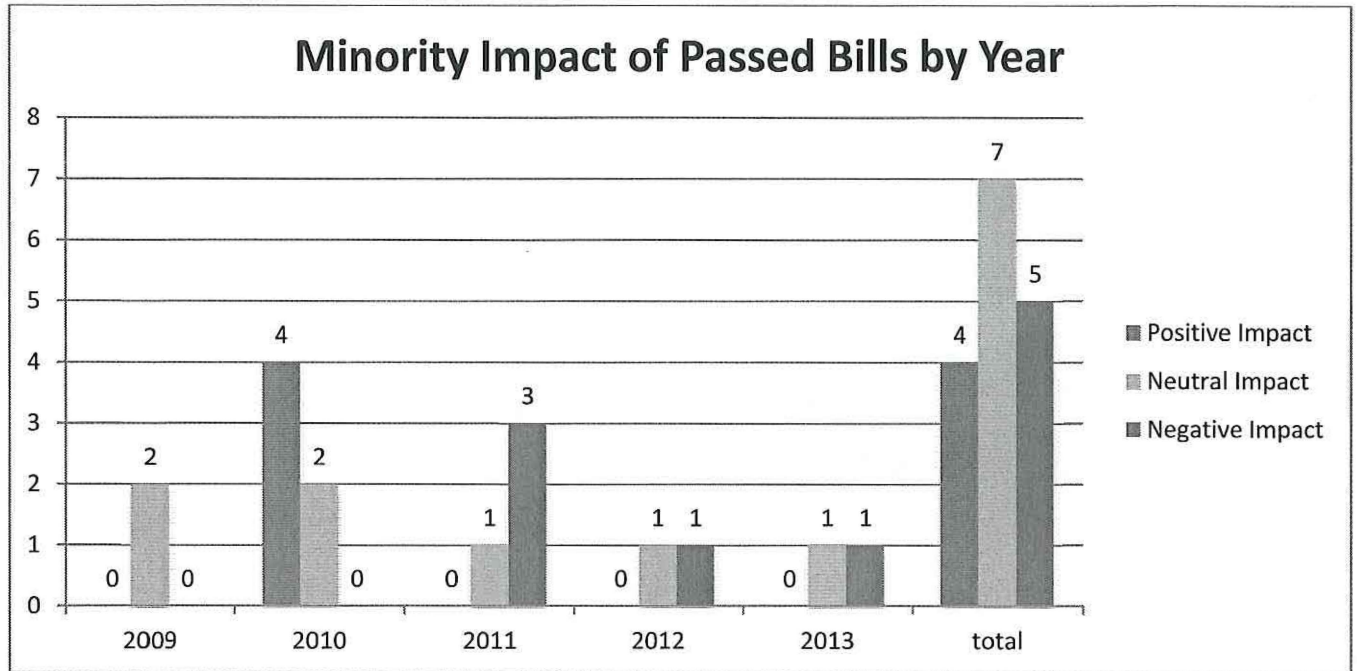
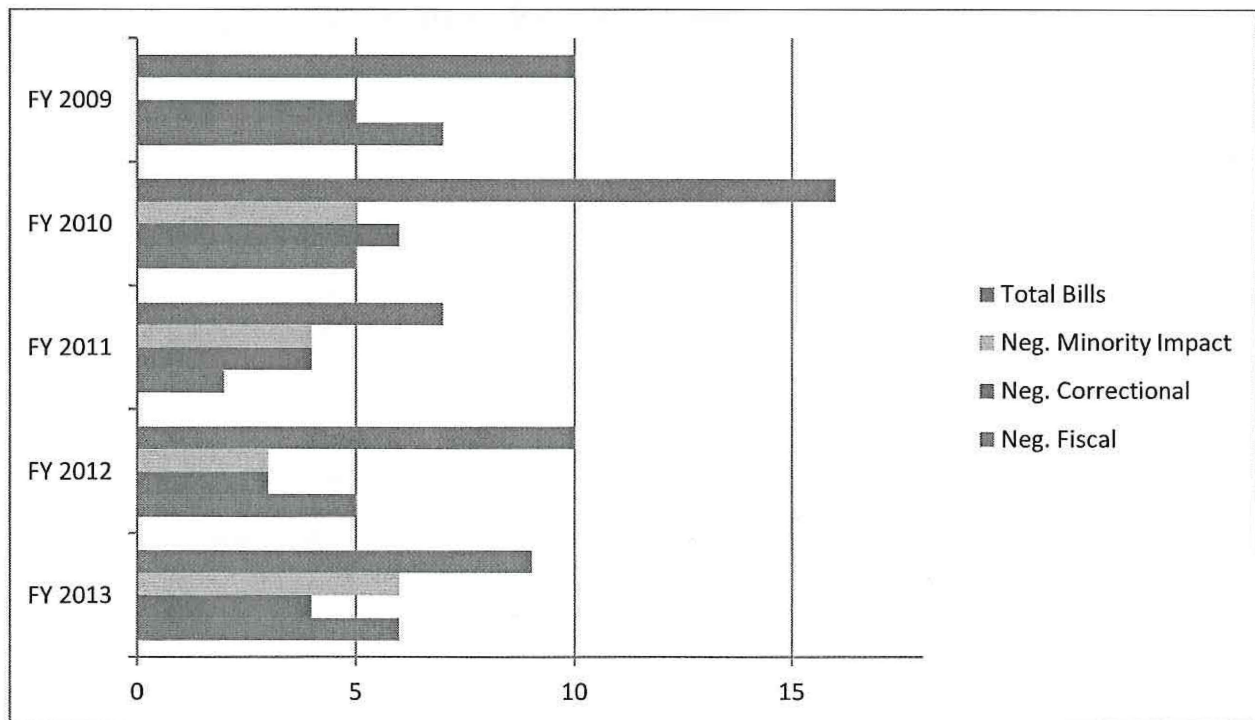


Figure 2: Bills Broken Down by Impact by Year



Appendix B

Figure 1: Effectiveness of HF 2393 (2009-2013)

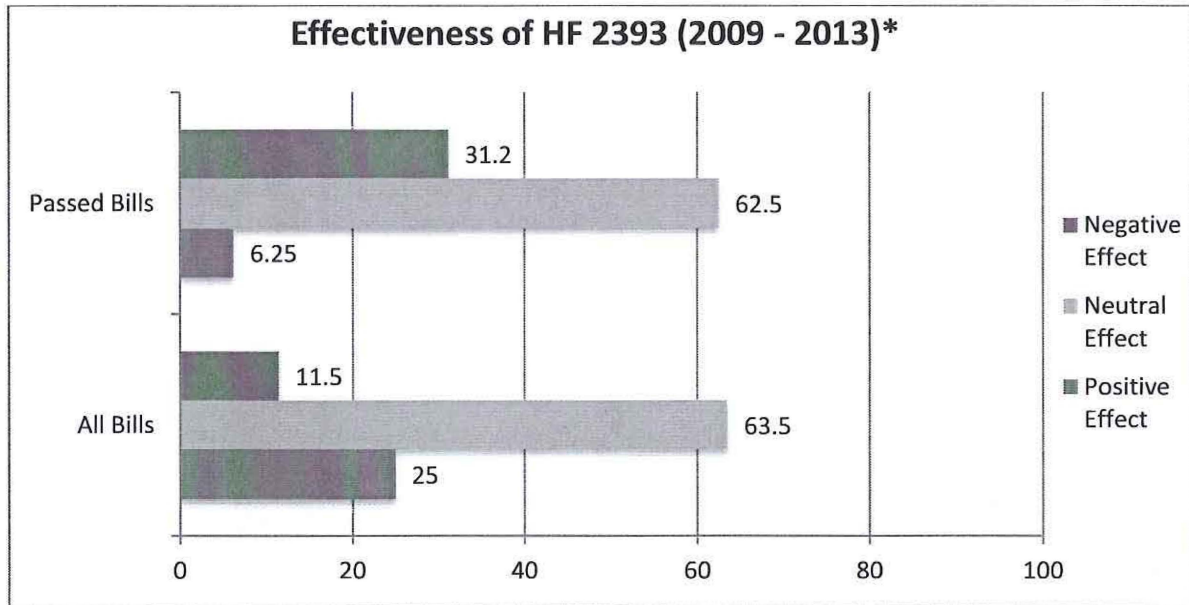
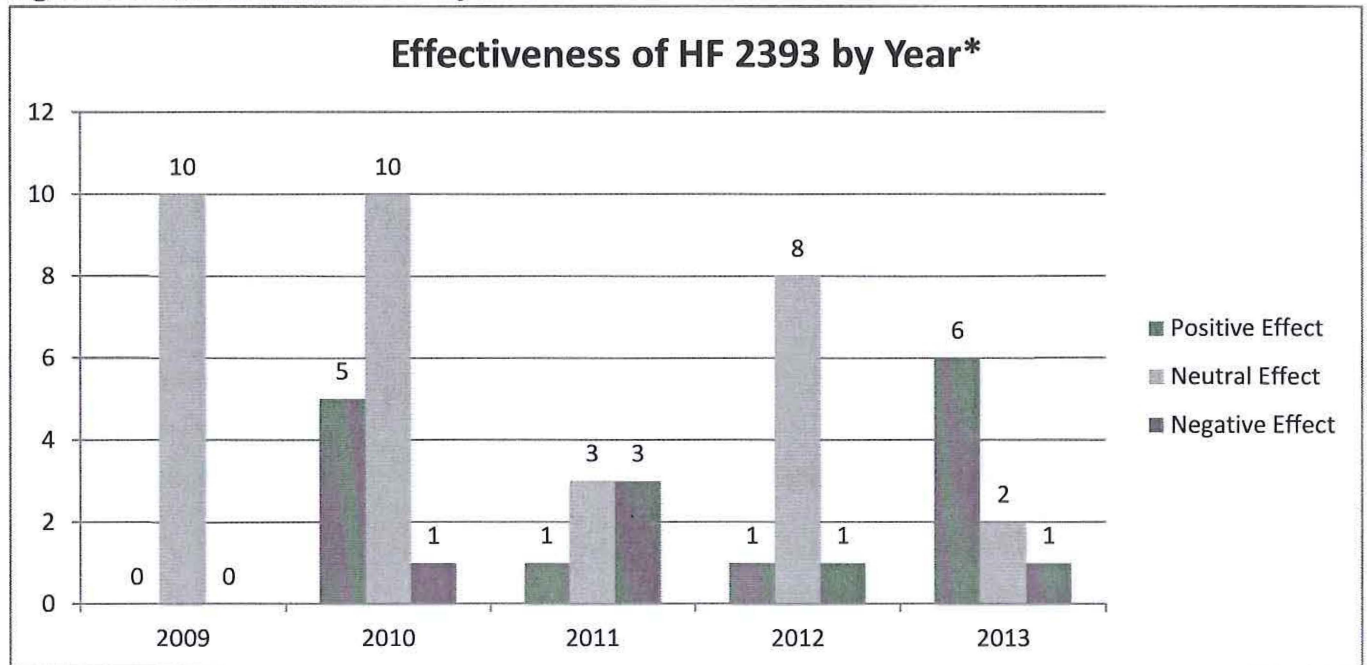


Figure 2: Effectiveness of HF2393 by Year



* of all bills (both passed and not passed)

The History and Accomplishments of the Iowa Minority Impact Statement

*Former Iowa State Legislator Wayne Ford**

Introduction

Being a former football player, I've always wanted to be number one, whether it was in high school, junior college or college, I very much liked the accolades that comes from being number one. In 1996 I became the tenth and only African American to serve as an Iowa State legislator. I like the accolades of being number one. But I do not like being number one living in a state that's rated number one in America for black incarceration.

In 2007, the nationally known Sentencing Project, based in Washington, DC did a research and report about black incarceration compared to white.¹ Iowa was rated number one in America and my hometown of Washington, DC was rated number two.² I understood why my hometown was rated number two, because of the high population who lived in Washington, D.C. But for the best of me, I could not understand why the state of Iowa was rated number one.

* I am originally from Washington, D.C. I received my AA from Rochester Community College in 1971. I received my BSE in 1974 from Drake University. In 2018, I received the Honorary PHD of Humane Letters, also from Drake University. I am the founder and Executive Director of Urban Dreams from 1985-2017. I was an Iowa State Legislator from 1996-2017 and am currently the principal of Wayne Ford and Associates. I have received numerous awards and honors the most recent being the Medal of Honor Award presented by the Daughters of the American Revolution. I would like to acknowledge all the individuals who have helped keep the racial and minority impact statement movement alive at the city council, county government, state government, federal government, international level. I would also like to thank the Journal of Gender, Race & Justice at the University of Iowa College of Law for providing an opportunity for non-traditional legal scholars, such as myself, to submit writing that will have a clear impact on the law. I lastly would like to thank Wayne Ford Equity Impact institute Intern/Statistical Assistant Jancy Nielson from Drake Law School for her work in collecting data on the minority impact statement attached as an appendix. If anyone would like to contact me regarding minority impact statement legislation, my contact information is waynewford@icloud.com.

¹ See *Generally* MARC MAUER & RYAN S. KING, *UNEVEN JUSTICE: STATE RATES OF INCARCERATION BY RACE AND ETHNICITY* (2007).

² *Id.* at 11.

As a Democratic State Representative from Des Moines, Iowa, that statistic bothered me greatly, and I wanted to do something about it. I called Marc Mauer, Executive Director of The Sentencing Project, and requested to meet with him because I did not believe his research. After meeting Mr. Mauer later he showed me his research and his documentation on why Iowa was number one. At that time I asked him the question, “what can I do about it?” He then told me about an idea regarding legislation that he had been thinking about that could be helpful to me in addressing the problem. In 2007, I asked Mr. Mauer to come to Iowa to meet with city, state, and local officials to help build upon the minority impact statement language that I believed I could put together and get the legislation passed. In 2008 I authored the Minority Impact Statement bill (House File 2393), which required impact statement attached to legislation affecting minorities whenever a law “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.”³ In addition,

House File 2393 required that any applicant for a state grant from a state of Iowa agency must include a minority impact statement that indicates if there will be any disproportionate or unique impact on minority persons in Iowa. If there is an impact, the applicant must explain the rationale for such an impact. In addition, they must disclose whether representatives of minority persons were consulted about the impact. The bill defines minority persons as women, persons with a disability, Blacks, Latinos, Asians or Pacific Islanders, American Indians, or Alaskan Native Americans.⁴

In 2008, the Iowa House and Senate passed the Minority Impact Statement legislation and Governor Chet Culver signed the bill making Iowa the first state in the nation to require a Minority Impact Statement.⁵ As an Iowa State Legislator, I have also watched millions of dollars allocated to grant recipients. Some of those grant requests were to benefit the minority community in Iowa. The above part of the legislation was an attempt to ensure that grantees were held accountable.

³ H.File 2393, 82nd Gen. Assemb., Reg. Sess. (Iowa 2008), <https://www.legis.iowa.gov/legislation/BillBook?ga=82&ba=HF%202393>.

⁴ *Minority Impact Statement Law Passes House*, IOWA HOUSE DEMOCRATS (Mar. 25, 2008) <https://iowahouse.org/minority-impact-statement-law-passes-house/>

⁵ H.File 2393, *supra* note 3; see Vesna Jaskic, *Iowa Passes Law Requiring Examination of Racial Impact of all New Sentencing Laws*, NAT. L.J. (Apr. 18, 2008), <https://www.law.com/almID/900005509140/>.

Since 2008, Connecticut, Oregon, New Jersey, and recently Maryland have implemented similar legislation, while the Minnesota Sentencing Guideline Commission (2007) and Florida (2014 and 2019) have added procedures but have not passed legislation.⁶ Since my retirement as State Legislator in 2010, there have been approximately 20 states that have attempted some form of this groundbreaking legislation.⁷ In recent legislative sessions, states such as Arizona, Oklahoma, Nebraska, Maine and Vermont have introduced Minority Impact Statement legislation.⁸ I have documented which states, and which states have not, have attempted to pass the historic minority impact statement language in the appendix of this article available on the Journal's website.⁹

What States Need to Ensure Implementation of Minority Impact Statements

I have been contacted by some of the aforementioned States for various reasons for regarding the implementation of the Minority Impact Statement. In order for states to accomplish what I did in Iowa, you need a legislator who is knowledgeable about the minority impact statement language and history. You need an engaged community nonprofit, similar to Urban Dreams, a nonprofit organization that I founded in 1985 and led until my retirement in 2017. You need a strong relationship with your community media outlets to be sure that information about various legislation is communicated to the everyday people. This builds community support as the common denominator that elevates the legislation.

Also from my observation, the major reason that the state of Iowa has and will continue to be a leader in the expansion of minority impact statements both in America and throughout the world, is because Iowa has a justice data warehouse system that allows us to access data throughout the Iowa Criminal Justice System, under the Iowa Department of Human Rights that

⁶ See CONN. GEN. STAT. § 2-24b (2018); N.J. REV. STAT. § 2C:48B-2 (2018); OR. REV. STAT. § 137.683 (2017); Madeleine O'Neill, Maryland Will Add Racial Impact Assessments to Key Pieces of Legislation, USA TODAY NETWORK (Feb. 1, 2021 1:24 PM), <https://www.delmarvanow.com/story/news/local/maryland/2021/02/01/maryland-add-racial-impact-assessments-key-pieces-legislation/4339303001/>; see also Jessica Erickson, Comment, *Racial Impact Statements: Considering the Consequences of Racial Disproportionalities in the Criminal Justice System*, 89 WASH. L. REV. 1425, 1445 (2014) (describing various state minority impact statements); Nicole D. Porter, *Racial Impact Statements*, SENTENCING PROJECT (Sep. 30, 2019), <https://www.sentencingproject.org/publications/racial-impact-statements/> (describing various state minority impact statements).

⁷ Porter, *supra* note 6.

⁸ *Id.*

⁹ See Appendix: State Minority Impact Research, *infra* pages 27–29.

substantiates the necessity of these legislative efforts.¹⁰ I would advise others to invest in a data mechanism that illustrates critically needed facts to make informed governing policies.

Model Legislation Recommendations

From my research, two publications stand out on the effective implementation of minority impact statements: Jessica Erickson's comment in the *Washington Law Review* from 2014¹¹ and recent recommendations by the National Juvenile Justice Network in October of 2020.¹² Erickson's comment strongly suggests that "effective racial impact statements should attach automatically to legislation, include more specific standards for data collection, and require legislators to take additional steps to address a predicated disproportionate impact."¹³ The National Juvenile Justice Network's recommendations are the following:

The case study of Iowa's minority impact statement legislation is an illuminating lesson for advocates. While no state has adopted a model minority/racial impact statement, implementation of each statute has highlighted important lessons for how to strengthen the efficacy of minority/racial impact statements. Advocates should consider the following lessons learned from Iowa, Connecticut, Oregon and New Jersey:

1. Require that the minority/racial impact statement cover both youth and adult justice related legislation. If possible, require that the legislation also cover regulations, as done in New Jersey and the state grant making process, as done in Iowa.
2. Ensure that all legislators have the power to request a statement on a youth or adult justice related bill if it does not have a statement.
3. Statements should be available to the public before public committee hearings begin.
4. The agency developing the statements should use standardized, defined categories (i.e. negative, positive, no impact) to ensure the statements are meaningful and consistent.

¹⁰ See *Criminal Justice Data*, IOWA DEP'T OF HUMAN RIGHTS, <https://human-rights.iowa.gov/cjpp/justice-data-warehouse/criminal-justice-data> (last visited Feb. 20, 2021).

¹¹ Erickson, *supra* note 6, at 1455–65.

¹² NAT'L JUVENILE JUSTICE NETWORK, THE PROMISE OF RACIAL IMPACT STATEMENTS: FINDINGS FROM A CASE STUDY OF MINORITY IMPACT STATEMENTS IN IOWA 16–17 (2020).

¹³ Erickson, *supra* note 6, at 1459.

5. Consider including race, ethnicity, disability, gender, and sexual orientation as potential identities to consider for the purposes of monitoring the impact of the youth and adult systems on particular populations.
6. Require that the statement includes an explanation of the methodology used to determine the impact. Oregon's law requires a "statement of the methodologies and assumptions used in preparing the estimate."
7. Require that the agency developing the statement provide a detailed and comprehensive analysis of the specific bill beyond the general census data on the state's general population versus its criminal justice population.
8. Require an annual report analysis of minority impact statements that includes how many were produced, how many were categorized as negative, positive, no impact, etc., and how many of each category were attached to bills that passed the legislature and were signed by the governor.
9. Provide language to include the opportunity to look retrospectively at the racial or minority impact of current law compared to proposed legislation.
10. Prohibit legislation with a negative impact from being passed or require such legislation to include a mechanism for reducing the racially disparate impact of the law.
11. Include an accountability and oversight mechanism in the statute.¹⁴

What's Been Done

Milwaukee County in Wisconsin was one of the first counties in America to adopt minority impact statement language in 2014.¹⁵ In June 2020, a file was introduced by Alderman Khalif J. Rainey to assess the positive and

¹⁴ NAT'L JUVENILE JUSTICE NETWORK, *supra* note 11, at 16–17.

¹⁵ Ald. Khalif Rainey, *Milwaukee County Board Passes Rainey's Resolution to Create Minority Impact Statements for County Contracts and Grants of \$300,000 or More*, URB. MILWAUKEE (Feb. 7, 2014, 12:02 PM), <https://urbanmilwaukee.com/pressrelease/milwaukee-county-board-passes-rainey-s-resolution-to-create-minority-impact-statements-for-county-contracts-and-grants-of-300000-or-more/>.

negative impacts of Common Council legislation on minority groups.¹⁶ “The legislation creates . . . safeguards to protect minority populations, who are often our most vulnerable, and helps establish more transparency in the legislative process.”¹⁷ Its implementation “will make Milwaukee a better and stronger community for everyone.”¹⁸ I advised Alderman Rainey on this initiative.

In a previous session, the four black Iowa lawmakers, Representatives Ras Smith, Ako Abdul-Samad, Ruth Ann Gaines and Phyllis Thede, tried to address various legislation by asking their colleagues to adopt “minority impact statements that would require hard data on how future bills would impact minorities on issues like economic opportunities, employment, educational opportunities and voter rights.”¹⁹ Their gesture garnered local, state and national attention. I am very excited about the continued evolution of the Iowa Minority Impact Statement legislation and I am also very excited to be involved with municipalities, county governments, state governments and the federal government as they engage in these discussions.

What I Will do Moving Forward

I continue to work very closely with The Sentencing Project, The Urban Institute, The National Juvenile Justice Network, and Drake University’s Legislative Practice Center. I’ve done webinars and led workshops on Capitol Hill with these national entities. There are two resolutions, one with the National Black Caucus of State Legislators and one with the NAACP that have been passed regarding minority impact statements.²⁰ With the Urban Institute, I am on the Advisory Board for the Prison Research and Innovation Initiative, which works “to infuse prisons with research, evidence, transparency, and innovation to promote the well-being of people who live and work there.”²¹

¹⁶ Ald. Khalif Rainey, *Council Approves Ordinance Requiring Equity Impact Statements*, URB. MILWAUKEE (July 28, 2020, 1:08 PM), <https://urbanmilwaukee.com/pressrelease/council-approves-ordinance-requiring-equity-impact-statements/>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Barbara Rodriguez, *No Reason We Can't Have More People Here': Iowa has Just 4 Lawmakers of Color at Capitol*, DES MOINES REG. (Apr. 22, 2019, 4:27 PM), <https://www.desmoinesregister.com/story/news/politics/2019/04/22/iowa-legislature-black-lawmakers-color-review-bills-minority-impact-statement-diversity-ras-smith/3447370002/>.

²⁰ NAT’L BLACK CAUCUS OF STATE LEGISLATORS, 2009 RATIFIED RESOLUTIONS 32–33 (2009); NAACP, ESTABLISHING A “CRIMINAL JUSTICE IMPACT STATEMENT” (2010).

²¹ *Prison Research and Innovation Initiative: Advisory Board*, URBAN INSTITUTE, <https://www.urban.org/features/prison-research-and-innovation-initiative/advisory-board>.

I am also building a nonprofit, The Wayne Ford Equity Impact Institute, based on the historic language that I authored.²² I have a group of nationally known advisory board members whose expertise will assist in making this dream a reality.²³ With equity at the forefront of current events, I have no doubt that this entity will perpetuate my efforts to make the world less colorblind. The Institute will be operational in 2021.

I will also be working with former Iowa Governor Chet Culver, who was the first Governor to sign the minority impact statement legislation, with the goal of increasing the minority impact statement legislation movement to local municipalities, county governments, state governments, and Federal legislation.

²² *Id.*

²³ *Id.*

Towards Racial Justice for Black Iowa 2021

Appendix: State Minority Impact Statement Research

State	Year(s) of Attempted Legislation	Legislator Contact
Alabama		
Alaska		
Arizona	SB 1710 - Introduced by Mendez - Referred to committees on Gov. and Rules 2020 Session SB 1363 held in comm. 2017 Session SB 1503 held in comm. 2014 Session SB 1417 held in comm.	Senator Juan Mendez (D) - Maricopa email: JMendez@azleg.gov phone: (602) 926-4124
Arkansas	2017 Session SB 237 died Sine Die adjournment 2015 Session SB 604 died Sine Die adjournment 2013 Session SB 1093 died Sine Die adjournment	Senator Joyce Elliott (D) email: Joyce.Elliott@senate.ar.gov phone: (501) 603-6546
California	No legislation, but the State Interagency Team researched and established an RIS tool for the state to use (PDF of the report in files)	
Colorado	Enacted HB 15-1183 in the 2019 Regular Session Language is "Demographic Notes" 2017 HB 17-1191 indefinitely Postponed in Senate Finance Committee	Rep. Leslie Herod (D) - Denver email: leslie.herod.house@state.co.us phone: (303) 866-2959 Rep. Yadira Caraveo (D) - Denver surrounding area email: yadira.caraveo.house@state.co.us phone: (303) 866-2918 Senator Angela Williams (D) - Denver email: angela.williams.senate@state.co.us phone: (303) 866-4654
Connecticut	Enacted SB 256 in the 2016 Regular Session 2017 SB 482 2008 HB 5916	Introduced by the Committee on Government Administration and Elections Co-Sponsors: Sen. Gary A. Winfield Sen. Kevin D. Wilkos Sen. Terry B. Gerritana Rep. Juan R. Cardelino 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. Logan Sen. Max Flierer
Delaware		
Florida	2019 Partnership with FSU 2017 SB 1188 died in Judiciary 2015 HB 1303 died in Gov. Dps. Subcomm. 2014 SB 336 and HB 217	Senator Randolph Bracy (D) - Orlando email: General_email_intake_form phone: (407) 297-2045
Georgia		
Hawaii		
Idaho		
Illinois	2020 HB 4428 died Sine Die 2019 HB 5194 died Sine Die 2018 HB 5877 died Sine Die 2017 SB 691 died Sine Die 2016 SB 576 died Sine Die 2015 SB 568 died Sine Die 2013 HB 3245 died Sine Die	2020 Session Sponsors: Rep. Camille Lilly (D) Oak Park email: statelredcamillililly@gmail.com phone: (217) 782-6400 AND (773) 473-7350 Rep. Elizabeth Hernandez (D) - Cicero email: repelhermendez@yahoo.com phone: (217) 782-8173 AND (708) 222-6240 2019 Session Sponsor: Rep. Linda Chapa LaVia (D) - Aurora email: RepChapaLaVia@gmail.com phone: (217) 658-1022 AND (630) 270-1846
Indiana	2011 H.C.S. 5025 Racial and Ethnic Impact Research Task Force Enacted	
Iowa	HF 478 - Introduced by Rep. Abdul-Samad and 26 D's - Referred to Appropriations Enacted HF 2333 - By Wayne Ford - Enacted in the 2008 Regular Session	*Rep. Aho Abdul-Samad (D) - Des Moines email: aho.abdul-samad@legis.iowa.gov phone: (515) 281-3221 Wayne Ford - Former State Representative (Contact Information Provided)
Kansas		

Kentucky	<p>SB 155 - Introduced and assigned to Committee on Committees (02/02/2021)</p> <p>2020 Session SB 97 died in committee (01/21/2020)</p> <p>2019 Session SB 45 died in committee (01/08/2019)</p>	<p>Sen. Gerald Neal (D) email: Gerald.Neal@rc.ky.gov home phone: (502) 776-1222 work phone: (502) 534-8500</p> <p>Sen. Reginald Thomas (D) email: Reginald.Thomas@rc.ky.gov phone: (502) 564-6100 ext. 608</p>
Louisiana		
Maine	<p>LEJ2 Introduced by Representative Rachel Talbot Ross – Committee voted with a Divided Report on 2/17/2021</p>	<p>Rep. Rachel Talbot Ross (D) - Portland email: Rachel.TalbotRoss@legis.maine.gov phone: (207) 653-3953</p> <p>Rep. Craig Hickman (D) - Windrop (not a co-sponsor, but supports the action) email: Craig.Hickman@legis.maine.gov phone: (207) 377-3216</p>
Maryland	<p>Enacted a Pilot Program in 2021 similar to that ran in Iowa and Maryland* 2019 HB 1016</p>	<p>Speaker of the House, Adrienne A. Jones (D) - Baltimore Co email: adrienne.jones@house.state.md.us phone: (410) 655-3590</p> <p>President of the Senate, Bill Ferguson (D) - Baltimore Cty. email: bill.ferguson@senate.state.md.us phone: (410) 841-3600</p> <p>Del. Jazz Lewis (D) - Prince George's Co. email: jazz.lewis@house.state.md.us phone: (410) 841-3691</p>
Massachusetts		
Michigan	2020 HB 6477	<p>Rep. David LaGrand (D) email: davidlagrand@house.mi.gov phone: (517) 373-2668</p>
Minnesota	<p>2020 SF 108</p> <p>2007 - Sentencing Guidelines Commission drafts "demographic statements" on legislation, not a formal law</p>	<p>Senator Scott Dibble (D) - Minneapolis email: General email form phone: (651) 296-4181</p> <p>Senator John Marly (D) - St. Paul email: General email form phone: (651) 296-5645</p> <p>Senator Bobby Joe Champion (D) - Minneapolis email: sen.bobby.champion@senate.mn phone: (651) 296-9246</p> <p>Senator Kari Dziedzic (D) - Minneapolis email: General email form phone: (651) 296-7809</p>
Mississippi	<p>HR 11 Introduced by Kaniem – Referred to Rules 1/18/2021</p> <p>2020 HR 22, HR 23 (died in committee)</p> <p>2019 HCR 51, HR 11 (died in committee)</p> <p>2018 HR 7 (died in committee)</p>	<p>Rep. Kabir Kaniem (D) - Lowndes email: kaniem@house.ms.gov capitol phone: (601) 359-3339 work phone: (662) 326-3063</p>
Missouri	2009 HB 309 died in committee	<p>Former State Senator Jamiah Hasheed (D) - St. Louis New contact information not available</p>
Montana		
Nebraska	<p>LEJ32 Introduced by Vargas, Cavanaugh, and McKinney – Committee Hearing 03/01/2021</p> <p>2019 LR 217</p> <p>2018 LR 458</p>	<p>Senator Tony Vargas (D) - Omaha email: tvargas@leg.ne.gov phone: (402) 471-2721</p> <p>Senator Mackenzie Cavanaugh (D) - Omaha email: mcavanaugh@leg.ne.gov phone: (402) 471-2714</p> <p>Senator Terrell McKinney (D) - Omaha email: tmckinray@leg.ne.gov phone: (402) 471-2612</p> <p>Senator Matt Hansen (D) - Lincoln email: mhansen@leg.ne.gov phone: (402) 471-2610</p>
Nevada		
New Hampshire		
New Jersey	S 672 introduced in the 2016 Session and Enacted in 2018	<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) 234-2780</p> <p>Assemblyman Jamel Holley (D) email: general email intake form phone: (908) 327-9119 AND (908) 624-0860</p> <p>Assemblywoman Cleopatra Tucker (D) email: general email intake form phone: (973) 826-4300</p> <p>Assemblywoman Shavonda Sumter (D) email: general email intake form phone: (973) 825-7063</p> <p>Assemblywoman Azaretha Oujano (D) email: general email intake form phone: (908) 327-9119 AND (908) 327-9119</p>
New Mexico	<p>SE 81 Introduced by Senator O'Neill and Rep. Stapleton - Passed Senate Finance Committee on 2/1</p> <p>AND</p> <p>SE 25 Introduced by Senator Soules - Passed Senate Finance Committee on 2/10</p> <p>2007 HJM 31 - Postponed indefinitely out of committee</p>	<p>Senator Bill O'Neill (D) - Bernalillo County email: oneillb13@billoneillform.com phone: (505) 456-5263</p> <p>Rep. Sharyl Stapleton (D) - Bernalillo County email: sharyl.stapleton@nvlegis.gov phone: (505) 265-6089</p> <p>Senator William Soules (D) - Dona Ana County email: bill.soules@nvlegis.gov phone: (575) 640-0408</p>

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New York	<p>A 4368 - Introduced by Assemblywoman Walker - Referred to Government Operations</p> <p>S 4765 - Introduced by Senator Parker - Referred to Investigations and Government Operations Committee</p> <p>2020 S4348 - Introduced by Senator Parker - died in Investigations and Government Operations Committee</p> <p>A3422 Companion Bill to S4348</p> <p>2020 S4388 - Racial and Ethnic Equity Act</p> <p>2017 S8703; A10949; S5921</p>	<p>Senator Kevin Parker (D) - Introduced 2021 and 2020 bills email: parker@nystate.gov phone: (718) 629-6451 and (518) 455-2580</p> <p>Assemblywoman Latrius Walker (D) - Introduced 2021 bill email: Walker@nyassembly.gov phone: (518) 455-4466 and (718) 342-1256</p> <p>Senator Luis Sepulveda (D) - Introduced 2017 bill email: sepulveda@nystate.gov phone: (518) 455-2511 and (718) 991-3161 Legislative Director email: Anthony@nystate.gov Director of Operations email: royce@nystate.gov</p>
North Carolina		
North Dakota		
Ohio		
Oklahoma	<p>SE 309 Introduced by Young, Final reading on 2/1/2021</p> <p>2020 SB 1184 (Died in Rules Committee)</p> <p>2019 SB 253 (Died in Rules Committee)</p>	<p>Senator George Young (D) - Oklahoma City email: GGeorge.Young@oksenate.gov phone: (405) 521-5531</p> <p>Rep. Emily Virgin (D) - Norman (Southern suburb of OKC) email: General email capture form on Ellis page phone: (405) 557-7323</p>
Oregon	<p>SB 465 Enacted in the 2013 Regular Session</p>	<p>Rep. Joe Gallegos (D) - OUT OF OFFICE</p> <p>Senator Chip Shields (D) - OUT OF OFFICE</p> <p>***Senator Lew Frederick (D) - Portland (Succeeded Sen. Shields and was an original co-sponsor on the bill) email: Sen.LewFrederick@oregonlegislature.gov phone: (503) 986-1722</p>
Pennsylvania	<p>SB 73 - Introduced by Senator Hughes - Referred to State Government</p> <p>2020 SB 1197 - Died in State Government</p> <p>2017 SB 206 - Died in Judiciary</p> <p>2015 SB 424 - Died in Judiciary</p>	<p>Senator Vincent Hughes (D) email: hughes@psenate.com phone: (215) 879-7777 and (717) 787-7112</p>
Rhode Island		
South Carolina		
South Dakota		
Tennessee		
Washington	<p>HB 1264 - Introduced by Rep. Thai - Referred to Appropriations</p> <p>SB 5274 - Introduced by Senator Hasegawa - Referred to State Government & Elections</p> <p>2017 SB 5588 died in</p> <p>2016 HB 2376 Section 125 within Budget Bill has impact statement language (PDF in files)</p> <p>2016 HB 2076 died in State Government</p> <p>2015 SB 5752 died in Government Operations & Security</p>	<p>Rep. My-Linh Thai (D) email: my-linh.thai@leg.wa.gov phone: (206) 333-4107</p> <p>Rep. Gerry Pollat email: gerry.pollat@leg.wa.gov phone: (206) 307-0409</p> <p>Senator Bob Hasegawa (D) email: bob.hasegawa@leg.wa.gov phone: (360) 786-7616</p> <p>Senator Jeannie Darnelle (D) email: j.darnelle@leg.wa.gov phone: (360) 786-7652</p>
West Virginia		
Wisconsin	<p>2017 SB 151 - died in committee</p> <p>2013-2014 AB 752</p> <p>2-13-2014 SB 538</p>	<p>Senator Tim Carpenter (D) - Milwaukee email: Sen.Carpenter@legis.wisconsin.gov phone: (608) 266-6535</p> <p>Former Senator Nikiya Harris Dodd - No Contact Found</p> <p>Former Senator Sandy Pasch - No Contact Found</p>
Wyoming		
2021 Legislation		
2015-2020 Legislation		
2010-2014 Legislation		
2005-2009 Legislation		
No Proposed Legislation		



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THE PROMISE OF RACIAL IMPACT STATEMENTS:

FINDINGS FROM A CASE STUDY OF MINORITY
IMPACT STATEMENTS IN IOWA

NATIONAL
JUVENILE JUSTICE
NETWORK

Report

**THE PROMISE OF RACIAL IMPACT
STATEMENTS: FINDINGS FROM A CASE
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STATEMENTS IN IOWA**

2020

Acknowledgements

The research study of Iowa's Minority Impact Statements was conducted by the Community Empowerment Law Project at The University of Iowa College of Law Legal Clinic by original report authors Tristan Gahn, Bryan Porter, and Anthony Dopp.

Note that this report is deeply informed by the writings of Tristan Gahn, Bryan Porter, and Anthony Dopp, with edits from Nanyamka Shakura and Jeree Thomas of NJJN's Racial Justice Working Group, NJJN Staff, and NJJN 2020 Summer Interns.

About Community Empowerment Law Project (CELP), The University of Iowa College of Law Legal Clinic:

The CELP, through the representation of nonprofit organizations and other entities, works to strengthen communities, create economic opportunity, and advance social justice in the State of Iowa. We aim to help clients and communities amplify their voices, increase their impact, build strategic alliances, and to engage lawyers as collaborative partners and fellow problem-solvers. The CELP undertakes matters ranging from entity formation and strategic planning to coalition building and the design of advocacy plans.

About National Juvenile Justice Network (NJJN):

The National Juvenile Justice Network leads a membership community of 60 state-based organizations and numerous individuals across 42 states and D.C. We all seek to shrink our youth justice systems and transform the remainder into systems that treat youth and families with dignity and humanity. Our work is premised on the fundamental understanding that our youth justice systems are inextricably bound with the systemic and structural racism that defines our society; as such we seek to change policy and practice through an anti-racist lens by building power with those who are most negatively affected by our justice systems, including young people, their families and all people of color. We also recognize that other vulnerable populations - including LGBTQIA+, those with disabilities and mental illness, girls and immigrants - are disparately and negatively impacted by our justice systems, and thus we also seek to center their concerns in our policy change work. For more information, visit www.njjn.org.

Please note the terms minority impact statement and racial impact statement have been used interchangeably in this report. As noted in the background section, Iowa uses the term minority impact statements due to its efforts to address multiple populations impacted negatively by legislation.

October 2020 by the National Juvenile Justice Network.

Forward

Dear Reader,

We find ourselves in the midst of an important reckoning in our country.

The violent legacy of racial oppression has caught up to us, and a resistance movement led in large part by young people demanding the dismantling of white supremacy in the United States has emerged. Those of us dedicated to transforming our country's treatment of young people who interact with the law welcome this as a moment to get serious about the racial inequities that lead to youth of color being disproportionately profiled, over policed, more harshly punished and left with a lasting legacy of racial trauma.

Undoing centuries of institutionalized harm requires us to refocus the lens with which we view policy decisions and how they impact communities of color. The following report examines racial or minority impact statements, which have emerged as a potential legislative tool for our collective reimagining of the policy process.

But do they work?

What follows is a first step of answering that question. Through a case study of Iowa's implementation of minority impact statements, we present the history, context and lessons learned about the efficacy of these legislative tools. In subsequent brain trusts and convenings, we hope to delve deeper into the reasons why advocates may or may not choose to push for the use of racial impact statements in their states, and what that could mean for the future of youth justice more specifically.

Ultimately, our vision is clear: the stronghold of white supremacy in our legal systems must be eradicated. Together, we must create the most effective means to that end.

In Solidarity,

K. Ricky Watson, Jr.
Executive Director, National Juvenile Justice Network

Executive Summary

Overview of Racial Impact Statement Legislation

The most pernicious and destructive force distorting America’s criminal legal system is racism and, as a result, the persistent racial disparities at each contact point from arrest to incarceration. Our nation’s policing and legal systems are rooted in white supremacy with the express goal of suppressing communities of color. In America, Black people are a little over thirteen percent of the U.S. population, but thirty-three percent of the prison population.¹ The youth justice system faces a similar, but more acute trend. Black youth are fourteen percent of the population, but forty-two percent of the youth detained in youth detention centers and youth prisons.² Nationally, advocates, legislators, and system stakeholders continue to grapple with what tools could effectively address this disparity given its deep historical, cultural, and legislative roots.

The National Juvenile Justice Network (NJJN) is committed to racial justice and the dismantling of systems that entangle youth. In addition to providing members with anti-racist tools and resources to put an end to youth incarceration, NJJN also provides information to expose and organize against the overrepresentation of youth of color in both the youth and adult systems. NJJN formed the Racial Justice Working Group in 2016, which was tasked with researching tangible policy solutions that reduce disparities in the youth justice system. In 2019, the Racial Justice Working Group began exploring racial impact statements as a potential advocacy tool in ending racial disparities.

The first racial impact statement legislation in the country passed in Iowa. The legislation was actually a *minority impact* statement that not only analyzed the impact of proposed legislation by race, but also its impact on women and people with disabilities. In the fall of 2019, the Racial Justice Working Group partnered with the Community Empowerment Law Project of the University of Iowa College of Law (CELP) to learn about the effort to pass the minority impact legislation, the methodology of creating minority impact statements, how the effort to implement the statements has been sustained over the years, and whether Iowa’s minority impact statement requirement led to reductions in racial disparities over the last decade.

Since the passage of Iowa’s statute in 2008, Connecticut³, Oregon⁴, and most recently New Jersey⁵ have followed Iowa’s example by passing a version of the minority impact statement that is more specifically focused on racial and ethnic disparities. Several states, including Oklahoma, New York, Illinois,

¹ “U.S. Census Bureau Quick Facts: United States,” U.S. Census Bureau, accessed July 1, 2020, <https://www.census.gov/quickfacts/fact/table/US/PST045219>; Jennifer Bronson and E. Ann Carson, “Prisoners in 2017,” *Bureau of Justice Statistics*, April 2019, <https://www.bjs.gov/content/pub/pdf/p17.pdf>.

² C. Puzzanchera, A. Sladky, and W. Kang, “Easy Access to Juvenile Populations: 1990-2018,” updated July 15, 2019; M. Sickmund, A. Sladky, and W. Kang, W, “Easy Access to Juvenile Court Statistics: 1985-2017,” updated March 31, 2020.

³ Conn. Gen. Stat. § 2-24b (2018).

⁴ Or. Rev. Stat. § 137.683 (2019).

⁵ N.J. Rev. Stat. § 2C:48B-2 (2017).

Maryland, Kentucky, Vermont, Mississippi, and Minnesota have introduced minority impact statement legislation over the years.⁶

For this research collaboration, CELP researchers reviewed every minority impact statement published by the Iowa Fiscal Services Division between 2009 and 2019, asking critical questions about how they were completed and how they informed legislative decision making and public opinion. As a result, the findings from this research are broadly applicable to states considering the passage or implementation of legislation to create mechanisms to assess the racial impact of new or amended criminal laws. Iowa's law serves as a critical case study of both the opportunities and challenges associated with the passage and implementation of targeted anti-racist policies like minority impact statements.

Key Takeaways:

- 1. To fully inform legislators and the electorate on the effect of legislation, it is imperative that minority/racial impact statements are 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.**
- 2. To actualize their promise, minority/racial impact statements should consistently provide a thorough and comprehensive analysis of the impact of justice system legislation using a standardized process and methodology. A generic and brief analysis is insufficient to guide legislative decision making.**
- 3. Minority/Racial impact statements are meant to inform legislators of the effects of bills on communities of color or other marginalized communities so that they can take steps to avoid increasing disparities. In order to enhance their effectiveness, legislation should prohibit the passage of bills with a negative impact statement - one that indicates a bill will increase racial, ethnic, gender, or disability disparities.**

If fully implemented as intended, minority/racial impact statements can be a critical tool for addressing racial disparities in America's criminal and juvenile systems. Research conducted on Iowa's implementation illuminates the importance of holding agencies and legislators accountable for effective and full implementation to secure the desired effect. It also highlights the value of data to forecast the impact of legislation on communities of color while simultaneously illuminating that data alone is not enough. Racial impact statements are not a panacea but a tool for legislators, advocates, and agencies to ensure their decisions help and do not harm communities of color. Finally, this research also elevates a list of components that we hope will inform future legislation to realize the full potential of racial impact statements.

⁶ The Sentencing Project, "State Advocacy News: Expanding Racial Impact Statements," March 1, 2019, <https://www.sentencingproject.org/news/7002/>.

Iowa's Minority Impact Statement Legislation

In 2007, Marc Mauer and Ryan King released *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, which identified Iowa as the state with the highest ratio of Black-to-white incarceration in the nation—13.6 to 1.⁷ Despite the fact that according to Census data, Iowa's Black population hovered between two percent⁸ and four percent⁹ from 2000 to 2019.

The report's findings were deeply troubling to Representative Wayne Ford, only the tenth Black legislator in the state's history and the longest-serving Black legislator in the state.¹⁰ Spurred to action by the devastating data, Representative Ford worked with Marc Mauer to draft legislation with the purpose of requiring legislators and the Governor to confront disparities in the criminal legal system. Representative Ford made the strategic decision to include an analysis of gender and disability disparities in addition to race in the bill in order to address these disparities as well as to garner a larger and more diverse base of supporters.

Bill HF 2393, known as the "Minority Impact Statement" bill, applied to any bill, joint resolution, or amendment that would create a new public offense, change an existing offense, or change a penalty related to sentencing, probation, or parole. The bill required that prior to a debate on an Iowa legislative chamber floor there would be a statement issued assessing the legislation's impact on people of color, women, and people with disabilities.¹¹

The "Minority Impact Statement" bill passed the House unanimously and passed the Senate with only two opposing votes.¹² With the passage of the bill, Iowa became the first state in the country to require the consideration of race, gender, and disability when considering criminal justice legislation.

CELP researchers undertook a study of the effect of the minority impact statement statute on legislators, advocates, and the public, and the effectiveness of the minority impact statement statute in reducing disparities in Iowa, with a focus on racial disparities. With respect to minority impact statements' effect on legislators, researchers calculated a bill's passage rate as it related to the determination of the bill's impact on minorities in the statement (Chart 2 below). To better understand if the public and lobbying/advocacy organizations were influenced by minority impact statements, the researchers

⁷ In 2005, the state of Iowa had 4,200 Black people incarcerated per 100,000. In contrast, only 309 white people were incarcerated per 100,000. Marc Mauer & Ryan S. King, *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, The Sentencing Project (Washington, DC: July 1, 2007): 10, available at <https://www.sentencingproject.org/publications/uneven-justice-state-rates-of-incarceration-by-race-and-et>.

⁸ Population of Iowa: Census 2010 and 2000 Interactive Map, Demographics, Statistics, Quick Facts, Census Viewer <http://censusviewer.com/state/IA>.

⁹ Census Quick Facts, Iowa; United States

<https://www.census.gov/quickfacts/fact/table/IA,US/PST120218#PST120218>.

¹⁰ Iowa House Democrats, "Member Profile: Wayne Ford" (February 27, 2009), <https://iowahouse.org/member-profile-wayne-ford/>

¹¹ HF 2393, 2008 Leg. Sess. (Iowa 2008),

<https://www.legis.iowa.gov/legislation/BillBook?ga=82&ba=HF%202393>.

¹² Bill History for HF 2393,

<https://www.legis.iowa.gov/legislation/billTracking/billHistory?billName=HF%202393&ga=82>.

compared the statements and positions of lobbying and advocacy organizations on bills to the determination of the bill's impact on minorities in the statement. Lastly, in an effort to better understand whether minority impact statements had an effect on disparities in incarceration, researchers compared predicted and actual sentencing data for specific statutes, including Iowa's Robbery III statute. Their research guides the recommended steps towards effective implementation of racial impact statements outlined in the next section.

How Iowa's Minority Impact Statements Function

Iowa's Minority Impact Statement statute took effect on July 1, 2008.¹³ The legislation charged the Fiscal Services Division of the Legislative Services Agency (LSA), a non-partisan government agency that develops fiscal impact statements, with developing minority impact statements.¹⁴

To develop minority impact statements, the LSA works in cooperation with the Division of Criminal and Juvenile Justice Planning, the main entity that collects juvenile and criminal justice related data,¹⁵ and incorporates the findings as part of a bill's fiscal note.¹⁶ The LSA publishes approximately 170 fiscal notes per year¹⁷ and publishes an annual memo entitled "Minority Impact Statement," which restates general census data, at the beginning of each fiscal year.¹⁸

The minority impact statements, according to the statute, are required to be attached to any new piece of legislation that either implements or alters parole, sentencing, or criminal law prior to a bill's floor debate.¹⁹ As a practical matter, given time and staff restraints, statements are drafted only after a bill moves out of committee and before floor debate.²⁰ However, Iowa legislators may request the statement at any point during the legislative process.²¹ Generally, lobbyists and the general public do not have access to the statement until the bill has passed either the House or Senate Chamber -- after they have had to express support or opposition to a given bill.²²

¹³ The Act took effect July 1, 2008, but did not apply to grants for which applications were due until January 1, 2009. HF 2393, <https://www.legis.iowa.gov/legislation/BillBook?ga=82&ba=HF%202393>.

¹⁴ The Iowa Legislature, "Fiscal Services," <https://www.legis.iowa.gov/agencies/nonpartisan/lisa/fiscalServices>.

¹⁵ Iowa Code Ann. § 2.56 (2019).

¹⁶ Legislative Services Agency Staff. Interviewed by Authors.

¹⁷ Legislative Services Agency Staff. Interviewed by Authors.

¹⁸ Holly Lyons, Minority Impact Statement Memo, July 15, 2020, Legislative Services Agency, <https://www.legis.iowa.gov/docs/publications/CIMI/1074340.pdf>

¹⁹ Iowa Code Ann. §2.56 (2019).

²⁰ Legislative Services Agency Staff. Interviewed by Authors.

²¹ Mary Lynn Wolfe. Interviewed by Authors. Clinton, Iowa. November 24, 2019.

²² Daniel Zeno. Interviewed by Authors. Des Moines, Iowa. October 16, 2019.

CELP'S Study of Minority Impact Statements

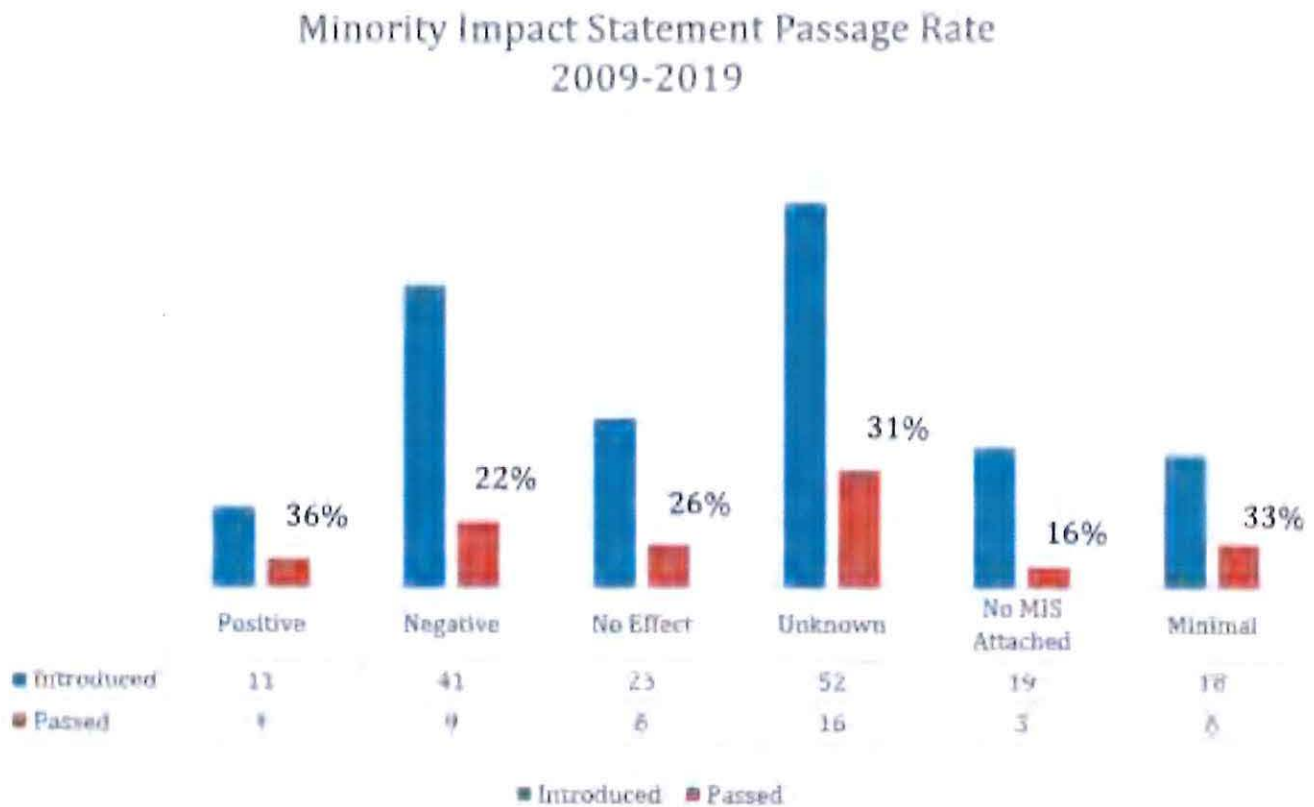
To understand the effect of minority impact statements, CELP researchers reviewed every minority impact statement published by the Fiscal Services Division between 2009 and 2019, identifying 176 criminal justice related bills that reached one of the chamber floors. Once identified, CELP reviewed the written justification for each impact and categorized the bills as positive, negative, no effect, unknown effect, minimal effect, or no minority impact statement attached. (See Chart 1 below for full breakdown.) Also see the appendix for real examples of each minority impact statement reviewed.

Chart 1. Bills Disaggregated by Impact Category

Category	Description of Category	Number of Relevant Bills Introduced from 2009-2019
Negative	The LSA deemed the bill would have a disproportionate impact on minorities and could increase the number of minorities in jails and prisons or result in longer sentences for minorities.	41
Unknown Effect	The LSA stated that the minority impact of a bill "could not be determined."	52
No Minority Impact Statement Attached	The LSA did not attach any statement to a criminal justice bill, even though the subject qualified for a minority impact statement.	19
Minimal	The LSA determined that the bill in question would have a "minimal" impact.	18
No Effect	The LSA determined that the bill in question would have no minority impact.	23
Positive	The LSA concluded that the bill would reduce the number of minorities in prison and/or result in shorter sentences for minorities.	11

In addition to categorizing legislation by its effect, researchers analyzed minority impact statements to assess their influence on legislators and the public. First, to determine minority impact statements' effect on legislators, researchers calculated a bill's passage rate as it related to the minority impact statement's impact category. (Chart 2 below). Secondly, to understand minority impact statements' influence on the public, researchers reviewed declarations made by lobbying and advocacy organizations. Lastly, CELP researchers analyzed sentencing data and changes to Iowa's robbery III statute to understand minority impact statements' effect on incarceration disparities. Their research guides the recommended steps towards effective implementation of racial impact statements outlined in the next section.

Chart 2. Minority Impact Statement Passage Rate, 2009-2019



Key Takeaways from Iowa on Minority Impact Statements

- 1. To fully inform legislators and the electorate on the effect of legislation, minority/racial 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.**

In Iowa, after a bill is drafted and introduced, the bill is referred to a standing committee where the bill will be assigned to a subcommittee responsible for reviewing the legislation and reporting its recommendations. During subcommittee meetings, public hearings are held where lobbyists, organizations, and members of the public can advocate for or against a bill. However, under Iowa's current legislative process, a minority impact statement is only assigned prior to a floor vote, well after bills are referred to committees.²³ As a result, the public's opinion on legislation during these critical public hearings are not informed by minority impact statements.

Since minority impact statements are made public later in the legislative process there is limited information on how they affect the public's response to these statements. However, the information available indicates that some organizations will not change their opinion or response to a bill based on the bill having a negative minority impact. For example, the Iowa Peace Officers Association, a coalition of retired and employed peace officers across the state, meets annually with other public safety associations to discuss legislation.²⁴ In the Iowa Peace Officers Association's resolutions of 2017, 2018, and 2019, the organization stated that it "opposes the legalization of marijuana and its derivatives for any purpose."²⁵ In 2017, the Iowa legislature passed a bill reforming the penalty for marijuana possession and this bill had a positive minority impact statement, indicating the legislation would benefit communities of color.²⁶ Nonetheless, the Iowa Peace Officers Association declared against the bill and passed resolutions against it every year after, despite its positive effects on improving disproportionate incarceration rates.²⁷

If minority impact statements were available earlier in the legislative process, the public could utilize the statement to hold legislators accountable, organize communities to promote or prevent the passage of legislation, and advocate for or against the legislation based on its impact. As the law is currently implemented, those advocacy strategies are unavailable to advocates, activists, and concerned citizens. By making minority impact statements available sooner in the legislative process, the public would have a meaningful opportunity to discuss and question their legislators about their position on the bill.

²³ Legislative Services Agency Staff. Interviewed by Authors.

²⁴ See Iowa Peace Officers Association, "President's Message" (2019), <http://www.iowapeaceofficers.org/home.html>.

²⁵ Iowa Peace Officers Association, "IPOA 2019 Resolutions," <http://www.iowapeaceofficers.org/2019legislative-reports.html>.

²⁶ S.F. 432 Minority Impact Statement, <https://www.legis.iowa.gov/docs/publications/FN/855463.pdf>.

²⁷ See S.F. 432, 87 Gen. Assemb. (2017), "Marijuana Possession Penalty," Lobbyist Declarations, <https://www.legis.iowa.gov/lobbyist-reports/declarations?ga=87&ba=SF432>.

2. To actualize their promise, minority/racial impact statements should consistently provide a thorough and comprehensive analysis of the impact of justice system legislation using a standardized process and methodology. A generic and brief analysis is insufficient to guide legislative decision making.

As written, Iowa’s Minority Impact Statement statute mandates that the LSA analyze the impact a bill will have on all minorities. The LSA does not have a standardized method for analyzing or categorizing the impact of legislation. The bill categorizations that LSA used included negative effect, no effect, positive effect, minimal effect, and unknown effect, but nowhere are these terms defined.²⁸ Additionally, from 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.²⁹ In order for these statements to be effective, they must be thorough and comprehensive, rather than simply conclusory statements.

CELP’s analysis also found that the LSA almost exclusively analyzed a bill’s impact on Black Iowans and does not include a bill’s impact on women, people with disabilities, or other people of color.³⁰ Furthermore, in recent years, there has been a dramatic spike in the number of bills classified as having an “unknown impact” by the LSA (see Chart 3). Over the past ten years, there have been fifty-two bills with “unknown” impact on minority communities (see Chart 1). Thirty-one of the fifty-two unknown impact statements – more than sixty percent – have been published within the past two years (see Chart 1).

Every year, the LSA develops a census memo titled “Minority Impact Statement” that they provide to both chambers at the beginning of each legislative session.³¹ The LSA believes that in referencing the census memo in their analysis, and not actually showing their analysis in the fiscal note, they can make the statements shorter.³² In many of the minority impact statements with an “unknown” impact, the LSA directs legislators to review their annual census memo,³³ which restates statistics about Iowa’s demographics in both its general population and prison population.³⁴ The memo is generic – it does not contain any bill-specific information and legislators are under no obligation to review the memo, which is provided to legislators once each year. The memo is not attached to a bill’s minority impact statement but can be accessed by legislators online or upon request.

As a result of the increase in bills with “unknown” impacts and bills without any minority impact statement, legislators are making decisions about legislation even though they lack critical information on

²⁸ The CELP researchers also identified criminal justice legislation that merited a minority impact statement but did not have one attached.

²⁹ It is notable that the minority impact statements were the most detailed in 2009 when former Representative Wayne Ford was still serving in the legislature.

³⁰ Legislative Services Agency Staff. Interviewed by Authors.

³¹ Holly Lyons, Minority Impact Statement Memo, January 15, 2020, Legislative Services Agency, <https://www.legis.iowa.gov/docs/publications/CIMI/1074340.pdf>.

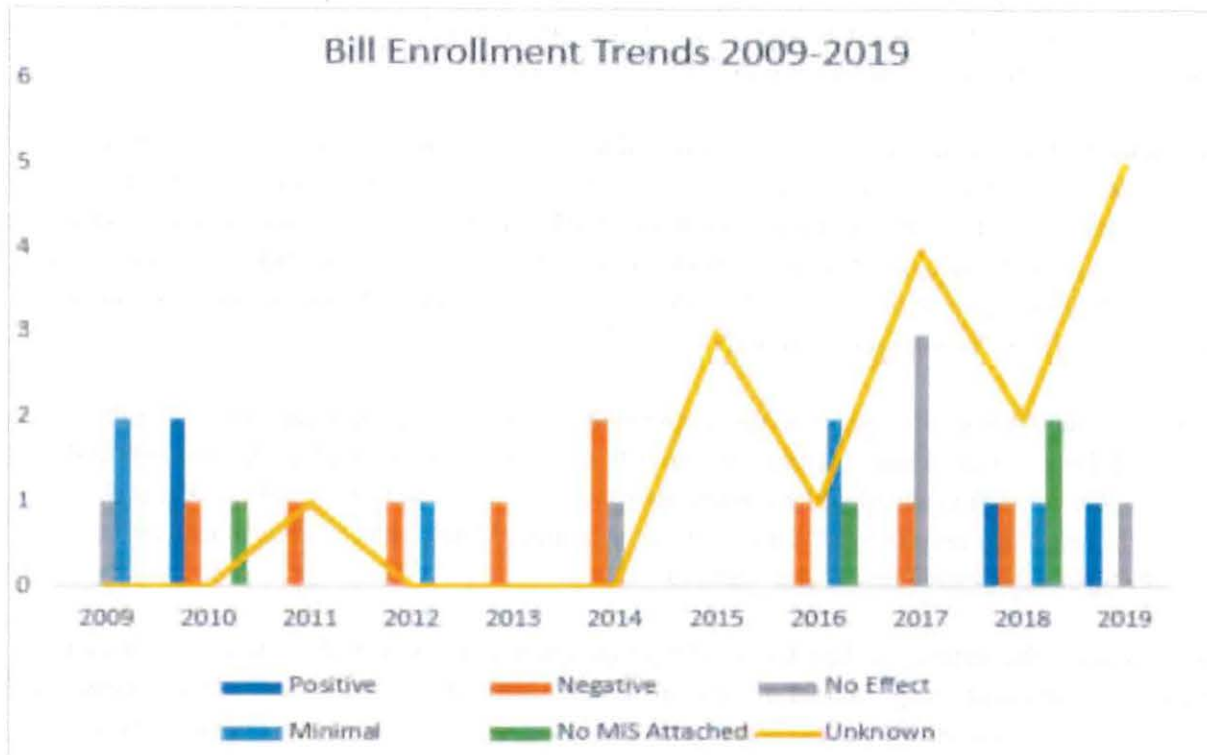
³² Legislative Services Agency Staff. Interviewed by Authors.

³³ E.g., Iowa Legislature, SF 275 Fiscal Note (April 22, 2019), <https://www.legis.iowa.gov/docs/publications/FN/1045027.pdf>.

³⁴ Holly Lyons, Minority Impact Statement Memo, January 15, 2020, Legislative Services Agency, <https://www.legis.iowa.gov/docs/publications/CIMI/1074340.pdf>.

a criminal bill’s potential impact on minority communities, completely undermining the intent of the law. Consequently, we believe a standardized process of categorizing impacts should be established, as well as a standard methodology for calculating impact.

Chart 3. Bill Enrollment Trends 2009-2019



- Minority/Racial impact statements are meant to inform legislators of the effects of bills on communities of color or other marginalized communities so that they can take steps to avoid increasing disparities. In order to enhance their effectiveness, legislation should prohibit the passage of bills with a negative impact statement - one that indicates a bill will increase racial, ethnic, gender, or disability disparities.**

In isolation, minority/racial impact statements do not determine the enrollment of positive, equitably implemented legislation. To be effective, minority/racial impact statements should be utilized to prohibit bills with negative impacts that increase disparities. Simultaneously, these statements should be used to guide the passage of bills with positive impacts, ensuring that these bills are implemented equitably and with fidelity.

Minority impact statements are not a decisive factor for many Iowa legislators in part because there is insufficient information or analysis for them to be used effectively. According to CELP’s research, bills have similar passage rates of between twenty-two and thirty-six percent regardless of the minority impact statement’s impact category (see Chart 2), although the expectation is that bills with a negative minority impact statement will have a very low passage rate and bills with a positive minority impact statement will have a much higher passage rate.

Nonetheless, data on disparities in Iowa has shown a slight decrease from a Black-to-white ratio of incarceration of 13.6 to 1 in 2007³⁵ to 11 to 1 in 2016.³⁶ While the drop in disparities can’t be directly attributed to the passage of minority impact statement legislation, it underscores minority impact statements as a tool to help educate decision makers about disparities.

It is also notable that even when a law has the potential to create a positive impact or to reduce harm for minority communities, the actual implementation of the law is just as important. For example, CELP conducted an analysis of a 2010 bill that created Robbery III as a class D felony, which is a non-forcible felony that is not subject to a mandatory minimum prison sentence.³⁷ Sentencing could be less stringent than a Class A, B or C felony, and, according to the minority impact statement, the bill could result in “a significant decrease in the confinement of minorities.”³⁸

Unfortunately, the analysis of implementation of the robbery law suggests otherwise. Even after the creation of Robbery III as a class D felony, the conviction rate of Black Iowans for robbery continued to increase, yet the conviction rate of white Iowans decreased over the same time period (see Chart 4). Black Iowans continued to be convicted under the more punitive Class B and C felonies with no convictions under the Class D felony (see Chart 5).

For white Iowans, the addition of the Class D felony meant that more individuals were convicted for the aggravated misdemeanor charge instead of the more severe felonies (see Chart 6). For Black Iowans, the aggravated misdemeanor charge rarely resulted in a conviction, but the more severe felonies remained the most likely charges to result in convictions for Black Iowans on robbery.

³⁵ Marc Mauer & Ryan S. King, *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, The Sentencing Project (Washington, DC: July 1, 2007): 10, available at <https://www.sentencingproject.org/publications/uneven-justice-state-rates-of-incarceration-by-race-and-et>.

³⁶ Ashley Nellis, *The Color of Justice: Disparity in State Prisons*, The Sentencing Project (Washington, DC: June 14, 2016): 8, available at <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

³⁷ Current law provides for a class C felony offense of second-degree robbery, a forcible felony subject to 10 years in prison, with a requirement that 70.0% (7.0 years) be served in prison. Creating a non-forcible Class D felony of third-degree robbery provided that a person may receive a sentence or probation or prison. The average length of stay for a class C second degree robbery is 7.0 years in prison. The average length of stay for a Class D felony crime against a person is 20.9 months (1.75 years). SF 2250, 87 Gen. Assemb. (Ia. 2010) Robbery III. Available at <https://www.legis.iowa.gov/docs/publications/FN/964856.pdf>.

³⁸ S.F. 2250, 87 Gen. Assemb. (Ia. 2010) Robbery III. Available at <https://www.legis.iowa.gov/docs/publications/FN/964856.pdf>.

Chart 4. % of Robbery Convictions by Race Per Year

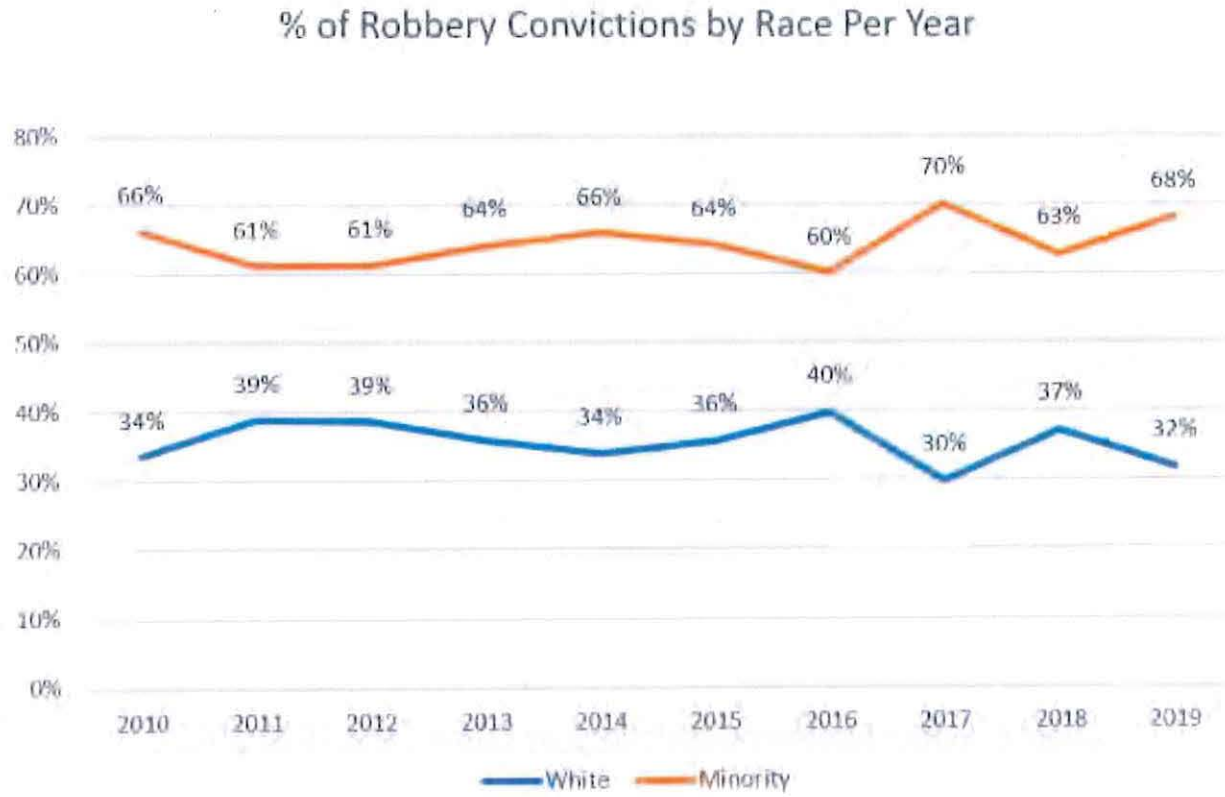


Chart 5. Black Robbery Convictions by Crime Subtype 2010-2019

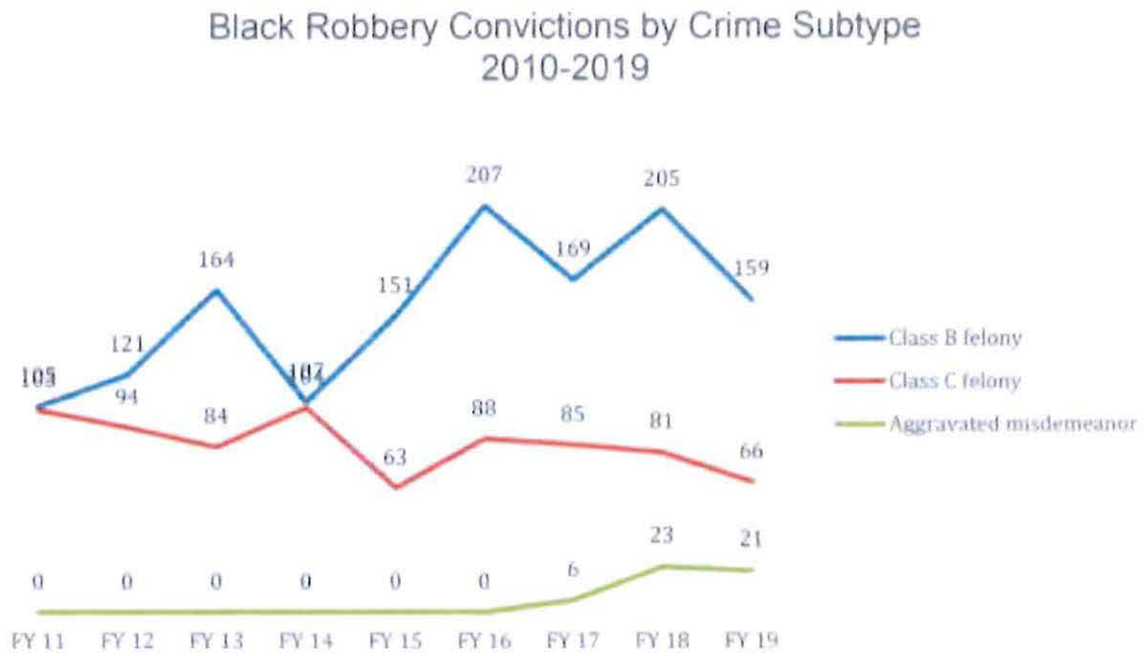


Chart 6. White Robbery Convictions by Crime Class 2010-2019



Because of the disconnect between the potential positive impact on minority communities predicted in the minority impact statement, and the reality of the bill in practice, there is a need for greater oversight of the implementation of criminal bills and some accountability mechanism by which the public, LSA, and legislators can better understand how minority impact statement predictions compare with reality. As Iowa remains the state with the third highest disparity in incarceration rates in the nation,³⁹ it is clear that the minority impact statement statute must be strengthened to maximize its impact.

Model Legislation Recommendations

The case study of Iowa’s minority impact statement legislation is an illuminating lesson for advocates. While no state has adopted a model minority/racial impact statement, implementation of each statute has highlighted important lessons for how to strengthen the efficacy of minority/racial impact statements. Advocates should consider the following lessons learned from Iowa, Connecticut, Oregon and New Jersey:

1. Require that the minority/racial impact statement cover both youth and adult justice related legislation. If possible, require that the legislation also cover regulations, as done in New Jersey⁴⁰ and the state grantmaking process, as done in Iowa.⁴¹
2. Ensure that all legislators have the power to request a statement on a youth or adult justice related bill if it does not have a statement.
3. Statements should be available to the public before public committee hearings begin.
4. The agency developing the statements should use standardized, defined categories (i.e. negative, positive, no impact) to ensure the statements are meaningful and consistent.
5. Consider including race, ethnicity, disability, gender, and sexual orientation as potential identities to consider for the purposes of monitoring the impact of the youth and adult systems on particular populations.
6. Require that the statement includes an explanation of the methodology used to determine the impact. Oregon’s law requires a “statement of the methodologies and assumptions used in preparing the estimate.”⁴²
7. Require that the agency developing the statement provide a detailed and comprehensive analysis of the specific bill beyond the general census data on the state’s general population versus its criminal justice population.
8. Require an annual report analysis of minority impact statements that includes how many were produced, how many were categorized as negative, positive, no impact, etc., and how many of each category were attached to bills that passed the legislature and were signed by the governor.
9. Provide language to include the opportunity to look retrospectively at the racial or minority impact of current law compared to proposed legislation.

³⁹Nellis, 8.

⁴⁰ NJ Rev. Stat. § 2C:48B-2 (2017).

⁴¹ Iowa Code Ann. § 2.56 (2019).

⁴² Or. Rev. Stat. § 137.683 (3)(c) (2020).

10. Prohibit legislation with a negative impact from being passed or require such legislation to include a mechanism for reducing the racially disparate impact of the law.
11. Include an accountability and oversight mechanism in the statute.

Conclusion

In order to fulfill their promise as an anti-racist tool and accomplish the intent of the drafters, the culture surrounding minority/racial impact statements must change. The agency drafting the statements must see it as a key function, and staff should have the necessary time and training to conduct a detailed analysis. Legislators and their staff must ask for minority/racial impact statements, discuss them with colleagues, and use them in debates.

Similarly, lobbyists, advocates, and constituents should consider minority/racial impact statements before expressing their opinion on a bill. These statements, like other anti-racist policies, are limited by the historical, social, and systemic challenges associated with white supremacy in policymaking and policy implementation. While minority/racial impact statements can be a meaningful tool to decrease the disparate impact of incarceration on minority communities, they are one tool, not a silver bullet. Reform at all stages of the criminal legal process, from policing practices to reentry opportunities, is necessary to actualize their intended impact.

Racial impact statements can have a greater impact on decreasing racial disparities when they are implemented robustly: all criminal and juvenile bills must contain a detailed analysis. The analysis must be publicly available early in the legislative process and a negative racial impact statement should prevent passage of legislation, at least and until the legislation has been modified to decrease its negative impact. Advocates in states where racial impact statements are being introduced as a tool to decrease disparities should take note of the lessons from this study and advocate for the model recommendations from this report.

Appendix A: Examples of Iowa MIS Categories

Positive Effect

Minority Impact

[Senate File 378](#) is expected to have a positive minority impact on the African American community. In FY 2018, 20.7% of the persons convicted of first offense marijuana possession were African American. The U.S. Census Bureau estimates that as of July 1, 2017, the population of Iowa is 4.5% African American. Please refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 7, 2019, for information related to minorities in the criminal justice system.

Negative Effect

Minority Impact

To the extent the Bill results in additional criminal convictions, there will be a disproportionate impact on minorities because approximately 16.0% to 18.0% of offenders convicted under the Bill's provisions may be minorities. Additional criminal convictions will result in an increased number of minority offenders supervised in the corrections system.

Unknown Effect

Minority Impact

The minority impact of [SF 275](#) as amended is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 7, 2019, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of [SF 275](#) as amended cannot be estimated. The Bill establishes a new criminal offense, and the resulting cost to the Justice System cannot be estimated. The average State cost for one aggravated misdemeanor conviction ranges from \$4,700 to \$7,500. This estimate includes operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections for one conviction. The cost would be incurred across multiple years for prison and parole supervision.

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights

/s/ Holly M. Lyons

April 22, 2019

No Effect

Minority Impact: There is no minority impact expected as a result of this bill.

Sources

Department Human Rights, Criminal & Juvenile Justice Planning Division
Department of Agriculture and Land Stewardship

Holly M. Lyons

February 25, 2016

Minimal Effect

Minority Data Information: The impact on minorities is estimated to be minimal. Refer to the Legislative Services Agency (LSA) [Minority Impact Statements Memo](#) dated January 26, 2016, for information related to minorities in the criminal justice system.

Correctional Data Information: The average state cost for one Class C felony conviction ranges from \$7,800 to \$18,400. At this time it is estimated that only three prison admissions annually will fall into the Class C felony category and remain in prison longer than current law. The LSA [Correctional Impact Statements Memo](#) dated February 18, 2016, contains additional information.

Fiscal Impact

The fiscal impact on the corrections system and the indigent defense budget is estimated to be minimal.

Sources

Iowa Department of Human Rights, Criminal and Juvenile Justice Planning Division
Iowa Department of Corrections
Iowa State Public Defender

/s/ Holly M. Lyons

February 24, 2016

Appendix B: Statutory Examples

Iowa Code Section 8.11 Grant applications — minority impact statements.

1. Each application for a grant from a state agency shall include a minority impact statement that contains the following information:
 - a) Any disproportionate or unique impact of proposed policies or programs on minority persons in this state.
 - b) A rationale for the existence of programs or policies having an impact on minority persons in this state.
 - c) Evidence of consultation of representatives of minority persons in cases where a policy or program has an identifiable impact on minority persons in this state.
2. For the purposes of this section, the following definitions shall apply:
 - a) “Disability” means the same as defined in section 15.102.
 - b) “Minority persons” includes individuals who are women, persons with a disability, African Americans, Latinos, Asians or Pacific Islanders, American Indians, and Alaskan Native Americans.
 - c) “State agency” means a department, board, bureau, commission, or other agency or authority of the state of Iowa.
3. The office of grants enterprise management shall create and distribute a minority impact statement form for state agencies and ensure its inclusion with applications for grants.
4. The directives of this section shall be carried out to the extent consistent with federal law.
5. The minority impact statement shall be used for informational purposes.

Conn Gen. Stat. Sec. 2-24b. Racial and ethnic impact statement required for certain bills and amendments.

- (a) Beginning with the session of the General Assembly commencing on January 9, 2019, a racial and ethnic impact statement shall be prepared with respect to certain bills and amendments at the request of any member of the General Assembly. With respect to a bill favorably reported during the regular session, any such request shall be made not later than ten days after the deadline for the committee that introduced the bill to vote to report favorably under the joint rules of the House of Representatives and the Senate. With respect to an amendment introduced during the regular session, any such request shall be made at least ten days prior to the deadline for adjournment sine die of the regular session.
- (b) The joint standing committee of the General Assembly having cognizance of matters relating to government administration may make recommendations for a provision to be included in the joint rules of the House of Representatives and the Senate concerning the procedure for the preparation of such racial

and ethnic impact statements, the content of such statements and the types of bills and amendments with respect to which such statements should be prepared.

Oregon Revised Statute 137.683

Racial and ethnic impact statements for proposed legislation

(1) As used in this section, “criminal offender population” means all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime.

(2)(a) Upon written request from a member of the Legislative Assembly from each major political party, the Oregon Criminal Justice Commission shall prepare a racial and ethnic impact statement on proposed legislation that is related to crime and likely to have an effect on the criminal justice system.

(b)The statement shall describe the effects of the proposed legislation on the racial and ethnic composition of the criminal offender population.

(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 those likely to be convicted of a criminal offense created or modified by the proposed legislation;

(b)An estimate of the average length of incarceration that each racial and ethnic composition group receives as a sentence, if applicable;

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

(d)An estimate of the racial and ethnic composition of the crime victims who may be affected by the proposed legislation.

(4) The commission shall adopt rules to carry out the provisions of this section. [2017 c.614 §2]

Note: 137.683 (Racial and ethnic impact statements for proposed legislation) and 137.685 (Racial and ethnic impact statements for state measures) were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

NJ Rev Stat § 2C:48B-2 (2017)

2C:48B-2 Racial and ethnic impact statement for certain proposed rules.

3. In proposing a rule for adoption, the agency involved shall issue a racial and ethnic community criminal justice and public safety impact statement setting forth whether the proposed rule will have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in this State and, if so, how the rule would affect racial and ethnic minorities, including whether it is likely

to have a disproportionate or unique impact on the racial and ethnic communities in the State and the rationale for the proposed rule having an identifiable impact on racial and ethnic persons in this State, and any anticipated impact upon correctional facilities and services for racial and ethnic minorities, the adjudication of criminal and juvenile justice matters involving racial and ethnic minorities, and public safety in racial and ethnic communities and the victims and potential victims in those communities. This statement shall be included in the notice of a proposed rule as required by subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4).