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**Permanent  
Commission**  
**RACIAL, INDIGENOUS  
& TRIBAL POPULATIONS**

**To:** The Legislative Council Subcommittee to Implement a Racial Impact Statement Process Pilot

**From:** The Permanent Commission on the Status of Racial, Indigenous and Tribal Populations

**Date:** July 27, 2022

**Subject:** Recommendations on Racial Impact Statements

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The Permanent Commission on the Status of Racial, Indigenous and Tribal Populations (the Permanent Commission) is pleased to submit the enclosed recommendations to Legislative Council for consideration as they pertain to the pilot study on the implementation of Racial Impact Statements (RIS), as enacted by the 130th Maine Legislature in LD 2.

The Permanent Commission extends its gratitude to those who contributed their time and efforts to the pilot project that was carried out during the second regular session earlier this year. The timeline of the second session is necessarily abbreviated, and the Permanent Commission recognizes that this presented a challenge for the researchers, who, nevertheless, provided committees with valuable information on several bills' expected impacts on racial, Indigenous, and tribal populations.

Recognizing the challenge of conducting the pilot during the short session, the Permanent Commission believes that a continued pilot is necessary to understand the full potential of RIS and the positive impact this tool can have on Maine's legislative process in pursuit of the goal to dismantle systemic racism and help all Mainers thrive.

There are a number of tools and practices that we believe can improve the next phase of this pilot project for the 131st Legislature.

- **Resources must be allocated for a successful pilot.**
  - Much of what is needed to reverse the effects of structural racism requires resources. If we as a state aim to reverse the centuries-long effects of racism, the Legislature must support and advocate for the allocation of financial and human resources for this purpose. This investment will provide for a more robust, sustainable program that will improve policy decisions and create real, positive outcomes for all Mainers for generations to come.

- Researchers should be commended for the time and resources they devoted to creating racial impact statements this session. We must acknowledge that this work needs to be funded and should be conducted through a policy analysis lens. That can best be accomplished by non-partisan legislative staff.
- **The use of a standard format for the production of RIS should be employed.**
  - Researchers in the pilot approached each RIS individually. While the Permanent Commission appreciates the intention of the researchers to present different format options, the use of a standard set of questions and factors to consider would streamline the process and allow for a more focused, intentional, and digestible analysis. As mentioned above, crafting RIS using the lens and methodology of policy analysis is key.
  - The District of Columbia's Council Office for Racial Equity (DC CORE) has created a Racial Equity Impact Analysis (REIA) process, which offers a small-scale model that should be considered. See Appendices A-B for more information.
- **Qualitative data should inform RIS analysis.**
  - Lived experience is real and is often not represented in quantitative data used in traditional research. Whenever possible, input from impacted racial, Indigenous and tribal populations should be incorporated into RIS. This could be accomplished through testimony that is submitted at public hearings, or through soliciting feedback directly from community stakeholders. In some circumstances, the Permanent Commission may facilitate this outreach. Funding to support collection of qualitative data is imperative.
- **A formal orientation on RIS is needed for new and returning legislators and staff.**
  - In order for RIS to have a systemic impact, there must be a broad shared understanding of what they are and are not, and how to use them. This could be accomplished through a formal orientation to RIS for legislators and staff at the beginning of session.
  - Additionally, resources and toolkits available at all points of the legislative session may be designed for reference.
- **A formal screening process is needed for bills that will receive RIS.**
  - Some other states that have implemented RIS have limited bills to only one or two committees, often exclusively focusing on the criminal legal system. While that narrow focus has the effect of limiting the number of bills that require analysis, the impact of structural racism goes far beyond such a narrow focus. We suggest that whatever screening process is used, the subject matter of the bills should remain broad to account for the multitude of ways structural racism causes harm.

- **A lack of data to support a conclusion is itself an important finding.**
  - With the passage of LD 1610, the Legislature acknowledged that there is a need to implement data equity practices in Maine. As the work to put these practices into place moves forward, more data that can be used to inform future RIS will be available. However, when sufficient state-level data are not available, an inconclusive result can hold great value.
  - We have included an REIA from the District of Columbia that points to an inconclusive impact in Appendix B.
  
- **RIS must be formally incorporated into the legislative process.**
  - Legislative committees need sufficient time to review RIS before any votes are taken on the legislation. Formal integration into the legislative process serves to formalize the process further and to allow for development of a program that can sufficiently meet certain deadlines.

# APPENDIX A: REIA TOOL



## HOW TO

## DESIGN RACIALLY EQUITABLE LEGISLATION FOR RESIDENTS OF THE DISTRICT OF COLUMBIA A RESOURCE FOR COUNCILMEMBERS AND STAFF

**When we achieve racial equity, race will no longer predict opportunities, outcomes, or the distribution of resources for residents of the District, particularly for communities of color.**

### **What is this tool for and when should I use it?**

This tool helps Council Offices answer: *how will this measure affect Black communities and communities of color in the short and long term?*

The Council Office of Racial Equity (CORE) will conduct formal Racial Equity Impact Assessments (REIAs) on *proposed* measures. This tool, however, should be used as early as possible in the *drafting* process to prevent or reduce negative impacts on marginalized populations.<sup>1</sup> Using this tool is not a requirement. When you request a REIA, however, you will be asked whether it was used during your drafting process.

### **Who should use this tool?**

Councilmembers, staff, and community stakeholders should use this tool to answer a measure’s “who, what, where, why, and how” through a racial equity lens before introducing their bill.

If you are already drafting alongside community stakeholders, work through this tool with them. If you haven’t engaged community stakeholders yet, use this tool to identify who should be involved. Once they are involved, work through this tool with them.

### **What is the Council Office of Racial Equity?**

The Council Office of Racial Equity’s (CORE) mission is to eliminate racial disparities and achieve racial equity in the District of Columbia. We believe the government plays a critical role in acknowledging the root causes of existing disparities and in putting in place innovative and courageous policies to confront them. CORE creates training, tools, and processes for local officials, staff, and the community to intentionally identify and disrupt implicit biases and systemic inequities in policymaking. To learn more about CORE, visit [dcraciaequity.org](http://dcraciaequity.org).

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<sup>1</sup> This toolkit was adapted from best practices and toolkits provided by the City of Madison, Wisconsin’s [Racial Equity and Social Justice Fast Track Tool](#) (2018), the Montgomery County Council Office of Legislative Oversight’s [RESJ Legislative Review Tool](#), Seattle’s [Racial Equity Toolkit to Assess Policies, Initiatives, Programs, and Budget Issues](#), and the Government Alliance on Race and Equity’s [Racial Equity Toolkit: An Opportunity to Operationalize Equity](#).

## **WHAT, WHY, AND HOW**

**What is the name and goal of the measure?**

**How will the measure achieve its goal?**

What is being created, removed, incentivized, mandated, allowed, or assigned by this measure?

**Which policy areas are relevant to this measure? How do racial and social inequities impact these areas?**

Consider topics and subtopics related to business and economic development, labor and workforce, the judiciary, public safety, housing, education, health, transportation, environment, human services, youth and recreation, and COVID-19.

<b>TOPIC/ISSUE</b>	<b>BASELINE DATA AND RACIAL DISPARITIES</b>	<b>HISTORICAL ROOT CAUSES OF DISPARITIES</b>
For example, rather than write “education” below, list “attendance, school discipline, and commutes.”	What does available data or research say about this issue? What disparities already exist within this issue? For additional data sources, see the Appendix (pages 8-12).	What caused the numbers to look like they do today? Were the causes in the distant past and/or more recent? Were they purposeful or unintentional?

**WHO AND WHERE** Given the measure’s goal, which populations and communities could be impacted?

**Which area(s) of the District could be impacted by this measure?**

Consider differences across wards, residential and commercial density, population demographics, access to resources, transit, geography, and proximity to state borders. Examples of “areas” could be Ward 5, areas with little to no commercial economy, or the NW quadrant.

AREA	HOW AREA WOULD BENEFIT	HOW AREA WOULD BE BURDENED

**Who (individuals or groups) could be impacted by this measure?**

Consider groups based on race, earnings, education, geography, occupation, age, gender identity, sexual identity, religion, immigration status, etc. You could also consider institutions like museums, nonprofits, and small businesses. Don’t be afraid to consider atypical groupings.

	BENEFITTING INDIVIDUALS OR GROUPS	BURDENED INDIVIDUALS OR GROUPS
IF THE MEASURE IS INTRODUCED		
IF THE MEASURE IS NOT INTRODUCED		

If you mentioned communities of color in the table above, *how* might this measure impact them?

If you mentioned people with low incomes in the table above, *how* might this measure impact them?

List the individuals and groups who will potentially benefit the most or be burdened the most by this measure. Note: 1) If you have already involved them in the drafting process; 2) If they are not involved, how can you get them involved; or 3) Why you are not involving them.

INDIVIDUAL OR GROUP	ALREADY INVOLVED, FIRST STEP TO INVOLVE, OR REASON FOR NO INVOLVEMENT

Who else from the community should be involved in designing, governing, or executing the solution/proposal? Note if they are: 1) Already involved in the drafting process; or 2) What your first step will be to involve them; or 3) Why you are not involving them.

INDIVIDUAL OR GROUP	ALREADY INVOLVED, FIRST STEP TO INVOLVE, OR REASON FOR NO INVOLVEMENT

**ADDITIONAL NOTES**



**RECOMMENDATIONS** If you have limited time to work with a community stakeholder, use it to collaborate on this section.

IS THE PROPOSED MEASURE...	CHECK ONE.		IF NOT, WHY NOT?	IF NOT, HOW WILL RESIDENTS BE IMPACTED?
	YES	NO		
ADEQUATELY FUNDED?				
EASY TO IMPLEMENT?				
ADEQUATELY RESOURCED?				

What success indicators or progress benchmarks are incorporated in the proposed legislation? What is missing? What will happen if these metrics are met and what will happen if they are not met?

In what ways does this measure deeply consider the experience of the residents it will impact?

**Consider the section above when filling out the table below on unintended consequences.**

What are additional potential unintended consequences of this measure? Investigate if another jurisdiction introduced a similar measure. If yes, what is known about the measure’s effects, especially for different racial groups?

TYPE	POTENTIAL UNINTENDED CONSEQUENCES	STRATEGIES TO PREVENT CONSEQUENCES AND ADVANCE RACIAL EQUITY
<p><b>SOCIAL</b> Consider native Washingtonians and longtime DC residents, transit, trust in government, education, etc.</p>		
<p><b>ECONOMIC</b> Consider wages, competition, tourism, unemployment, small businesses, etc.</p>		
<p><b>HEALTH</b> Consider impacts on pollution, health access, existing health disparities, etc.</p>		
<p><b>ENVIRONMENT</b> Consider impacts on pollution, natural resources, transit, etc.</p>		
<p><b>OTHER</b> Consider how a resident might interact with this measure “start to finish.” Think through the best- and worst-case scenarios.</p>		



## **DATA RESOURCES FOR APPLYING A RACIAL EQUITY LENS**

Use [these resources](#) as a starting point for a data-driven approach to policy and decision-making. CORE will update this list as we uncover additional datasets.

### **COVID-19 Pandemic Recovery**

*Dashboards and reports on racial inequities compounded by the public health pandemic*

- DC Policy Center's [COVID-19: At-Risk Populations in the District, by Race and Ethnicity](#)
- John's Hopkins Coronavirus Resource Center [Map of Racial Data Transparency](#)
- US Census Bureau's [COVID-19 Small Business Pulse Survey](#)
- Additional COVID-19 Dashboards
  - DC Executive Office of the Mayor's [COVID-19 Dashboard](#)
  - John's Hopkins [Coronavirus Dashboard Center](#), via the Environmental Systems Research Institute
  - MITRE's [COVID-19 Decision Support Dashboard](#)

### **Committee of the Whole**

*Economic indicators and housing outcomes by race, along with heatmaps of District zones*

- National Equity Atlas' [Economic Indicators of Racial and Social Equity in DC](#)
- The DC Department of Housing and Community Development and DC Office of Planning's [Housing Equity Report, 2019](#)
- The DC Office of Zoning's [Interactive and Summary Map Resources](#)
  - [Summary Zoning Maps by Ward](#)
  - [Summary District-Wide Zoning Map](#)
  - [1958 to 2016 Zoning Regulations Change Map](#)

## **Business and Economic Development**

*Raw data, reports, and assessments highlighting the needs of minority and women-owned businesses*

- The Small Business Administration Office of Advocacy's [DC Small Business Profile](#)
- DC Department of Small and Local Business Development's [Minority and Women-Owned Business Assessment, 2016](#)
- DC Department of Small and Local Business Development's [Disparity Report, Framework and Recommendations, 2019](#)
- Open Data DC's [Dataset on Median Household Income by Race](#), via the Environmental Systems Research Institute
- DC Health Matters' [2020 Demographic Data Dashboard by Race and Age](#)

## **Labor and Workforce Development**

*Data on unemployment and employment rates, hourly wages, and income growth by race and ethnicity*

- DC Department of Employment Services' [Monthly Labor Market Indications by Race and Ward](#)
- National Equity Atlas' [Economic Indicators of Racial and Social Equity in DC](#)
- DC Health Matters' [2020 Demographic Data Dashboard by Race and Age](#)

## **Judiciary and Public Safety**

*Maps highlighting geographical outcomes, raw data sets with race as a variable, and statistics on the experiences of Black returning citizens in The District*

- DC Department of Fire and Emergency Medical Services' [Response Time Map by Ward](#)
- Open Data DC's [Dataset on Felony Sentences by Race](#)
- Open Data DC's [Dataset on Adult Arrests by Race](#)
- DC Fiscal Policy Institute's [Report on Ways to Aide Returning Citizens](#)

## Housing and Executive Administration

*Reports focusing on indicators by race and raw datasets highlighting affordable and public housing*

- National Equity Atlas' [Economic Indicators of Racial and Social Equity in DC](#)
- The Department of Housing and Community Development, Office of Planning, and the Executive Office of the Mayor's [Housing Equity Report, 2019](#)
- Open Data DC's [Dataset on Affordable Housing](#)
- Open Data DC's [Dataset on Public Housing Areas](#)
- DC Health Matters' [2020 Demographic Data Dashboard by Race and Age](#)
- The DC Office of Human Rights [Annual Report on Cases Filed, 2018](#)
- The DC Center for the LGBTQA Community's [Trans Coalition Research and Reports](#)<sup>2</sup>

## Government Operations and Facilities

*Present day and historical zoning maps showing production and other zones, equity information related to the commissions in the District, as well as contracting statistics for minority and women-owned businesses and insight on the experiences of Black returning citizens in the District*

- The DC Office of Zoning's [Interactive and Summary Map Resources](#)
  - [Summary Zoning Maps by Ward](#)
  - [Summary District-Wide Zoning Map](#)
  - [1958 to 2016 Zoning Regulations Change Map](#)
- DC Department Small and Local Business Development's [Minority and Women-Owned Business Assessment, 2016](#)
- DC Fiscal Policy Institute's [Report on Ways to Aide Returning Citizens](#)

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<sup>2</sup> These reports include information by race, specifically alluding to the needs and experiences of Black Trans individuals in the District.

## Health

*Resources highlighting racial disparities in healthcare, general health, and life expectancy*

- Kaiser Family Foundation's [Health Disparity Summary Statistics](#)
- DC Health Matters' [Health Disparities Dashboard by Race and Age](#)
- DC Health Matters' [2020 Demographic Data Dashboard by Race and Age](#)
- Environmental Systems Research Institute's [Life Expectancy Outcomes by Race](#), via County Health Rankings
- Also see COVID-19 resources above

## Transportation and the Environment

*Maps and reports on the relationship between race, transportation, health, and the environment*

- DC Health Matters' [2020 Demographic Data Dashboard by Race and Age](#)
- The Metropolitan Council of Governments' [Uneven Opportunities Resource Page](#)
  - [Healthy Places Static Index Maps](#), including transportation time to work<sup>3</sup>
- US Census Bureau's [Report on the Demographic Profiles of Rail-Accessible Neighborhoods in the Washington, DC Area, 2015](#)<sup>4</sup>
- DC Policy Center's [Report on Transportation Modes by Race, 2015](#)

## Education

*School district and school-level data on school disciplinary actions by race, reports on DC school performance and environment*

- DC Policy Center's [State of DC Schools Report by Race and Ward, 2018 – 2019](#)
- DC Health Matters' [2020 Demographic Data Dashboard by Race and Age](#)
- The Office of Civil Rights' [Student Disciplinary Action Analysis, by Race](#)
- Office of Civil Rights' [Student Disciplinary Action Reports, by Race](#)

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<sup>3</sup> Slide 39 shows transportation time to work by ward.

<sup>4</sup> This comprehensive report focuses on rail-accessibility by race and ethnicity starting at page 15.

## Human Services

*Heatmaps and statistics on food insecurity, foster care, and other child welfare programs*

- Capital Area Food Bank's [Food Insecurity Heatmap by Race and Ward](#), via the Environmental Systems Research Institute
- DC Child and Family Services' [Number of Children Served In-home, by Race](#)
- DC Child and Family Services' [Number of Children in Foster Care, by Race](#)
  - DC Child and Family Services' [Annual Quality Service Review, 2018](#)

## Recreation, Libraries, and Youth Affairs

*Locations of District recreation centers and racial disparities among youth interaction with rehabilitation services*

- Department of Youth Rehabilitation Services [Percentage of Youth Committed to the Department of Youth Rehabilitation Services by Race, up to 2018](#)
- Open Data DC's [Dataset on Recreational Facilities by Ward](#)

## Additional Data Resources

*Raw datasets, summary statistics, and reports on topics relevant to the District, separated based on their focus and origin*

### Washington, DC

- [Open Data DC](#)
- DC Health's [Data Resource List](#)
- The Urban Institute's [Data Visualization Tools](#)
- Urban Institute's [State Economic Monitor](#)
- [The Washington Center for Equitable Growth's Report on The Assessment Gap: Racial Inequities in Property Taxation](#)

### Federal (can be filtered to focus on DC)

- US Census Bureau's [Data Tools](#)
- US Census Bureau's [Poverty Status Summary Tables](#)
- US Census Bureau's [Quick Facts](#)
- US Census Bureau's [Current Population Survey](#)
- US Census Bureau's [American Community Survey](#)
- Center for Disease Control and Prevention's [Behavioral Risk Factor Surveillance Survey Data](#)

# APPENDIX B: REIA EXAMPLES



**BILL 24-0227**

## **RACIAL EQUITY IMPACT ASSESSMENT** **DISTRICT OF COLUMBIA FINANCIAL SERVICES INNOVATION** **AND REGULATORY SANDBOX CREATION ACT OF 2022**

**TO:** The Honorable Phil Mendelson, Chairman, Council of the District of Columbia  
**FROM:** Namita Mody, Director, Council Office of Racial Equity  
**DATE:** June 22, 2022

### **COMMITTEE**

Committee on Business and Economic Development

### **BILL SUMMARY**

Bill 240-0227 requires the District’s Department of Insurance, Securities and Banking to create, administer, and manage a “regulatory sandbox program.” This program provides entrepreneurs a chance to test something new in the financial industry—temporarily—without having to address the usual regulatory requirements.

### **CONCLUSION**

Bill 24-0227’s impact on Black residents, Indigenous residents, and other residents of color is inconclusive.

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**Content Warning:** The document you are about to read is a Racial Equity Impact Assessment, a careful and organized examination of how Bill 24-0227 will affect different racial and ethnic groups. We hope that this assessment sparks a conversation that is brave, empathetic, thoughtful, and open-minded.

The following content touches on racism, poverty, and the criminal legal system. Some or all of these issues may trigger a strong emotional response. We encourage you to use this knowledge in the way that is most helpful to you.

### **BACKGROUND**

Bill 24-0227 requires the District’s Department of Insurance, Securities and Banking to create, administer, and manage a “regulatory sandbox program.”<sup>1</sup>

The Department of Insurance, Securities and Banking (DISB) regulates insurance companies, investment advisors, District and state-chartered banks, mortgage lenders, check cashers, money lenders, and student loan servicers, in addition to many other entities.<sup>2</sup> The agency also does broader work regarding the finances of District residents, as illustrated by the three aspects of the agency’s mission:

- 1) Cultivati[ng] a regulatory environment that protects consumers and attracts and retains financial services firms to the District;
- 2) Empower[ing] and educat[ing] residents about financial matters; and

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<sup>1</sup> District of Columbia Financial Services Innovation and Regulatory Sandbox Creation Act of 2021, Pub. L. No. 24-0227 (n.d.).

<sup>2</sup> Department of Insurance, Securities & Banking. “[Mission and Vision.](#)”



3) Provid[ing] financing for District small businesses.<sup>3</sup>

The regulatory sandbox program provides an entrepreneur a chance to test something new in the financial industry—temporarily—“without having to meet all of the regulatory requirements ordinarily necessary to conduct business in the District.”<sup>4</sup> The Committee on Business and Economic Development supplied this example of a business that would apply to the sandbox program:

*“For example, DISB could approve an insurance start-up applicant. Insurance companies in the District are required to hold significant capital in reserves as an insurance guaranty. This capital is used to pay any outstanding liabilities in case another insurer becomes insolvent. For a multinational insurer, this is not an issue; however, for an insurance start-up, this capital reserve could bankrupt the company. In this and similar instances, the DISB Commissioner could issue the sandbox participant a waiver exempting the insurance start-up from the insurance guaranty capital requirement.”<sup>5</sup>*

The rest of the bill establishes ways that the program will ensure consumer protection, explains how the application process will work, provides guidelines for testing the programs, and outlines the different ways that sandbox participants can exit the sandbox after the two years of temporary market access elapse.

The bill also allows sandbox participants to apply to 1) increase the number of participating consumers beyond the 10,000 allowed and 2) extend the duration of their pilot.

Finally, the bill details recordkeeping and recording requirements for the businesses, rules around what DISB can disclose to other entities, additional rights of DISB (reporting, monitoring, and enforcement), and what sandbox participants are required to pay in taxes.

## **RACIAL EQUITY IMPACTS**

**The racial equity impact of the bill is inconclusive.** The racial equity impacts of the bill will largely depend on who applies to the sandbox program, who is accepted into the program, and what they choose to test. The sandbox application process does require the applicant to explain how their service “would benefit consumers, including traditionally underserved consumer populations in the District if applicable,”<sup>6</sup> but it is not clear how this information would affect DISB’s review of an application.

Because these factors are unknown until the bill is passed and implemented, CORE cannot determine the bill’s racial equity impacts.

## **FURTHER CONSIDERATIONS**

**Ensuring the strongest consumer protection possible is critical for the economic wellbeing of consumers of color, particularly Black residents.** On average, Black District residents have lower incomes than white residents, due to the country’s relentless denial of education, employment, and wealth building opportunities to Black residents. In the District, the median household income for Black residents is \$53,639, about one third of the median income for white residents (\$160,914).<sup>7</sup> Because Black residents would be less able to weather an additional financial hardship than white residents, it is especially critical that DISB ensure strong consumer protections for Black consumers using products in the program.

<sup>3</sup> Department of Insurance, Securities & Banking. “[Mission and Vision.](#)”

<sup>4</sup> District of Columbia Financial Services Innovation and Regulatory Sandbox Creation Act of 2021, Pub. L. No. 24-0227 (n.d.).

<sup>5</sup> Shared via email to the Council Office of Racial Equity.

<sup>6</sup> District of Columbia Financial Services Innovation and Regulatory Sandbox Creation Act of 2021, Pub. L. No. 24-0227 (n.d.).

<sup>7</sup> “[DC Health Matters :: Demographics :: City :: District of Columbia :: Households/Income](#),” DC Health Matters.

In addition, the Office of the Attorney General raised several consumer protection concerns about the bill during their testimony. While the bill has changed since it was introduced—including a change that incorporates the Office of the Attorney General in the application decision process—some of the agency’s consumer protection concerns may still stand. Some of their concerns include the potential for predatory practices by sandbox participants,<sup>8</sup> other organizations’ reluctance to support a federal regulatory sandbox,<sup>9</sup> and a lack of transparency in some of the District program’s approval processes.<sup>10</sup>

Finally, the legislation allows—but does not require—the DISB Commissioner to “establish periodic reporting requirements for sandbox participants.” Requiring frequent check ins between the sandbox participants and the Commissioner would likely increase oversight and ensure consumer protections.

**Some of the sandbox program’s application criteria may inadvertently discriminate against applicants of color.** For example:

**Access to capital:** Specifically, the bill states that “a regulatory sandbox application shall contain sufficient information to demonstrate that the applicant has an adequate understanding of the innovation, a sufficient plan, the necessary personnel, financial and technical expertise, and *capital to test, monitor, and assess the innovation*, while ensuring that consumers will be protected from the activities of the sandbox participant.”<sup>11</sup>

However, access to capital is not equal: “Black, Hispanic or Latino, Asian, and Native American residents are less likely to have...access to capital due to historic practices that denied wealth-building opportunities to these groups.”<sup>12</sup>

**Disclosing any criminal convictions of the applicant or key personnel:** While it’s not clear how DISB will consider responses to this question, requesting this information in the application process<sup>13</sup> may disproportionately impact Black applicants, as Black people are disproportionately impacted by the country’s criminal legal system.

While conviction data is not publicly available, data on charges and imprisonment—as shown below—can provide context for convictions in the District. (For context, being charged means that someone is being accused of doing an act. A charge can lead to a conviction, which is when someone is found guilty for something. Lastly, imprisonment does not always mean that someone is convicted, but imprisonment is a common outcome of conviction.)

- Research shows that while behavior is consistent across racial groups, Black people are more likely to be impacted by the criminal justice system. For example, "Black people are 3.64 times more likely

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<sup>8</sup> Wiseman, Benjamin. Financial Services Innovation and Regulatory Sandbox Creation Act of 2021, § Committee on Business and Economic Development (2022).

<sup>9</sup> “[Comments on No-Action Letters and Product Sandbox, Docket No. CFPB-2018-0042-001](#),” February 11, 2019. Some organizations in DC signed on to this letter, including D.C. Consumer Rights Coalition, Legal Aid Society of the District of Columbia, and Tzedek DC.

<sup>10</sup> Wiseman, Benjamin. Financial Services Innovation and Regulatory Sandbox Creation Act of 2021, § Committee on Business and Economic Development (2022).

<sup>11</sup> District of Columbia Financial Services Innovation and Regulatory Sandbox Creation Act of 2021, Pub. L. No. 24-0227 (n.d.).

<sup>12</sup> D.C. Policy Center and Council Office of Racial Equity. “[DC Racial Equity Profile](#).”

<sup>13</sup> There is mixed evidence on how requesting this information impacts an applicant’s success in the job hiring process. See: [Empirical Evidence on the Effects of Ban the Box Policies](#) (for the U.S. House Committee on Oversight and Government reform) and [Literature Review: Fair Chance Policy Impacts](#) (compiled by USC Price).

than white people to be arrested for marijuana possession,<sup>14</sup> even though data shows that cannabis use among Black and white people 12 years and up is similar.”<sup>15</sup>

- In 2021, almost nine in ten people housed at DC Department of Corrections (DOC) facilities were Black.<sup>16</sup>

The data above can provide context for convictions in the District, but is not a replacement for specific data on conviction trends for each racial and ethnic group. However, allowing DISB to access this information could unfairly bias an application decision.

**A non-refundable application fee:** While this is up to the DISB Commissioner to impose or not, additional fees would be more challenging to pay for people of color due to racial inequities in wealth,<sup>17</sup> income,<sup>18</sup> and access to capital.<sup>19</sup>

## **ASSESSMENT LIMITATIONS**

Alongside the analysis provided above, the Council Office of Racial Equity encourages readers to keep the following limitations in mind:

**We generally do not provide policy solutions or alternatives to address our racial equity concerns.**

While Council Period 24 Rules allow our office to make policy recommendations, we focus on our role as policy analysts—we are not elected policymakers or committee staff. In addition, and more importantly, racially equitable policymaking takes time. Because we only have ten days for our review, we would need more time to ensure comprehensive research and thorough community engagement inform our recommendations.

**Assessing legislation’s potential racial equity impacts is a rigorous, analytical, and organized undertaking—but it is also an exercise with constraints.** It is impossible for anyone to predict the future, implementation does not always match the intent of the law, critical data may be unavailable, and today’s circumstances may change tomorrow. Our assessment is our most educated and critical hypothesis of the bill’s racial equity impacts.

**Regardless of the Council Office of Racial Equity’s final assessment, the legislation can still pass.** This assessment intends to inform the public, Councilmembers, and Council staff about the legislation through a racial equity lens. However, a REIA is not binding.

**This assessment aims to be accurate and useful, but omissions may exist.** Given the density of racial equity issues, it is unlikely that we will raise *all* relevant racial equity issues present in a bill. In addition, an omission from our assessment should not: 1) be interpreted as a provision having no racial equity impact or 2) invalidate another party’s racial equity concern.

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<sup>14</sup> American Civil Liberties Union. “[A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform](#),” 2020.

<sup>15</sup> SAMSHA, U.S. Department of Health and Human Services, via American Civil Liberties Union. “[A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform](#),” 2020.

<sup>16</sup> DC Department of Corrections. “[Facts and Figures for October 2021](#).”

<sup>17</sup> MITRE and Council Office of Racial Equity. “[The Racial Wealth Gap in Washington, D.C.](#),” December 2021.

<sup>18</sup> “[DC Health Matters :: Demographics :: City :: District of Columbia :: Households/Income](#)” DC Health Matters.

<sup>19</sup> D.C. Policy Center and Council Office of Racial Equity. “[DC Racial Equity Profile](#).”



**BILL 24-0615**  
**RACIAL EQUITY IMPACT ASSESSMENT**  
**DISTRICT GOVERNMENT PAID LEAVE**  
**ENHANCEMENT AMENDMENT ACT OF 2022**

**TO:** The Honorable Phil Mendelson, Chairman, Council of the District of Columbia  
**FROM:** Namita Mody, Director, Council Office of Racial Equity  
**DATE:** July 13, 2022 *Namita H. Mody*

**COMMITTEE**  
Committee on Labor and Workforce Development

**BILL SUMMARY**

Bill 24-0615 repeals the District’s current Paid Family Leave program and establishes a new, more expansive Parental, Family, and Medical Leave program. The newly established leave program increases the amount of leave time District employees are allowed to take, establishes two new types of leave options, and adjusts previously established rules so District employees are allowed to take paid leave more than once per year.

**CONCLUSION**

Bill 24-0615 will likely make progress toward racial equity in the District of Columbia.

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**Content Warning:** The document you are about to read is a Racial Equity Impact Assessment, a careful and organized examination of how Bill 24-0615 will affect different racial and ethnic groups. We hope that this assessment sparks a conversation that is brave, empathetic, thoughtful, and open-minded.

The following content touches on racism, maternal mortality, fetal mortality, health inequities, COVID-19, food insecurity, wealth inequities, and poverty. Some or all of these issues may trigger a strong emotional response. We encourage you to use this knowledge in the way that is most helpful to you.

**BACKGROUND**

Bill 24-0615, District Government Paid Leave Enhancement Act of 2022, has five primary functions:<sup>1</sup>

**FUNCTION ONE**

**The bill repeals the District’s current Paid Family Leave program and establishes a new, more expansive Paid Parental, Family, and Medical Leave program.** The goal of the new paid leave program is to increase the amount of paid leave District employees are entitled to, add additional types of leave District employees can take, and make it easier for District employees to use paid leave more frequently, if necessary. Due to the cost of this program, it will be implemented in at least two parts.

The first part becomes effective on January 1, 2023 and entitles District employees to a total of “8 workweeks in a 12-month period for any combination of leave as follows:

- a. Up to 8 workweeks for qualifying parental leave events

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<sup>1</sup> The Council Office of Racial Equity provides a plain language overview of the bill for context and discussion purposes. However, it should not be read or used as a substitute for the bill, or if passed, the law.

- b. Up to 8 workweeks for qualifying family leave events; and
- c. Up to 2 workweeks for qualifying medical leave events.”

So, for example, a DC Government employee could take two workweeks for qualifying medical leave and six workweeks of qualifying parental leave during a 12-month period. (Currently, employees are entitled only to 8 weeks of parental leave or 8 weeks of family leave per year, no medical leave, and for only one event per year.)

If the bill passes, employees who previously used “unpaid leave or accrued sick or annual leave” (between October 1, 2022 and December 31, 2022) for a “qualifying medical leave event” may retroactively receive two workweeks worth of paid medical leave. The process an employee must take to receive retroactive paid leave is also detailed in the bill.

#### **FUNCTION TWO**

**The second function is to implement the second part of the newly established Paid Parental, Family, and Medical Leave program.** If funded, the total amount of paid leave District employees are entitled to will increase from 8 workweeks to 12 workweeks and District employees will be entitled to two new types of paid leave. This paid leave can be used “in a 12-month period for any combination of leave as follows:

- a. Up to 12 workweeks for qualifying parental leave events;
- b. Up to 12 workweeks for qualifying family leave events;
- c. Up to 12 workweeks for qualifying medical leave events; and
- d. Up to 2 workweeks for qualifying pre-natal leave events...”

For example: if this second function is funded and implemented, a DC Government employee could take two workweeks for qualifying medical leave, six workweeks of qualifying parental leave, and four workweeks of qualifying family leave during a 12-month period.

#### **FUNCTION THREE**

**The bill establishes, defines, and sets guidelines for two new types of paid leave that eligible District employees are allowed to take:**

- a. **Medical leave:** Qualifying medical leave is “leave an eligible employee may take” after “the diagnosis or occurrence of a serious health condition.” The bill specifies that medical care related to stillbirths and miscarriages can qualify an employee to use medical leave.
- b. **Pre-natal leave:** The bill defines “qualifying pre-natal leave” as “paid leave that an eligible employee who is pregnant can take for pre-natal medical care,” after being “diagnosed” as pregnant by a healthcare provider.

One important guideline set by the bill is that District employees will not be required to use their accumulated sick leave before having access to paid personal medical or pre-natal leave. The bill will also make additional policy changes, such as: aligning the paid leave with DC Family and Medical Leave Act leave, donor leave, and reducing the minimum required increment of leave to one hour unless an agency would face additional overtime costs. (For a full accounting of what is in the bill, please read the Committee Print and Committee Report.)

#### **FUNCTION FOUR**

**The bill adjusts previously established rules so eligible District employees are allowed to take paid leave (of all types) more than once per year for “qualifying leave events.”** This is done by the 12-month clock starting from the day a DC Government employee’s qualifying leave begins.

## FUNCTION FIVE

### **Finally, the bill changes existing and establishes new voluntary leave banks that allow District employees to donate their paid leave.**

The Department of Human Resources is responsible for the newly established voluntary leave bank—the Paid Family and Medical Leave Supplemental Bank (PFML Bank). The PFML Bank will include leave from the following sources:

- a. Accumulated “annual, restored, or universal leave” that is voluntarily given by an employee to the leave bank for use by other employees
- b. Accumulated “annual, restored, or universal leave” that an employee wants to voluntarily give to a specific employee
- c. “Annual or universal leave” that an employee has accumulated but is not allowed to “carry over” into the next leave year.

The bill also details when eligible employees are allowed to use donated leave from the PFML Bank, how much leave eligible employees are allowed to donate, and how much leave an eligible employee is allowed to use from the PFML Bank.

## **RACIAL EQUITY IMPACTS**

**Bill 24-0143 will likely improve quality of life outcomes for District government employees of color and their families.** Paid parental leave is shown to 1) improve maternal and infant health and wellbeing,<sup>2</sup> 2) decrease rates of infant mortality,<sup>3</sup> and 3) improve the “physical health, mental well-being, and stability of the entire family.”<sup>4</sup>

The specific ways that this employment benefit will impact workers of color will be elaborated on below.

**Bill 24-0143 will improve health outcomes for pregnant District Government employees who are Black, American Indian or Alaskan Native, and Native Hawaiian or Other Pacific Islander.** The bill establishes, defines, and sets guidelines for pre-natal leave for eligible District Government employees. The bill defines “qualifying pre-natal leave” as “paid leave that an eligible employee who is pregnant can take for pre-natal medical care,” after being “diagnosed” as pregnant by a healthcare provider. This means that pregnant District government employees can take paid leave for “pre-natal medical care,” which is defined by the bill as:

“...routine and specialty appointments, exams, and treatments associated with a pregnancy provided by a health care provider, including pre-natal check-ups, ultrasounds, treatment for pregnancy complications, bedrest that is required or prescribed by a health care provider, and pre-natal physical therapy.”

The bill also includes “the occurrence of a stillbirth and the medical care related to a miscarriage” as “qualifying medical leave events.” This means that pregnant District employees will be entitled to use paid medical leave in the case of these medical events. This language will have a particular impact on pregnant District government employees who identify as Black, American Indian or Alaskan Native, and Native Hawaiian or Other Pacific Islander.

<sup>2</sup> [“Paid Leave Is Essential for Healthy Moms and Babies,”](#) May 2021.

<sup>3</sup> Ibid.

<sup>4</sup> Zara Abrams, [“The Urgent Necessity for Paid Parental Leave,”](#) April 1, 2022.

Fetal death or fetal mortality is “the spontaneous intrauterine death of a fetus at any time during pregnancy.” A stillbirth is a fetal death that occurs later in pregnancy (at 20 or more weeks of gestation).<sup>5</sup> A miscarriage is a fetal death that occurs before 20 weeks of pregnancy.<sup>6</sup>

According to a study completed by the Center for Disease Control (CDC), in 2019 the fetal mortality rate for Black women was over 10 percent, more than twice the fetal mortality rate for white women (less than 5 percent) and Hispanic women (around 4 percent).<sup>7</sup> In that same study, the 2019 fetal mortality rate for American Indian or Alaskan Native women was over 7 percent and over 10 percent for Native Hawaiian or Other Pacific Islander women. The study also reports that in cases where the cause of fetal mortality is known, “Black women [had] three times the rate of fetal deaths because of maternal complications compared with white women.”<sup>8,9</sup>

**Bill 24-0615 will have additional far-reaching mental and physical health outcomes for Black, Indigenous, and other DC Government employees of color.** The pervasive, deep, and insidious effects of structural racism have widespread effects on the health of people of color. As the National Partnership for Women & Families writes in their report, *Called to Care: A Racially Just Recovery Demands Paid Family and Medical Leave*:

“Systemic racism, often in combination with sexism, ableism and other forms of discrimination, harms the health of Black people, Native Americans, Latinx people and AAPI [Asian American Pacific Islander] people in the United States in many ways, from increased exposure to toxic or infectious environments to the accumulated stress of discrimination to inequitable treatment by health care providers.”

As the Council Office of Racial Equity has written, people of color disproportionately face many health conditions as a result of these larger societal factors.<sup>10</sup> As the National Partnership’s report highlights, it is “particularly important to ensure that workers of color have paid leave to get the care they and their families need without undermining their finances.”<sup>11</sup>

Data shows that in the private sector, Black District workers have the most need for medical leave. For private sector employees, Black employees file 38 percent of all claims for leave, but 56 percent of claims specifically for medical leave. Consider that white employees file 41 percent of all leave claims, but only 26 percent of medical leave claims.<sup>12</sup>

As policies currently stand, this need is not matched with the ability to take leave. As of January 1, 2020, 7,500 District Government employees did not have 24 hours of sick leave accumulated. Of this group, most

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<sup>5</sup> “[NVSS - Fetal Deaths](#),” April 8, 2022.

<sup>6</sup> CDC, “[Pregnancy and Infant Loss](#),” Centers for Disease Control and Prevention, August 13, 2020.

<sup>7</sup> National Vital Statistics Reports, “[Fetal Mortality: United States, 2019](#),” October 26, 2021.

<sup>8</sup> Shannon M. Pruitt, “[Racial and Ethnic Disparities in Fetal Deaths — United States, 2015–2017](#),” *MMWR. Morbidity and Mortality Weekly Report* 69 (2020).

<sup>9</sup> CORE recognizes that not all pregnant people or people who have experienced fetal mortality identify as women. CORE’s use of “women” here is to stay true to the original source, which explains the fetal mortality rate of people who were identified as “women” by the collector of the data.

<sup>10</sup> See CORE’s [REIA database](#).

<sup>11</sup> Mason, Jessica, Kennedy Andara, Paula Molina Acosta, and Isabelle Atkinson. “[Called to Care: A Racially Just Recovery Demands Paid Family and Medical Leave](#).” National Partnership for Women & Families, March 2021.

<sup>12</sup> Department of Employment Services, “[Responses to Fiscal Year 2021-2022 Performance Oversight Questions](#),” p. 204, February 8, 2022.

were Black and “low-income” workers. Black workers make up 62 percent of all District employees but around 70 percent of workers with less than 24 hours of sick leave.<sup>13</sup>

The lack of sick leave for Black District government employees means they rely more often on Leave Without Pay—making up 71 percent of all employees taking leave without pay in 2020.<sup>14</sup>

When looking at the specific ways in which paid leave can benefit health outcomes for workers of color and those around them, the benefits are profound. Having the ability to take paid leave can ensure people seek and receive treatment earlier (meaning they can prevent the issue altogether or experience less severe negative health outcomes), rest, and are able to support caregiving needs.<sup>15</sup> This benefit can also allow workers to care for their loved ones at home, “reduc[ing] nursing home utilization—a vital need given that nearly 40 percent of COVID-19 deaths have been connected to nursing homes and long-term care facilities, and deaths have been higher in facilities with a higher percentage of residents of color.”<sup>16</sup>

As just mentioned, the COVID-19 health crisis disproportionately affected Black residents in the District,<sup>17</sup> further exacerbating racial health inequities and likely increasing caregiving needs for this group.

As explained above, paid leave also addresses deep racial inequities in maternal health, child health, food insecurity, and on-time vaccination rates.<sup>18</sup>

**Bill 24-0615 will improve economic outcomes for Black, Indigenous, and other DC Government employees of color.** Research shows that parental and family leave decreases poverty<sup>19</sup> and increases household income.<sup>20</sup>

The economic benefits of this bill are critically important for Black, Indigenous, and other workers of color who experience racial income inequities and a racial wealth gap. These inequities are especially acute for Black residents, who experience the highest rates of poverty in the District<sup>21</sup> and the largest wealth gap.<sup>22</sup> These racial inequities are the result of the relentless denial of education, employment, and wealth building opportunities to the country’s Black residents.

Because of these economic inequities, workers of color are less likely to have a financial safety net for unexpected caregiving, medical, or family needs.<sup>23</sup> Paid leave allows workers of color to attend to life’s events—when previously they may have not been able to—and maintain economic security if they do.

Access to paid family and medical leave is especially important for DC Government employees of color as across all employment sectors, employees of color have less access to this critical benefit. One study

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<sup>13</sup> Silverman, Elissa. “Report on B24-615, ‘District Government Paid Leave Enhancement Amendment Act of 2022.’” Council of the District of Columbia, n.d.

<sup>14</sup> Ibid.

<sup>15</sup> Mason, Jessica, Kennedy Andara, Paula Molina Acosta, and Isabelle Atkinson. “[Called to Care: A Racially Just Recovery Demands Paid Family and Medical Leave](#).” National Partnership for Women & Families, March 2021.

<sup>16</sup> Ibid.

<sup>17</sup> KFF. “[COVID-19 Deaths by Race/Ethnicity](#),” April 25, 2022.

<sup>18</sup> Mason, Jessica, Kennedy Andara, Paula Molina Acosta, and Isabelle Atkinson. “[Called to Care: A Racially Just Recovery Demands Paid Family and Medical Leave](#).” National Partnership for Women & Families, March 2021.

<sup>19</sup> Goodman, Julia, and William Dow. “[Paid Family Leave as a Strategy for Reducing Health Inequities](#).” Public Health Post.

<sup>20</sup> Ibid.

<sup>21</sup> D.C. Policy Center and Council Office of Racial Equity. “[DC Racial Equity Profile](#).”

<sup>22</sup> MITRE and Council Office of Racial Equity. “[The Racial Wealth Gap in Washington, D.C.](#),” December 2021.

<sup>23</sup> Mason, Jessica, Kennedy Andara, Paula Molina Acosta, and Isabelle Atkinson. “[Called to Care: A Racially Just Recovery Demands Paid Family and Medical Leave](#).” National Partnership for Women & Families, March 2021.



“observed large and significant racial and ethnic inequities in access to PFML that were only weakly mediated by job characteristics.”<sup>24</sup>

## **FURTHER CONSIDERATIONS**

**The bill does not include requirements for DC Government to notify its employees about the policy change.** One survey done in California found that over half of the workers did not know about the paid leave program.<sup>25</sup> These benefits will have a positive racial equity impact, but their impact will be a function of how many employees know about them. In addition, if notification is provided, it should be provided in plain language to increase the uptake by all employees.

**DC Government should consider testing the paid leave application process with employees.** Testimony noted difficulties with the paid leave forms and leave bank processes. Due to the need for and importance of these benefits for workers of color, it is critical that workers are not blocked by the paperwork. One way to ensure that the process works for applicants is to employ user-centered design.<sup>26</sup> This means observing how employees attempt to find and fill out the necessary forms and paperwork. This process can lead to improved, accessible forms and processes.

**The bill does not include retaliation protections.** Given that workers of color may apply and use leave more often, it is incredibly important that the use of benefits does not cause job insecurity.

## **ASSESSMENT LIMITATIONS**

Alongside the analysis provided above, the Council Office of Racial Equity encourages readers to keep the following limitations in mind:

**We generally do not provide policy solutions or alternatives to address our racial equity concerns.**

While Council Period 24 Rules allow our office to make policy recommendations, we focus on our role as policy analysts—we are not elected policymakers or committee staff. In addition, and more importantly, racially equitable policymaking takes time. Because we only have ten days for our review, we would need more time to ensure comprehensive research and thorough community engagement inform our recommendations.

**Assessing legislation’s potential racial equity impacts is a rigorous, analytical, and organized undertaking—but it is also an exercise with constraints.** It is impossible for anyone to predict the future, implementation does not always match the intent of the law, critical data may be unavailable, and today’s circumstances may change tomorrow. Our assessment is our most educated and critical hypothesis of the bill’s racial equity impacts.

**Regardless of the Council Office of Racial Equity’s final assessment, the legislation can still pass.** This assessment intends to inform the public, Councilmembers, and Council staff about the legislation through a racial equity lens. However, a REIA is not binding.

**This assessment aims to be accurate and useful, but omissions may exist.** Given the density of racial equity issues, it is unlikely that we will raise *all* relevant racial equity issues present in a bill. In addition, an

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<sup>24</sup> Goodman, Julia, Dawn Richardson, and William Dow. “[Racial and Ethnic Inequities in Paid Family and Medical Leave: United States, 2011 and 2017–2018.](#)” *American Public Health Association*, June 21, 2022.

<sup>25</sup> Appelbaum, Eileen, and Ruth Milkman. “[Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California.](#)” Center for Economic and Policy Research, 2011.

<sup>26</sup> The Lab @ DC. “[Resident-Centered Design.](#)”

omission from our assessment should not: 1) be interpreted as a provision having no racial equity impact or 2) invalidate another party's racial equity concern.