

Iowa passes law requiring examination of racial impact of all new sentencing laws

Vesna Jaksic / Staff reporter
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Iowa has become the first state to pass a law that will require examination of the racial and ethnic impact of all new sentencing laws prior to passage.

Iowa Governor Chet Culver signed the legislation Thursday afternoon.

"This means when members of the General Assembly and Executive branch are considering legislation of this nature, we will now be able to do so, with a clearer understanding of its potential effects — positive and negative — on Iowa's minority communities," Culver said in a statement posted on his Web site.

Representative Wayne Ford, a Democrat, authored the legislation, which is called the Minority Impact Statement Bill.

"I believe that we need to be tough on crime, but we must also make sure that our laws are fair and equitable," Ford said in a news release from The Sentencing Project, a national non-profit organization that conducts research and advocacy on criminal justice policy issues.

The legislation comes after July's report from The Sentencing Project, which found that Iowa incarcerates blacks at a rate of 13 times of whites, more than double the national average. The state had the highest rate of racial disparity, according to the report, called "Uneven Justice: State rates of incarceration by race and ethnicity."

Iowa is the first state to pass legislation examining the racial and ethnic impact of new criminal justice policies, according to The Sentencing Project. Similar bills are pending in Connecticut and Illinois, while Oregon was the first state to introduce similar legislation last year.

While blacks account for only 2% of Iowa's population, they make up 24% of its prison population, according to the governor's office.

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'Racial impact statements' reality in Iowa Similar legislation in Illinois, Connecticut.

Marcia Coyle / Staff reporter
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WASHINGTON — Iowa recently became the first state to enact a law requiring all new sentencing legislation to be examined for its racial and ethnic impact before passage — what some sentencing experts hope is the beginning of a trend.

Last year, Oregon was the first state to introduce legislation requiring so-called "racial impact statements," but it did not reach final passage.

Other bills are pending in Illinois and Connecticut.

"Oregon's was the first of a kind, so it's not unusual that it wouldn't make it through the first time," said Marc Mauer, executive director of The Sentencing Project, a strong proponent of the legislation. "But the sponsor is very enthusiastic and we're assuming he will do it again next year."

Mauer's organization issued a national report last summer on the racial disparity in state prison and jail populations. Iowa prison and jails had the highest rate of racial

disparity in the nation, according to the report.

Currently, 2% of Iowa's population is black, but 24% of the state's prison population is black.

And nearly 40% of all residents at state juvenile detention centers are minorities. Of that number, a full two-thirds are black, according to the Iowa governor's office.

"To their credit, Iowa policymakers, the press and the community rose up to say this is a problem," said Mauer. "It was overwhelmingly a bipartisan move with support from the governor."

The new Iowa law requires a "minority impact statement" for any legislation related to a public offense, sentencing, or parole and probation procedures. The law also requires that any application for a grant from a state agency must also include a minority impact statement.

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RATIO REVIEW

States with the highest and lowest black-to-white incarceration ratios based on 2005 prison and jail incarceration rates. The national black-to-white ratio of incarceration is 5.6-to-1.

Highest

Iowa	13.6-to-1
Vermont	12.5-to-1
New Jersey	12.4-to-1
Connecticut	12.0-to-1
Wisconsin	10.6-to-1

Lowest

Hawaii	1.9-to-1
Georgia	3.3-to-1
Mississippi	3.5-to-1
Alabama	3.5-to-1
Arkansas	3.9-to-1

Source: The Sentencing Project, July 2007

Two principles

Mauer said that the policymakers considering racial impact statements should be guided by two principles: reducing unnecessary racial disparities in the use of incarceration and promoting public safety.

He suggested that these statements could be applied to sentencing statutory changes, sentencing guidelines adjustments, legislation creating new substantive crimes, "truth in sentencing" policies, parole release and revocation policies, and "early" release policies, such as participation in drug treatment or other programming.

The Sentencing Project report found that states exhibiting high black or Hispanic ratios of incarceration compared with whites fell into two categories: those such as Wisconsin and Vermont that have high rates of black incarceration and average rates of white incarceration, and states such as New Jersey and Connecticut that have average rates of black incarceration and below-average rates of white incarceration.

In both cases, the ratio of incarceration by race is higher than average.

Connecticut state Representative Mike Lawlor, the Democratic chairman of the House Judiciary Committee and associate professor

of criminal justice at the University of New Haven, introduced legislation at the beginning of this session requiring racial impact statements for any crime bill.

"It seemed like a perfectly good idea," he said. "Like most legislatures, our bills carry mandatory fiscal notes. This was a logical addition to that."

After a public hearing on the proposal, he said, two concerns emerged: Why was it necessary to enact legislation to implement the proposal when a change in rules governing the Legislature could accomplish the same thing? And was it necessary or "overkill" to require an impact statement on every crime bill when quite a few were irrelevant or unlikely to pass?

"The bill is technically dead, however there is general agreement we will amend legislative rules to allow a racial impact statement when any committee acting on a bill feels the need for one," said Lawlor, a former prosecutor.

The Connecticut Legislature, he said, has a major advantage in having a nonpartisan staff that would prepare the impact statements.

"Connecticut was identified as having one of the most racially disparate prison populations," said Lawlor. "I have my own ideas about why, but clearly something is going on."