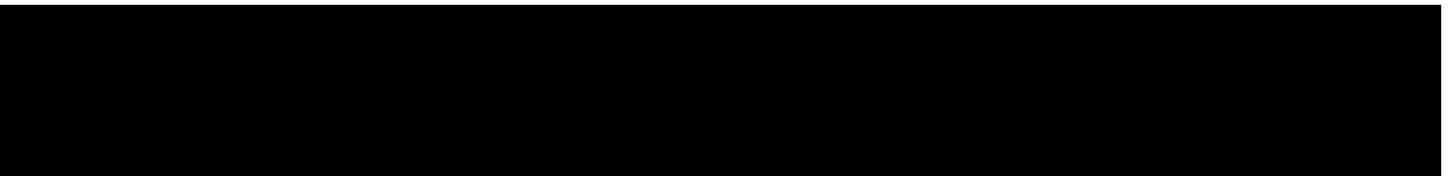




Taking a Closer Look at the
Equity Impacts of Legislation
Pending in Georgia

Georgia Watch



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Executive Summary

The public health and economic crises associated with the COVID-19 pandemic have shone a light on disparities affecting communities of color and other demographic groups who have historically experienced barriers to opportunity. To remove existing disparities and prevent the emergence of new ones, Georgia legislators should have the means to analyze the potential impacts of proposed laws or regulations along demographic lines. An Equity Impact Tool would do just that.

An Equity Impact Tool (EIT) is a process permitting a legislator to identify, assess, and communicate the potential impacts—positive or negative—of proposed legislation on a particular demographic.

Currently, nine state governments employ EIT programs, and even more states have proposed legislation that would create similar tools. Additionally, the United Kingdom uses a program known as the Health Equity Assessment Tool (HEAT) to address public health disparities. Georgia Watch supports the adoption of an EIT process to examine the potential impacts of pending legislation to ensure new laws would advance equity and justice for all Georgians.

This paper provides recommendations for adopting and implementing an EIT to help lawmakers evaluate the positive and negative effects of certain legislation on historically disadvantaged groups in Georgia. This paper also provides examples of successful EITs in other states and scenarios in which this tool would advance equity in Georgia legislation.

Introduction

Disparities have many interacting causes, one being policies that distribute opportunities and barriers unevenly to members of different demographic groups. Equity Impact Tools (EITs) can be used to analyze the potential impacts of proposed legislative measures on existing disparities. Demographics that these tools consider include race, ethnicity, age, sex, gender, sexual orientation, disability, veteran status, geography, socioeconomic status, or other characteristics for which data exists. Impartial staff – typically on a state’s Legislative Counsel – use data to prepare and publish EITs outlining the potential impacts of proposed legislation. By delegating this responsibility to a nonpartisan, impartial, joint office,ⁱ states seek to ensure that the assessments are unbiased and highlight both the negative *and* positive potential outcomes of proposed legislation.

By employing this tool, lawmakers can have their proposed measures impartially evaluated using research and data to assess their true potential impact. The resulting tools can shed light on unintended consequences lawmakers may have overlooked. They can then use this information to improve their measures before passing them into law.

These tools also inform concerned or affected stakeholders about the potential impacts of proposed legislation. Publishing these tools on the Internet increases public engagement and inspires testimony in favor of or against proposed legislation.ⁱⁱ

WHY USE EQUITY IMPACT TOOLS?

- 1 Affirmatively advance equity, inclusion, and unity in legislation for all Georgians.
- 2 Demonstrate Georgia's commitment to reduce existing disparities across the state.
- 3 Avoid and minimize disparate impacts and unintended consequences *before* bills become laws.
- 4 Involve affected and concerned stakeholders in decision-making.

Highlighting Positive Impacts and Creating Momentum

As the nine states that apply them can attest, EITs are useful and practical resources that demonstrate the potential scope of pending legislation's impacts on certain demographic populations. Lawmakers can use these tools to create momentum and generate support for legislative measures by demonstrating the potential for positive outcomes on certain demographic populations.ⁱⁱⁱ Lawmakers in some states have successfully used the papers published under these tools – sometimes called notes – to indicate the positive impacts of a bill if it were to pass into law.

For example, consider the [demographic note](#) that the Colorado Legislative Council Staff produced in April 2021 for Colorado bill [HB21-1232](#), Standardized Health Benefit Plan Colorado Option, which ultimately became law. In the note,

the staff highlighted the bill's potential positive impacts on existing disparities in the state. The note explained that passing HB21-1232 could help reduce health disparities by reducing the premiums for individuals who purchased health plans on the individual market: disproportionately women, rural, and low-income Coloradans. Additionally, the note explained that the bill could help uninsured Coloradans purchase insurance plans which could benefit Hispanic, non-white, rural, and low-income Coloradans.

Demonstrating Georgia's Commitment to Reduce Existing Disparities

How These Tools Could be Applied in Georgia Legislation

By employing an EIT in Georgia, the state can demonstrate that it is taking meaningful action to reduce existing disparities through statewide legislation. Georgia has already taken steps to achieve this goal. Take, for example, H.B. 1114, which sought to address the maternal mortality rate in Georgia and extend the duration of postpartum Medicaid coverage for new mothers. Representative Sharon Cooper (R-Marietta) sponsored the bill, and Governor Kemp signed it into law in 2020. Had Georgia used an EIT for this legislation when it was proposed, the resulting tool likely would have highlighted the positive impacts the bill could have on existing race- and gender-based disparities in the state. This could have created additional momentum for the measure as it passed through the chambers.

Georgia's maternal mortality rate ranks as one of the highest in the nation, with 60 percent of the deaths among Black women. Therefore, this law benefits women overall and helps to address the healthcare disparities specifically faced by Black women in Georgia. As Representative Mable Thomas (D-Atlanta) explained, "This bill helps us move from being the worst in the nation, in terms of African American women dying three to four times more in childbirth than any

other race.”^{iv} An EIT analyzing this bill could have shown the positive outcomes the bill would have for women—when assessing gender-based disparities—and specifically for Black women—when assessing race-based disparities.

Yet plenty of legislation that would similarly help Georgia narrow existing disparities, if passed, either fail to pass or only scrape by. An EIT on a piece of legislation’s impacts may help garner support for a bill and its beneficial impacts to help it pass by a significant margin.

The State and Equality Index Measures

Each year, the Human Rights Campaign (HRC) compiles several equality indexes, including the annual Corporate Equality Index (CEI), which reviews “corporate policies, practices, and benefits” pertinent to LGBTQ+ employees.^v Another is the State Equality Index (SEI), “a comprehensive state-by-state report that provides a review of statewide laws and policies that affect LGBTQ+ people and their families.”^{vi} To date, [Georgia has scored](#) in the lowest possible SEI category: “[High Priority to Achieve Basic Equality](#).”^{vii}

Why Should Georgia Care About Its SEI Score?

Atlanta landed on the 20-city shortlist for Amazon’s 2017 HQ2 search: and [multiple sources](#) noted equity was a driving factor in picking the winner. Georgia should care about its SEI score because businesses continue to show us that equality considerations can and do inform their business decisions. Companies and organizations are increasingly demonstrating that they will make critical business decisions based on statewide legislative actions that impact the equality of the residents of those states.

Thousands of corporations—including [more than 70 employers](#) in Georgia in 2021—voluntarily participate in HRC’s yearly CEI. The Georgia-based corporations that participated in 2021 included major employers like Aflac, Alston

& Bird, Chick-fil-A, Coca-Cola, Cox Enterprises, Delta Air Lines, Eversheds Sutherland, HD Supply, The Home Depot, IHG Hotels & Resorts, King & Spalding, Mohawk Industries, Truist Financial, and United Parcel Service.^{viii} In total, [1,142 companies](#) participated in the 2021 CEI survey, including 233 Fortune 500 employers and 149 American Law Magazine 200 law firms. When these companies decide where to do business or establish their headquarters, they often consider how these decisions might affect their CEI scores.

These companies pay close attention to the results and demonstrate their investment in the CEI survey results by sharing and publishing their scores. Georgia-based Coca-Cola [published their score](#) on their website on April 2, 2019, in an



article titled, "Coca-Cola Receives Perfect Score on Human Rights Campaign's Corporate Equality Index for 13th Consecutive Year."^{ix} Then, on January 21, 2021, Coca-Cola [tweeted](#), "Since 2006, The

Coca-Cola Company has received a 100% rating from the @HRC Corporate Equality Index 2020."^x Raising Georgia's SEI score could help Georgia demonstrate to businesses that it is committed to advancing equity and building its reputation as a business-friendly venue.

Adopting EIT legislation alone could help raise Georgia's SEI score. The HRC looks for the presence or lack of LGBTQ-friendly and anti-LGBTQ+ laws or policies to calculate state scores. The HRC might consider EIT legislation to be LGBTQ-friendly. If so, adopting this legislation in Georgia would raise the state's score. Additionally, lawmakers can identify bills that might raise or drop the state's score and act accordingly by using an EIT on proposed legislation.

Protecting Georgia Veterans and Military Communities

Georgia Watch recommends adding “veteran status” to the list of demographics whose disparities may be analyzed in an EIT assessment. This addition would help lawmakers identify bills that might positively or negatively impact Georgia’s veterans. Supporting and protecting Georgia’s veterans can help them obtain jobs, begin careers, purchase homes, receive healthcare and mental healthcare services, access banking, and more.

Preparing for the Next BRAC Round

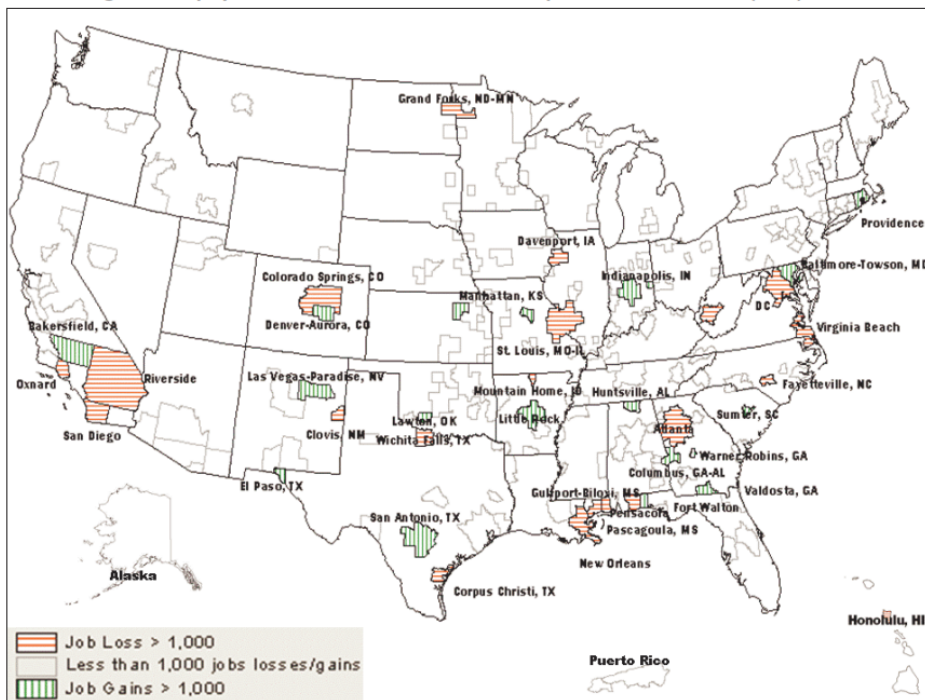
The Department of Defense (DOD) uses Base Realignment and Closure (BRAC) to close or realign military bases across the nation for efficiency reasons. The U.S. has seen five BRAC rounds thus far (in 1981, 1991, 1993, 1995, and 2005).^{xi} Recently, President Obama (for Fiscal Year 2014) and President Trump (for Fiscal Year 2018) presented budgets that included funding for upcoming BRAC consolidations. A BRAC-style closure of Veterans Affairs facilities will begin this year, where recommendations will be made to President Biden by January 31, 2023. He will then decide to reject the plan or forward the plan to Congress for approval. Though the DOD has not announced an upcoming BRAC, the DOD’s continued interest in efficiency holds open the possibility of another round of consolidations and closings. Having EIT legislation for veterans could set Georgia up to avoid closures in the next BRAC round.

Georgia currently has eight military bases and employs the fifth largest number of DOD military, civilian direct-hire, reserve, and national guard employees in the country.^{xii} If Georgia can show that the state supports and protects its veterans and military communities through veteran-friendly legislation, Georgia might succeed in keeping the state’s remaining bases open during the next BRAC round and thereby save thousands of jobs. Military employees and bases closed under

BRAC are often transferred to open bases,^{xiii} meaning that if Georgia can keep its remaining bases open, personnel from other states could be relocated here. This issue is particularly timely as a new BRAC round could be on the horizon.^{xiv} Governor Kemp recently took the initiative to shield Georgia's installations from further closures and realignments. Pledging to aid veterans by establishing EIT legislation to consider proposed legislations' impacts on veterans will only aid the Governor's initiative.

Base closures significantly impact military personnel, their families, and local communities and economies. These changes significantly decrease local populations, directly affecting tax revenue and job and housing markets.^{xv} While the state ultimately experienced job gains after the last BRAC rounds, the Atlanta-Sandy Springs-Marietta area was one of nine metropolitan areas projected to experience the greatest decrease in employment in the nation due to BRAC-related closures.^{xvi} For this reason, Georgia must take steps now to keep its remaining bases open during any future BRAC rounds.

Figure 1. Employment Losses and Gains at the Metropolitan Statistical Area (MSA) Level



Source: CRS estimates based on BRAC Commission 2005 Report.

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EITs can ensure that lawmakers do not inadvertently pass bills that negatively impact veterans by adding “veteran status” to the list of demographics whose disparities may be analyzed in an equity assessment. These tools can also demonstrate how veterans might benefit from proposed bills in Georgia, giving lawmakers the means to assess these effects and pass more veteran-friendly legislation.

A Brief Overview of Equity Impact Tools

Various entities—U.S. state and local governments, government and agency commissions, independent organizations, and entire countries like the United Kingdom—use EITs in a variety of circumstances.^{xviii} Nine U.S. states have adopted some type of EIT legislation or rule,^{xix} and over 125 government bodies in 30 states have adopted racial equity assessment tools.^{xx} Additionally, since 2008,^{xxi} Minnesota’s Sentencing Guidelines Commission has routinely produced racial impact statements to analyze the racial implications of sentencing policies on felony offenses. However, the Commission is not required to do so by law.^{xxii} These programs vary regarding their enacting authority, demographic focus, application, and stage of development. See [Appendix D](#) for a brief timeline and summary of EITs in various states in the U.S.

Enacted by Legislation or Rule

First, lawmakers can use a variety of authorities, including legislation and rules, to enact EIT programs. Iowa, Colorado, Connecticut, Oregon, New Jersey, Maine, and Virginia all have passed legislation that authorizes the implementation of these tools. In 2008, Iowa became the first state to pass legislation requiring policymakers to assess the racial impact of sentencing and parole policies.^{xxiii} Since then, lawmakers in Florida and Maryland have adopted rules and policies to implement EITs. For instance, during the 2019 legislative session, the Florida

legislature adopted a Senate rule that authorized Florida State University to produce racial and ethnic impact statements for certain bills for the Senate's Criminal Justice Committee.^{xxiv}

What Demographics are Analyzed

Second, the different programs consider varying demographics. Many programs, including several state programs, focus specifically on racial disparities.^{xxv} These programs produce racial impact notes when considering law or policy changes.^{xxvi} Other programs focus on more than one disparity.^{xxvii} For example, the demographics that Colorado's program considers include but are not limited to socioeconomic status, race, ethnicity, sex, gender identity, sexual orientation, disability, and geography.^{xxviii} Some programs expand their focus over time. For instance, the United Kingdom's first program established in 2000 focused solely on race.^{xxix} Then, in 2010, the U.K. expanded its program to include age, disability, sex, gender reassignment, sexual orientation, pregnancy, maternity, and religion or belief.

Types of Legislative Measures Analyzed

Third, EITs can apply to single or multiple areas of the law. The various state programs have a range of applications for the tools. For example, Colorado's program does not limit the use of "demographic notes" (the state's version of an EIT) to any specific area of the law. Therefore, Colorado's program applies broadly to most, if not all, proposed bills.

The application of Oregon's program is narrower. Lawmakers can only use racial impact notes in Oregon when considering criminal justice and child welfare legislation. Several other states focus their programs on criminal justice legislation and policies. Connecticut's program applies to the state's criminal justice system as a whole, while New Jersey's program applies to the state's prison system. New

Jersey's bill specifically requires racial impact notes for policy changes that affect pretrial detention, sentencing, and parole.

The Stage of Development

Finally, the various state EIT programs range from fully developed systems to pilot projects. For example, Colorado's program is fully developed and implemented, while Maine's program is an ongoing pilot project. Both state programs are outlined in Appendices [A](#) and [C](#).

Recommendation

Georgia Watch supports the development and adoption of an EIT by which state lawmakers can request formal examinations of the equity impacts of proposed bills to ensure the legislation advances equity and justice. We propose the development of this tool so lawmakers can proactively address the perpetuation of structural racism and other existing disparities through law and policy. Varying versions of these EIT programs currently exist in nine other state-level governments, and even more states have proposed legislation that would create similar programs. We recommend Georgia legislators implement an EIT modeled after those in other states, such as Colorado or Maine.

Both Georgia and its residents stand to benefit from EIT legislation. Creating this tool constitutes a tangible way for Georgia to demonstrate that it is affirmatively using legislation to advance racial and other demographic equities in the state. By adding “veteran status” to this list of demographics that an EIT can analyze, legislators will be equipped to protect Georgia veterans and military communities.

Demonstrating this commitment to creating more equal laws will help Georgia burnish its reputation as a business-friendly state, driving social and economic growth. EIT legislation would allow policymakers to address unanticipated, disparate consequences *before* the bills become law. In doing so, these tools can help to avoid any unintended pitfalls and ensure that Georgia bills are drafted in a way that advances equality.

Appendix

Appendix A: The Colorado Way

- Passed by H.B. 19-1184, Demographic Notes for Certain Legislative Bills, on May 23, 2019.^{xxx}
- The Director of Research of Legislative Council Staff (“Director of Research”) develops the procedures for requesting and producing demographic notes.
- To fund development and implementation, the Legislative Council Staff received \$89,474 and is authorized to seek and accept gifts, grants, and donations.
- Legislative leadership (President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader) may request up to five demographic notes each per session; the Director of Research may authorize more.^{xxxi}
- A withdrawn request will not count towards the member’s five allotted requests for that session.^{xxxii}
- A member of legislative leadership must submit a Demographic Note Request Form to initiate the request (see [Appendix B](#)).
- Legislative Council Staff will contact the requesting member and bill’s sponsor within four business days^{xxxiii} to communicate the feasibility and anticipated timeline for preparing the note.^{xxxiv}
- The staff must publish the note within 14 days of the initial request and may include data, graphs, and appendices discussing the proposed bill’s demographic impacts.
- A note may be revised to reflect the proposed legislation’s changes:^{xxxv} with the Director of Research’s approval while the bill remains in the first chamber;^{xxxvi} And without approval, if the bill is in the second chamber but

has not yet been engrossed (i.e., formally reprinted for a vote on its passage).^{xxxvii}

- Legislative members may not make any new requests during the final 21 calendar days of each legislative session unless the Director of Research makes an exception.^{xxxviii}
- The Legislative Council Staff provides the public with opportunities to get involved throughout the process.^{xxxix} The staff publishes notes on its website and Twitter. The public can register to receive e-mail notifications when notes are being prepared and published.^{xl}

Demographic Notes for Certain Legislative Bills		
Members of Legislative Leadership	Director of Research	Legislative Council Staff
<p>May Request Demographic Notes</p> <p>May Withdraw Demographic Note Requests</p>	<p>Shall Develop Procedures for Requesting, Completing, and Updating Demographic Notes</p> <p>May Seek, Accept, and Expend Gifts, Grants, or Donations From Private or Public Sources for Staff Training</p> <p>May Authorize Members to Make More Requests Beyond the Five-Request Limit</p>	<p>Shall Meet with Requesting Members to Discuss the Timeline & Feasibility of the Demographic Note</p> <p>Shall Prepare Demographic Notes</p>

Appendix B: Colorado Demographic Note Request Form



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Demographic Note

REQUEST FORM

Pursuant to Section 2-2-322.5(2)(b), C.R.S., this is a request for a Demographic Note on the following bill.

 Bill Number or LLS Number

Demographic Areas

Pursuant to state law, the following areas may be included in the analysis, subject to data availability:

- Socioeconomic Status
- Race
- Sex
- Sexual Orientation
- Geography
- Ethnicity
- Gender Identity
- Other (please specify) _____

Leadership Approval

Approval by one of the members of leadership listed below is required. If approved, this request will count as one of the five Demographic Notes that may be requested per session by the approving member of leadership. This request has been approved by:

 President of the Senate

 Speaker of the House

 Senate Minority Leader

 House Minority Leader

Designated member (optional). _____ is appointed as the designated member for this request. The designated member will receive all updates and communications about the request and may make decisions about the request on behalf of the approving member of leadership. If left blank, Legislative Council Staff will communicate with the approving member of leadership.

Would the approving member of leadership also like to receive updates and communications about this request? Yes No

Form Submission

Return this form to Legislative Council Staff. After receipt of this form, Legislative Council Staff will email or meet with the approving member of leadership and/or designated member and the bill sponsor within four business days to inform them of the feasibility and schedule for providing the Demographic Note (typically the note will be provided no later than 14 calendar days after receipt of this form).

The Demographic Note will be based on the official version of the bill as of the date this request form is received by Legislative Council Staff.

Date received: _____

 Legislative Council Staff is the nonpartisan research and support service agency for the Colorado General Assembly.

Appendix C: The Maine Way

- Thanks to L.D. 2, An Act to Require the Inclusion of Racial Impact Statements in the Legislation Process, passed in 2021, ^{xii} the Legislative Council completes a study to determine the best method of implementing a racial impact statement pilot project. This study includes examining programs in other states and the types of data needed to produce the statements.
- The Legislative Council determines the scope of the pilot, including designating between one and four participating committees, what type of legislation will be subject to assessment, the necessary resources for the program, and the costs.
- On December 10, 2021, the Council announced that the University of Maine System and Permanent Commission on the Status of Racial, Indigenous and Maine Tribal Populations would collaborate in the pilot program with their own resources. ^{xiii}
- Each participating committee will provide a report to the Legislative Council once the pilot project has concluded.
- The Legislative Council will decide whether to expand or eliminate the use of racial impact statements based on these reports by December 15, 2022.

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Appendix D: Equity Impact Tools in Various States

A BRIEF TIMELINE OF

RACIAL IMPACT STATEMENTS

IN U.S. STATES

2008: IOWA

Iowa adopted HF 2393, the nation's first racial impact statement bill. The bill allows for the preparation of racial impact statements on proposed sentencing & parole policies.

2013: OREGON

Oregon passed SB 463B, which allows for the preparation of racial & ethnic impact statements for proposed criminal justice and child welfare legislation.

2019: COLORADO

Colorado passed HB 19-1184, which allows for demographic notes to be prepared on a broad range of proposed measures—the bill does not specify any limits on the area of law.

2021: MARYLAND

The Maryland Senate President and House Speaker announced the establishment of a pilot project for the preparation of racial impact statements on proposed criminal justice policies. This project was not implemented by a bill.

2021: VIRGINIA

Virginia adopted a bill which allows for the preparation of racial & ethnic impact statements on criminal justice policies.

2008: MINNESOTA

Since 2008, the Minnesota Sentencing Guidelines Commission has voluntarily prepared racial impact statements on proposed crime bills.

2008: CONNECTICUT

Connecticut passed a bill (2-24) which allowed for the preparation of racial impact statements on proposed pretrial detention & sentencing policies.

In 2017, Connecticut passed an amendment to this bill (SB 256) which expanded the bill's application—the bill no longer specifies any limits on the area of law.

2017: NEW JERSEY

New Jersey passed S-677/A-3677, which allows for the preparation of racial impact statements on proposed pretrial detention, sentencing, & parole policies.

2019: FLORIDA

During the 2019 legislative session, legislators adopted a Senate rule that authorized Florida State University to assess the racial & ethnic impacts of criminal justice bills.

2021: MAINE

Maine passed LD 2 which requires the development of a pilot project for the preparation of racial impact statements to be implemented no later than December 1, 2021. The bill does not specify any limits on the area of law, but instead requires the Legislative Council to determine the scope of the pilot.

Sources: *Racial Disparity State Reforms*, NACDL.org (June 7, 2021), <https://www.nacdl.org/Content/Racial-Disparity-State-Reforms>; Nicole D. Porter, *Racial Impact Statements*, The Sentencing Project (June 16, 2021) <https://www.sentencingproject.org/publications/racial-impact-statements/>.

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