



Children of Incarcerated Caregivers

Family Impact Statements

by Bekah Muta, J.D. Candidate, University of Minnesota Law School, 2026

Parental incarceration can result in a significant loss of support for children.¹ Throughout a parent or caregiver’s involvement in the criminal legal system, children are placed at a higher risk of the “secondary costs of confinement,”² such as residential instability, financial hardship, and psychological disorders.³ Family impact statements are a “promising” tool to mitigate this multifaceted trauma of parental incarceration.⁴

I. What is a family impact statement?

A family impact statement, also referred to as a family responsibility statement or a child impact statement,⁵ provides information to a judge and other stakeholders regarding the best interests of a defendant’s child when the judge is considering pre-trial detention or sentencing options.⁶

II. Which jurisdictions have formally adopted family impact statements?

Multiple jurisdictions in the United States have formally or informally adopted family impact statements. Four states – Illinois, Massachusetts, North Dakota, and Oklahoma – have statutorily adopted family impact statements. In 2019, Illinois passed the Children’s Best Interest Act, which created a defendant’s right to a family impact statement and set forth multiple

¹ James M. Conway et al., *Impact of Caregiver Arrest on Minor Children: Implications for Use of Family Impact Statements in U.S. Courts*, JUST. POL’Y J., Fall 2016, at 1–3,

https://www.cjcr.org/media/import/documents/jpj_impact_of_caregiver_arrest.pdf.

² TÂNIA LOUREIRO, CHILD AND FAMILY IMPACT STATEMENTS IN COURT: IMPLICATIONS FOR POLICY AND PRACTICE 57 (2009), <https://www.familiesoutside.org.uk/content/uploads/2019/03/child-impact-statements-stage1.pdf>.

³ LINDSEY CRAMER ET AL., TOOLKIT FOR DEVELOPING FAMILY IMPACT STATEMENTS 1 (2015), <https://www.urban.org/sites/default/files/publication/53651/2000253-Toolkit-for-Developing-Family-Impact-Statements.pdf>.

⁴ *Id.*

⁵ Canada distinguishes between family and child impact statements, with family impact statements describing the impact on a defendant’s children and family, including extended family members, and child impact statements focusing solely on the impact on a defendant’s children. See JESSICA JAHN, BRINGING INFORMATION TO PROSECUTORS AND COURTS ON THE IMPACT OF SENTENCING DECISIONS ON OFFENDERS’ FAMILIES AND CHILDREN 9–10 (2023), <https://icclr.org/wp-content/uploads/2023/07/Bringing-Child-Impact-Information-to-the-Court.pdf>. In some jurisdictions, child impact statements also may refer to statements on the impact of policy and legislation on children. This is the case in Canada, some United States local governments, the United Kingdom, New Zealand, and Sweden. See FIRST FOCUS ON CHILD., FACT SHEET: CHILD IMPACT STATEMENTS 1 (2021), https://firstfocus.org/wp-content/uploads/2021/09/FACT-SHEET_ChildImpactStatements.pdf.

⁶ CRAMER ET AL., *supra* note 3, at 5.

mitigating factors for judges to consider at sentencing relating to family impact.⁷ In Massachusetts, North Dakota, and Oklahoma, judges are statutorily allowed to consider a defendant's parental status and the impact of parental incarceration on children during sentencing proceedings.⁸

Although not through legislation, San Francisco and New York State informally implemented family impact statements into pre-sentence investigation procedures.⁹ San Francisco embedded a section dedicated to family impact into a pre-sentence investigation report template.¹⁰ San Francisco probation officers collect this information during pre-sentence interviews.¹¹ New York State integrated the concept of family impact throughout pre-sentence investigation training, including the addition of multiple questions about a defendant's family during pre-sentence investigation interviews.¹² Similarly, Louisville, Kentucky utilizes questions about children and child custody in their pre-sentence investigations, including recording the names and ages of all household members, but has not formally adopted the use of family impact statements.¹³

Other states, including Connecticut, have considered—though not yet passed—family impact statement legislation.¹⁴ Counties and states without family impact statement legislation are being urged by organizations and agencies, such as the Special Project and the Center for Health Equity in Kentucky, to consider their implementation.¹⁵ Many states that have not statutorily adopted family impact statements, including North Carolina, Hawaii, California, and Washington State, allow for the information that family impact statements provide to be considered as a mitigating factor at sentencing or throughout the criminal justice process.¹⁶

⁷ AMANDA TYLER & BEKAH MUTA, THE ILLINOIS CHILDREN'S BEST INTEREST ACT 2(2024), <https://cicmn.org/wp-content/uploads/2024/06/Illinois-Report-Final-Draft-Formatted-2024-v3.docx.pdf>.

⁸ JAHN, *supra* note 5, at 13.

⁹ *Id.* at 12–13.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ THE SPECIAL PROJECT & LOUISVILLE METRO. CTR. FOR HEALTH EQUITY, PARENTAL INCARCERATION, CHILDREN'S HEALTH, AND AN OPPORTUNITY TO SHIFT THE FUTURE 9 (2022), <https://familyjusticeadvocates.org/wp-content/uploads/2022/06/parental-incarceration-childrens-health-and-an-opportunity-to-shift-the-future.pdf>.

¹⁴ H.B. 7216, 2017 Gen. Assemb., Jan. Sess. (Conn. 2017), https://ctsentencingcommission.org/wp-content/uploads/2018/01/An_Act_Concerning_Family_Impact_Statements.pdf; S.B. 361, 2014 Gen. Assemb., Feb. Sess. (Conn. 2014); H.B. 6660, 2013 Gen. Assemb., Jan. Sess. (Conn. 2013); S.B. 361, 2014 Judiciary Comm. J. Favorable Rep. (Conn. 2014), <https://www.cga.ct.gov/2014/jfr/s/2014SB-00361-R00JUD-JFR.htm>; *cf.* S.B. 1233, 2023 Gen. Assemb., Jan. Sess. (Conn. 2023), <https://www.cga.ct.gov/2023/TOB/S/PDF/2023SB-01233-R00-SB.PDF>.

¹⁵ THE SPECIAL PROJECT & LOUISVILLE METRO. CTR. FOR HEALTH EQUITY, *supra* note 13, at 4.

¹⁶ Conway et al., *supra* note 1, at 4; Lauren Feig, *Breaking the Cycle: A Family-Focused Approach to Criminal Sentencing in Illinois*, U. CHI., June 1, 2015, <https://crownschool.uchicago.edu/student-life/advocates-forum/breaking-cycle-family-focused-approach-criminal-sentencing-illinois>.

Minnesota allows statements about family relationships to be made on behalf of a defendant at sentencing though the state has not formally adopted any policies on family impact statements.¹⁷

Federal Sentencing Guidelines require judges to consider familial ties and responsibilities at sentencing as defendant characteristics.¹⁸ Although federal statutes and case law reinforce that defendant characteristics must be considered at sentencing, there is no federal legislation formally granting defendants the right to introduce family impact statements at sentencing.¹⁹ Changes to Federal Sentencing Guidelines are needed to formally incorporate family impact statements into the process.²⁰

There are also international models for the use of family impact statements. Canadian criminal courts, for example, accept family impact statements, impact of race and culture assessments (IRCA), and other reports to inform judicial sentencing determinations.²¹

III. What is the purpose of a family impact statement?

Family impact statements provide information about the potential and real consequences of pretrial detention, court supervision or sentences to judges, who make decisions about defendants' freedom. Judges balance this info with public safety and community interests.²² When different dispositional options are available, information about the impact on a defendant's children and other family members helps a judge consider the wide range of potential consequences arising from a prison sentence or placement in programs that serve as alternatives to incarceration.²³ Thus, considering family impact and focusing on supporting children's well-being can protect against long-term negative health and mental health risks tied to the adverse childhood experience of parental incarceration.²⁴ Additionally, family impact statements can create an avenue for disrupting the generational cycles of trauma, poverty, and racism—driving forces for multiple generations of a family being incarcerated—by diverting parents from prison when appropriate.²⁵

In New York and San Francisco, incorporating family impact statements into pre-sentence investigation reports serves to minimize the trauma inflicted on children when their parents or caregivers move through the criminal justice system, from pre-trial detention to

¹⁷ MINN. STAT. § 611A.038(c).

¹⁸ See Emily W. Andersen, "Not Ordinarily Relevant": *Bringing Family Responsibilities to the Federal Sentencing Table*, 56 BOS. COLL. L. REV. 1501, 1510 (2015).

¹⁹ *Id.* at 1533.

²⁰ *Id.*

²¹ JAHN, *supra* note 5, at 9, 17.

²² LOUREIRO, *supra* note 2, at 3.

²³ *Id.*

²⁴ Email from Allison Hollihan, Dir. of N.Y. Initiative for Child. of Incarcerated Parents, to author (Oct. 11, 2024, 17:09 CST) (on file with author).

²⁵ LOUREIRO, *supra* note 2, at 25; Feig, *supra* note 16; see also JAMES M. CONWAY & EDWARD T. JONES, SEVEN OUT OF TEN? NOT EVEN CLOSE: A REVIEW OF RESEARCH ON THE LIKELIHOOD OF CHILDREN WITH INCARCERATED BECOMING JUSTICE-INVOLVED (2015),

<https://imrp-dpp.media.uconn.edu/wp-content/uploads/sites/3351/2021/09/March-2015-Seven-out-of-ten.pdf>.

sentencing, and to secure, long-term placement.²⁶ In both jurisdictions, stakeholders aimed to help probation officers develop a stronger understanding of a defendant’s family; create processes to inform decision-makers of the consequences of detention and sentencing; recommend and apply unique programming alternatives or sentencing and supervision options; and improve relationships between parents and their children.²⁷ In San Francisco, specifically, former Chief Wendy Still sought to make her department’s practices more “family-focused” by incorporating the concept of family impact into pre-sentence investigation processes.²⁸

IV. What information should a family impact statement contain?

Family impact statements typically provide an overview of family strengths, risks, and needs relating to the consequences of parental incarceration and alternative dispositions.²⁹ Family impact statements focus on the relationship between the child and parent, including contact between the parent and child and whether the parent is their primary caregiver.³⁰ Contact between the parent and child includes contact prior to a parent’s incarceration and accessible opportunities for contact during a parent’s incarceration and during other dispositional options.³¹

In cases where a defendant’s child or children may be placed in foster care during his or her incarceration, family impact statements should include information regarding the defendant’s ability to fulfill his or her requirements and responsibilities for maintaining custodial rights during incarceration, including access to caseworkers and his or her children.³² Family impact statements may demonstrate how some sentencing options will likely result in a termination of someone’s custodial rights under the Adoption and Safe Families Act of 1997, while others have the potential to help preserve the relationship.³³

²⁶ CRAMER ET AL., *supra* note 3, at 3.

²⁷ *Id.* at 7–8.

²⁸ Margaret Dizerega, *San Francisco’s Family-Focused Probation: A Conversation with Chief Adult Probation Officer Wendy Still*, 24 FED. SENT’G REP. 54, 55 (2011), <https://www.sf.gov/sites/default/files/2022-03/SF%20Family%20Focused%20Probation.pdf>.

²⁹ Feig, *supra* note 16.

³⁰ LOUREIRO, *supra* note 2, at 3.

³¹ LOUREIRO, *supra* note 2, at 3, 12; *see, e.g., FamilyWorks Buffalo*, CMTY. HEALTH CTR. OF BUFF., INC., <https://chcb.net/familyworks-buffalo/> (last visited Sept. 9, 2024) (providing an example of an opportunity for children and incarcerated parents to maintain contact through video visits).

³² LOUREIRO, *supra* note 2, at 47; BILL DE BLASIO & DAVID A. HANSELL, N.Y.C. ADMIN. OF CHILD.’S SERVS., OUT OF SIGHT, NOT OUT OF MIND: IMPORTANT INFORMATION FOR INCARCERATED PARENTS WHOSE CHILDREN ARE IN FOSTER CARE 2–9 (2007), https://www.nyc.gov/assets/acs/pdf/immigrant_services/translations/fps/OutOfSight.pdf (outlining a parent’s requirements and responsibilities for maintaining custodial rights during incarceration).

³³ Under the Adoption and Safe Families Act of 1997, proceedings to terminate parental rights begin after a child has been in foster care for a specified period unless “reasonable efforts” have been made to support reunification, or that termination is not in a child’s best interest. *See* S.F. CHILD. OF INCARCERATED PARENTS P’SHIP, FROM RIGHTS TO REALITIES: AN AGENDA FOR ACTION (2005), <https://affcn.org/wp-content/uploads/2008/11/billofrights.pdf> [hereinafter S.F. CHILD.]; Feig, *supra* note 16; 42 U.S.C. §§ 673(b), 678, 679(b).

Family impact statements should substantially focus on the defendant’s child or children, including the number of minor children and their ages; the children’s living situation; the financial and emotional qualities of the parent-child relationship; the financial needs of the children; and the location of the children’s residence.³⁴ Family impact statements also may include economic costs relating to the loss of the parent’s income or the financial status of the children’s caregiver during the parent’s incarceration,³⁵ as well as the loss of care and support resulting from the separation of the parent and children.³⁶ In addition, family impact statements should provide detailed information regarding the impact of parental incarceration on the children’s mental health, social behavior, and educational prospects.³⁷ Structural changes, such as changing schools or separating siblings,³⁸ trauma, and negative stigma of parental incarceration are relevant factors to include as well.³⁹

In particular, family impact statements should include the well-established and researched characterization of parental incarceration as an “adverse childhood experience.”⁴⁰ This highlights the purpose of the family impact statement as centering the best interest of the child.⁴¹ Another important factor to include, when applicable, is the legal basis for considering impact to a child as a mitigating or relevant sentencing factor, which will vary by jurisdiction.⁴² Lastly, specific alternatives to incarceration and the anticipated impact on a child for each dispositional option available at sentencing are critical to include. Judges should fully understand the options available, the foreseeable consequences of each punishment, and the option least detrimental to the child.⁴³

V. Who typically prepares a family impact statement?

Family impact statements may be prepared and produced by defendants, their family members, community members that have a relationship with the defendant or their children, probation officers, defense attorneys, mitigation specialists, or non-profit organizations.

³⁴ Feig, *supra* note 16.

³⁵ Economic impact to a relative caregiver also is a significant factor to include in family impact statements. *See, e.g., Family Impact Statement*, ARK. VOICES FOR THE CHILD. LEFT BEHIND, https://portal.ct.gov/-/media/ocpd/child_protection/training/training_material/familyimpactstatement2pdf.pdf (last visited Sept. 9, 2024).

³⁶ The loss of care and support experienced by a child may include direct care, instrumental support such as transportation and help with homework, and emotional support. *See* Conway, et al., *supra* note 1.

³⁷ *Children of Incarcerated Parents*, YOUTH.GOV, <https://youth.gov/youth-topics/children-of-incarcerated-parents> (last visited Sept. 9, 2024).

³⁸ Structural changes may include the separation of siblings or changing schools. *See, e.g., Family Impact Statement*, *supra* note 35.

³⁹ Conway, et al., *supra* note 1, at 3; *Public Comment on Proposed Priorities*, N.Y. INITIATIVE FOR CHILD. OF INCARCERATED PARENTS (Aug. 9, 2018), <https://www.ussc.gov/sites/default/files/pdf/amendment-process/public-comment/20180810/NYCIP.pdf> [hereinafter *Public Comment*].

⁴⁰ *Public Comment*, *supra* note 39, at 1.

⁴¹ LOUREIRO, *supra* note 2, at 37.

⁴² Since 1997, appellate cases involving termination of an incarcerated parents’ rights have increased by 250%. S.F. CHILD., *supra* note 33.

⁴³ JAHN, *supra* note 5, at 14.

Probation officers, human services agencies, community-based organizations, and other service providers who work with probation departments may prepare family impact statements during pre-sentence investigation processes.⁴⁴

Theodore Thomas, assistant public defender and director of professional development at the Law Office of the Cook County Public Defender, said in an interview with CIC that defense attorneys can play an important role in integrating family impact statements at sentencing.⁴⁵ Explaining the implementation of family impact as a two-pronged approach, Thomas described how family impact statements can be presented both in the client social history section of mitigation packets and through live in-court testimony of family members.⁴⁶ Thomas noted that mitigation specialists who work with defense counsel to prepare for sentencing hearings may also collect family impact statements to include in their reports.⁴⁷

Non-profit organizations, such as the Osborne Association's Court Advocacy Services,⁴⁸ the New York Initiative for Children of Incarcerated Parents,⁴⁹ Arkansas Voices for the Children Left Behind,⁵⁰ and We Resolve through Participatory Defense,⁵¹ offer services or support for creating and presenting family impact statements.

VI. Where can family impact statements be used procedurally?

Although most often incorporated into pre-sentence investigations, family impact statements may be beneficial throughout the judicial process,⁵² including at pre-trial hearings. Family impact statements at pre-trial proceedings may be considered in bail determinations, and could be used to provide children with information about the post-arrest process, including where their parent will be held, visiting hours, and other procedures.⁵³ Research on family impact statements at pre-trial proceedings is lacking.

⁴⁴ CRAMER ET AL., *supra* note 3, at 3.

⁴⁵ Zoom Interview with Theodore Thomas, Dir. of Pro. Dev., Cook Cnty. Pub. Def. (Mar. 19, 2024).

⁴⁶ Email from Theodore Thomas, Dir. of Pro. Dev., Cook Cnty. Pub Def., to author (Oct. 18, 2024, 16:17 CST).

⁴⁷ Thomas, *supra* note 45.

⁴⁸ *Osborne Association, Inc.*, L. HELP N.Y. (Aug. 5, 2022), <https://www.lawhelpny.org/organization/osborne-association-inc>.

⁴⁹ *See New York Initiative for Children of Incarcerated Parents: Accomplishments*, YOUTH.GOV, <https://youth.gov/collaboration-profiles/ny-initiative-coip/accomplishments> (last visited Sept. 10, 2024).

⁵⁰ *Family Impact Statement*, *supra* note 35; *see also* Liz Harrell, *Arkansas Voices for the Children Left Behind*, ONLY IN ARK. (Dec. 3, 2016),

<https://onlyinark.com/homegrown/12-days-of-christmas-giving-arkansas-voices-for-the-children-left-behind/>.

⁵¹ *What We Do*, WE RESOLVE, <https://weresolve-mn.com/about/> (last visited Sept. 10, 2024).

⁵² S.F. CHILD., *supra* note 33, at 8 (describing ways to implement a consideration of family impact from arrest intake procedures to sentencing).

⁵³ *Id.*

During pre-sentence investigations, family impact statements can provide information to courts on the consequences of potential sentences and provide recommendations for the “least detrimental alternative” to incarceration, such as treatment plans and community supervision.⁵⁴

At sentencing, judges may use information from family impact statements to impose a sentence that mitigates the detrimental impact to a child while protecting public safety and holding a parent accountable.⁵⁵ While community-based alternatives to incarceration may be considered, judges also may use sentencing dispositions such as staggered sentencing to mitigate trauma on children whose parents both face incarceration.⁵⁶ Additionally, family impact statements can provide information regarding the impact to a child relating to sentence length and prison location, permitting judges to consider sentencing the defendant to a facility or program that is near the child’s residence.⁵⁷

Although there are no empirical studies on family impact statements in cases with monetary sanctions, these statements may also be beneficial when courts determine whether to impose financial penalties.⁵⁸ Considered a form of “lenient” criminal punishment, monetary sanctions are commonly imposed on families with fewer resources.⁵⁹ Monetary penalties perpetuate stigma through “poverty penalties” and inflict feelings of hopelessness, stress, and financial strain for minor children.⁶⁰ Using family impact statements to address the impact of sanctions on minor children could reduce the risk of unnecessary harm.

VII. What has been written about the effectiveness of family impact statements?

There are few, if any, empirical studies or independent evaluations of whether family impact statements mitigate the trauma inflicted on children by parental incarceration, presenting a significant obstacle to their implementation.⁶¹ Some studies, however, show that describing family impact in pre-sentence reports significantly influences whether a defendant’s familial responsibilities are considered in sentencing conditions.⁶² Overall, there is a general consensus that family impact statements appear to be a promising tool for mitigating the impact of parental incarceration.

⁵⁴ S.F. CHILD., *supra* note 33; CRAMER ET AL., *supra* note 3, at 7.

⁵⁵ LOUREIRO, *supra* note 2, at 3; THE SPECIAL PROJECT & LOUISVILLE METRO. CTR. FOR HEALTH EQUITY, *supra* note 13, at 9.

⁵⁶ *Public Comment*, *supra* note 39, at 3 (describing case where staggered sentencing ensured that one parent would be home with his or her four children while the other served prison sentence).

⁵⁷ Feig, *supra* note 16; STEVE CHRISTIAN, CHILDREN OF INCARCERATED PARENTS 8 (2009), <https://cblcc.acf.hhs.gov/wp-content/uploads/2017/02/ChildrenOfIncarceratedParents2.pdf>.

⁵⁸ See Veronica L. Horowitz et al., *Fines, Fees, and Families: Monetary Sanctions As Stigmatized Intergenerational Exchange*, 65 SOCIO. Q. 469, 474 (Apr. 10, 2024), <https://doi.org/10.1080/00380253.2024.2333815>.

⁵⁹ *Id.* at 482.

⁶⁰ *Id.* at 471.

⁶¹ CRAMER ET AL., *supra* note 3, at 11; THE SPECIAL PROJECT & LOUISVILLE METRO. CTR. FOR HEALTH EQUITY, *supra* note 13, at 18; JAHN, *supra* note 5, at 15.

⁶² JAHN, *supra* note 5, at 2.

VIII. What concerns do stakeholders have about family impact statements?

Jurisdictions may be hesitant to implement family impact statements due to concerns regarding judicial efficiency.⁶³ Funding constraints, overcrowding in courts and correctional systems, and already strained time commitments compound concerns about requiring family impact statements to be prepared and considered.⁶⁴ Such concerns could be overcome by clearly delegating responsibility for the preparation and production of the statements and providing resources to the responsible individual or party.⁶⁵ States may also allow defendants or another third party to prepare them.⁶⁶ Working with stakeholders to develop family impact statement policies and procedures may also prevent the statements from further burdening court and correctional system staff.⁶⁷

There has been some critique that family impact statements are merely a method for defendants to escape accountability and punishment.⁶⁸ The Osborne Association recommends using the term “family responsibility statements,” to garner stakeholder buy-in, as probation officers and directors may be more responsive to holding defendants accountable for their parenting responsibilities.⁶⁹ The New York Office of Probation and Correctional Alternatives followed this approach and incorporated family responsibility statements into pre-sentence investigation processes.⁷⁰

A judge’s receptiveness to family impact statements will influence their effectiveness too. Allison Hollihan, director of the New York Initiative for Children of Incarcerated Parents at the Osborne Association, said in an interview with CIC that even in jurisdictions that have formally adopted the use of family impact statements, defendants may be hesitant to use them depending on the judge presiding over their case.⁷¹ She pointed to observations from the Osborne Association’s Sentencing Mitigation Team, which found that including family impact statements could be helpful for judges who wanted that information, but if a judge felt that the statements were being used inappropriately, the use of family impact statements may have resulted in a worse outcome for the client.⁷²

Defense attorneys also shared that they sometimes advise clients to avoid including information about their children to avoid the risk of additional charges being brought against

⁶³ *Id.* at 14.

⁶⁴ THE SPECIAL PROJECT & LOUISVILLE METRO. CTR. FOR HEALTH EQUITY, *supra* note 13, at 18.

⁶⁵ JAHN, *supra* note 5, at 14.

⁶⁶ *Id.*

⁶⁷ *Id.* at 14–15.

⁶⁸ LOUREIRO, *supra* note 2, at 38; THE SPECIAL PROJECT & LOUISVILLE METRO. CTR. FOR HEALTH EQUITY, *supra* note 13, at 9.

⁶⁹ CRAMER ET AL., *supra* note 3, at 10.

⁷⁰ *Id.* at 8.

⁷¹ Zoom Interview with Allison Hollihan, Dir. of N.Y. Initiative for Child. of Incarcerated Parents (July 18, 2024).

⁷² *Id.*

them.⁷³ Defendants also may be resistant to government agencies, such as probation officers and public defenders, becoming involved with their children and families.⁷⁴ Opportunities for defendants, their families, or non-profit organizations to prepare and produce family impact statements may help ease their concerns.⁷⁵

Hollihan sees a need for more education about the utility of family impact statements and a shift in thinking for all the stakeholders, whether it be the defense attorneys, prosecutors, or judges.⁷⁶ Additional education may include demonstrating that family impact statements not only encourage consideration of alternatives to incarceration, supervised parent-child visits, and services to families, but also highlight opportunities for providing information and resources⁷⁷ to defendants and their families on maintaining contact with children.⁷⁸

Hollihan noted that a lack of alternatives to incarceration restricts the potential benefit of family impact statements.⁷⁹ “Outside of New York City, often even if a judge is receptive to the information, a lot of the counties throughout the state don’t have alternatives to incarceration.”⁸⁰ She explained that due to the lack of options, “sometimes the only option that a judge believes is viable is incarceration.”⁸¹

IX. Conclusion

Family impact statements are a tool to provide crucial information about a defendant’s parenting responsibilities to judges and other members involved in the criminal justice system. They help ensure that the impact on children is considered throughout the criminal justice process. Although family impact statements demonstrate substantial promise for mitigating the adverse impact of parental incarceration, a lack of empirical studies and individual evaluation highlight the need for further research and discussion. In particular, researchers should focus on

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ JAHN, *supra* note 5, at 14.

⁷⁶ Hollihan, *supra* note 71.

⁷⁷ Examples of information and resources that judges may provide based on family impact statements include visitation information, information for the defendant regarding his or her custodial rights if his or her children are placed in foster care, and information for a non-parent caregiver. *See, e.g., FamilyWorks Buffalo, supra* note 30; *see also* de Blasio & Hansell, *supra* note 31; GERARD WALLACE ET AL., STRONGER TOGETHER: VOLUME III, INFORMATION FOR NON-PARENT CAREGIVERS OF CHILDREN WITH INCARCERATED PARENTS 48-60 (2013), https://ocfs.ny.gov/main/publications/pdf_stongertogethervol3.pdf; S.F. CHILD., *supra* note 33. The Adoptive and Foster Family Coalition in New York (AFFCNY) accumulated multiple resources pertaining to parenting children with incarcerated parents, which may also present information for a judge to share with a defendant, his or her family, and a non-parent caregiver. *See Parenting Children with Incarcerated Parents*, ADOPTIVE AND FOSTER FAM. COAL. OF N.Y., <https://affcny.org/family-supports/navigating-relationships/children-with-incarcerated-parents/> (last visited Sept. 10, 2024).

⁷⁸ LOUREIRO, *supra* note 2, at 47; S.F. CHILD., *supra* note 33; Conway, et al., *supra* note 1, at 13.

⁷⁹ Hollihan, *supra* note 71.

⁸⁰ *Id.*

⁸¹ *Id.*

when to implement family impact statements procedurally, what specific information should be included in the statements, and who should be involved in preparing family impact statements to determine the most effective family impact statement model.

Appendix 1: Formal and Informal Adoptions of Family Impact Statements by Jurisdiction

Jurisdiction	Enabling Law, Policy, or Informal Procedure	Implementation
San Francisco	The San Francisco Adult Probation Department created a dedicated section on family impact in procedure for pre-sentence interviews.	Added family impact-specific questions into pre-sentence interviews to be included in pre-sentence investigation reports; conducted by probation officers.
New York State	The New York Office of Probation and Correctional Alternatives highlighted family responsibility statements as a “best practice” throughout probation officers’ pre-sentence interview training, including questions regarding a defendant’s family throughout pre-sentence interviews.	Developed family impact-specific questions and training for probation officers to emphasize family impact during pre-sentence investigation; probation officers may collect family impact information and incorporate it into the social history and environment section of a presentence investigation report, though they are not required to do so. Implementation is varied, and ongoing training about the utility of including family impact statements is needed to encourage probation officers to include family impact in pre-sentence investigation reports.
Illinois	Illinois signed the Children’s Best Interest Act into law in 2019, which took effect in 2020.	Created a defendant’s right to a family impact statement; outlines mitigating factors related to family impact and the best interest of a child; implemented at sentencing hearings does not expressly assign the responsibility to prepare family impact statements, often prepared by defense counsel or mitigation specialists.