



**children's
defense fund
new york**

Joint Legislative Hearing on the 2023 – 2024 New York State Executive Budget Proposal: Housing

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Joint Legislative Hearing Testimony: 2023 – 2024 New York State Housing Executive Budget

About the Children's Defense Fund-New York

As a co-founder and leader of the statewide Lead Free Kids New York coalition and an organization whose policy priorities include such issues as economic mobility, child welfare, youth justice, and health equity - issues all rooted in poverty and which impacts child, youth, and family housing stability - the Children's Defense Fund-New York (CDF-NY) appreciates the Senate Finance Committee and the Assembly Ways and Means Committee for the opportunity to submit testimony for this Joint Legislative Public Hearing to discuss the Executive Budget for Housing.

CDF-NY is a non-profit child advocacy organization that works statewide to ensure that every child in New York has a Healthy Start, a Head Start, a Fair Start, a Safe Start, and a Moral Start in life and a successful passage to adulthood with the help of caring families and communities. As the New York office of the Children's Defense Fund (CDF), a national organization with roots in the Civil Rights Movement, we are committed to advancing racial equity and to leveling the playing field for marginalized New York children, youth, and families. We envision a state and a nation where marginalized children flourish, leaders prioritize their well-being and communities wield the power to ensure they thrive. CDF-NY provides a strong, effective and independent voice for children. We pay particular attention to the needs of children living in poverty, children of color and those with disabilities. CDF-NY strives to improve conditions for children and youth through research, public education, policy development, direct service, organizing, and advocacy in direct partnership with the communities we serve. We seek to build and amplify community power to ensure that marginalized children, youth and families can thrive, access opportunities, and experience authentic joy. Our policy priorities are racial justice, health equity, education justice, child welfare, youth justice and economic mobility. To learn more about CDF-NY, please visit www.cdfny.org.

Children, youth and families need affordable, safe, healthy, and stable housing

During a time when the price of food, child care and housing are near record highs due to inflation, too many parents across our State are still struggling to pay rent, keep food on the table and meet their children's basic needs. Because of our legislators' failure to act, many New York parents are put in the horrible position of having to make hard choices about what essential, basic items they can afford for their children and which ones their children and households will have to forego. No parent should ever be put in that position, especially when New York is one of the richest states in the nation and has one of the largest economies in the world. Unfortunately, families of color find themselves having to make the hard, unfair decision

to leave the state or experience homelessness. For example, Black children in particular are disappearing from New York City, and many families point to one reason: raising children here has become too expensive, citing housing costs as their top issue. In New York City, where shelter capacity is at an all time high, the largest population of those experiencing homelessness is families and children. Immorally, 22,000 children under the age of 14 live in New York City's homeless shelters; and 95% of families with children living in shelters are Black or Hispanic.¹ Furthermore, for the seventh year in a row, over 100,000 New York City children experienced some form of homelessness.² Housing affordability is not just a downstate issue. In 49 counties, more than 20 percent of rental households spend at least half of their income on rent.³

Children, youth and families thrive when they live in affordable, safe, healthy, and stable housing. Housing is a human right and a foundation for both health and economic mobility.⁴ Moreover, safe and stable housing reduces contact with punitive systems like the criminal legal system and the child welfare system.⁵ In many communities across the State, especially in communities of color, the lack of affordable and quality housing reflects a long history of divestment from neighborhoods, racism and discrimination. This is a fundamental civil rights and racial equity issue.

Now is the time for New York to make bold and comprehensive investments in sustainable, equitable, and safe housing.

As we offer our testimony on this year's executive budget proposal, we focus on investments dedicated to impacting our most marginalized communities, specifically:

- Establishing the Housing Assistance Voucher Program (HAVP) to expand housing supports to thousands more New Yorkers;

¹ Child and Family Well-being in New York State (2023). Citizens' Committee for Children of New York Data Publications. Retrieved from: <https://ccnewyork.org/data-publications/cfwbnys2023/>.

² "Student Homelessness In New York City, 2021–22." Advocates for Children of New York. (2022).

Retrieved from:

https://www.advocatesforchildren.org/sites/default/files/library/nyc_student_homelessness_21-22.pdf?pt=1.

³ Child and Family Well-being in New York State (2023). Citizens' Committee for Children of New York Data Publications. Retrieved from: <https://ccnewyork.org/data-publications/cfwbnys2023/>.

⁴ See, e.g., Urban Institute, "Why Housing Matters for Upward Mobility: Evidence and Indicators for Practitioners and Policymakers," January 2021. Retrieved from:

<https://www.urban.org/sites/default/files/publication/103472/why-housing-matters-for-upward-mobility-evidence-and-indicators-for-practitioners-and-policymakers.pdf>; Healthy People 2030, "Housing Instability."

Retrieved from:

<https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/housing-in-stability>.

⁵ See, e.g., Dworsky, A. (2014). *Families at the Nexus of Housing and Child Welfare* Washington, D.C.: First Focus. Retrieved from:

<https://firstfocus.org/wp-content/uploads/2014/12/Families-at-the-Nexus-of-Housing-and-Child-Welfare.pdf>; Urban Institute, "Can Housing Interventions Reduce Incarceration and Recidivism," February 27, 2019.

Retrieved from:

<https://housingmatters.urban.org/articles/can-housing-interventions-reduce-incarceration-and-recidivism>.

- Expanding access to existing housing voucher programs to all New Yorkers regardless of immigration status;
- Increasing shelter allowances so that they match the fair market rent standard;
- Allocate funding and advocating for funding for the Emergency Rental Assistance Program (ERAP) to address evictions and homelessness;
- Modernizing the child welfare housing subsidy for families and young adults aging-out of foster care; and
- Addressing the urgent issue of childhood lead exposure and the need for greater investment from the state to eliminate lead hazards in housing.

The final budget should establish the Housing Assistance Voucher Program (HAVP) to provide much needed assistance and relief to marginalized New Yorkers who are falling through housing assistance program gaps

The final FY 2023-24 State Budget should include the Housing Access Voucher Program (HAVP) (S2804B Kavanagh / A3701B Cymbrowitz), which establishes a state-funded voucher program for households that are experiencing homelessness, or are at an imminent risk of homelessness. CDF-NY endorses this state-voucher program at an annual investment of \$250 million to expand housing support to over 13,000 households across the state. HAVP would also enable children, youth and families more geographic mobility, permitting households to move to other parts of the state if they so choose by expanding the benefits and eligibility of housing programs outside of city-specific programs.

Enacting a state-level program will expand the reach of vouchers, while reducing homelessness and housing insecurity, and will allow for people to move throughout the state without the possibility of losing their vouchers. Vouchers help to provide more housing stability for households with low or highly variable incomes, reduce overcrowding, and decrease the burdens that come with rent.

The final budget should expand housing supports to all people and families regardless of immigration status

The pandemic revealed that when facing housing instability, not all New Yorkers are treated equally. Children, youth, and families of color experience housing instability at disproportionate rates when compared to that of white children, youth, and families.

Households with undocumented members are more likely to experience economic hardship, which have been heightened during the pandemic, and this disparity forces many immigrant households to carry a rent burden that is heavier than households made up of U.S. citizens and other documented immigrants.

New York must address the housing and homelessness crisis for all of its residents regardless of immigration status, and invest in solutions that are aimed at keeping children, youth, and families in homes. The final budget should include legislation introduced by Assemblymember Rosenthal and Senator Kavanagh (A10510 / S09416), making certain housing programs available regardless of immigration status to reduce the threat of homelessness, relieve the burden on shelters across the state, and open the doors for immigrant families to receive the support they need to thrive.

The final budget should include funding for the Emergency Rental Assistance Program (ERAP)

As we slowly make our way out of the pandemic, it is crucial that the state continue to safeguard the pandemic-era protections that kept people across the State from experiencing homelessness. In New York City alone, approximately 4,400 families have been evicted from their homes since the eviction ban was lifted in January 2022.⁶ As eviction numbers continue to rise, the increase in children, youth, and families entering homeless shelters are increasing as well.

New York must allocate funding for the Emergency Rental Assistance Program (ERAP) and strongly advocate for the federal funding needed to address the over 100,000 ERAP applications that are still pending. Additionally, eligibility for the Emergency Rental Assistance Program needs to expand to include the New York City Housing Authority (NYCHA) families that were excluded from the initial assistance. Since the start of the pandemic, public housing residents across 73,028 households faced rental arrears totaling \$454 million dollars.⁷ The State must also ensure that NYCHA residents are included in the funding stream.

The final budget should modernize the Child Welfare Housing Subsidy

It is imperative that the final FY 2023-24 State Budget modernize the child welfare preventive housing subsidy as a means of preventing family contact with the child welfare system, and supporting young adults who have aged-out of foster care. By incorporating legislation introduced by Assemblymember Hevesi and Senator Brisport (S2038A / A2525A), we must: (1) update the value of rent subsidies available to families involved in the child welfare system and youth exiting the system from \$300 to \$725 per month, including annual increases based on calculations tied to inflation, and (2) extend the upper age limit that a young person exiting foster care can receive the benefit to age 24, allowing youth who leave foster care (“age out”) at 21 to use the subsidy when they need it most.

⁶ “Evictions Are Picking Up Across the U.S. Here’s What At-Risk Tenants Can Do,” NBC New York, January 18, 2023. Retrieved from: <https://www.nbcnewyork.com/news/business/money-report/evictions-are-picking-up-across-the-u-s-heres-what-at-risk-tenants-can-do/4054685/>.

⁷ “Opinion: Thousands of NYCHA tenants forgotten under Emergency Rental Assistance Program,” City & State New York, January 19, 2023. Retrieved from: <https://www.cityandstateny.com/opinion/2023/01/opinion-thousands-nycha-tenants-forgotten-under-emergency-rental-assistance-program/381976/>.

The \$300 dollar housing subsidy has not been raised since it was first established in 1988. Now, in 2023, 35 years since the subsidy was enacted, that \$300 dollars is now worth an estimated \$725 dollars. By keeping the monthly housing subsidy at \$300 dollars, it becomes extremely difficult to obtain stabilized housing using this housing subsidy, and thus the subsidy fails to provide the needed support that it is intended to provide.

Housing costs in the state have drastically outpaced any viable increases or growth in wages, making the subsidy insufficient to secure stable housing, and goes against the very goal the subsidy was established to advance. The subsidy was designed to prevent the separation of families involved in the child welfare system, support children and youth in the foster care system, and speed up the process for the reunification of families across the state. Currently, the median monthly rent in the State of New York is \$1,390 dollars a month, springing to \$1,579 dollars monthly for New York City. In order for the subsidy to be effective and prioritize housing support for children, youth, and families, it must increase in correlation with inflation and rising costs.

Although New York extends foster care until 21 years of age, the housing subsidy is only available until the age of 21. This becomes a barrier to utilizing the subsidy, because for the youth that are aging out of the system, the subsidy will be unavailable to them, preventing them from securing stable housing to aid in their transition from the foster care system to independent living, and thereby increasing the likelihood that they experience homelessness.

The final budget must address childhood lead exposure and poisoning that threatens the health and wellbeing of the youngest New Yorkers.

The Executive Budget does not make adequate investments towards combating childhood lead poisoning in New York. Childhood lead poisoning is an urgent – albeit entirely preventable – moral crisis in our State, undoubtedly one of the greatest public health threats to New York’s children and youth. New York has more known cases of children with elevated blood lead levels than any other state in our nation,⁸ with childhood lead exposure rates for many communities across our State and in New York City five to six times higher than those in Flint, Michigan at the peak of its water crisis.⁹ New York’s older housing stock – our State carries the oldest housing inventory among the 50 states – places our residents at a particularly high risk of exposure to lead hazards.¹⁰ The COVID-19 pandemic has only worsened the burdens of childhood lead exposure and poisoning, with children spending increased amounts of time in homes where they may be exposed to lead and amidst declines in well-child visits, where lead tests are typically administered to young children.¹¹ Furthermore, at the height of the

⁸ “Blood Lead Levels (µg / DL) among U.S. Children < 72 Months of Age, by State, Year, and Blood Lead Level (BLL) Group”, Centers for Disease Control and Prevention, accessed November 10, 2021, <https://www.cdc.gov/nceh/lead/docs/cbls-national-data-table-508.pdf>.

⁹ “Special Report: Despite Progress, Lead Hazards Vex New York,” *Reuters*, November 14, 2017, <https://www.reuters.com/investigates/special-report/usa-lead-newyork/>.

¹⁰ Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, “Lead Laws and Environmental Justice in New York,” *The New York Environmental Lawyer*, Vol. 39, No. 1 (November 22, 2019), <https://ssrn.com/abstract=3492119>.

¹¹ “More Childhood Lead Poisoning Is a Side Effect of Covid Lockdowns,” *The New York Times*, March 11, 2021,

pandemic, many of our State's county health departments were forced to redirect already-scarce childhood lead poisoning prevention resources to pandemic response efforts.

The health effects of childhood lead exposure are irreversible and there is no known safe level of lead in children, a fact affirmed by the Centers for Disease Control and Prevention's reduction of the blood lead reference value from 5 µg / dL to 3.5 µg / dL in October 2021.¹² An estimated 28,820 New York children born in 2019 (approximately 12 percent of our State's birth cohort for that year) will have blood lead levels above 2 µg / dL, the lowest level at which the effects of childhood lead exposure are well documented.¹³ Even low levels of lead in the blood have been shown to affect children's intelligence quotient (IQ), academic achievement, ability to concentrate, hearing and speech.

Each year, over 18,000 New York children are identified as having blood lead levels at or above 5 µg / dL. Such lead exposure can result in serious neurological and physical damage to children, impacting lifelong health and educational attainment and causing anemia, hypertension, immunotoxicity, renal impairment and toxicity to reproductive organs.¹⁴ Further acute and chronic effects of an elevated blood lead level include appetite loss, constipation, abdominal colic, behavioral issues, hearing and balance issues, encephalopathy, growth retardation, delayed sexual maturation, increased dental caries and cardiovascular and renal diseases.¹⁵ Lead exposure is particularly dangerous for pregnant women, and can cause gestational hypertension, low birth weight and impaired fetal development.

Childhood lead exposure and poisoning are racial and environmental injustices.

Pervasive racial and socioeconomic disparities exist in New York's burden of childhood lead poisoning, with our State's children of color and marginalized children disparately affected. New York's children of color and marginalized children are most likely to live in high lead-risk housing (pre-1978 housing in poor condition) and to live in households that may lack the financial capacity to reduce lead hazards. In 2005, more than half of New York children identified with blood lead levels over 10 µg / dL lived in just 68 of the over 1600 zip codes in our State, most of which encompassed communities of color in older urban areas.¹⁶ The majority of New York zip codes with the highest proportion of lead poisoning cases are located within

<https://www.nytimes.com/2021/03/11/health/virus-lead-poisoning-children.html>.

¹² Ruckart PZ, Jones RL, Courtney JG, et al. Update of the Blood Lead Reference Value — United States, 2021. *MMWR Morb Mortal Wkly Rep* 2021; 70:1509–1512. DOI: <http://dx.doi.org/10.15585/mmwr.mm7043a4>.

¹³ "Value of Lead Prevention," Altarum, accessed November 10, 2021,

<http://valueofleadprevention.org/calculations.php?state=New+York>.

¹⁴ Cindy Mann, Kinda Serafi, Arielle Taub, "Leveraging CHIP to Protect Low-Income Children from Lead," *Manatt Health*, January 2017,

<https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf>.

¹⁵ Kent Bennett, Jennifer Lowry, Nicholas Newman, "Lead Poisoning: What's New About an Old Problem?,"

Contemporary Pediatrics, 32 (April 1, 2015),

<https://www.contemporarypediatrics.com/view/lead-poisoning-whats-new-about-old-problem-0>.

¹⁶ Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, "Lead Laws and Environmental Justice in New York," *The New York Environmental Lawyer*, Vol. 39, No. 1 (November 22, 2019), <https://ssrn.com/abstract=3492119>.

Buffalo, a city whose population is mostly comprised of communities of color¹⁷ and a city in which children from neighborhoods of color are twelve times as likely as children from predominantly white neighborhoods to have elevated blood lead levels.¹⁸

A study of Rochester children found that even after adjusting for environmental exposures, behaviors, socioeconomic status, and dietary intake, Black children were at higher risk of elevated blood lead than their peers of other races. By 24 months of age, Black children's blood lead concentration was approximately 62.6 percent (3.1 µg / dL) higher than white children's blood lead concentration after controlling for these other risk factors.¹⁹

Immorally and tragically, Buffalo and Rochester rank within the top ten list of large U.S. cities with the highest child poverty rates. Buffalo ranks number six nationally with a child poverty rate of 42.3%. Rochester ranks number two nationally with a child poverty rate of 48.2%. New York's clear distribution of childhood lead poisoning along racial and socioeconomic lines affirms lead poisoning as grave racial and environmental injustices – and makes the need to act swiftly to prevent it even more of a moral imperative.

Childhood lead exposure and poisoning hinder New York's economic viability.

In addition to the dangerous health effects and stark racial and socioeconomic injustices of childhood lead exposure, lead exposure poses a significant financial burden on our families and our State. Childhood lead exposure among New York children born in 2019 is projected to cost our State \$6.4 billion through reduced lifetime productivity; premature mortality; increased spending on health care utilization, education and social assistance;²⁰ and also contributes to costs associated with juvenile and adult incarceration.

Aside from these societal costs of childhood lead poisoning, families of lead-exposed children face substantial immediate and long-term costs. Potential costs to families include costs associated with immediate medical intervention; costs associated with treatment of lead-related attention deficit hyperactivity disorder (ADHD) and special education services for lead-poisoned children; and parental work loss due to time taken off to care for a lead-poisoned child. Families are sometimes forced to spend enormous sums on chelation therapy, which ultimately may not result in total rehabilitation. Furthermore, families whose children are poisoned by lead do not always have the ability to move out of an unsafe home and into one that is free from lead hazards. Currently, lead-impacted New York families are unable to even

¹⁷ "Eliminating Lead Poisoning in New York: A National Survey of Strategies to Protect Children," Columbia Law School Health Justice Advocacy Clinic, October 2019, https://web.law.columbia.edu/sites/default/files/microsites/clinics/health-advocacy/final_lead_poisoning_prevention_best_practices_report_october_2019_final.pdf.

¹⁸ "The Racial Equity Dividend: Buffalo's Great Opportunity," University at Buffalo Regional Institute and Make Communities, 2018, <http://racialequitybuffalo.org/files/documents/report/theequitydividendfinaljune2018.pdf>.

¹⁹ Bruce P. Lanphear, Richard Hornung, Mona Ho, Cynthia R. Howard, Shirley Eberly, Karen Knauf, "Environmental Lead Exposure During Early Childhood," 140, no. 1 (2002): 40 – 47, <https://dx.doi.org/10.1067/mpd.2002.120513>.

²⁰ "Value of Lead Prevention," Altarum, accessed November 10, 2021, <http://valueofleadprevention.org/calculations.php?state=New+York..>

file claims to recoup their financial losses, because their landlords' insurance policies do not cover lead paint risk exposure.

Improving New York State's lead poisoning prevention policies will help prevent the harmful, lifelong impacts of lead poisoning that is disproportionately impacting children and families experiencing poverty and children of color and their families and communities as well as help our State realize tremendous economic gains in the short and long-term. The financial burden of childhood lead poisoning to our State and its families necessitates the need for the State to sufficiently fund and end this tragically long-standing and entirely preventable health crisis.

New York must make bold, necessary investments to combat and end childhood lead poisoning.

In order to once and for all make childhood lead poisoning a disease of the past, New York must make bold, necessary investments in its children, youth and families who are at risk, which disproportionately consist of those experiencing poverty and living in communities of color. Accordingly, the Lead Free Kids New York (LFFKNY) coalition, which CDF-NY co-founded and co-leads, recommends that our State act swiftly by taking the following actions in the Budget:

Allocate an additional \$50 million to support the existing and additional counties within the Childhood Lead Poisoning Primary and Secondary Prevention Programs

An additional \$50 million in funding will enable New York State's Childhood Lead Poisoning Primary and Secondary Prevention Programs to expand and continue to implement programs to bolster lead poisoning prevention efforts to prevent elevated blood lead levels in children. These increased funds will enable the most at risk communities to have the primary prevention activities they need to prevent and end childhood lead poisoning in their communities. Additionally, this allocation will cover the critical costs for counties to conduct secondary prevention activities by providing timely case management and follow-up services to children identified as having elevated blood lead levels, including \$36 million to cover costs for children with blood lead levels of 5 µg / dL.

The number of New York State counties tasked with conducting primary prevention of childhood lead poisoning recently rose from 15 to 20, with no additional funds allocated to account for this increased number of counties. Functionally, this has meant cuts to all existing programs – even those with significant successes, like the City of Rochester – during a time of increased childhood lead exposure. Furthermore, the sharp rise in inflation has meant that without an increase in funding, programs have had to make the difficult decision of either keeping wages stagnant or employing fewer staff. It is thereby critical to increase the allocated funding to adequately support the Childhood Lead Poisoning Primary and Secondary Prevention Programs, if we want to be a State that goes from worst to best regarding this preventable childhood health crisis.

Strengthen and expand Part T of the Executive Budget's Health and Mental Hygiene Article VII Legislation

We support the Governor's efforts to expand action on rental properties that may have lead paint hazards, including an allocation of \$20 million to support landlords who need financial assistance with lead paint remediation. To ensure an effective program, we seek to strengthen Part T of the Executive Budget's Health and Mental Hygiene Article VII Legislation to ensure that it includes single-family dwellings, which can be just as likely if not more likely (as is the case in Rochester) to contain lead hazards than dwellings with more units. To ensure that the Department of Health creates a strong and enforceable program, the Budget must use mandatory rather than discretionary language. The State must require that the proposed registry and certifications of residential dwellings are made available in a publicly searchable database, so as to foster compliance with existing federal regulations requiring disclosure of lead paint and lead hazard records to potential tenants and buyers.

Furthermore, while the Executive Budget specifies a tri-annual inspection basis for lead paint hazard certification of residential dwellings qualifying for registration, lead paint conditions can deteriorate well before the three-year timeframe for property reinspection. Unless a property has had *all* lead paint permanently abated, there is no guarantee whatsoever that paint that is not peeling or damaged at the time of inspection will not begin to fail in the ensuing three years. In order to ensure that marginalized children and families who are renting are not stuck living in harmful and dangerous conditions, they and other interested parties must have a right to seek injunctive and other relief where property has lead hazards.

Increase funding for the New York State Children's Environmental Health Centers (NYSHECK) from \$4 million to \$5 million

The New York State Children's Environmental Health Centers (NYSHECK) were launched in 2017 by the New York State Department of Health to meet the environmental health needs of families and communities in all 62 counties in New York State. It is critical to allocate an additional \$1 million in funding for the New York State Children's Environmental Health Centers (NYSHECK) with the Environmental Protection Fund, so that the funding of these Centers can reach \$5 million, and so that the Centers can best meet the needs of marginalized children and families who have been impacted by the preventable crisis of childhood lead poisoning.

Provide \$10 million to the Division of Housing and Community Renewal (DHCR) as grants to landlords to conduct lead abatement

The State must provide \$10 million to the Division of Housing and Community Renewal (DHCR) as grants to landlords to conduct lead abatement. These funds must be tied to protections for renters, or marginalized families with children.

Pass Landlord Insurance for Lead Based Paint | S88 (Ryan) / A1687 (Rivera)

While New York has become number one in the nation for childhood lead poisoning, our State laws have allowed New York's landlords and insurance companies to not be accountable

to marginalized children, families, and their communities for this preventable childhood disease in rental properties. Bill numbers S88 (Ryan) / A1687 (Rivera) would prohibit insurers providing liability coverage to rental property owners from excluding coverage for losses or damages caused by exposure to lead-based paint. Prohibiting the exclusion of coverage for losses or damages caused by exposure to lead-based paint would, in turn, ensure that lead poisoning victims are able to be adequately compensated for their medical bills and other lead-exposure related expenses and damages. S88 / A1687 thereby prohibits insurance companies from denying claims for when children are poisoned by lead in their own homes, through no fault of their own. Furthermore, the bill would proactively encourage landlords to prevent lead-related harm from occurring in the first place by incentivizing them to find and fix lead hazards in their properties without fearing the repercussions of accidental exposures.

Pass the Lead-Based Paint Disclosure Act | S. 2353 (Kavanagh) / A. 4820 (Rivera)

While federal law requires sellers or lessors of pre-1978 housing to disclose to buyers or renters any knowledge of lead-based paint in the dwelling, it does not require them to investigate for lead paint in the home – and there is no incentive to do so. Consequently, purchasers and renters – who are disproportionately children and families of color experiencing poverty – are unwittingly moving into hazardous homes, perpetuating the childhood lead crisis. If enacted, S2353 (Kavanagh) / A4820 (Rivera) would close this gap by requiring residential property owners to test for lead-based paint before selling or leasing their property (if it has not been done previously) and to file a report with the New York State Department of Health to better track and address lead poisoning. Mandated disclosure of lead-paint test results would ensure that New York’s tenants and homeowners can choose to move into buildings free of unknown lead hazards. Furthermore, by making such information public, the private market will incentivize proactive repair and maintenance to address lead paint hazards.

Pass the Renovation, Repair and Painting Act | S. 2191 (Bailey) / A. 434 (Bronson)

A significant number of childhood lead poisoning cases in New York can be attributed to home renovation, repair and painting (RRP) activities performed in homes containing lead-based paint, which can easily spread toxic dust if not performed safely. While federal law requires lead-safe work practices and training for RRP work in pre-1978 dwellings, the United States Environmental Protection Agency’s (EPA) enforcement capacity in New York is quite limited. In fact, only 3.5 EPA inspectors currently oversee Region 2, a vast geographic area that encompasses New Jersey, Puerto Rico and the Virgin Islands in addition to New York – including over 6.4 million homes in our State alone. In 2019, the EPA completed just seven RRP enforcement actions in New York.²¹ S2191 (Bailey) / A434 (Bronson) would enable New York to assume administration of RRP rules and to conduct training, certification and enforcement of the RRP. It would also enable New York to collect contractor fees (currently paid to the EPA) to cover costs and strengthen enforcement. In doing so, New York would join a growing number of states that are currently authorized to administer and enforce RRP rules in

²¹ “Lead-Safe Renovation, Repair, and Painting Activities in New York State: Analysis of the Proposal for State Management of the RRP Rule,” Community Foundation for Greater Buffalo, February 2020, https://ppgbuffalo.org/files/documents/lead_rrp_activities_in_nys.pdf.

their states and who have tailored their RRP programs to meet their individual needs. Enacting this policy is estimated to protect approximately 140,000 New York children under the age of six and 483,600 New York homes undergoing renovation from lead exposure each year.²²

New York must fully leverage CHIP funding as a path forward.

In order to successfully combat the childhood lead poisoning crisis, New York must fully leverage every potential funding stream. A Children's Health Insurance Program (CHIP) Health Services Initiative (HSI) is a policy tool that would enable New York to triple its current state spending on childhood lead poisoning prevention by drawing down additional federal funding through CHIP for our State and its localities to use on lead poisoning prevention efforts.²³ Lead exposure testing, prevention and abatement initiatives to protect marginalized children are authorized uses of HSIs under CHIP authority.²⁴ In recent years, a number of states have successfully implemented HSIs for precisely this purpose, paving the way for New York to also take action. A New York HSI totaling \$75 million per year could fund a comprehensive lead hazard reduction strategy with components, including lead testing and abatement, case management, lead rental certification, workforce development and legal assistance for tenant families whose child has an elevated blood lead level.

New York Must Establish an Independent Office to Produce Racial and Ethnic Impact Statements for All Proposed Rules and All Legislation Leaving Committee

New York's pervasive racial and ethnic disparities harm our State and must be urgently addressed through meaningful systemic change. The COVID-19 pandemic has provided irrefutable evidence of the long-standing, deeply-rooted racial inequities that have caused increasingly disparate outcomes in New York State and throughout the nation for far too long. These wide-ranging and long-standing inequities, encompassing such areas as healthcare access, involvement in the child welfare and youth justice systems, economic security, educational opportunity, access to safe and healthy housing, and workforce disparities, continue to harm New York's most marginalized children, youth, families, and communities. In fact, in a national comparison of state structural inequities, New York was recently classified as having among the highest structural racism and income inequality indexes in the United States.²⁵

The clear urgency of taking decisive action to end New York's entrenched racial inequalities is particularly evident with regards to the racial and ethnic disparities in New York's

²² "Lead-Safe Renovation, Repair, and Painting Activities in New York State: Analysis of the Proposal for State Management of the RRP Rule," Community Foundation for Greater Buffalo, February 2020, https://ppqbuffalo.org/files/documents/lead_rrp_activities_in_nys.pdf.

²³ "Leveraging CHIP to Protect Low-Income Children from Lead," State Health Value Strategies, January 2017, <https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf>.

²⁴ "Frequently Asked Questions (FAQs): Health Services Initiative," Centers for Medicare & Medicaid Services, January 12, 2017, <https://www.medicaid.gov/federal-policy-guidance/downloads/faq11217.pdf>.

²⁵ Patricia Honan, Tyson H. Brown, and Brittany King. August 6, 2021." Structural Intersectionality as a New Direction for Health Disparities Research." *Journal of Health and Social Behavior*, 62(3), <https://doi.org/10.1177/00221465211032947>.

alarmingly high poverty and child poverty rates. As noted in a report released by New York State Comptroller DiNapoli last December, almost 2.7 million New Yorkers, or 13.9 percent of our State's population, lived in poverty in 2021, compared to 12.8 percent of all Americans. Poverty rates are more than double for Hispanic New Yorkers compared to white, non-Hispanics, with one-fifth of New York's Hispanic population living below the poverty level in 2021. Black, Native Hawaiian and other Pacific Islander and American Indian New Yorkers experienced poverty at twice the rate of white New Yorkers in 2021.²⁶ Racial and ethnic disparities are particularly pervasive in New York's immoral child poverty crisis, with Black and Latinx children more than twice as likely as white children to live in poverty statewide and 10 to 13 times more likely than white children to live in poverty in Manhattan.²⁷ Asian Americans have the highest poverty rates in New York City, with Asian children 5 times more likely to live in poverty than white children in Manhattan.²⁸ Syracuse carries the highest child poverty rate in the nation among cities with at least 100,000 people (48.4 percent), with Buffalo and Rochester also ranking within the top ten list of large U.S. cities with the highest child poverty rates. These are but a few of the pervasive, wide-ranging and long-standing disparities and inequities that assault people and communities of color in our State and around the nation due to the racist impact of our policies and regulations.

Our State can lead the nation in embarking on the path to achieving equity in all policies by establishing an independent office to ensure that we no longer pass legislation or adopt rules without first examining whether these policies have the potential to create, eliminate, or perpetuate racial and ethnic disparities. Enacting new legislation and rules without first evaluating their potential to disproportionately impact our communities of color only perpetuates these disparities. In the absence of racial and ethnic impact assessment, legislation that "appears" race-neutral at face value can, in practice, adversely – and disparately – affect New York's children and families of color. Just as our State legislators consider the fiscal and environmental impacts of new laws, so too must they examine the potential racial and ethnic impact of *all* legislation and rule-making activity through the preparation of racial impact statements. By doing so, New York would join the growing rank of states who have acted to center racial equity in legislating by passing racial impact statement legislation²⁹ and would build on progress made in advancing racial equity in New York City through such efforts as EquityNYC and the racial justice ballot proposals spearheaded by the New York City Racial Justice Commission.

In order to implement this approach, our State will need to invest more resources in its legislative and rule-making processes. Furthermore, the evaluation of racial and ethnic impact needs to be insulated from politics – meaning the office producing the impact statements should be independent from both the Legislature and the Governor. Maintaining this independence will

²⁶ New York State Comptroller Thomas P. DiNapoli, "New Yorkers in Need: A Look at Poverty Trends in New York State for the Last Decade," December 2022,

<https://www.osc.state.ny.us/files/reports/pdf/new-yorkers-in-need-poverty-trends.pdf>

²⁷ U.S. Census Bureau, American Community Survey 5-Year Detailed Estimates. To view CDF-NY's county data profiles, please visit <https://cdfny.org/county-profiles/>.

²⁸ U.S. Census Bureau, American Community Survey 5-Year Detailed Estimates. To view CDF-NY's county data profiles, please visit <https://cdfny.org/county-profiles/>.

²⁹ Children's Defense Fund – New York, "Leveraging Racial & Ethnic Impact Statements to Achieve Equity in All Policies: National Context," July 22, 2022, <https://cdfny.org/wp-content/uploads/sites/3/2022/07/Racial-Ethnic-Impact-Statement-Legislation-National-Context-Updated-July-2022-1.pdf>

ensure that meaningful, unbiased impact statements are faithfully and consistently produced at an optimal level.

Undoing generations of racial and ethnic disparities and institutionalized harm demands an anti-racist approach that actively examines the role of legislative and regulatory action in perpetuating inequality in New York. In order to ensure that our laws truly advance racial and ethnic equity and in order to begin to dismantle systemic racism, New York should adopt:

- (1) The establishment of an independent office or entity tasked with producing racial and ethnic impact statements.
- (2) A requirement that all bills advancing out of committee in the legislature and amendments to bills must be accompanied by a racial and ethnic impact statement.
- (3) A requirement that all proposed rules must be accompanied by a racial and ethnic impact statement upon introduction.
- (4) A requirement that racial and ethnic impact statements must include an estimate of the impact of the proposed bill, proposed amendment or proposed rule on racial and ethnic minorities, and the basis for the estimate, including any specific data or other information relied upon.
- (5) A prohibition against enacting legislation or proposing rules that are found to increase racial or ethnic disparities.

Conclusion

New York is one of the most affluent and diverse states in the nation, and as such, it is our moral duty to prioritize the health, safety, and well-being for all of our residents. Thank you for your time and consideration. The Children's Defense Fund-New York looks forward to working with you to address these issues in our State and to improve the well-being of New York's children, youth, and families, in marginalized communities in New York.



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