

# EXPLORING POLICY SURVEILLANCE

## *Part 5 — Policy Surveillance for Policymaking*

May 14, 2019, 1:00 p.m.-2:30 p.m. ET

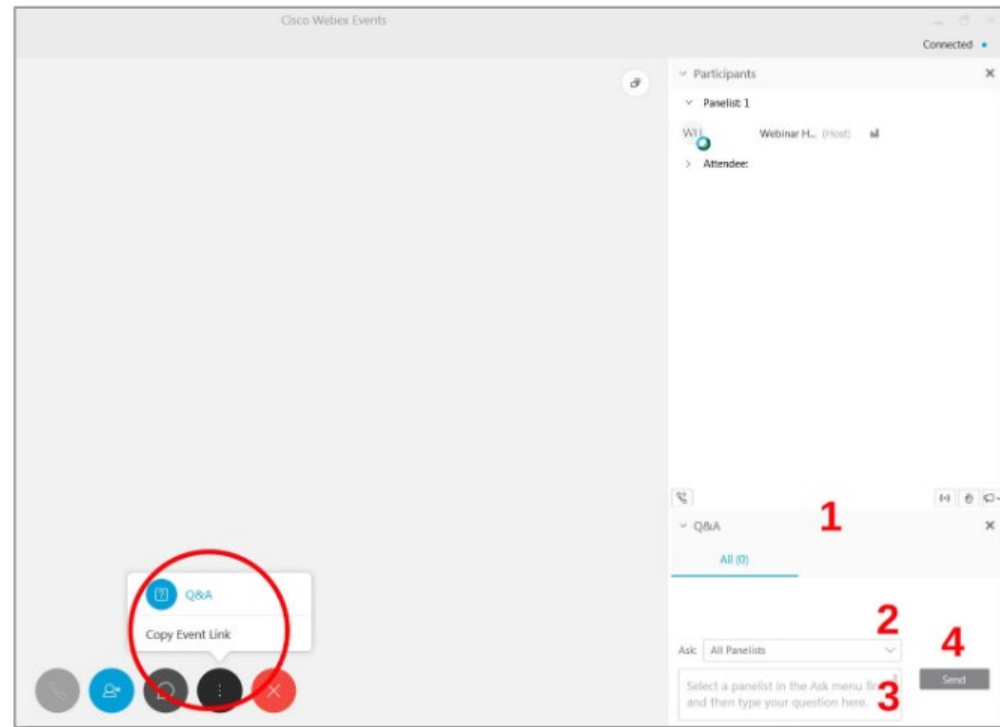
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THE **POLICY**  
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**PROGRAM**

A LawAtlas Project

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# Presenters



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# Exploring Policy Surveillance in Policymaking

**Corey Davis, JD, MSPH, EMT-B**

**May 14, 2019**

## Brief Background

**Over 67,000 overdose deaths from September 2017-September 2018**

- » **Leading cause of death for Americans under age 50**
- » **More than died of HIV/AIDS at the height of the epidemic**
- » **Many preventable!**

**Opioid pain relievers (OPRs) accounted for about 32,000 or 17,000 deaths in 2016, depending on how you count..**

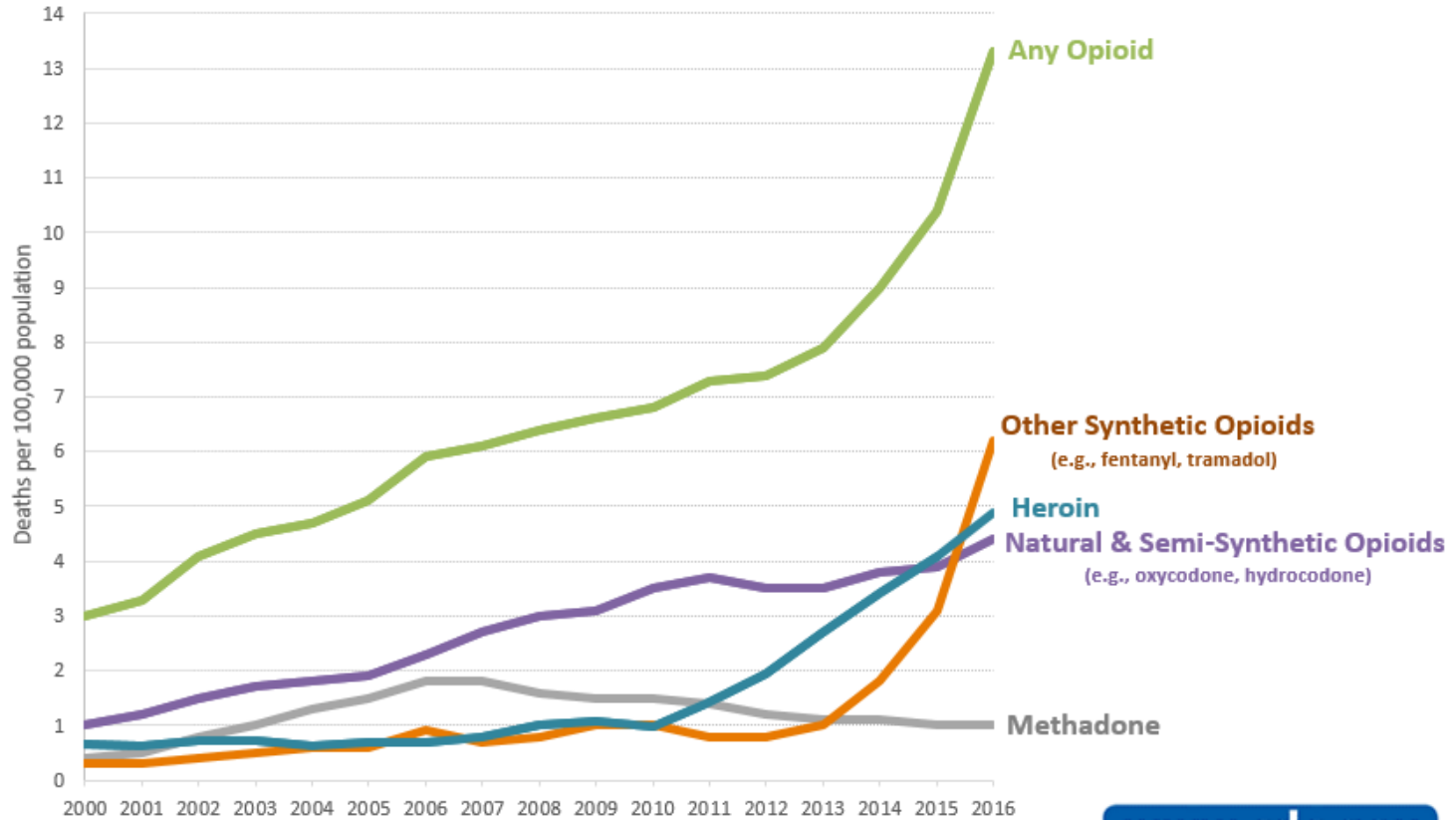
**...but deaths from synthetic opioids are increasing dramatically**

**..as are deaths from other drugs**



# The epidemic is rapidly shifting..

Overdose Deaths Involving Opioids, by Type of Opioid, United States, 2000-2016



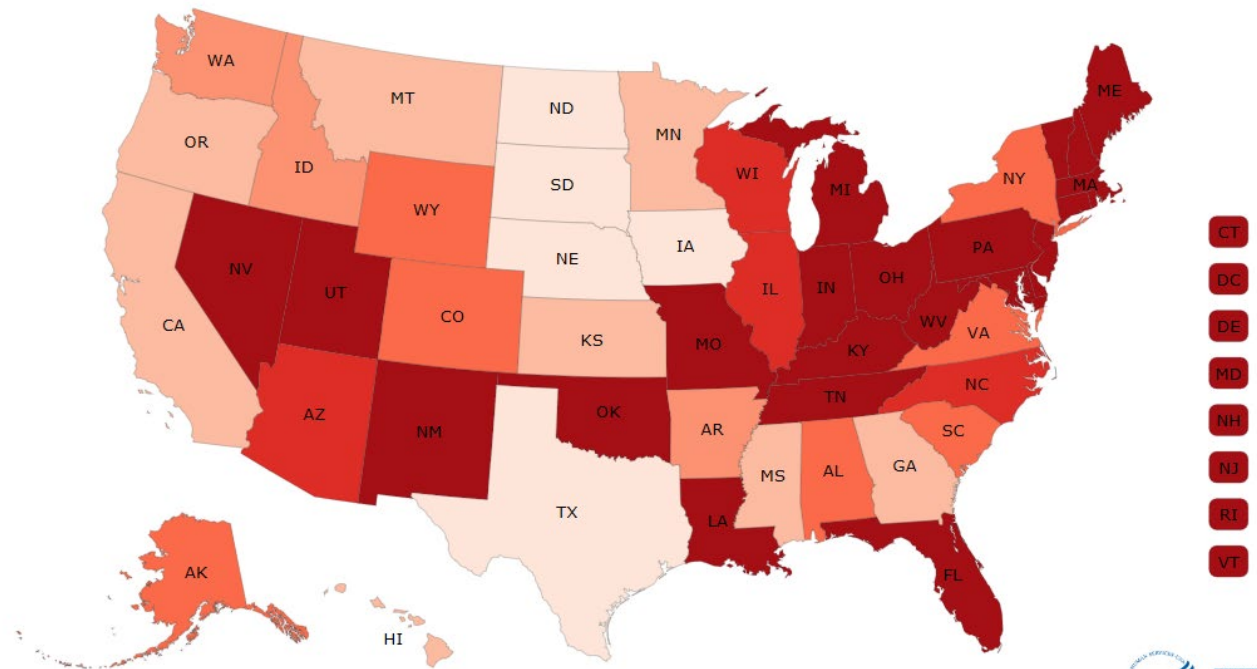
SOURCE: CDC/NCHS, National Vital Statistics System, Mortality. CDC WONDER, Atlanta, GA: US Department of Health and Human Services, CDC; 2017. <https://wonder.cdc.gov/>.

[www.cdc.gov](http://www.cdc.gov)  
Your Source for Credible Health Information

## ..and it's unevenly distributed

Overdose burden falls most heavily on states with large rural and working-class communities

New England, Appalachia, rural Southwest hit particularly hard



## The Role of State Law and Policy

- » **Federal response has been very Toby Keith – whole lot of talk, not a lot of action**

**States are acting as laboratories of democracy**

- » **Lots of things happening in the realm of law, regulation, policy, and practice**

**Unfortunately, many states are operating under the following logic:**

- » We must do something
- » This is a thing
- » Therefore we must do it

## The Role of State Law and Policy

» **That's not the best way to legislate.**

**It's complicated, but it's important to get it right**

» **Or at least *try* to get it right**

**One way to try to figure out what to do is to see what other states have done, and how it's worked**

**Do states actually do that w/r/t drug-related harm reduction?**

» **Some evidence in other public health areas**

» **I don't see much here**

## A few quick examples..

- » **Prescribing limits**
- » **PDMPs**
- » **Syringe access**

## Prescribing limits

**At least 25 states have placed limits on the duration and/or strength of opioid prescriptions**

- **Nearly all limited to acute pain**
- **Nearly all permit prescriber to exceed limits if reasons are documented**
- **None specifically address polypharmacy**
- **None mandate non-opioid therapy**
- **Most passed since Jan 2017**

## Some limit days

Day Limits	States
3 day supply	Kentucky
5 day supply	North Carolina (7 days post-op); New Jersey
7 day supply	Alaska; Arizona; Connecticut; Delaware; Indiana; Louisiana; Massachusetts; Maine; New York; Ohio; Pennsylvania; Utah; Virginia; Vermont
14 day supply	Nevada
20 day supply	Rhode Island
30 day supply	Hawaii; Illinois; Missouri; Tennessee
31 day supply	South Carolina (CII, 90 days III-V)

## Some limit dose

Dose Limits	States
“lowest effective dose”	Maryland New Jersey New Hampshire
30 MME	Ohio Rhode island
90 MME	Nevada
100 MME	Maine



## Do they work?

- » **No evaluations**

Not surprising since nearly all are < 2 years old

- » **Some evidence that initial Rxs predict long-term opioid Rx**

- » Most misused meds come from 3<sup>rd</sup> parties

- » **But..**

- Don't directly address the dx of whether to Rx opioid

- Don't take individual factors into account

- May move some people from Rx opioids to heroin

# Has that stopped states from implementing them?

» **It has not.**

# Prescription Drug Monitoring Programs

## What's the logic model?

1. **Collect data**
2. **?????**
3. **?????**

#2 is often a black box

#3 is often something like “reduce doctor shopping” or “assist in investigations”

- » **They are generally not conceived as public health interventions**

And are not designed to improve public health outcomes

# Do they work?

Annals of Internal Medicine

REVIEW

## Association Between Prescription Drug Monitoring Programs and Nonfatal and Fatal Drug Overdoses

### A Systematic Review

David S. Fink, MPH; Julia P. Schleimer, BS; Aaron Sarvet, MPH; Kiran K. Grover, BA; Chris Delcher, PhD; Alvaro Castillo-Carniglia, PhD; June H. Kim, PhD; Ariadne E. Rivera-Aguirre, MPP; Stephen G. Henry, MD; Silvia S. Martins, MD, PhD; and Magdalena Cerdá, DrPH

**Background:** Prescription drug monitoring programs (PDMPs) are a key component of the president's Prescription Drug Abuse Prevention Plan to prevent opioid overdoses in the United States.

**Purpose:** To examine whether PDMP implementation is associated with changes in nonfatal and fatal overdoses; identify features of programs differentially associated with those outcomes; and investigate any potential unintended consequences of the programs.

**Data Sources:** Eligible publications from MEDLINE, Current Contents Connect (Clarivate Analytics), Science Citation Index (Clarivate Analytics), Social Sciences Citation Index (Clarivate Analytics), and ProQuest Dissertations indexed through 27 December 2017 and additional studies from reference lists.

**Study Selection:** Observational studies (published in English) from U.S. states that examined an association between PDMP implementation and nonfatal or fatal overdoses.

**Data Extraction:** 2 investigators independently extracted data from and rated the risk of bias (ROB) of studies by using established criteria. Consensus determinations involving all

program features ( $n = 5$ ), PDMP implementation with mandated provider review combined with pain clinic laws ( $n = 1$ ), and PDMP robustness ( $n = 1$ ). Evidence from 3 studies was insufficient to draw conclusions regarding an association between PDMP implementation and nonfatal overdoses. Low-strength evidence from 10 studies suggested a reduction in fatal overdoses with PDMP implementation. Program features associated with a decrease in overdose deaths included mandatory provider review, provider authorization to access PDMP data, frequency of reports, and monitoring of nonscheduled drugs. Three of 6 studies found an increase in heroin overdoses after PDMP implementation.

**Limitation:** Few studies, high ROB, and heterogeneous analytic methods and outcome measurement.

**Conclusion:** Evidence that PDMP implementation either increases or decreases nonfatal or fatal overdoses is largely insufficient, as is evidence regarding positive associations between specific administrative features and successful programs. Some evidence showed unintended consequences. Research is needed to identify a set of "best practices" and complementary initiatives to address these consequences.

# Has that stopped states from implementing them?

» **It has not.**

# Syringe access

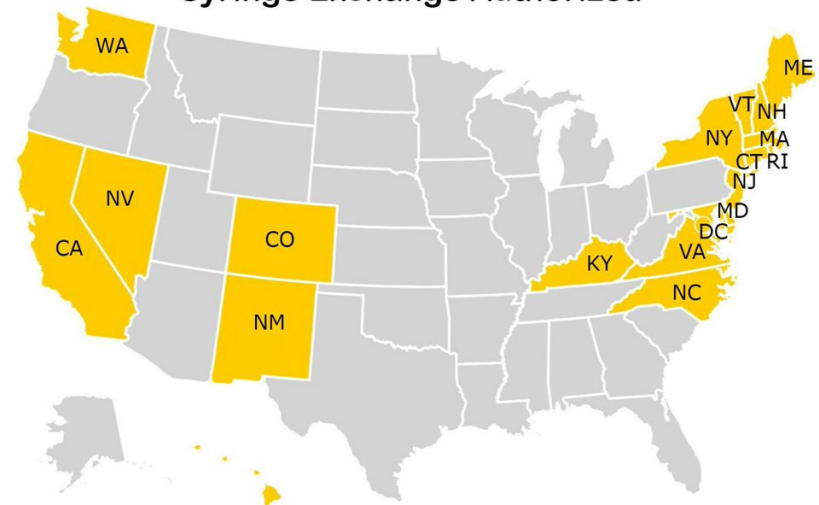
**Very strong evidence base**

**Yet remains illegal in most states; SAPs often face arbitrary restrictions**

**Paraphernalia arrests don't reduce drug-related harm**

» **Isn't that our goal?**

**Syringe Exchange Authorized**



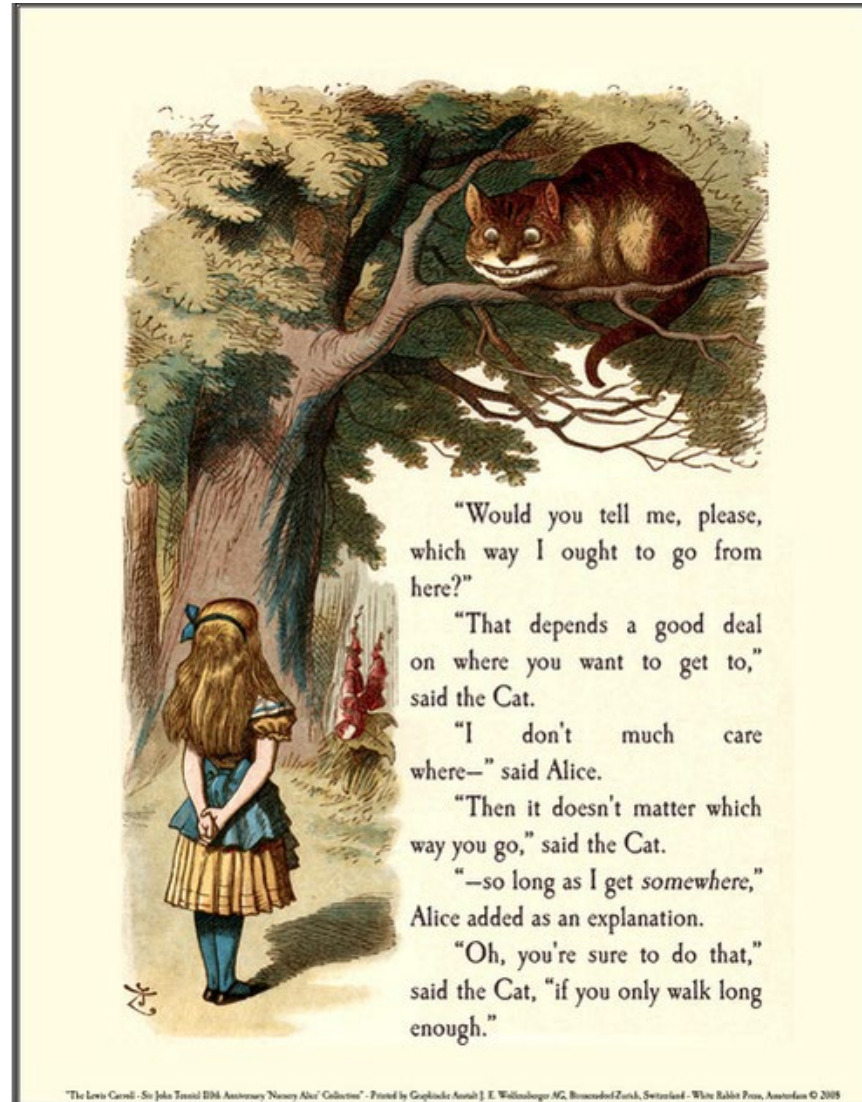
In the jurisdictions that prohibit the sale or distribution of drug paraphernalia, 19 states and the District of Columbia have an exception that allows syringe distribution to individuals who participate in a syringe exchange program



# Has that encouraged states to decriminalize syringes?

» **It has not.**

## What does it all mean?





## So.. Where do we want to go?

- In many cases, laws do not seem to have the reduction of drug-related harm or improvements in public health as their end goal
- **In some cases, it is very likely that they will work against that purpose**
- **In others, it seems the goal is to signal that we're being "tough on crime"**
- **In some cases, it seems that the goal is to pass a law, any law**
- **None of this is any good.**

## Opioid-related law principles

- The overdose epidemic is a public health emergency
- **It requires an epidemic-appropriate public health response**
- **It also requires attention to root causes of misuse and addiction**
  
- If a law isn't designed to address one or more of those things, it's probably not going to achieve it
- Until we decide that reduction of drug-related harm is the goal, and work towards it, things are unlikely to get better
- **And likely to get worse**

## Law and policy matter.. But it's complicated.

- » Data aren't that great

  - Although they're getting better

- » Lots of signaling, but powerful actors aligned against meaningful change

  - Remember, smoking still kills ~450k/yr in US

- » Legal epi can be useful to determine what works

  - But knowing is only half the battle

- » How do we translate knowledge into action?

# Abortion Laws Database

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Elizabeth Nash



## Why the need for a public database

- **Complicated and confusing**
  - Little uniformity
  - Bad drafting
  
- **Constantly changing**
  - Amendments
  
- **Court cases**
  - Many restrictions are challenged

## Database Developers



Planned Parenthood  
Federation of America



## **Main Audiences**

- **Compliance attorneys and abortion providers**
- **Litigators**
- **National and state-level advocates**
- **Researchers**

## Scope of the Database

- Advertising Restrictions
- Bans
- Provider Qualifications
- Reporting Requirements
- Requirements for Minors
- Waiting Period Requirements
- Medication Abortion
- Protecting Access to Clinics
- Refusal to Perform Abortions
- Insurance Coverage Restrictions
- Public Funding Restrictions
- Statutory & Constitutional Rights
- Abortion Laws Overview
- Facility Licensing Requirements
- Ambulatory Surgical Center Requirements
- Hospitalization Requirements



# THE POLICY SURVEILLANCE PROGRAM

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## Abortion Law Project

Abortion is a critical component of reproductive healthcare and a common procedure, with nearly 1 in 4 women having an abortion by the age of 45. Since the landmark 1973 U.S. Supreme Court decision in *Roe v. Wade*, which upheld a woman's constitutional right to seek an abortion, state legislatures have created a complex patchwork of laws regulating when and how abortion services can be provided.

With abortion being such a highly regulated procedure, it is important to understand which policies are in effect in each state, as well as the interaction of multiple policies within a jurisdiction. This comprehensive compilation of state abortion laws explores state-level statutes and regulations, in effect as of December 1, 2018, across all 50 states and Washington D.C.

- [Abortion Advertising Restrictions](#)
- [Abortion Bans](#)
- [Abortion Provider Qualifications](#)
- [Abortion Reporting Requirements](#)
- [Abortion Requirements for Minors](#)
- [Abortion Waiting Period Requirements](#)
- [Medication Abortion Requirements](#)
- [Protecting Access to Abortion Clinics](#)
- [Refusal to Perform Abortions](#)
- [Restrictions on Insurance Coverage of Abortion](#)
- [Restrictions on Public Funding of Abortion](#)
- [Statutory and Constitutional Right to Abortion](#)
- [Abortion Laws](#)

*\*The Abortion Laws Dataset provides a general overview of each abortion regulation listed above, allowing for a snapshot of the regulatory landscape across all topics within every state.*

### Targeted Regulation of Abortion Provider (TRAP) Laws

- [Abortion Facility Licensing Requirements](#)
- [Ambulatory Surgical Center Requirements](#)
- [Hospitalization Requirements](#)

Search for...

**3.1.** Who must provide the information?

Physician performing abortion  
 Referring physician  
 Any physician  
 Qualified individual other than a physician

**3.2.** Must the information be communicated to the patient in person?

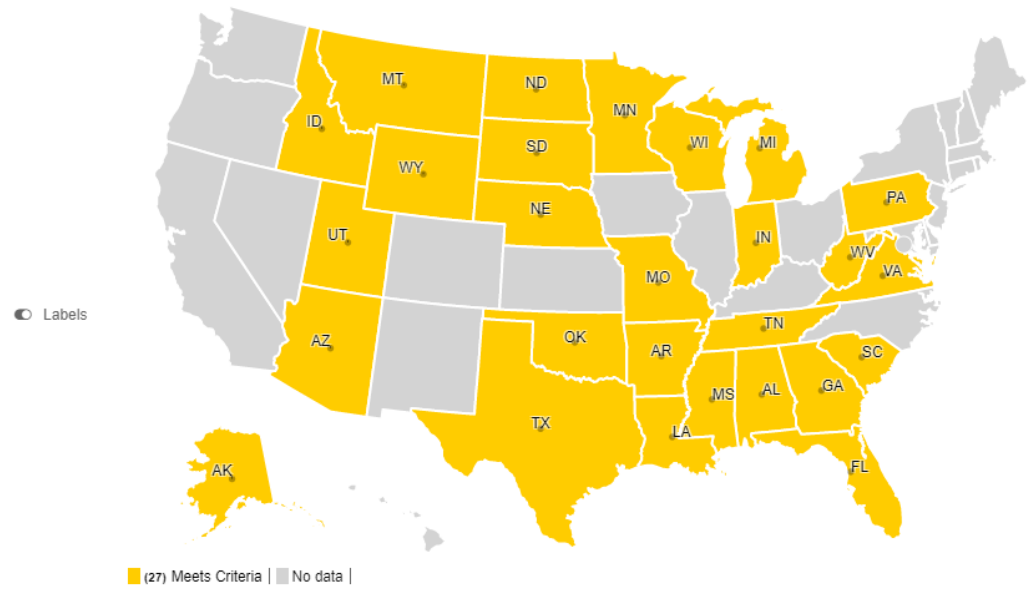
Yes  
 No

**3.2.1.** Must the information be provided individually to the patient in a private area?

Yes  
 No


**3.3.** What required information must be communicated to the patient?

Link to breast cancer risk  
 Adverse mental health effects  
 Risk of infertility  
 Pregnancy health risks  
 Reversal of medication abortion  
 Fetal pain  
 Fetal personhood  
 Opportunity to view ultrasound  
 Father must provide financial support  
 Alternatives to abortion



Download Table

Search:

Jurisdiction	3.1 Who must provide the information?
 Oklahoma	§  • Physician performing abortion • Referring physician
 Idaho	§ • Physician performing abortion
 Montana	§ • Physician performing abortion
 South Dakota	§ • Physician performing abortion

# PREEMPTION OF LOCAL AUTHORITY: TRACKING AND MEASURING IMPACTS

Exploring Policy Surveillance for Policymaking  
May 14<sup>th</sup>, 2019



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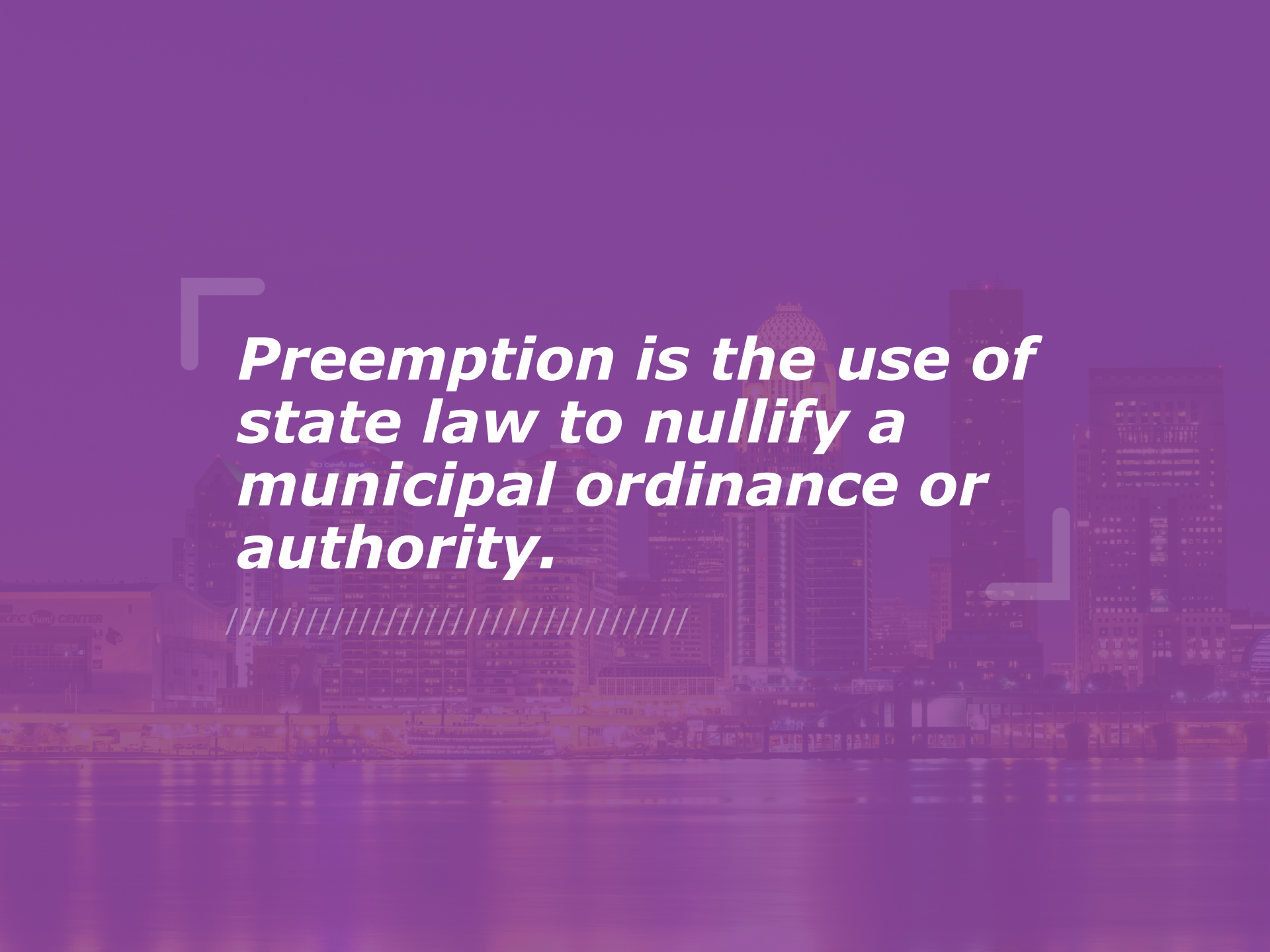
# NLC

## WHO WE ARE

**The National League of Cities (NLC) is the voice of America's cities, towns and villages, representing more than 200 million people across the country.**



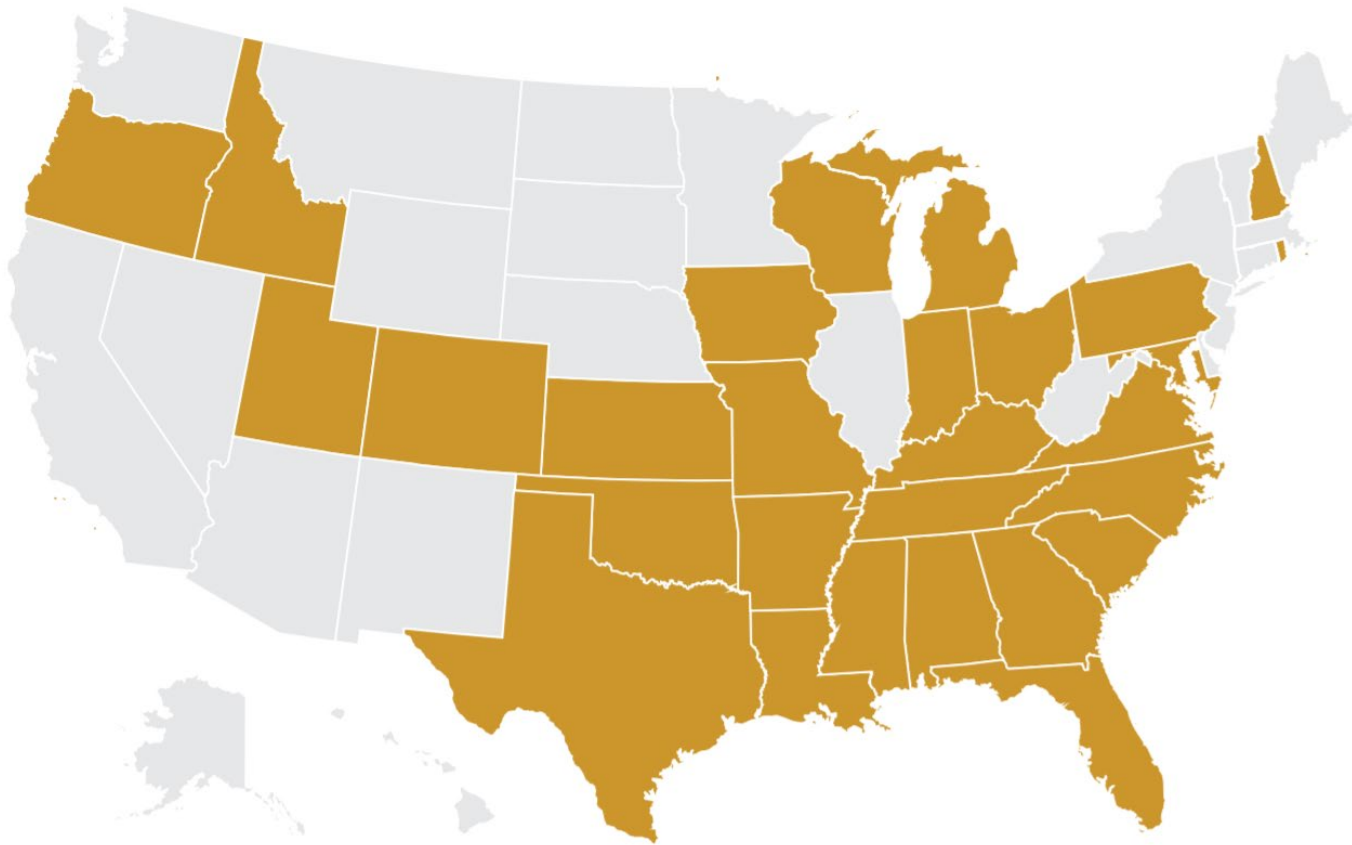




***Preemption is the use of state law to nullify a municipal ordinance or authority.***

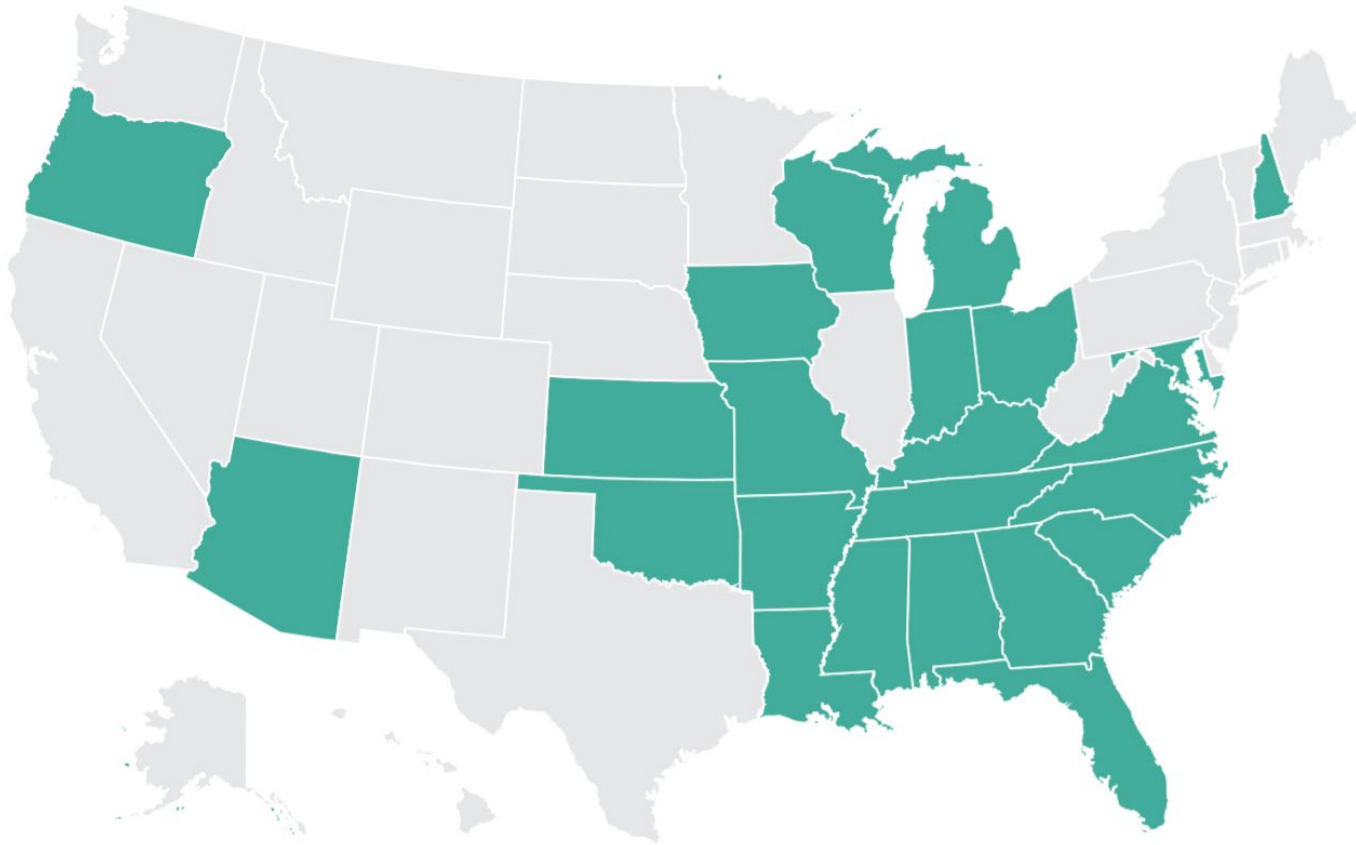
## Preemption By State

 States with minimum wage preemption



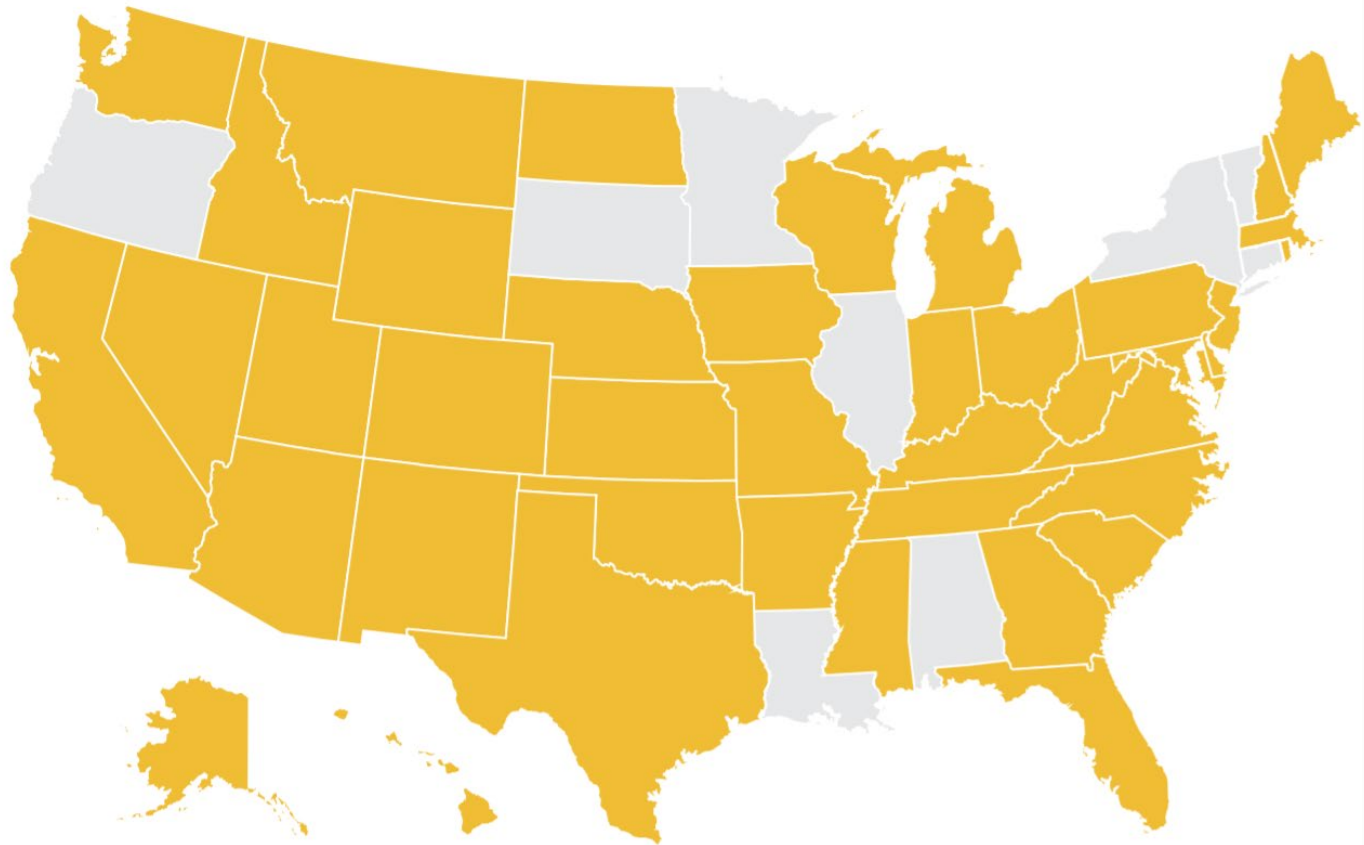
# Preemption By State

 States with paid leave preemption



# Preemption By State

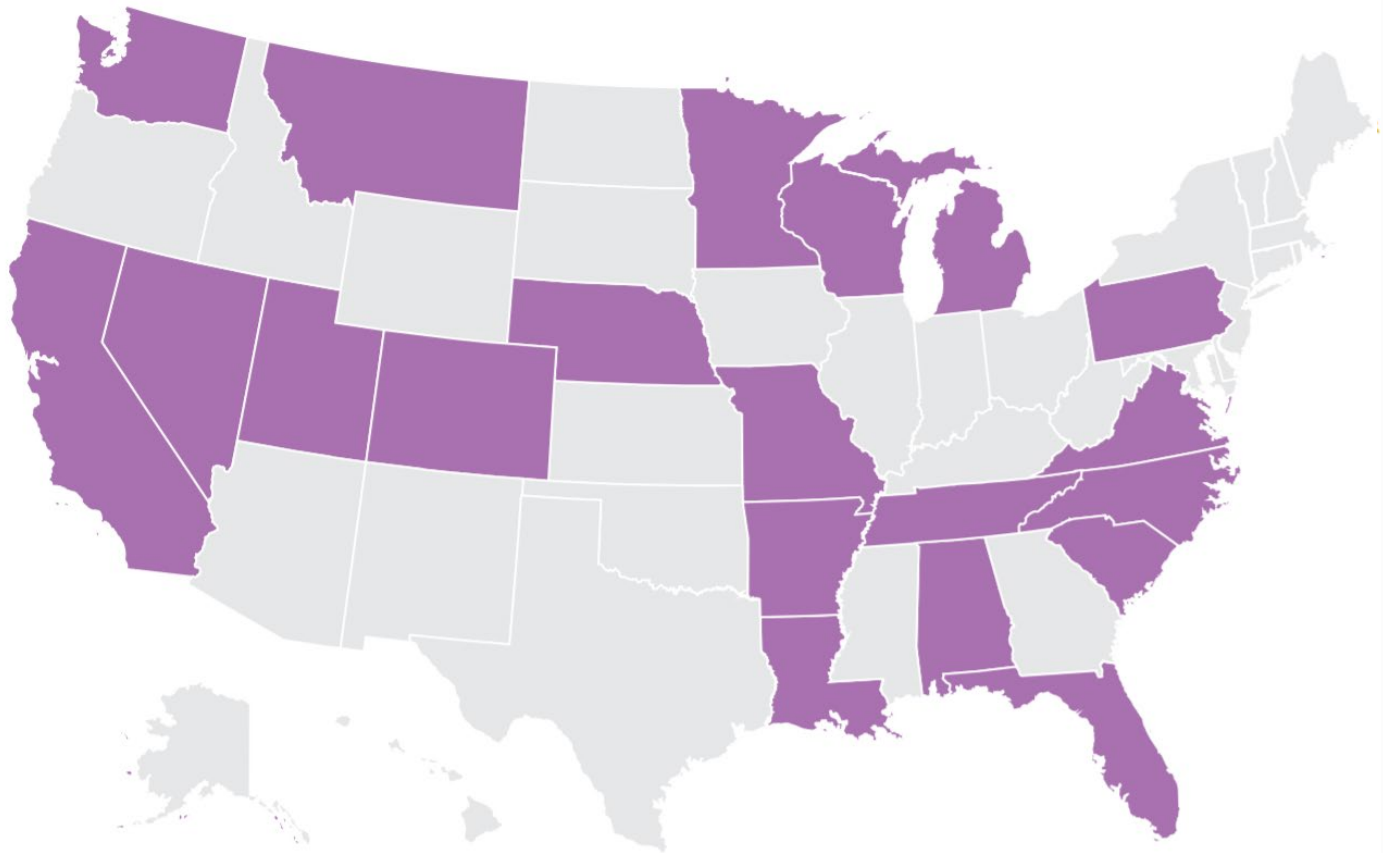
 States with ride sharing preemption



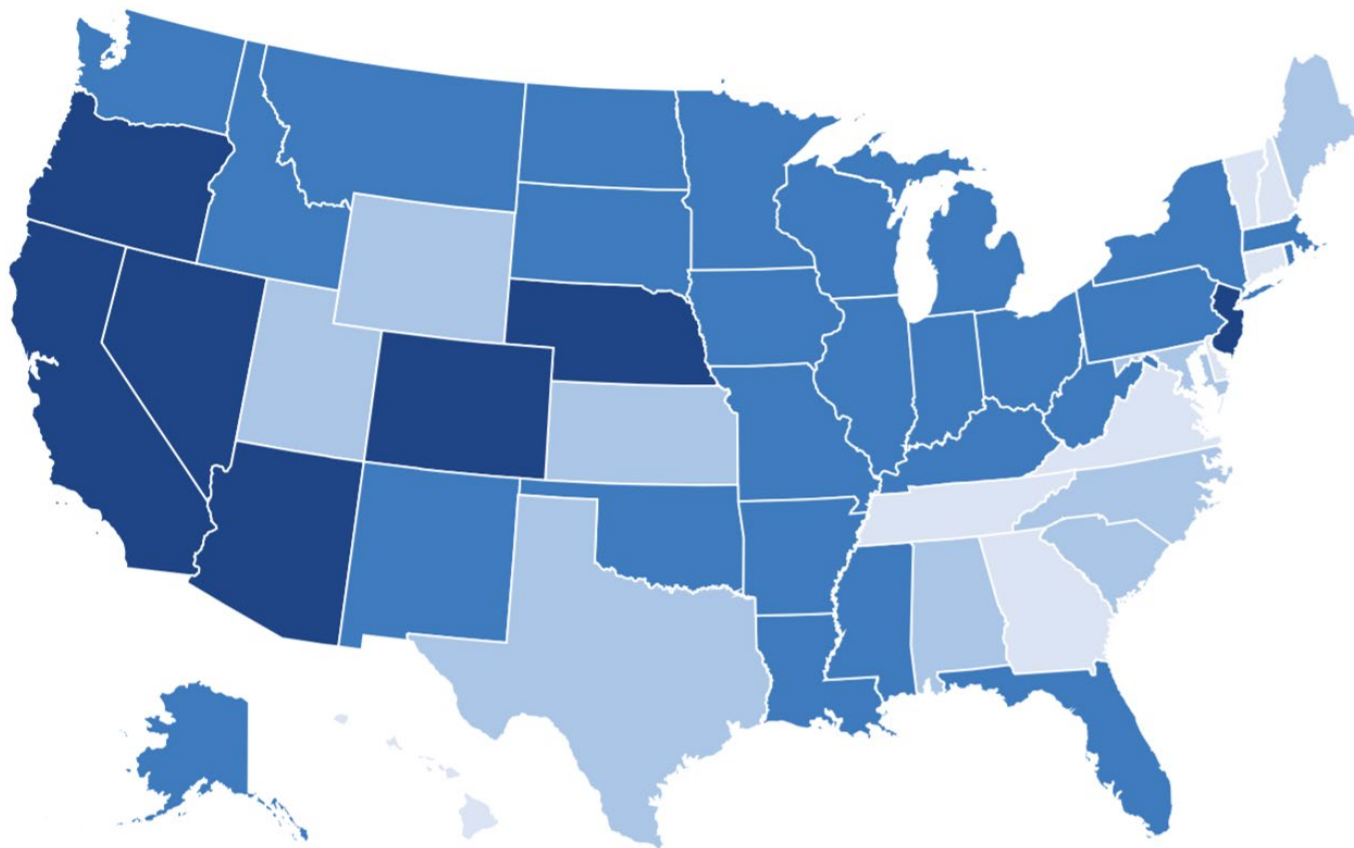


# Preemption By State

States with municipal broadband preemption



# Fiscal Authority by State





Robert Wood Johnson Foundation



Center for Public Health  
Law Research

- PSP AIM: Use legal epidemiology methods to create a longitudinal dataset analyzing and tracking preemption laws in 11 domains across the country.
- NLC AIM: Use legal data to shape state and national discussions/increase national awareness of state preemption and support efforts to thwart state preemptive activity by providing coordinated and timely info and data.

Preemption Question Development Table

Order	Variable Name	Question	Possible Answers	Internal Notes**	Question Type
1 (P)	IZ_Mandatory	Does the law preempt mandatory inclusionary zoning?	Yes No		Binary – Mutually Exclusive
2 (C)	IZ_Exist	Does preemption apply to existing developments?	Yes No		Binary – Mutually Exclusive
3 (C)	IZ_New	Does preemption apply to new developments?	Yes No		Binary – Mutually Exclusive
4 (C)	IZ_Type	What types of residential units are preempted?	Rental Owner-occupied Types of residential units not specified		Categorical – Select All that Apply
5 (C)	IZ_Exceptions	What kinds of exceptions are in the law?	Density Bonus Incentives Voluntary Programs None	Define incentives	Categorical – Select All that Apply

1. Inclusionary zoning
2. Paid leave
3. Broadband
4. Rent stabilization
5. Firearms
6. Ban the Box
7. Tax and Expenditure Limitations - Property Tax Rate Limits
8. Tax and Expenditure Limitations - Property Tax Levy Limits
9. Tax and Expenditure Limitations - Property Tax Assessment Limits
10. Tax and Expenditure Limitations - Full Disclosure/Truth in Taxation
11. Tax and Expenditure Limitations - General Revenue and Spending Limits

***Why does the tracking and research of preemption laws require policy surveillance?***

# NLC NATIONAL LEAGUE OF CITIES

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CITIES STRONG TOGETHER

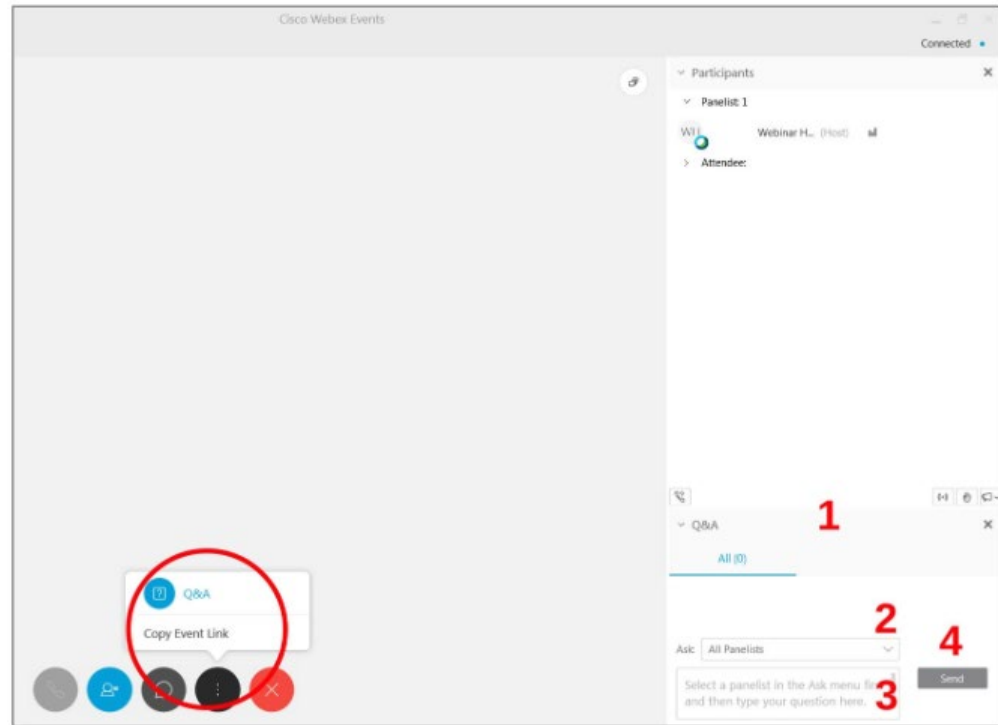
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