

# Efforts to Rollback Public Health Authority: Tracking the Legislation and Assessing the Impact

1:00 p.m. – 2:30 p.m. EST | June 21, 2022

## Moderator



**Donna Levin**, J.D., National  
Director, Network for Public Health  
Law – National Office

## Presenter



**Andy Baker-White**, J.D., Senior  
Director, State Health Policy,  
Association of State and Territorial  
Health Officials

## Presenter



**Katie Moran-McCabe**, J.D.,  
Special Projects Manager, Center  
for Public Health Law Research

## Presenter



**Dr. Nicole Alexander-Scott,**  
M.D., M.P.H, former Director of  
Rhode Island Department of  
Health and former President of the  
Association of State and Territorial  
Health Officials

# Act for Public Health: Health Law Partners Addressing Challenges to Public Health Authority and Infrastructure graphic

*Perhaps more than at any other time in its history, public health is being directly and significantly impacted by how laws and policies are being implemented—or weakened*



Center for  
Public Health  
Law Research





# ACT FOR PUBLIC HEALTH

## Taking Action for Public Health:

- Email List
- Legal Resources
  - Legislative tracking
- Presentations and Trainings
  - Lobbying and Advocacy
  - Preemption
  - Legal Developments to Strengthen PH Authority
- Legal Technical Assistance
- Judicial updates

To learn more, or to contact us, please visit us at

<https://www.networkforphl.org/resources/topics/initiatives/act-for-public-health/>

# Network for Public Health Law: 50- State Legislative Bill Survey



PUBLIC HEALTH AUTHORITY

## 50-State Legislative Law and Bill Survey

### Summary of Enacted Laws and Pending Bills Limiting Public Health Authority: The Second Wave (Version posted on June 1, 2022)

**Introduction.** [In their regular 2021 legislative session](#), many states introduced or passed laws that restricted the ability of state and local public health officials, governors, and others to respond to the immediate threat of COVID-19, as well as future public health threats. A second wave of similar legislation began in regular and special sessions in the fall of 2021 and has continued into the 2022 regular session. The table below details COVID-19-related laws and pending legislation, and broader enacted and proposed limitations on public health authority in all 50 states (and the District of Columbia) from January, 2021 through mid-May, 2022 for enacted laws and from September, 2021 through mid-May, 2022 for pending legislation.



# ACT FOR PUBLIC HEALTH

## Snapshot of Bills as of Mid-May, 2022

**223 involve vaccines** – including prohibitions on vaccine mandates and passports and as a pre-condition for employment or school attendance

**183 impact public places** – businesses, health care facilities, places of worship, and schools

**136 shift public health authority** - at the local level; between local and state public health authorities; between executive and legislative branches

**108 impact emergency orders** – impose restrictions on issuance and scope, limits on duration, and allow termination by the legislature

**50 impose restrictions on mask requirements** - state-wide, in schools, or allow for parental opt out in schools

# ACT FOR PUBLIC HEALTH

## Snapshot of Laws Enacted as of Mid-May, 2022

**43 impact public places** – businesses, health care facilities, places of worship, and schools

**29 impact emergency orders** – impose restrictions on issuance and scope, limits on duration, and allow termination by the legislature

**27 shift public health authority at the local level;** between local and state public health authorities; between executive and legislative branches

**27 involve vaccines** – including prohibitions on vaccine mandates and passports and as a pre-condition for employment or school attendance

**5 impose restrictions on mask requirements state-wide,** in schools, or allow for parental opt out in schools



**The Network**  
for Public Health Law

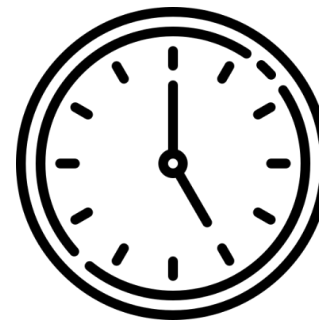
Ideas. Experience. Practical answers.

# Tracking State and Territorial Legislation

**Andy Baker-White, J.D., MPH, Senior Director, State Health Policy, Association of State and Territorial Health Officials**

# PUBLIC HEALTH EMERGENCY ORDERS

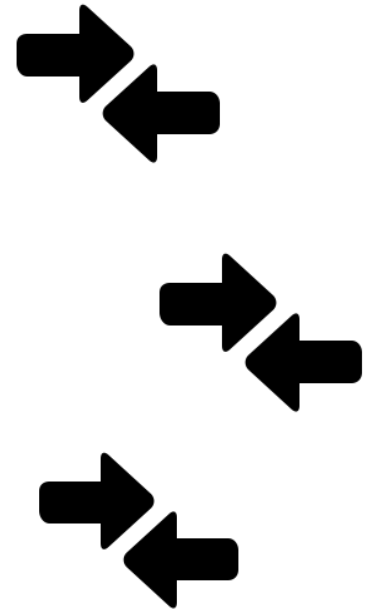
- Limits directed at:
  - Governor
  - State health official
  - Local health official
- Issuance
- Duration
- Scope
- Termination



# SHIFTING PUBLIC HEALTH AUTHORITY

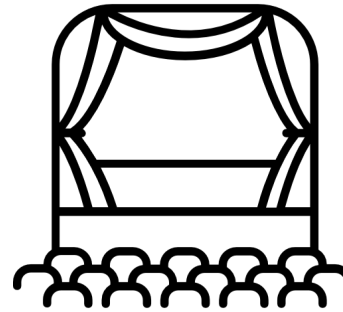
Shifts from one entity to another, for example:

- Governor → legislature
- State health official → governor
- State health official → other state official
- Local health official → other local entity



# PANDEMIC-RELATED PUBLIC HEALTH MEASURES

- Isolation and quarantine
- Vaccinations
- Venue restrictions
- Testing
- Masks





## APPLICATION OF FEDERAL LAW

Attempts by state legislature to limit the application of federal law or policy by directing state officials to not comply with federal COVID-19 vaccine policies.

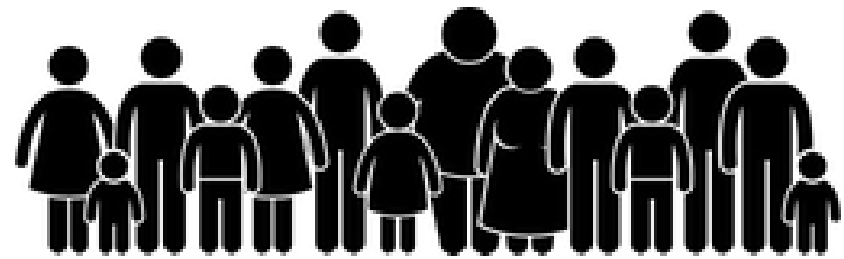
## PREEMPTION

Limiting local jurisdictions from exercising public health authority and/or pandemic response measures. Example, Utah law prohibits local jurisdiction from applying an “order of constraint” against state owned properties.



# EXPANSION OF PUBLIC HEALTH AUTHORITY

- Authority to expand scope of practice
- Out of state licensure requirements for healthcare providers
- Administration of drugs or devices during public health emergencies
- Public health data systems
  - Maryland bill to remove exception for long-term care facility submission of vaccine data to IIS





**Yue Stella Yu**   
@bystellayu



JUST IN: Unlock Michigan 2.0 — the ballot initiative aiming to restrict pandemic orders by health officials — is not submitting signatures by tomorrow's deadline.

The campaign says it'll focus on pushing for similar bills next year when new legislative leadership takes helm.

today that they would not be submitting their initiative petitions by the deadline this week and would focus on petition collection in the new Legislature next year.

the minimum required signatures at this point, but we've not collected a sufficient number of additional signatures from those who insist on the current rule-by-decree law. But we're confident of success in the next legislature and we're confident of success in the next legislature and we're confident of success in the next legislature and we're confident of success in the next legislature," said Fred Wszolek, spokesman for Unlock Michigan.

comes from Senator Aric Nesbitt and Representative Matt Hall that bringing public accountability to the Public Health Department is a top priority for us next year, and we're confident that Michigan voters are ready to turn the page on the era of bureaucratic rule-by-decree," Wszolek said.

to have the free rein to run our state and run it into the ground. The elected representatives of the people must be held accountable for their actions," Nesbitt said.

of bureaucrats shutting down our businesses, schools, churches, and day-to-day life with no accountability to the people," Nesbitt said. "Accountability to the people will be a priority for the Michigan House of Representatives," said Representative Matt Hall.

3:52 PM · May 31, 2022 · Twitter Web App

## FUTURE CONSIDERATIONS

- Chilling effect on public health responses: worry whether there's going to be legislative retribution later
- Need to re-educate the public about public health actions and roles
- Enforcement of public health measures – local sheriffs, state attorney general
- Making the importance of public health known (e.g., “inoculating” policy makers, coalitions, committee hearings)
- Using rulemaking to temper broad legislation (e.g., look to law’s intent, support through public comments)
- How is state/local relationship impacted?

# Efforts to Rollback Public Health Authority: Legislative Tracking Project

Katie Moran-McCabe, Esq.

Center for Public Health Law Research

Temple University Beasley School of Law

## Legislative Tracking Partners

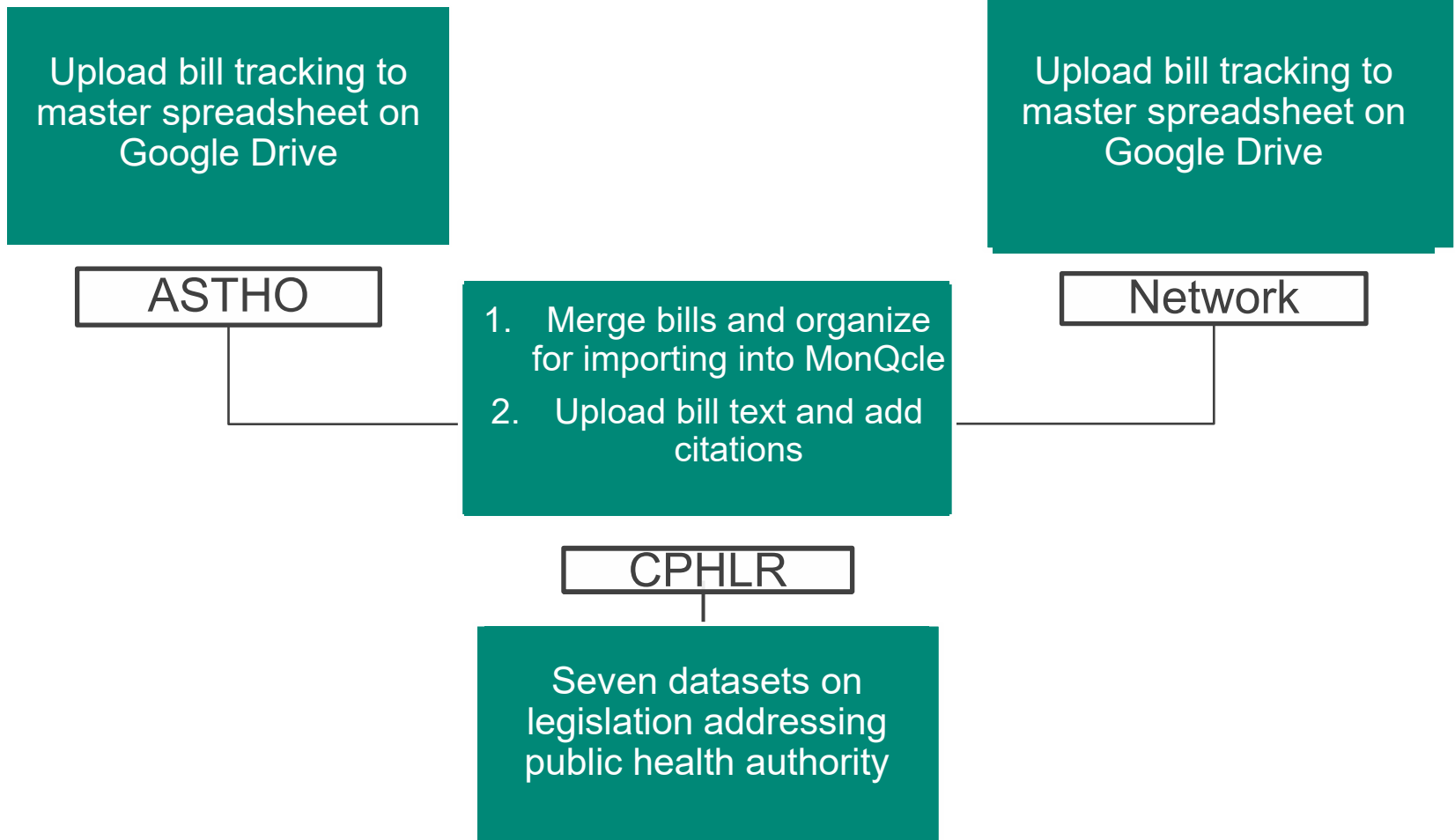


ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS



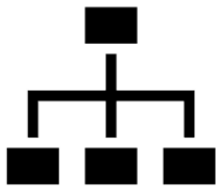


# Legislative Tracking Process



# MonQcle

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**Track**



**Collaborate**



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# Legislative Datasets on Public Health Authority Legislation Process

- **Public Health Authority Limits**
- **Public Health Authority Shifts**
- **Federal Law Limits**
- **Public Health Preemption**
- **Public Health Authority Measures**
- **Public Health Authority Expansion**
- **Summary Dataset on Public Health Authority**

# Public Health Preemption - Map

2022 4/15/22

Jan 2022 Jan 2022 Feb 2022 Feb 2022 Mar 2022 Mar 2022 Apr 2022

**Filter** Explore Reset

Criteria:  
1. Is there a bill involving the preemption of a public health emergency measure? **Yes** ✕

1. Is there a bill involving the preemption of a public health emergency measure?

Yes  
 No

-1.1. What is the bill's number?

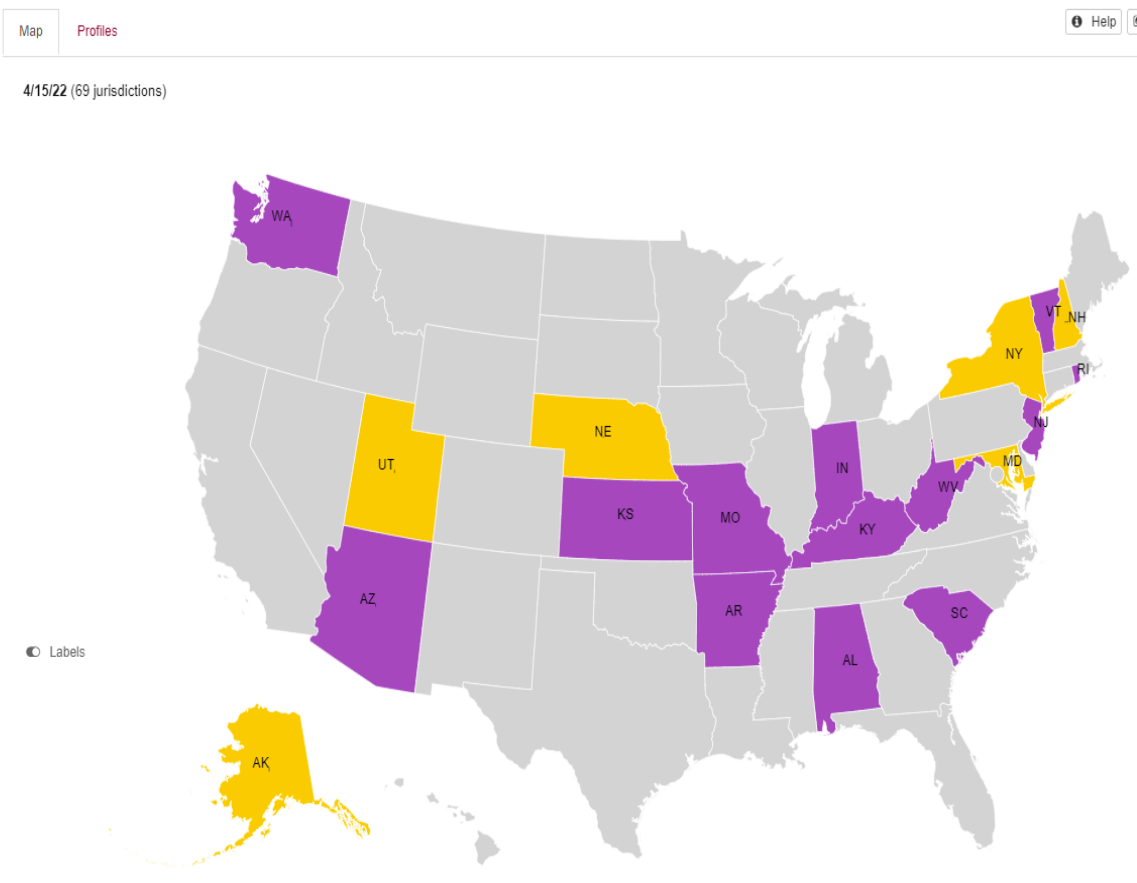
Answer exists (see text response in table below)  
 Not answered

-1.2. When was the bill introduced?

Answer Exists  
 Not Answered

-1.3. What is the bill's status?

Introduced  
 Passed First Chamber  
 Passed Second Chamber  
 Failed  
 Vetoed  
 Enacted



# Public Health Preemption - Profiles

The interface displays a search for public health preemption bills in Arizona. It includes a timeline at the top, a filter section on the left, and three detailed bill profiles on the right.

**Filter Section:**

- Criteria: 1. Is there a bill involving the preemption of a public health emergency measure? **Yes** (selected)
- 1. Is there a bill involving the preemption of a public health emergency measure?
  - Yes
  - No
- 1.1. What is the bill's number?
  - Answer exists (see text response in table below)
  - Not answered
- 1.2. When was the bill introduced?
  - Answer Exists
  - Not Answered
- 1.3. What is the bill's status?
  - Introduced
  - Passed First Chamber
  - Passed Second Chamber
  - Failed
  - Vetoed
  - Enacted

**Timeline:** Shows a yellow bar representing the period from 2021 to 2022, with a date marker for 4/15/22.

**Search Results:** 3 results for Arizona.

**Bill Profile 1: Arizona HB 2064**

- 1. Is there a bill involving the preemption of a public health emergency measure?
  - Yes**
    - 1.1. What is the bill's number? **HB 2064**
    - 1.2. When was the bill introduced? **2022-01-10**
    - 1.3. What is the bill's status? **Introduced**
    - 1.4. What was the date of the last action? **2022-01-10**
    - 1.5. Does the bill contain any immediate equity implications? **No**






**Bill Profile 2: Arizona HB 2498**

- 1.3. What is the bill's status? **Introduced**
- 1.4. What was the date of the last action? **2022-01-13**
- 1.5. Does the bill contain any immediate equity implications? **No**
- 2. Is there a bill involving the preemption of a public health emergency measure?
  - Yes**
    - 2.1. What kind of public health measure is preempted? **Vaccine mandate**

**Bill Profile 3: Arizona HB 2191**

- 1. Is there a bill involving the preemption of a public health emergency measure?
  - Yes**
    - 1.1. What is the bill's number? **HB 2191**
    - 1.2. When was the bill introduced? **2022-01-10**
    - 1.3. What is the bill's status? **Introduced**
    - 1.4. What was the date of the last action? **2022-01-10**
    - 1.5. Does the bill contain any immediate equity implications? **No**

## Public Health Preemption - Table








Jurisdiction ▲	1 Is there a bill involving the preemption of a public health emergency measure? ◆	1.1 What is the bill's number? ◆	1.3 What is the bill's status? ◆
 Alabama SB 7	§ Yes	§ SB 7	§ Introduced
 Alaska SB 144	§ Yes	§ SB 144	§ Introduced
 Arizona HB 2064	§ Yes	§ HB 2064	§ Introduced
 Arizona HB 2191	§ Yes	§ HB 2191	§ Introduced
 Arizona HB 2498	§ Yes	§ HB 2498	§ Introduced



## Federal Law Limits – Citations

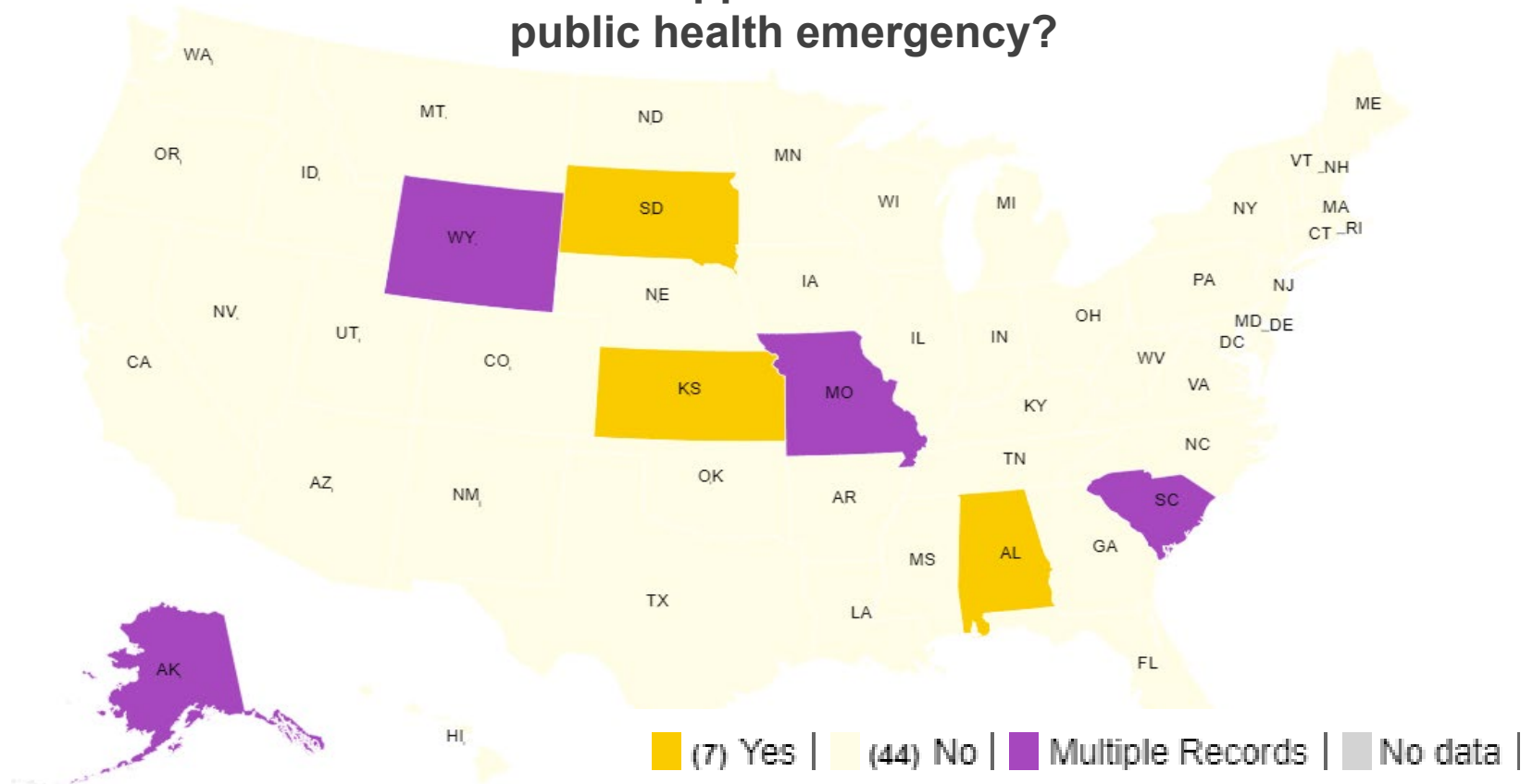
Excerpts from the law:	
<p>KS HB235: AN ACT concerning federal COVID-19 vaccine requirements; enacting the individual liberty preservation act; nullifying certain federal COVID-19 vaccine</p>	<p>§ Yes</p>
<p>...</p> <p>Any federal COVID-19 vaccine requirement is null, void and unenforceable in the state of Kansas.</p>	<p>§ Yes</p>
<p>...</p> <p>Any federal COVID-19 vaccine requirement is null, void and unenforceable in the state of Kansas.</p>	<p>§ Yes</p>
<p>...</p> <p>HB 1212</p>	<p>§ Yes</p>

# Federal Law Limits – Bill Text

<p> <b>HB 518</b></p>	<p>KS HB235: AN ACT concerning federal COVID-19 vaccine requirements; enacting the individual liberty preservation act; nullifying certain federal COVID-19 vaccine requirements; prohibiting enforcement of such requirements and providing criminal penalties for violations.</p> <p>Effective: 1/25/22 - Through: 4/15/22</p> <p><b>Attached file: <a href="#">hb2535.pdf</a></b></p>
<p> <b>Alaska</b></p>	
<p>Excerpts from the law:</p>	
<p>KS HB235: AN ACT concerning federal COVID-19 vaccine requirements; enacting the individual liberty preservation act; nullifying certain federal COVID-19 vaccine</p> <p>...</p> <p>Any federal COVID-19 vaccine requirement is null, void and unenforceable in the state of Kansas. <b>§§</b></p> <p>...</p>	
<p> <b>HB 1212</b></p>	<p>AN ACT concerning federal COVID-19 vaccine requirements; enacting the individual liberty preservation act; nullifying certain federal COVID-19 vaccine requirements; prohibiting enforcement of such requirements and providing criminal penalties for violations.</p> <p>Be it enacted by the Legislature of the State of Kansas:</p> <p>Section 1. (a) Sections 1 through 6, and amendments thereto, shall be known may be cited as the individual liberty preservation act.</p>
<p> <b>South Carolina</b> <b>H 3126</b></p>	
<p> <b>South Carolina</b> <b>H 3218</b></p>	
<p> <b>South Carolina</b> <b>H 4341</b></p>	
<p> <b>South Dakota</b> <b>HB 1194</b></p>	

# Federal Law Limits

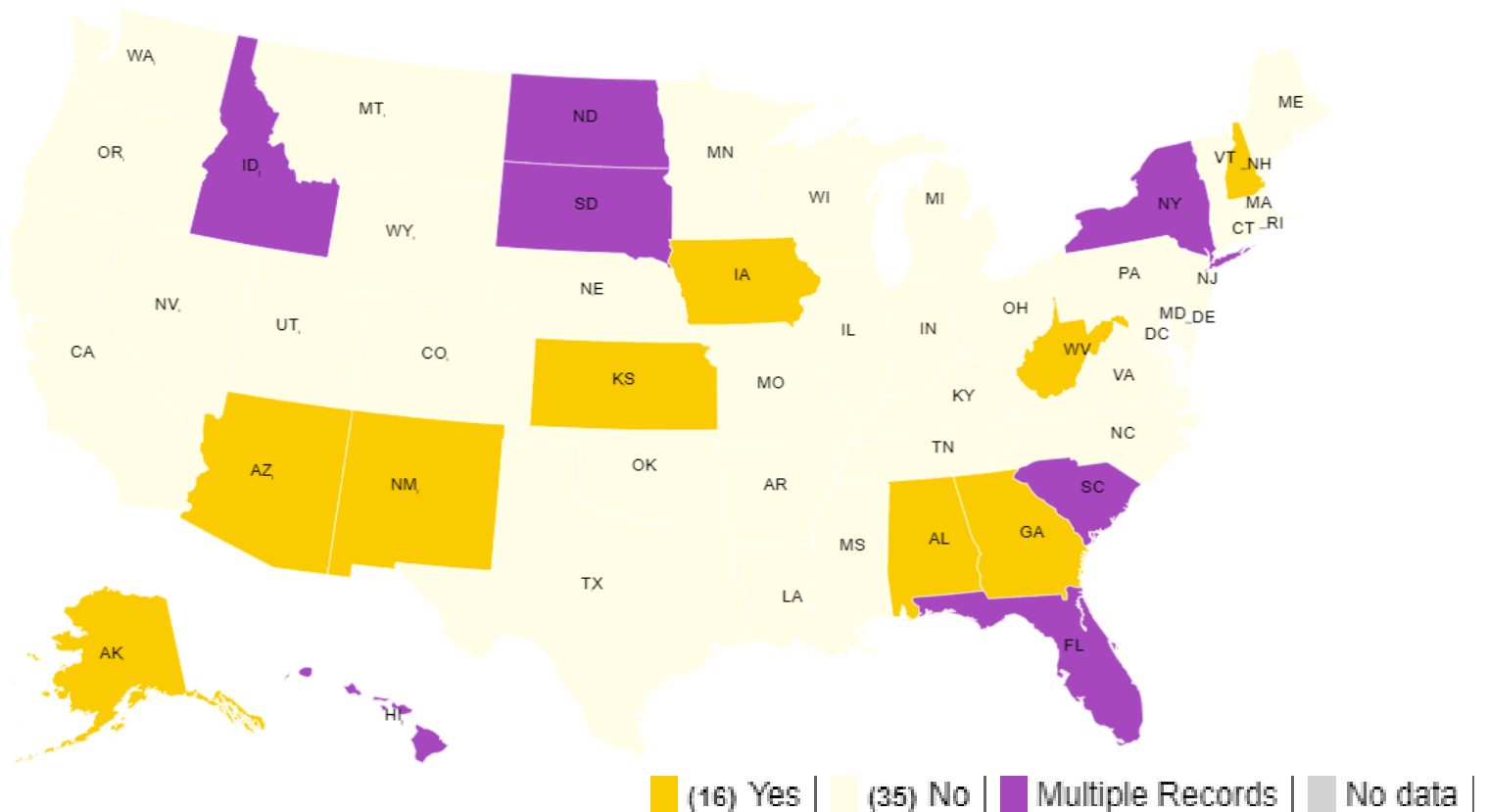
Is there a bill that limits the application of a federal law related to a public health emergency?



Bills introduced in 2022, as of April 15, 2022

# Public Health Authority Shifts

Is there a bill in the state that shifts public health authority?

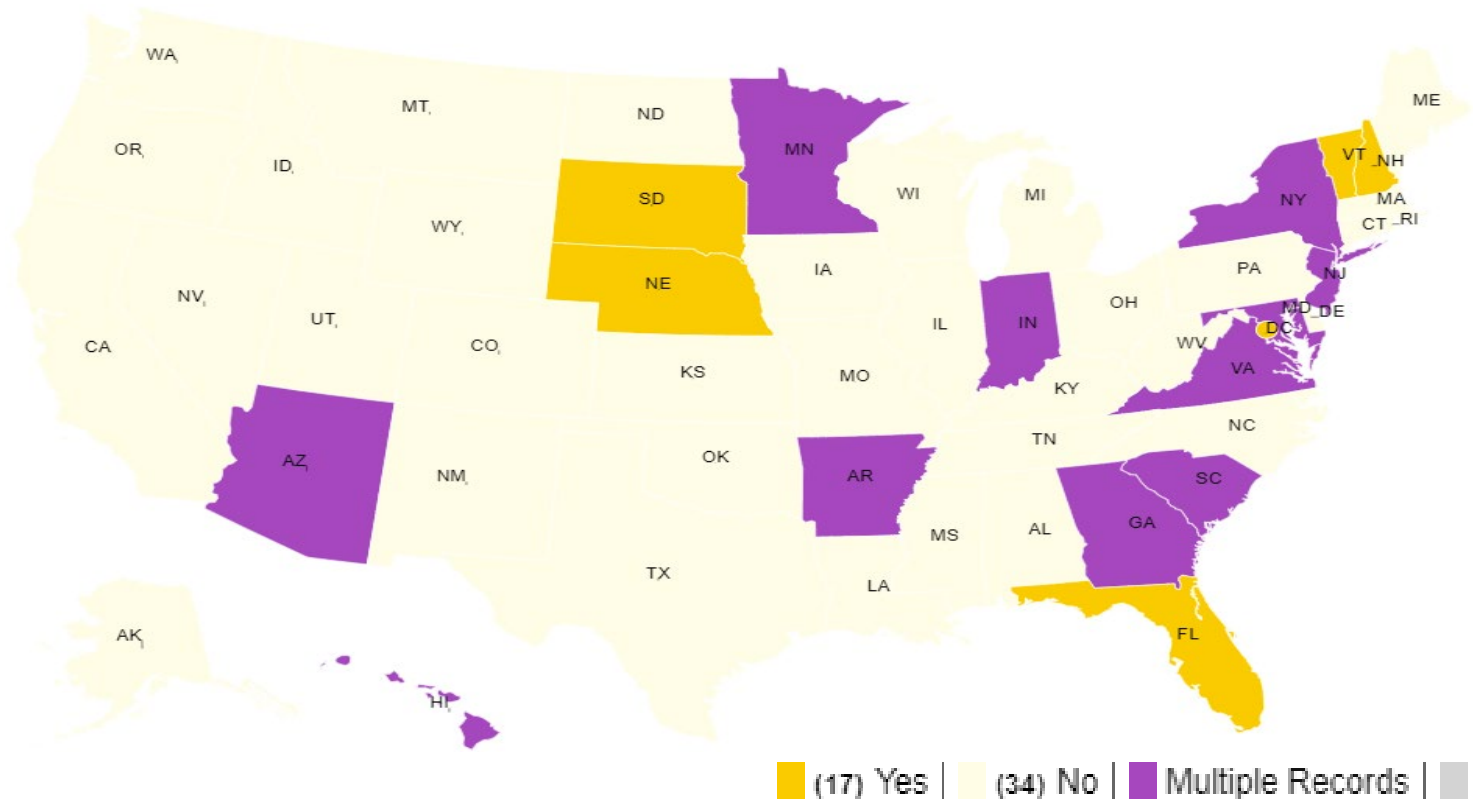


Bills introduced in 2022, as of April 15, 2022



# Public Health Authority Expansion

Is there a bill that expands public health authority?



Bills introduced in 2022, as of April 15, 2022



# Sentinel Surveillance of Emerging Laws Limiting Public Health Emergency Orders

Throughout the COVID-19 pandemic, legislators in almost every state have introduced bills that would limit state executive authority to respond to the current pandemic or future public health emergencies. Between January 1, 2021 and November 5, 2021, one or more of these bills were enacted into law and became effective in 19 states.

Legislative efforts to restrict executive public health powers include laws that limit the duration of a state of emergency or emergency order; provide that emergency orders may be terminated by the legislature; or restrict the provisions an emergency order may contain. These laws could have harmful impacts on public health by restricting the ability of a governor, state health agency, or state health official to respond to a future health emergency in a swift and flexible way.

This longitudinal dataset provides an overview of laws that limit the authority of a governor, state health agency, or state health official, regarding public health emergency orders. The dataset covers all 50 U.S. states and the District of Columbia, and includes laws that were enacted since January 1, 2021, and were effective on or before November 5, 2021. The dataset uses the [sentinel surveillance of emerging laws and policies legal mapping method](#).

Research for the dataset was provided by the Association of State and Territorial Health Officials, with funding from the Robert Wood Johnson Foundation.

CREATED BY: Policy Surveillance Program Staff

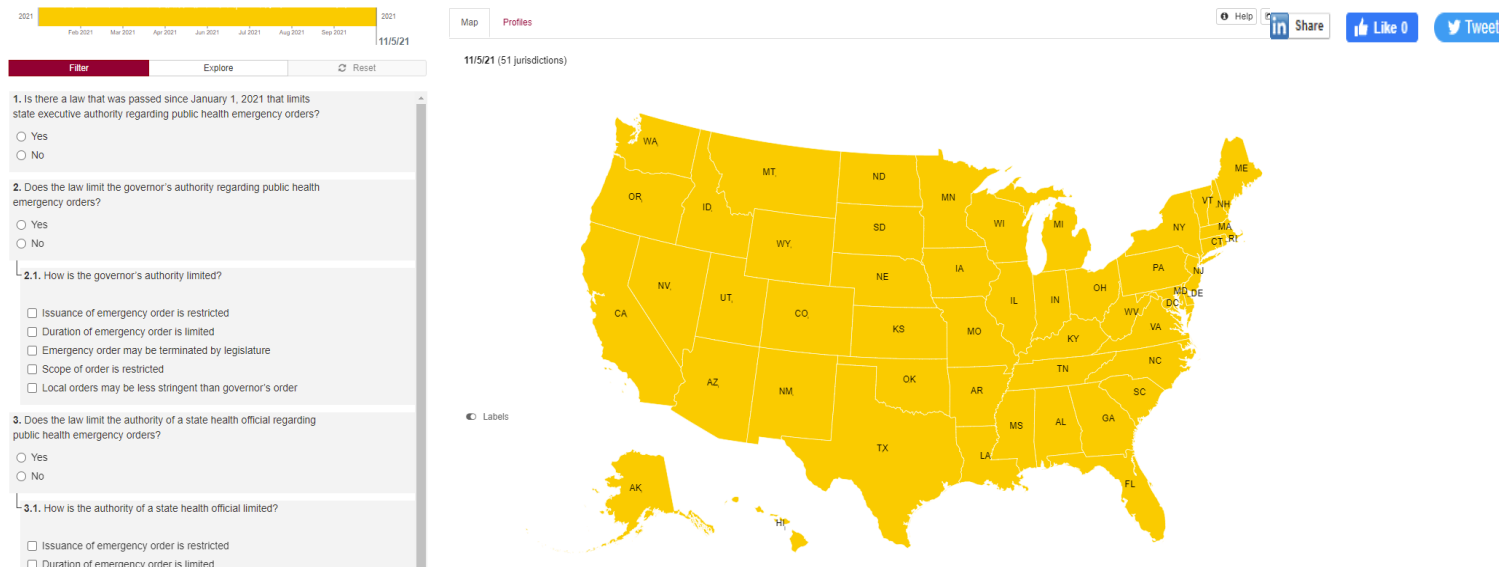
MAINTAINED BY: Policy Surveillance Program Staff

VALID FROM: January 1, 2021

UPDATED THROUGH: November 5, 2021

[Data](#) [Codebook](#) [Protocol](#) [Summary Report](#)

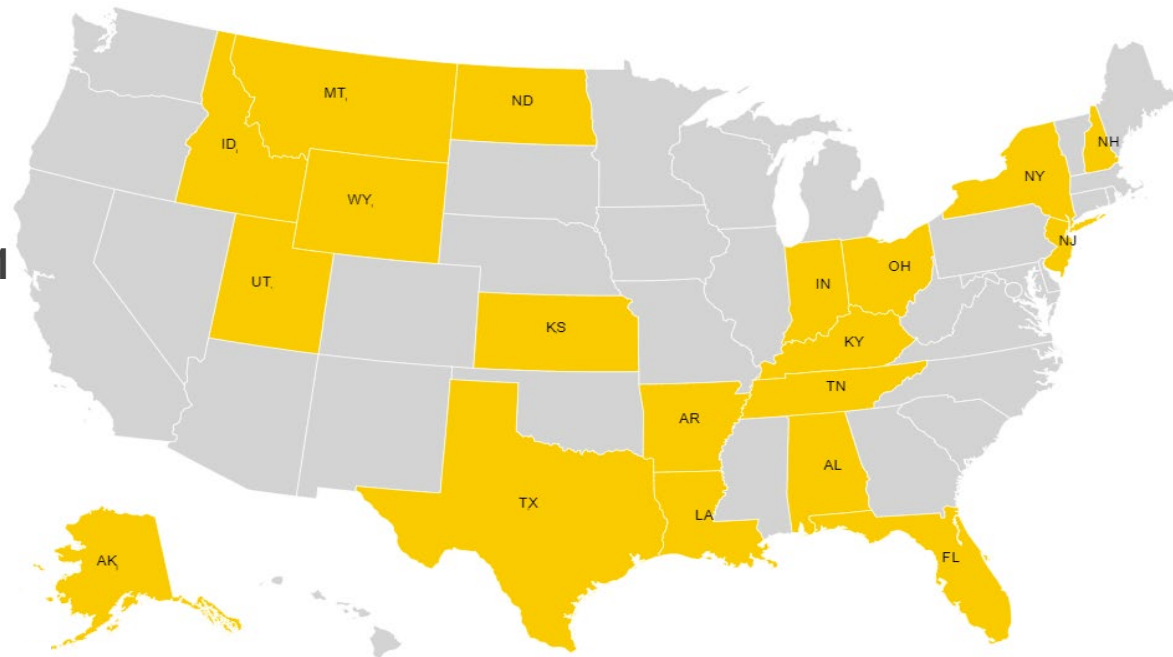
[See all related maps](#)



**LawAtlas.org data as of November 5, 2021**

# Sentinel Surveillance of Emerging Laws Limiting Public Health Emergency Orders

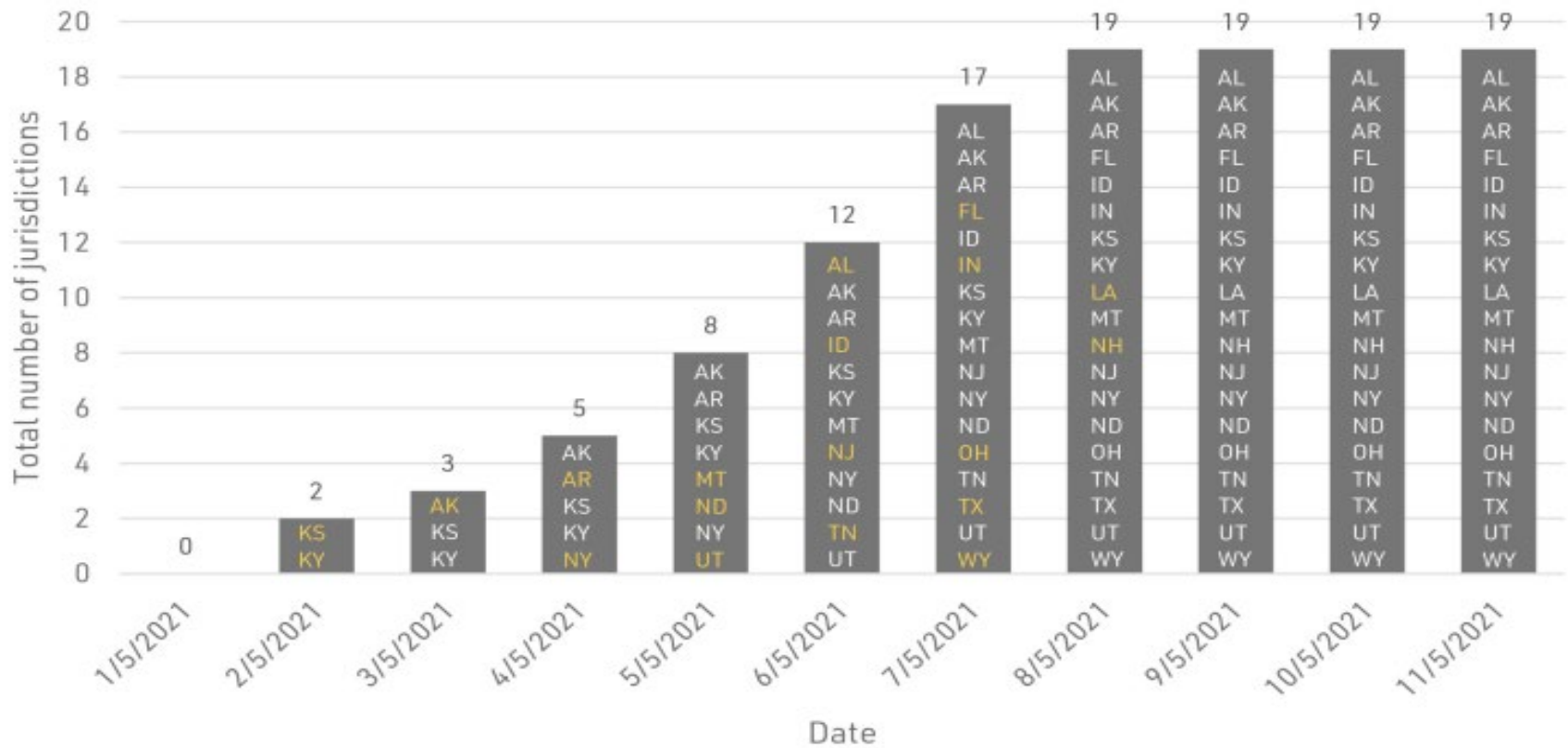
Is there a law that was passed since January 1, 2021 that limits state executive authority regarding public health emergency orders?



■ (19) Meets Criteria | ■ No data |

*LawAtlas.org data as of November 5, 2021*

# Progression of Emerging Laws Limiting Public Health Emergency Orders



*LawAtlas.org data as of November 5, 2021*

# Thank You!

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