

# More states are passing laws limiting authority to respond to public health emergencies

October 26 2021

---



Credit: CC0 Public Domain

New data released today by the Temple University Center for Public Health Law Research on LawAtlas.org captures details of an emerging effort by states to limit executive authority to act in response to public

health emergencies.

Legislators in nearly all US [states](#) (46) have introduced bills in 2021 to limit governors' or [health officials'](#) authority during the COVID-19 pandemic or other emergencies. According to the data, between January 1, 2021, and June 17, 2021, 11 of these bills were enacted into law and became effective.

"Laws that restrict the authority of governors and health agencies to act in times of emergency could significantly impact [public health](#) by limiting their ability to take actions necessary to respond to or mitigate the crisis," said Katie Moran-McCabe, special projects manager at the Center for Public Health Law Research and lead researcher on this project.

States have taken a variety of approaches to curbing public health authority. As of June 17, 2021:

- Eleven states have a law in effect that was passed since January 1, 2021, that limits state executive authority regarding public health orders.
- Nine states limited both the then-governor's authority and the authority of a state agency or official, with all those states limiting the scope of at least one type of order.
- Five states limited the governor's authority, the authority of a state agency or official, and the authority of a local agency or official.

Some laws limit the duration of a state of emergency or limit emergency orders to a specific number of days (as in Arkansas for example). Others require approval of state health officer actions by an elected official (as in North Dakota) or prohibit the governor or health officials from requiring vaccination (as in Tennessee).

Kansas was the first state in 2021 to pass a law limiting public health emergency orders. Kansas is the only state to allow counties to issue a local order that is less stringent than a governor's order, and that a local order may operate in the county in lieu of the governor's executive order.

Utah is the only state that limited both state and local health officials in all of the following areas: restricting the ability to issue emergency orders, limiting the duration of emergency orders, restricting the scope of emergency orders, and establishing that emergency orders may be terminated by legislature or another entity.

The data were produced using a novel legal mapping technique, sentinel surveillance of emerging laws and policies, developed by the Center for Public Health Law Research, to track laws faster so researchers may more quickly evaluate the impact of these laws and policies on [health](#), well-being and equity.

"The sentinel surveillance of emerging laws and policies process is an advancement in our ability to track emerging laws rapidly so we may better understand the impacts these laws are having," said Moran-McCabe. "Our concern with these laws is that they may greatly hobble state and local officials' ability to respond to an emergency like the COVID-19 pandemic in a swift and flexible way. Evaluation will help us better understand that impact."

Funding for the data and the development of the sentinel surveillance of emerging laws and policies process was provided by the Robert Wood Johnson Foundation, and research for the dataset was provided by the Association of State and Territorial Health Officials.

**More information:** Publication: [lawatlas.org/datasets/sentinel... lic-health-authority](https://lawatlas.org/datasets/sentinel-lic-health-authority)

Provided by Temple University Center for Public Health Law Research

Citation: More states are passing laws limiting authority to respond to public health emergencies (2021, October 26) retrieved 7 August 2024 from <https://phys.org/news/2021-10-states-laws-limiting-authority-health.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.