



2022

Mid-Session Overview

Since state legislative sessions began earlier this year, GOP lawmakers across the country have introduced hundreds of bills that abuse a [legislative tool called preemption](#) to take power away from local governments. This wave of legislation has not been limited to one topic area; abusive preemption bills introduced this session have attempted to undermine local authority on topics ranging from educational curriculum to voting rights to gun safety to labor laws. The common thread running through many of these bills is that they would hurt BIPOC communities, immigrants, LGBTQ people, women, and working people.

The surge of abusive preemption legislation across states is not coincidental. Many state lawmakers see preemption bills as an opportunity to punish local governments who have, over the past two years, worked to keep their communities safe from the COVID-19 pandemic by implementing mask mandates and vaccine requirements, explored alternatives to community safety beyond or in addition to policing, and attempted to make voting more accessible for their citizens.

The [Local Solutions Support Center \(LSSC\)](#) — a national hub that coordinates and creates efforts to counter the abuse of preemption — is tracking preemption legislation in statehouses across the country, and has identified seven key trends that have defined the first few months of 2022 state legislative sessions:

- Preemption of educational curriculum decisions ([pg. 2](#))
- Preemption of LGBTQ rights ([pg. 4](#))
- Preemption of public health authority ([pg. 5](#))
- Preemption of local policing and firearm regulations ([pg. 6](#))
- Preemption of workers' rights ([pg. 7](#))
- Preemption of voting rights ([pg. 7](#))
- Preemption of local efforts to address homelessness ([pg. 8](#))

This mid-session report outlines the seven key trends listed above and highlights the content and impact of notable preemption bills in each topic area. The report also provides a brief analysis on three emerging trends bolstered by conservative media: educational curriculum decisions, LGBTQ rights, and anti-homelessness efforts.



Preemption of Educational Curriculum Decisions

Schools are at the heart of our local communities, but during this legislative session we've seen a dramatic uptick in state efforts to control and even censor what can be discussed in classrooms. Nowhere is this movement more clear than in the manufactured fight over critical race theory. In the last year and a half, the term 'critical race theory' has become a lightning rod issue on the campaign trail, in statehouses, and in conservative media; a [June 2021 Media Matters report](#) found that FOX News had mentioned the phrase 'critical race theory' nearly 2,000 times in a span of 3.5 months.

The growth of the anti-critical race theory sentiment among conservatives, and the ensuing curriculum ban legislation movement, can in many ways be traced back to [Christopher Rufo](#), a libertarian think tank employee who appeared on Tucker Carlson's show in early September 2020 to warn viewers that "critical race theory has pervaded every institution in the federal government" and was being "weaponized" against Americans. Rufo's interview directly inspired former President Trump's September 2020 executive order banning the use of critical race theory by federal departments and contractors in diversity training, thus elevating the topic in the national conversation.

This session, GOP lawmakers have been laser-focused on introducing bills that attempt to ban or censor educational curriculum materials, including 'critical race theory.' Conservative lawmakers have seized on curriculum ban legislation as a way to appeal to a radicalizing base that is more likely to vote in Republican primaries. Once introduced, these bills are then amplified by conservative media, which encourages lawmakers in other states to introduce copy-cat legislation.



FL HB 1557

Signed into law by the Governor on March 28, 2022

Bill Description: This law limits how schools can address sexual orientation and gender identity. It requires schools to notify parents if health or support services are offered to their kids at school, and allows parents to deny said services to their kids. It also allows parents to sue individual school districts if they are found to have violated the policy.

Impact: Florida's Parental Rights in Education Act (frequently referred to as the 'Don't Say Gay' bill) bans teachers from discussing sexual orientation or gender identity in the classroom, robbing LGBTQ students of potentially vital resources. Although the law explicitly prohibits classroom instruction for grades K-3, its vague language ("prohibits classroom instruction... in a manner that is not age-appropriate or developmentally appropriate for students") means that it will chill these discussions across all grades. The law also includes vague requirements around parental notification, meaning that teachers may be legally obligated to out LGBTQ students to unsupportive parents or guardians.

(Legislation Overview Continued on Next Page)

Preemption of educational curriculum decisions (continued)



AZ HB 2161

Signed into law by the Governor on April 29, 2022

Bill Description: This bill prohibits any political subdivision of the state, among others, from “interfering” in certain rights of parents related to the upbringing, education, health care, and mental health of their children. It also allows parents to sue the relevant political subdivision for an alleged violation, with the political subdivision responsible for proving the legality of its actions. “Interference” is not defined.

Impact: This law allows parents to challenge local school districts and schools on a variety of topics, including educational materials, pedagogical approaches, and communications with students.



MO HB 1457

In Committee

Bill Description: This bill would prohibit the use of the [1619 Project](#) initiative of *The New York Times* as part of any public school curriculum, course materials, or instruction. It would also prohibit all school districts and charter schools from affirming the 1619 Project’s account of the founding and history of the United States.

Impact: The [1619 Project](#) aims to center enslaved peoples in the founding and history of the United States. This bill would censor this framing and prohibit students from accessing associated materials.



OK SB 1142

In Committee

Bill Description: This bill would prohibit public school districts, public charter schools, and public school libraries from carrying or promoting books that address the study of sex, sexual preferences, sexual activity, sexual perversion, sex-based classifications, sexual identity and/or gender identity. It would also prohibit “books that contain content of a sexual nature that a reasonable parent or legal guardian would want to know about or approve of before their child is exposed to it.”

Impact: This bill would ban books that address sexual identity, and/or gender identity, thus further cutting off resources and support for LGBTQ youth, who already [face greater health and suicide risks](#) than their cisgender and straight classmates.

“During the 2022 session we have continued to see state legislative bodies across the country attempt to and succeed at enacting laws that take away local-decision making power and in turn, hurt vulnerable populations. In recent months, we’ve seen state leaders push for laws that protect the wealthy and harm working people, uphold laws that limit access to historically underserved and under/misrepresented populations, and criminalize homelessness by preventing local governments from providing safe outdoor living spaces and resources to those who are unhoused or in between permanent housing. Ultimately, state lawmakers are using preemption as a discriminatory tool to further disenfranchise those in need of the most support: BIPOC communities, immigrants, LGBTQ people, women, and working people.”

– Dr. Fran Weaks

State Campaign Team Lead
Consultant, Local Solutions
Support Center



Photo courtesy of The Gender Spectrum Collection

Preemption of LGBTQ Rights

A key component of the anti-trans bills sweeping through state legislatures are the lawsuit provisions, also known as the “right of action for third parties.” This means that if a school does not comply with a state’s ban and instead allows a transgender girl to play on a girls team, any other student can bring a lawsuit against the school if they can claim they suffer any “direct or indirect harm” from the decision. This is an incredibly broad standard – what does “indirect harm” mean? Could a third party student claim the indirect harm of “emotional distress”? What distinguishes “emotional distress” from pure prejudice? These lawsuit provisions in anti-trans bills allow members of the community to launch legal attacks against schools simply for validating their students’ identities and serving their needs.



AZ SB 1165

Signed into law by the Governor on March 30, 2022

Bill Description: The “Save Women’s Sports Act” law restricts transgender girls in grades K-12 from playing on girls’ teams at public schools and at private schools who compete against public school teams. It also creates a private right of action for students if a school violates this requirement.

Impact: This law is part of a national attack on transgender students and will deprive trans girls from accessing the same opportunities as their cisgender peers. This is especially concerning given that sports can be an [important mental health outlet](#) for LGBTQ youth, and LGBTQ youth – particularly transgender and nonbinary individuals – are at [greater risk of suicide](#).



PA HB 972

Passed the House, sent to the Senate

Bill Description: The “Fairness in Women’s Sports Act” bill restricts transgender girls from playing on girls’ teams at public K-12 schools and public institutions of higher education. It also creates a private right of action for students should the school or institution violate this requirement.

Impact: This law is part of a national attack on transgender students and will deprive trans girls from accessing the same opportunities as their cisgender peers



TN HB 0800

In Committee

Bill Description: This bill would ban public schools from using textbooks and instructional materials or supplemental instructional materials that “promote, normalize, support, or address lesbian, gay, bi-sexual, or transgender (LGBT) issues or lifestyles.”

Impact: This bill would ban a wide swath of curricular materials that discuss and validate LGBTQ identities. This is particularly concerning given that LGBTQ youth already [face greater health and suicide risks](#) than their cisgender and straight classmates.



Preemption of Public Health Authority



TN SB 1982

Enacted into law on April 29, 2022

Bill Description: This law prohibits governmental entities, local education agencies, schools, and private businesses from adopting or enforcing laws, rules, or practices that fail to recognize natural immunity as providing a level of immune protection that is at least as protective as a COVID-19 vaccine. It also prohibits the same institutions from treating individuals with natural immunity differently than individuals who have received the COVID-19 vaccine. The law defines “natural immunity” to mean immunity acquired from prior COVID-19 infection.

Impact: This law forces local governments to adopt a viewpoint on health that lacks a strong scientific basis or rationale. This will prevent local governments from using best public health practices to combat the COVID-19 pandemic.



GA SB 514

Signed into law by the Governor on March 29, 2022

Bill Description: The “Unmask Georgia Students Act” law prohibits school boards, superintendents, and school employees from requiring students to wear a face mask or covering while present on school property unless parents or legal guardians can exempt their children from the rule. It also prohibits schools from punishing students who do not comply with a mask mandate due to opting out.

Impact: This law will hinder the public health response to future pandemics by allowing students to not comply with mask requirements.



MO SB 1203

In Committee

Bill Description: This bill would strip local elected governing bodies from issuing or authorizing orders during a statewide pandemic by decreeing that the Director of the state Department of Health and Senior Services is the only person with the authority to close or restrict the hours and operations of schools and places of assembly. The bill also sets limits for how public and charter schools can respond during a pandemic; it would restrict schools from implementing or enforcing mask mandates and prevent schools from requiring students to receive a COVID-19 vaccine or undergo testing for COVID.

Impact: This bill would rob local public health agencies of much of their authority to act in the best interest of their communities.



Preemption of Local Policing and Firearm Regulations



MO SB 678

Passed the Senate, sent to the House

Bill Description: This bill would require Kansas City to provide 25% of its general revenue per fiscal year to fund the Kansas City Board of Police. This is an increase from the current law, which requires Kansas City to provide 20% of its general revenue for this purpose.

Impact: This would further limit the ability of Kansas City to control its own budget by forcing it to expend its funds toward a particular end. This is an effort by the state to override local control over local budgets, and was introduced after Kansas City Mayor Quinton Lucas [tried to reallocate a portion of the police department's budget](#) for community engagement, intervention, and other public services. Legislative attempts to control local budgets – and specifically, funding for police – have escalated in the last two years as a tactic to punish localities who have attempted to reexamine their approaches to public safety.



MO SJR 38

Passed the Senate, sent to the House

Bill Description: This proposed constitutional amendment would authorize the legislature to fund a state police force established by a state board of police commissioners.

Impact: This proposal builds off of long-standing tensions over policing policy between the state of Missouri and Missouri cities including Kansas City and St. Louis. It would allow the state to fund, and therefore operate, its own police force outside of local control. If the bill passes, the state police force rules could preempt locally-passed policing reforms.



OK HB 3104

In Committee

Bill Description: This bill would clarify that the state legislature preempts the entire field of legislation surrounding firearms, ammunition, air-powered pistols, air-powered rifles, knives, and firearm and ammunition components. The bill makes clear that the state has the authority to preempt any order, policy, ordinance, or regulation brought by a municipality or other political subdivision of the state and that any existing or future orders, policies, ordinances, or regulations on these topics would be considered void. The bill makes a couple exceptions, allowing for municipalities to regulate the discharging of firearms and issue traffic citations for transporting a firearm improperly.

Impact: A version of this bill is already law in Oklahoma. This bill would expand the law's coverage to preempt any local policy related to firearms and any local action related to firearm components.

Preemption of Workers' Rights



GA SB 331

Signed into law by the Governor on May 5, 2022

Bill Description: This law prohibits local governments from regulating employee work hours, scheduling, and output.

Impact: This law prohibits local governments from passing fair scheduling regulations, which would provide fair and advance notice to employees on their anticipated work schedules.



AZ HCR 2031

Passed the House, sent to the Senate

Bill Description: This constitutional amendment would make employee benefits, including wage and nonwage compensation, paid and unpaid leave, meal breaks, rest periods, and other absences a matter of statewide concern and not subject to local regulations. It would preempt all local regulation around these topics.

Impact: This constitutional amendment would stop local governments from raising the minimum wage or requiring paid sick leave, among other pro-worker reforms.



MO HB 1651

In Committee

Bill Description: This bill would subject public employers to the state minimum wage law.

Impact: This bill would prevent local governments from offering minimum wages for its own employees that are higher than the statewide minimum wage, which is currently \$11.15 per hour. This is another example of the state directly interfering with how local governments spend their budgets.



Preemption of Voting Rights



FL SB 524

Signed into law by the Governor on April 25, 2022

Bill Description: Among other provisions, this law prohibits local governments from adopting ranked-choice voting for any election.

Impact: Ranked-choice voting is championed by voting rights activists as a system that provides more choice to voters, promotes the representation of historically under-represented groups, and increases participation from military and overseas voters. This law prohibits the use of ranked-choice voting in all elections, including those for local offices administered by local governments.



AZ HB 2237

Passed the House, sent to the Senate

Bill Description: This bill would prohibit any department, division, agency, or political subdivision of the state from registering a person to vote on election day and deeming that person eligible to vote in that election.

Impact: This bill would prevent local governments from permitting same-day voter registration directly or through third-party partner organizations. This would likely lower the number of people eligible to vote each election, [especially in communities of color](#).





Preemption of Local Efforts to Address Homelessness

One fast-growing trend in legislative sessions has been the use of state preemption to criminalize homelessness. This happens when states make it a crime to camp in public spaces and limit the power of local governments to designate safe public spaces for those who need temporary shelter. Using preemption in this manner cuts off access to resources that help address the underlying drivers of homelessness, and further harms the people experiencing homelessness. These impacts are compounded for marginalized people and BIPOC communities who disproportionately face eviction and difficulty being rehoused.

Using state preemption to criminalize homelessness is a relatively new trend that appears to be almost entirely driven by one Texas-based conservative think-tank, the Cicero Institute. Founded in 2016 by Joe Lonsdale, the billionaire co-founder of Palantir — a tech company with dubious involvement in government surveillance of immigrants, Muslim individuals, and communities of color — the Cicero Institute has developed model language for criminalizing homelessness that has appeared in nine different bills in six different states in the past two years. One of these bills, Texas H.B. 1925 (2021) has already been enacted into law.



AZ SB 1581

Passed the Senate, sent to the House

Bill Description: This bill would condition \$50 million in grants from the American Rescue Plan on local governments establishing “designated camping sites” and would withhold those grants if local governments did not enforce ordinances prohibiting individuals from sleeping or camping in public spaces that are not the “designated camping sites.”

Impact: This bill would require local governments to clear out homeless encampments that do not meet the definition of “designated camping sites” in exchange for access to federal funding. Penalizing individuals experiencing homelessness for sitting or sleeping in public is both counter-productive – as it creates a criminal record impacting that individual’s ability to find a job or housing – and costly for local governments that must spend money on enforcement rather than services.



GA SB 535

In Committee

Bill Description: This bill would make public camping a misdemeanor unless it occurred in a state-approved designated camping site. If a local government did not enforce this camping ban, it would potentially lose access to all state grant funding.

Impact: This bill attempts to strongarm localities into adopting one uniform policy on how to best address local homelessness and would punish cities that do not comply with the state’s policy decisions.



MO HB 2614

Pending House vote

Bill Description: This bill would make public camping a misdemeanor. It would prohibit municipalities from not enforcing the camping ban, and would allow the Attorney General to sue any municipality for non-enforcement. Additionally, municipalities could lose state public safety funding if their homelessness population is higher than the state average.

Impact: This bill would remove control over homelessness policy from localities, and would further relegate unhoused people to unsafe, unsanitary locations.