



Health Law & Policy Impacts Post-Election 2025



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+ Principle Objectives

- Seminal Change in National Leadership
- Dynamic Series of Issues at the Forefront of Public Health Law & Policy
- 8 Major Topics & Potential Impacts
 - President & Executive Agencies
 - U.S. Congress
 - U.S. Supreme Court
- Questions & comments



+ 8 Major Topics of Change

1. Medicaid
2. Consumable Vices
3. Emerging to Chronic Conditions
4. Vaccines
5. Affordable Care Act
6. Public Health Processes
7. Immigration
8. LGBTQ+ Populations



TOPIC

+ Medicaid

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Report warns potential Medicaid cuts would harm rural patients, communities

BY: **ERIK GUNN** - JANUARY 22, 2025 2:38 PM

<https://michiganadvance.com/2025/01/22/report-warns-potential-medicaid-cuts-would-harm-rural-patients-communities>

February 07, 2025 05:00 AM | 10 HOURS AGO

Rural hospitals push to be spared from possible funding cuts

ALEX KACIK  

<https://www.modernhealthcare.com/providers/medicaid-cuts-rural-closures-layoffs>

Cuts to Medicaid Will Shift Costs to Families, Providers and Will Be Especially Harmful to Rural Communities



January 15, 2025 • Joan Alker

<https://ccf.georgetown.edu/2025/01/15/cuts-to-medicaid-will-shift-costs-to-families-providers-and-will-be-especially-harmful-to-rural-communities/>

+ Medicaid

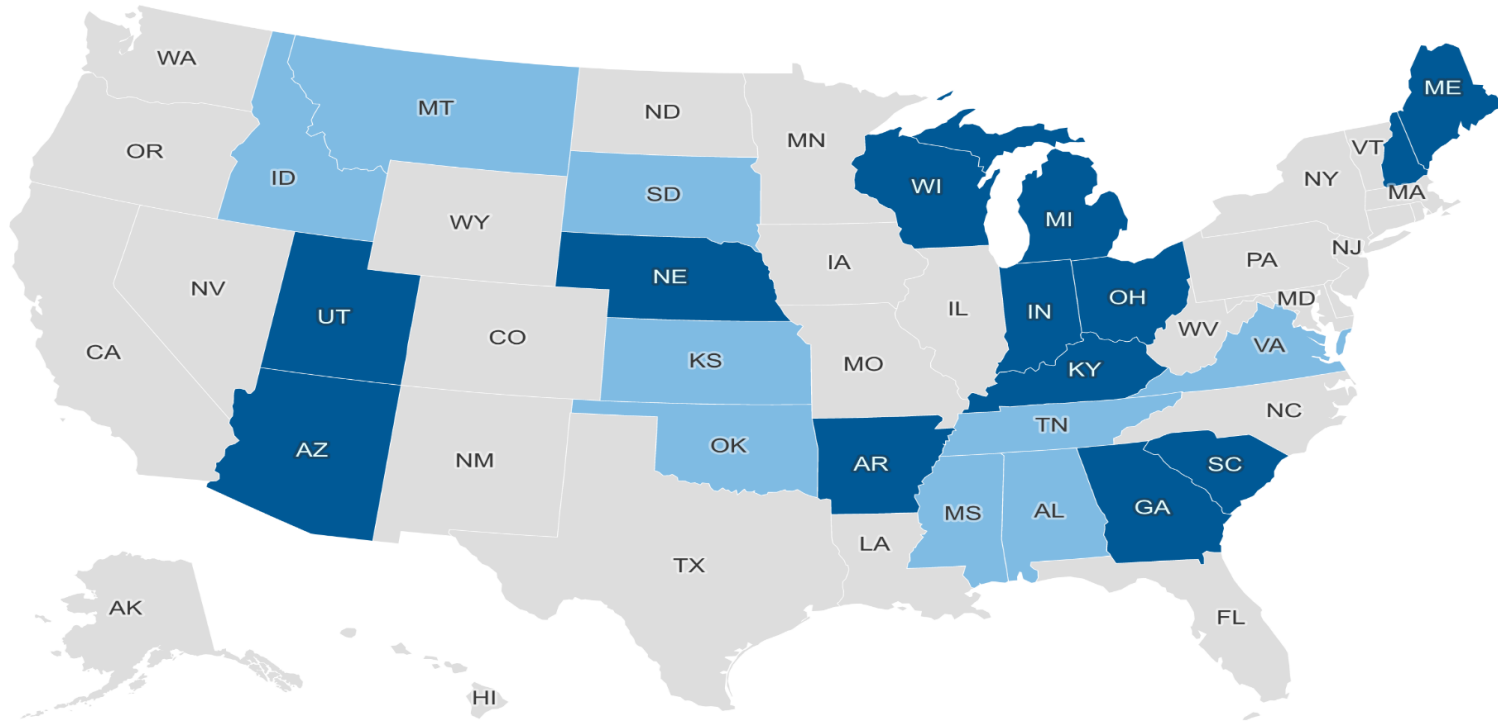
Figure 1

Section 1115 Work Requirement Waiver Requests and Approvals

Although CMS under the Trump Administration approved work requirements in some states, under the Biden Administration it subsequently withdrew these approvals. Some states withdrew their approved or pending waivers themselves, often at the direction of Democratic Governors.

of states that had:

■ Approved work requirements (13 states) ■ Pending work requirement request (9 states)



NOTE: Although CMS under the Biden Administration has not yet acted on any currently pending work requirement waivers, it is expected to reject these requests. For the Traditional Adults group, other groups such as Transitional Medical Assistance (TMA), family planning only, or former foster care youth, may be included in some states.
SOURCE: KFF analysis of approved and pending waiver applications posted on Medicaid.gov



+ Medicaid



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator

Washington, DC 20201

March 17, 2021

Dawn Stehle
Deputy Director for Health & Medicaid
Arkansas Department of Human Services
112 West 8th Street, Slot S401
Little Rock, AR 72201-4608

Dear Ms. Stehle:

On February 12, 2021, the Centers for Medicare & Medicaid Services (CMS) sent you a letter regarding the March 5, 2018 amendment to the section 1115 demonstration project “Arkansas Works” (Project Number 11-W-00287/6). The letter advised that CMS would commence a process of determining whether to withdraw the authorities previously approved in the Arkansas Works demonstration that permit the state to require work and other community engagement activities as a condition of Medicaid eligibility. It explained that in light of the ongoing disruptions caused by the COVID-19 pandemic, Arkansas’s community engagement requirement risks significant coverage losses and harm to beneficiaries. For the reasons discussed below, CMS is now withdrawing approval of the community engagement requirement in the March 5, 2018 amendment to Arkansas Works, which is not currently in effect and which, in any event, would expire by its terms on December 31, 2021.

+ Consumable Vices



+ *FDA v. Wages & White Lion Invs.*

- FDA denied applications to sell new e-cigarette liquids via the Family Smoking Prevention & Tobacco Control Act, viewing the products as inconsistent with public health protections.
- An appellate court panel initially agreed with FDA's denials, but a subsequent panel set them aside, finding FDA acted arbitrarily & capriciously and requiring it to re-review the marketing requests.
- During SCOTUS oral arguments some Justices intimated that FDA re-review would not change anything given a lack of data that flavored liquids would significantly change adult tobacco users' choices.
- **Note** - FDA may shift or alter its arguments via the Trump Administration.



+ *FDA: What's At Stake*



- Diminished FDA regulatory authority over tobacco products if its application process is derailed.
- Implications for regulatory agency interpretation of statutory grants of authority under FSPTCA.
- Loss of control over burgeoning tobacco & nicotine products regulated by FDA.



PRESIDENTIAL ACTIONS

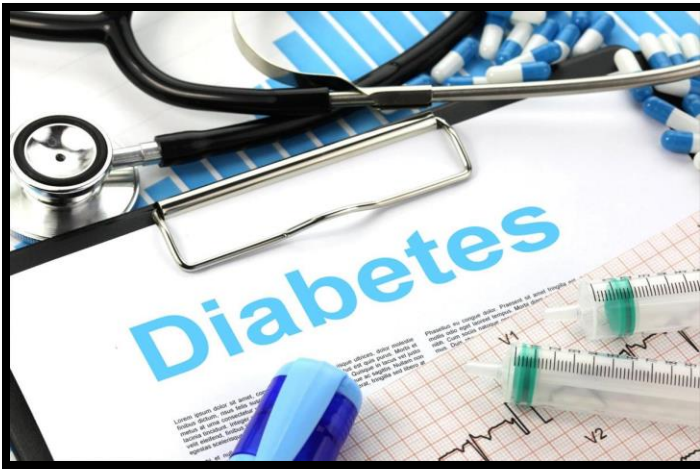
ESTABLISHING THE PRESIDENT'S MAKE AMERICA HEALTHY AGAIN COMMISSION

EXECUTIVE ORDER

February 13, 2025

“To fully address the growing health crisis in America, we must re-direct our national focus, in the public and private sectors, toward understanding and drastically lowering chronic disease rates and ending childhood chronic disease.”

+Emerging to Chronic Conditions



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**United States Court of Appeals
For the First Circuit**

No. 25-1138

STATE OF NEW YORK, et al.,

Plaintiffs, Appellees,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, et al.,

Defendants, Appellants.

Before

Barron, Chief Judge,
Montecalvo and Rikelman, Circuit Judges.

ORDER OF COURT
Entered: February 11, 2025

On January 31, 2025, the United States District Court for the District of Rhode Island issued an order granting the plaintiffs' Motion for a Temporary Restraining Order ("TRO"). On February 6, 2025, the District Court entered a text order extending the TRO. And, on February 10, 2025, the District Court granted the plaintiffs' Motion for Enforcement of the Temporary Restraining Order ("February 10 Order"). The defendants have appealed these orders. They have also filed with this Court two motions (contained within a single document) for, respectively, (1) a stay pending appeal, which they ask us to resolve by February 14, 2025, and (2) an administrative stay pending resolution of their motion for a stay pending appeal.¹ The sole motion we address in this order is the motion for an administrative stay.



Massachusetts, et al. v. National Institutes of Health, et al.

Case 1:25-cv-10338-AK Document 25 Filed 02/10/25 Page 1 of 2

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
COMMONWEALTH OF)	
MASSACHUSETTS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 25-CV-10338-AK
)	
NATIONAL INSTITUTE OF)	
HEALTH, <i>et al.</i> ,)	
)	
Defendant[s].)	
_____)	

**ORDER GRANTING PLAINTIFF STATES' EX PARTE
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

ANGEL KELLEY, D.J.

Plaintiff States' *Ex Parte* Emergency Motion For Temporary Restraining Order [Dkt. 4] is **GRANTED**. Defendants and their officers, employees, servants, agents, appointees, and successors are hereby enjoined from taking any steps to implement, apply, or enforce the Rate Change Notice (NOT-OD-25- 068) within Plaintiff States until further order is issued by this Court. Counsel for Defendants shall file a status report with the Court within 24 hours of the entry of this Order, and at biweekly intervals thereafter, confirming the regular disbursement and obligation of federal financial assistance funds and reporting all steps that NIH, HHS and their officers, employees, servants, agents, appointees, and successors have taken to comply with the Court's temporary restraining order.

Defendants' opposition to the Motion is due by **Friday, February 14, 2025**. Plaintiff States may file a reply brief, limited to ten pages in length, by **Tuesday, February 18, 2025**. Counsel shall appear in-person for a hearing on the Motion at **10:00 AM** on **Friday, February**

+ Vaccines



Legal Underpinnings of the Great Vaccine Debate of 2025

10 Pages • Posted: 7 Jan 2025

[James G. Hodge](#)

Arizona State University (ASU) - Sandra Day O'Connor College of Law

Date Written: January 06, 2025

Abstract

Multiple factors aligning in 2025 implicate challenges to vaccines as a primary public health tool. Anti-vaccine proponents seek to recast immunization policies in promotion of perceived individual liberties. Recalibrating national vaccine approaches, however, runs counter to long-standing public health laws and policies grounded in a core truth: safe and effective vaccines save lives. As discussed herein, the significant possibility of a national vaccine overhaul led by the federal government necessitates manifold legal arguments, maneuvers, and options to obviate predictable reductions in life expectancies and rises in morbidity.

Keywords: vaccine, law, policy, debate, federal, immunization, inoculation, public health, exemption, Supreme Court, Congress, President, vaccination, authority, constitution

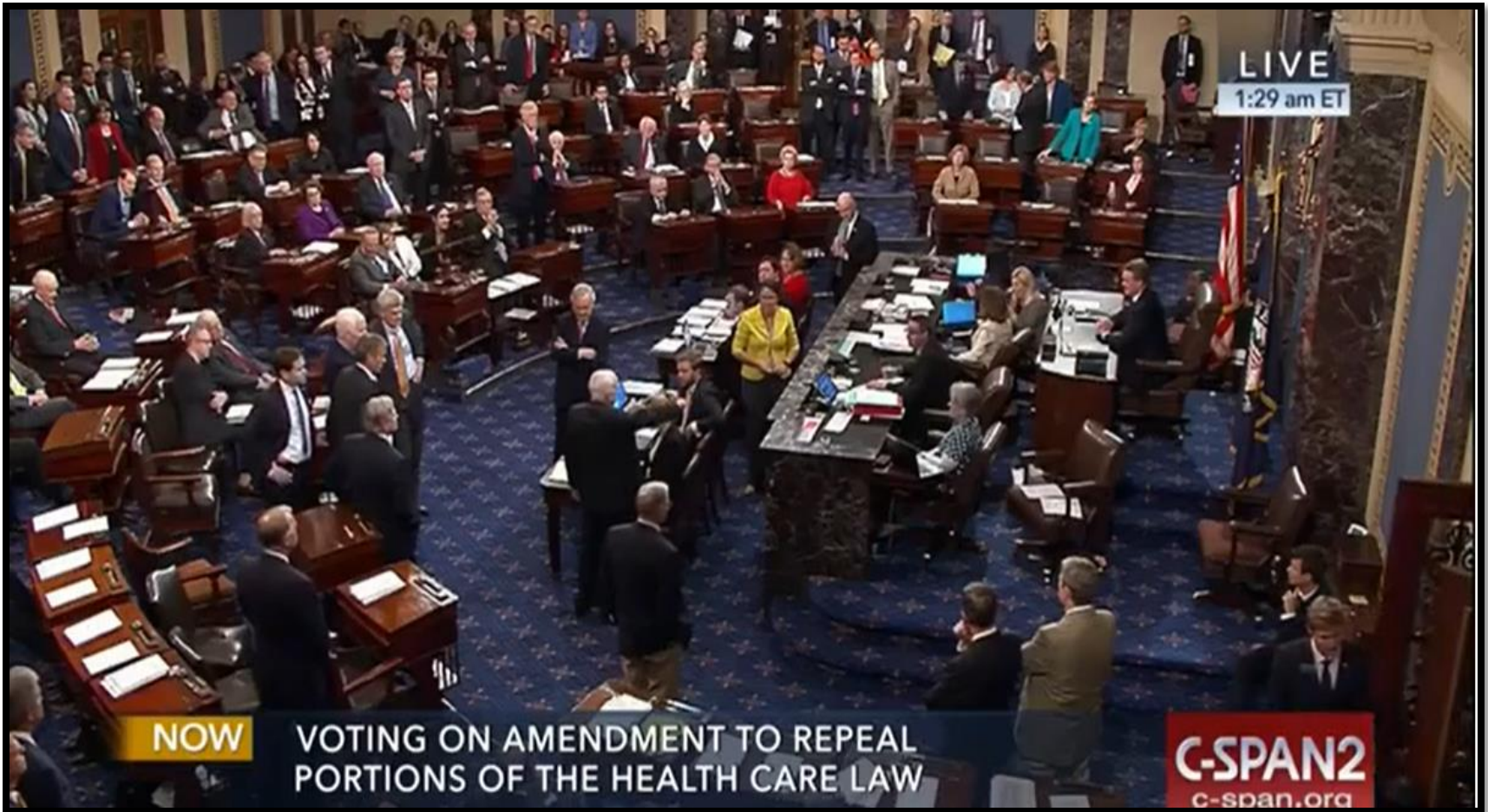
+ Potential Vaccine Law & Policy Impacts

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- **Revising CDC vaccine recommendations**
- Influencing CDC/FDA choices of advisory comm. members
- Voiding CMS' vaccine mandates re: HCWs
- Delaying FDA vaccine development & approval
- **Spreading actual or misleading information re: vaccines**
- Posting minimal vaccine risks on FDA required labels
- **Reducing federal budget for vaccine purchases & distribution**
- Defunding CDC's Vaccines for Children Program
- Failing to stock the Strategic National Stockpile (SNS) with specific vaccines
- *Refusing to investigate infectious disease outbreaks*
- Delaying PHE declarations in infectious disease outbreaks
- **Setting spending limits/conditions on state/local governments**
- Backing proposed DOE defunding of schools allowing vaccine mandates
- Limiting FDA EUA actions for emerging vaccine products
- Dropping pro-vaccine litigation via DOJ or other agencies
- Promoting ACA reforms via Congress to void vaccine specific benefits
- **Seeking broader religious/philosophical exemptions under 1st Amdt**
- Funding federal studies to demonstrate vaccine harms
- Pushing federalism limits of federal and state vaccine powers

+ Affordable Care Act

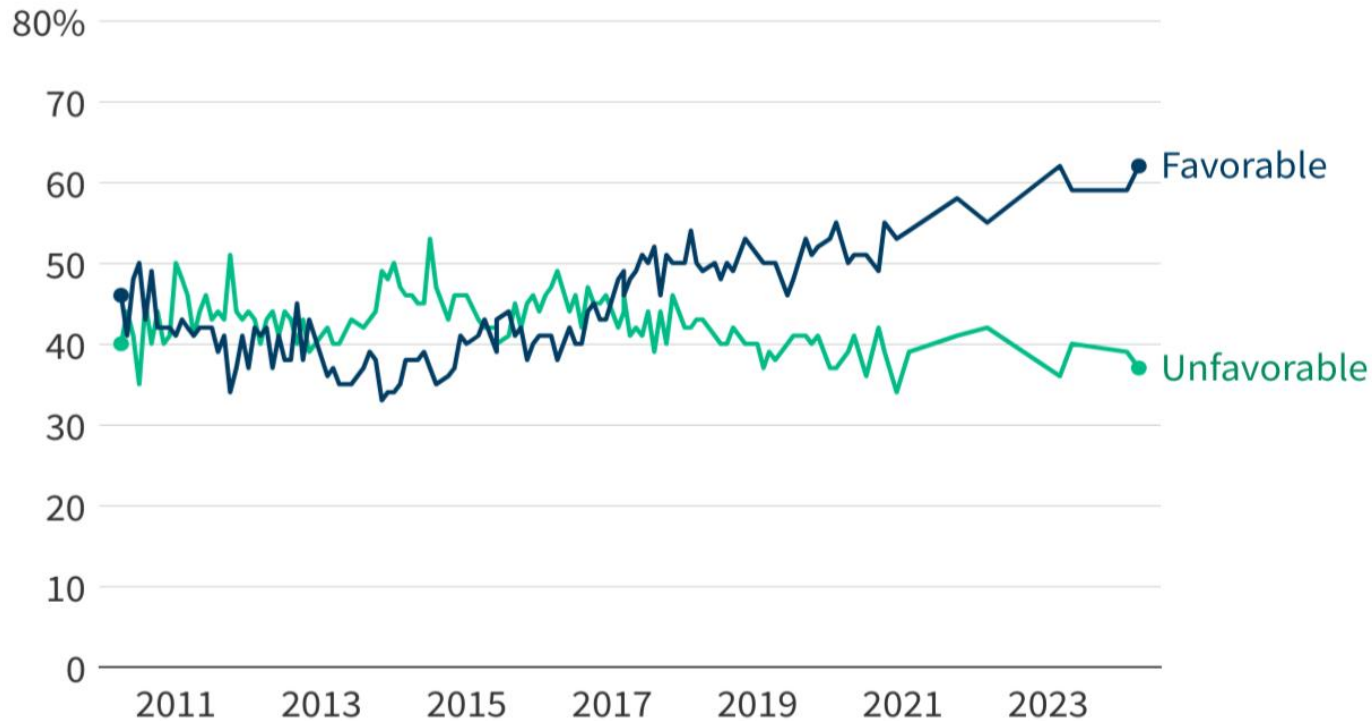
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+ Affordable Care Act

Clear Majority Of Public View The ACA Favorably

In general, do you have a favorable or unfavorable opinion of the health reform bill signed into law in 2010, known commonly as the Affordable Care Act or Obamacare?



Note: See topline for full question wording.

Source: KFF Health Tracking Polls

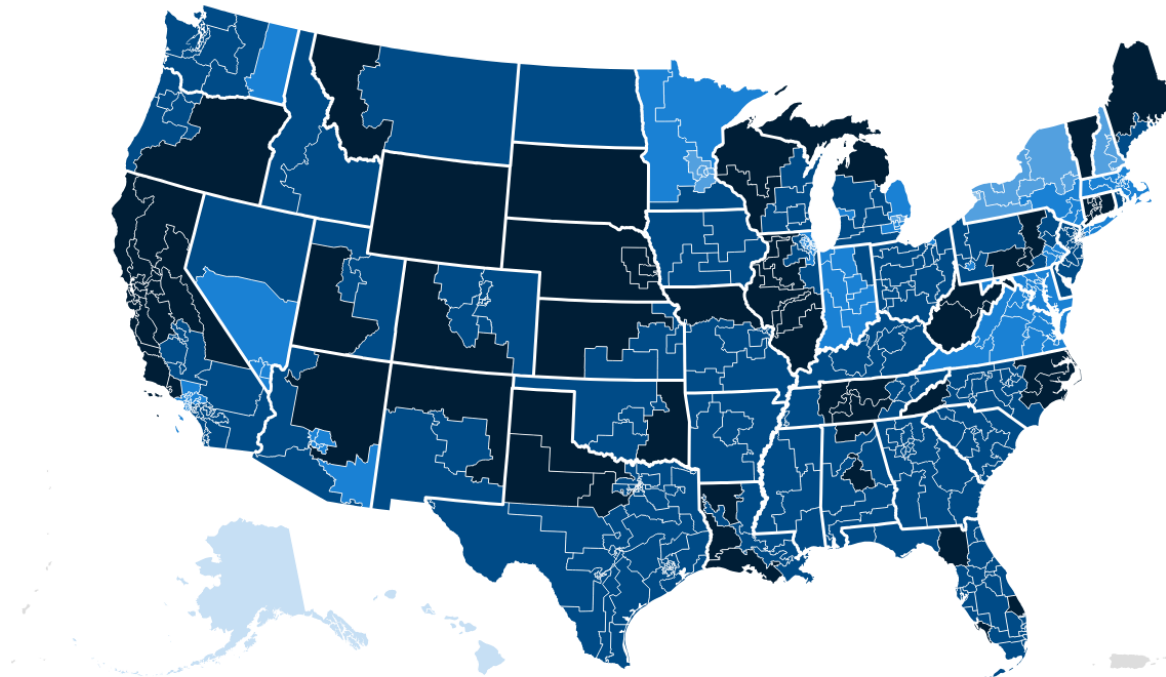
+ Affordable Care Act

Premium Payments for Subsidized Enrollees Will Increase Nationwide if Enhanced ACA Subsidies Expire

Percent Increase in Average Monthly Premium Payments for Benchmark Silver Plan Without Enhanced Subsidies, 60-Year Old Couple Making \$82,000, 2025

Average **60-Year Old Couple, \$82,000** 40-Year-Old, \$31,000

< 50% 50%–100% 100%–150% 150%–200% 200%–300%
≥ 300%



+ Public Health Processes



+ *Braidwood v. Becerra*

- USPSTF issues preventive treatment & medication guidelines covered (without cost sharing via the ACA).
- Braidwood Mgmt et al. objected to USPSTF coverage requirements for certain services on constitutional and religious grounds.
- Primary arguments center on whether USPSTF members are must be Presidentially-appointed and Senate confirmed under the U.S. Constitution Appointments Clause.
- The district court ordered all Task Force actions vacated under the Administrative Procedures Act § 706 (even though no APA claim was raised).
- The 5th Circuit appellate court affirmed the judgment that USPSTF violated the Appointments Clause but vacated the APA ruling.



+ *Braidwood: What's At Stake*



The legitimacy of the USPSTF and its role in approving dozens of health services — including mammograms, contraceptives, colorectal cancer screening, and vision and hearing screening covered under the ACA.

+ Immigration & Health

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PRESIDENTIAL ACTIONS

PROTECTING THE MEANING AND VALUE OF AMERICAN CITIZENSHIP

EXECUTIVE ORDER

January 20, 2025

AT THE FIRST SESSION

*Begun and held at the City of Washington on Friday,
the third day of January, two thousand and twenty five*

An Act

To require the Secretary of Homeland Security to take into custody aliens who have been charged in the United States with theft, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Laken Riley Act”.

SEC. 2. DETENTION OF CERTAIN ALIENS WHO COMMIT THEFT.

Section 236(c) of the Immigration and Nationality Act ([8 U.S.C. 1226\(c\)](#)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking “or”;

(B) in subparagraph (D), by striking the comma at the end and inserting “, or”; and

(C) by inserting after subparagraph (D) the following:

(E) (i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 212(a); and

“(ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in

+ LGBTQ+ Populations



+ LGBTQ+ Populations

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PRESIDENTIAL ACTIONS

PROTECTING CHILDREN FROM CHEMICAL AND SURGICAL MUTILATION

EXECUTIVE ORDER

January 28, 2025

+ *U.S. v. Skrametti*



S.B. 1 bans puberty-delaying medications and hormone blockers used to treat minors who do not conform to their sex assigned at birth. Both therapies may still be used for other minors.

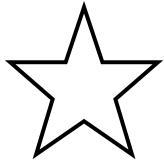
- 6/28/23 - a federal district court enjoined Tennessee SB 1 as violating Equal Protection principles under strict scrutiny analysis.
- 9/28/23 - 6th Circuit subsequently stayed the district court's order after evaluating the bill under rational basis review.
- 12/4/24 - during SCOTUS oral arguments, 5 Justices appeared ready to uphold SB 1, suggesting legislatures, not judges, should rule on this issue.
- **Note** – Trump admin. dropped objections to TN SB 1 on 2/7/25.



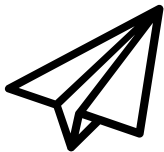
+ *Skrmetti: What's At Stake*

- State-based bans have led to greater than 50% of transgender youth (ages 13-17) potentially or actually losing GAC access. Cullen Peele, Human Rights Campaign.
- Loss of additional transgender protections include:
 - Assigned gender v. gender identity
 - Gender neutral bathrooms
 - Sports and extracurricular participation
- Anti-transgender litigation in Eastern Kentucky district court already rejected DOE transgender protections on 1/9/25, citing *Loper*.

+ For More Information



Special thanks to **Kyrah Berthiaume**, Senior Legal Researcher, at ASU's Center for Public Health Law & Policy for her research, insights, and contributions.



Check out ASU Center's [SCOTUS Public Health Law Updates](#)

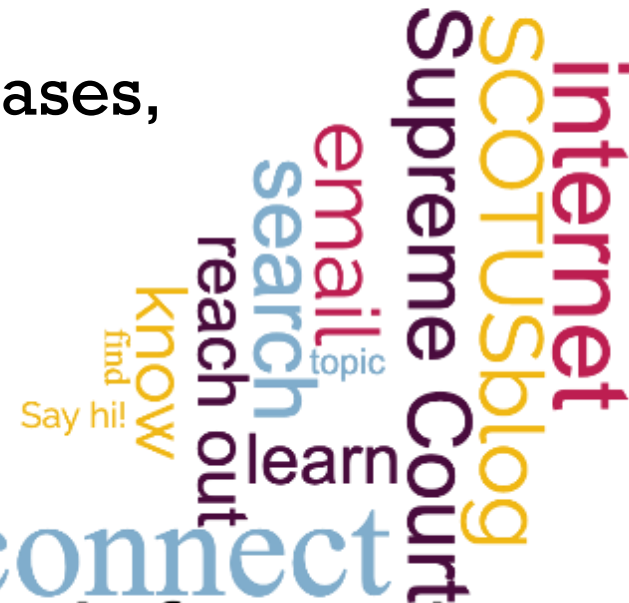
For more details on reported cases, please see:



- [U.S. Supreme Court website](#)
- [SCOTUSblog](#)

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More Information