

2020

PUBLIC HEALTH LAW
**VIRTUAL
SUMMIT**

**COVID-19 Response
and Recovery**

September
16-17

**Assessing Federal,
State and Local
Response Measures**

A Chronological Overview of the Federal, State, and Local Response to COVID-19

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The following presentation is intended for educational purposes only and should not be considered legal advice. The views and opinions expressed here are those of Ms. Moran-McCabe and do not necessarily reflect the official opinions of the Center for Public Health Law Research or Temple University.

Key Initial COVID-19 Dates



- **January 21, 2020** – First U.S. case was confirmed by CDC
- **March 11, 2020** – WHO declared the outbreak of COVID-19 a pandemic

WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

11 March 2020

...

WHO has been assessing this outbreak around the clock and we are deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction.

We have therefore made the assessment that COVID-19 can be characterized as a pandemic.

Pandemic is not a word to use lightly or carelessly. It is a word that, if misused, can cause unreasonable fear, or unjustified acceptance that the fight is over, leading to unnecessary suffering and death.

...

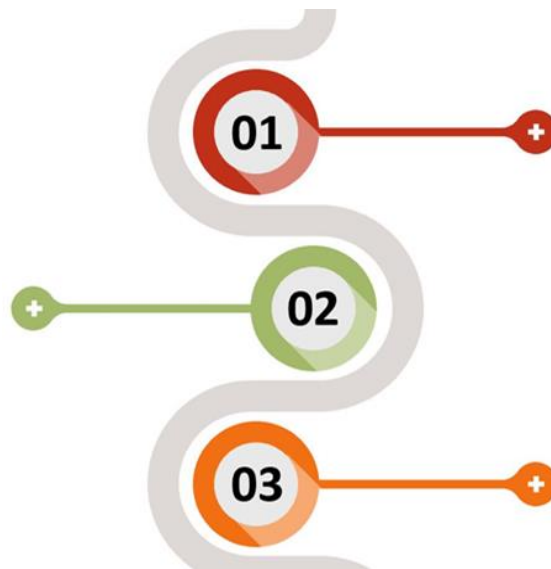
The U.S. Federal Response to COVID-19

Federal Response Timeline, January - March

February 2020

02.02.2020: President Trump suspends entry into the U.S. for foreign nationals who were physically present in China. **8 cases.**

02.29.2020: Trump Administration expands travel restrictions to foreign nationals arriving from Iran; DOS issues travel advisory to certain parts of Italy and South Korea. **62 cases.**



January 2020

01.17.2020: CDC implements health screenings in three U.S. airports for travelers coming from Wuhan, China. **0 cases.**

01.31.2020: HHS declares a public health emergency under the authority of the Public Health Service Act. **7 cases.**

March 2020

03.11.2020: President Trump issues a proclamation suspending travel from 26 European states to the U.S. **696 cases.**

03.13.2020: Emergency declarations go into effect under the Stafford Act and the National Emergencies Act. **1,264 cases.**

03.16.2020: Temporary social distancing guidelines are announced, which are not mandatory and suggest limiting gatherings to fewer than 10 people, avoiding on-site dining, and limiting discretionary travel. **1,714 cases.**

03.18.2020: Presidential emergency powers are invoked under the Defense Protection Act. The Families First Coronavirus Response Act (H.R. 6201) is signed. **7,087 cases.**

03.21.2020: U.S. closes borders with Canada and Mexico to non-essential travel. **15,219 cases.**

03.27.2020: The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act," H.R. 748) is signed. **68,334 cases.**

Federal Response Timeline, April - June

April 2020

04.16.2020: President Trump issues federal guidelines for reopening. **604,070 cases.**

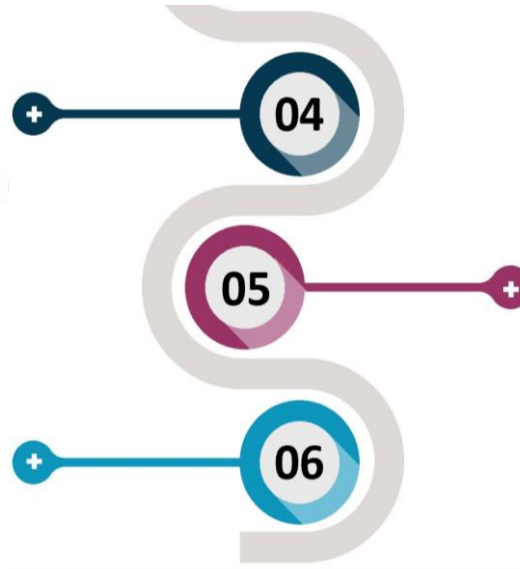
04.22.2020: President Trump suspends issuance of new green cards for persons residing outside of the U.S. **776,907 cases.**

04.24.2020: The Paycheck Protection Program and Health Care Enhancement Act (H.R. 266) is signed. **830,053 cases.**

June 2020

06.08.2020: DOD lifts travel restrictions in 38 states, Washington D.C., four countries (Bahrain, Belgium, Germany, and Japan) and the United Kingdom. **1,915,712 cases.**

06.22.2020: President Trump issues a proclamation restricting the issuance of visas that would allow immigrants to work in the U.S. **2,241,178 cases.**



May 2020

05.14.2020: CDC releases new guidelines for reopening, including bars and restaurants. **1,361,522 cases.**

05.15.2020: The House passed the Health and Economic Recovery Omnibus Emergency Solutions Act ("Heroes Act," H.R. 6800). **1,382,362 cases.**

Federal Emergency Powers

- **Public Health Service Act – January 31, 2020**
 - Authorizes Secretary of Health and Human Services to declare a public health emergency
 - Triggers federal emergency responses and funds
- **National Emergencies Act – March 13, 2020**
 - Authorizes the President to declare a national emergency
 - Triggers emergency powers under other federal statutes
- **The Stafford Act – March 13, 2020**
 - Allows a state governor to petition the President to declare a major disaster or emergency for that state
 - Triggers federal emergency assistance
- **Defense Production Act – March 18, 2020**
 - Allows the federal government to direct private companies to meet the supply and resource needs for national defense

- **Families First Coronavirus Response Act (H.R. 6201) – March 18, 2020**
 - Provided extended family medical leave for employees unable to work due to caring for a child whose school or daycare is closed
 - Required employers with fewer than 500 employees to provide paid sick leave for those unable to work due to COVID-related reasons
- **Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748) – March 27, 2020**
 - Provided direct payments to eligible individuals
 - Provided funding for small business relief
 - Expanded unemployment benefits
 - Suspended federal student loan repayments

Main Federal Emergency Responses

- Travel restrictions
- Emergency appropriations & economic support acts
- Social distancing guidelines

THE PRESIDENT'S CORONAVIRUS GUIDELINES FOR AMERICA

15 DAYS TO SLOW THE SPREAD



THE PRESIDENT'S CORONAVIRUS GUIDELINES FOR AMERICA

30 DAYS TO SLOW THE SPREAD



Listen to and follow the directions of your **STATE AND LOCAL AUTHORITIES**.

IF YOU FEEL SICK, stay home. Do not go to work. Contact your medical provider.

IF YOUR CHILDREN ARE SICK, keep them at home. Do not send them to school. Contact your medical provider.

IF SOMEONE IN YOUR HOUSEHOLD HAS TESTED POSITIVE for the coronavirus, keep the entire household at home. Do not go to work. Do not go to school. Contact your medical provider.

IF YOU ARE AN OLDER PERSON, stay home and away from other people.

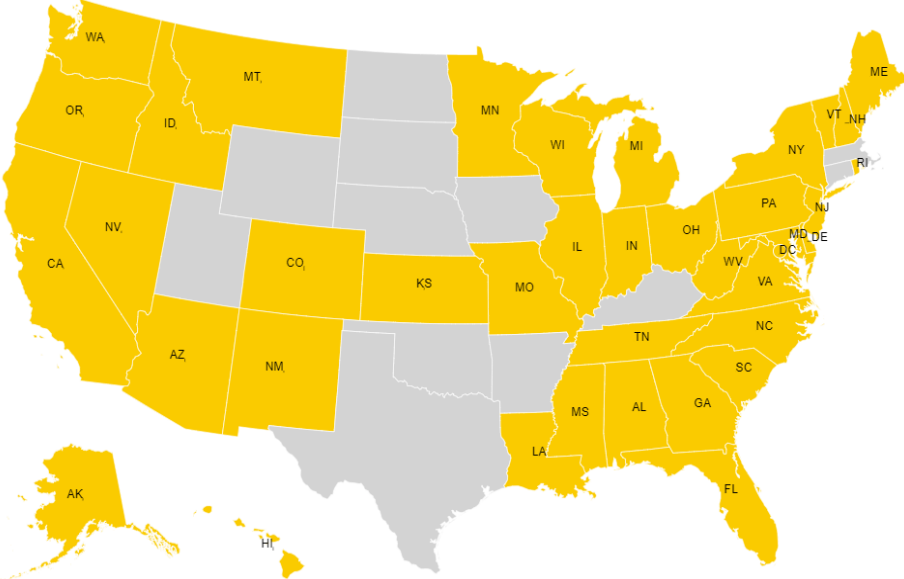
IF YOU ARE A PERSON WITH A SERIOUS UNDERLYING HEALTH CONDITION that can put you at increased risk (for example, a condition that impairs your lung or heart function or weakens your immune system), stay home and away from other people.



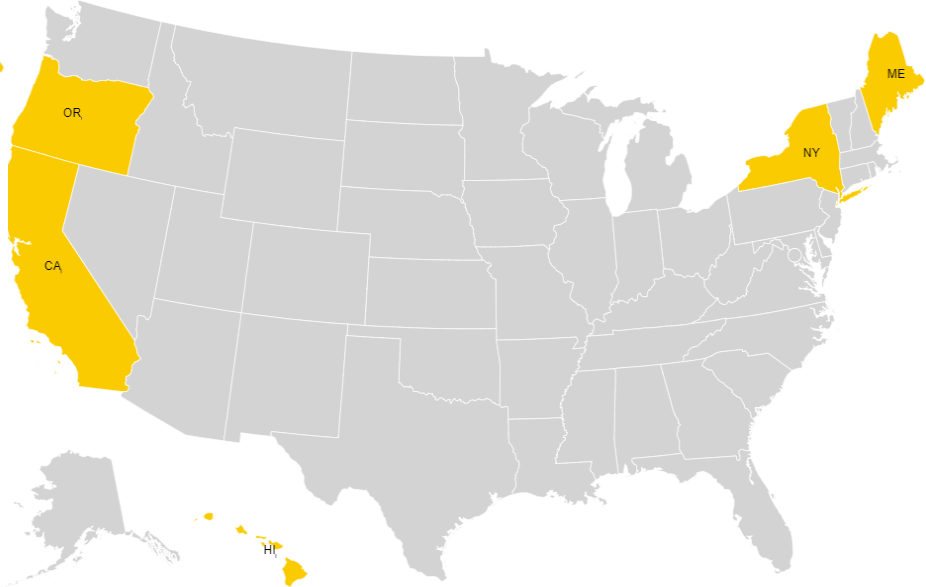
The U.S. State Response to COVID-19

State COVID-19 Dataset on LawAtlas.org

Stay-at-Home Requirements



April 15, 2020



July 1, 2020

State Response - Timeline

March 11, 2020

Washington is the first state to enact a gathering ban, restricting public gatherings of 250 people or more. **696 cases.**

March 15, 2020

Ohio is the first state to implement a business closure, closing bars and restaurants for on-site consumption. **1,714 cases.**

April 3, 2020

Connecticut is the first state to issue a statewide face mask requirement, mandating face masks for essential retail business employees and customers. **213,600 cases.**

June 26, 2020

Texas and Florida are the first states to issue a re-closure for a business (bars). Both states initially opened bars on 5/22 (TX) and 6/5 (FL). **2,367,064 cases.**

02.29

February 29, 2020

Washington is the first state to issue an emergency declaration. **62 cases.**

03.11

03.13

March 13, 2020

Louisiana is the first state to issue an order closing public schools, K-12. **1,264 cases.**

03.15

03.19

March 19, 2020

California is the first state to issue a stay-at-home order. **10,442 cases.**

04.03

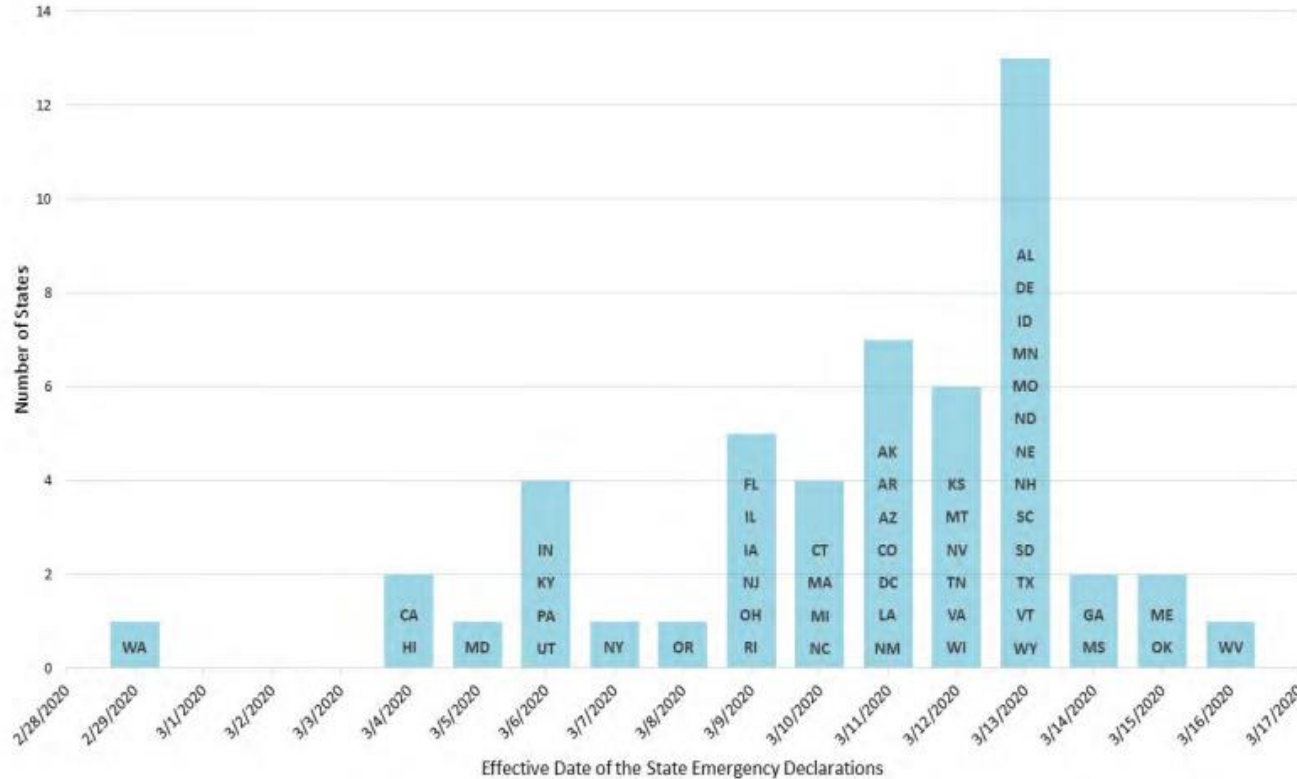
04.24

April 24, 2020

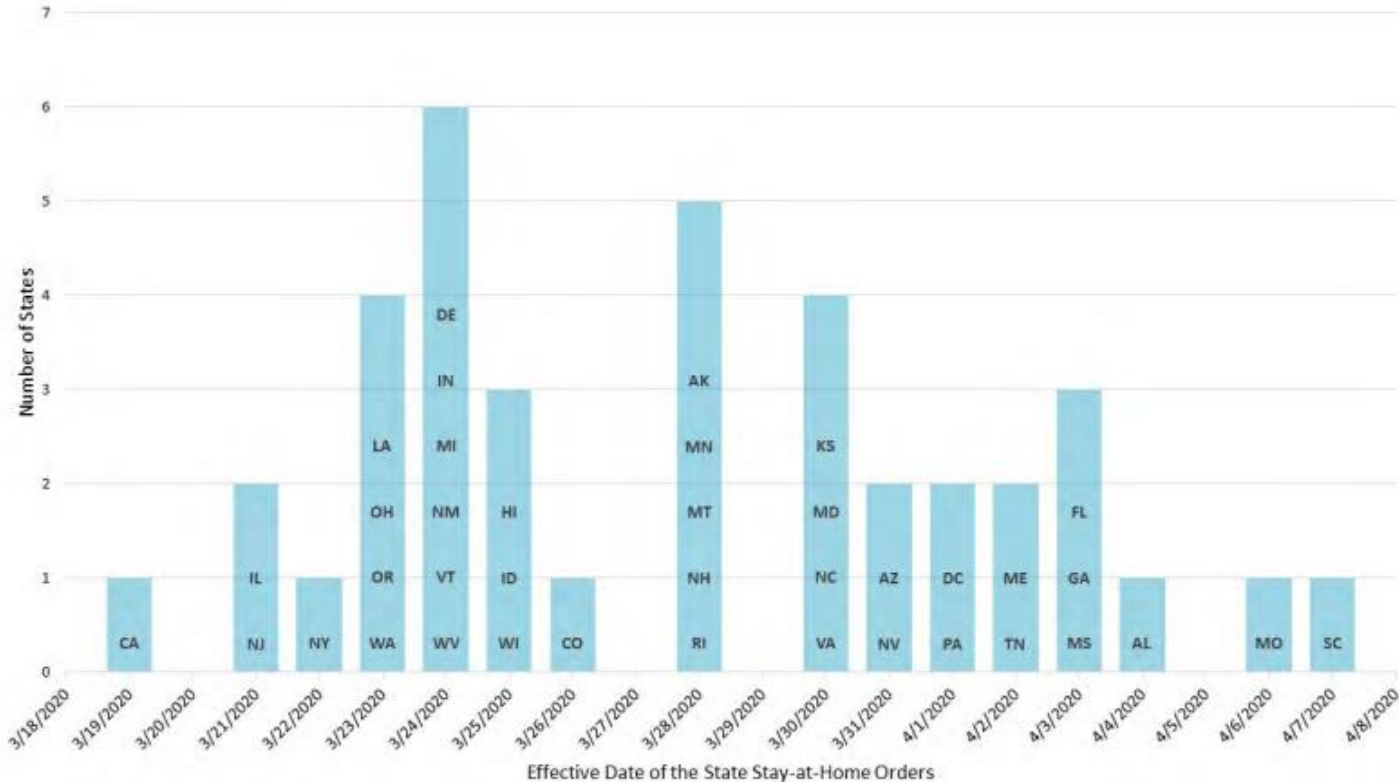
Alaska is the first state to lift its stay-at-home order. **830,053 cases.**

06.26

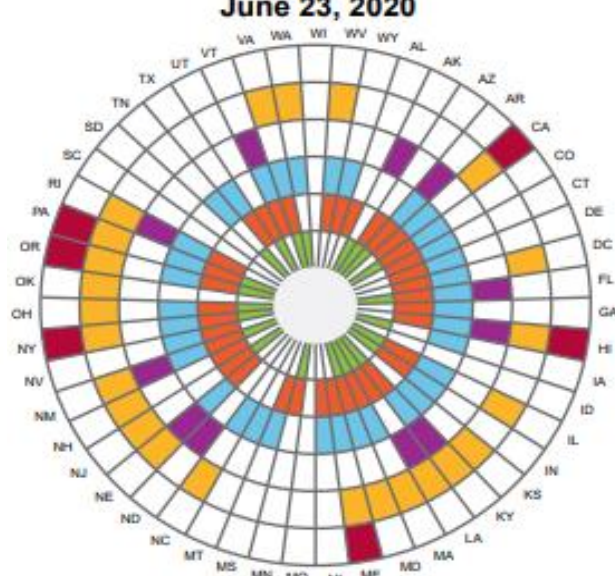
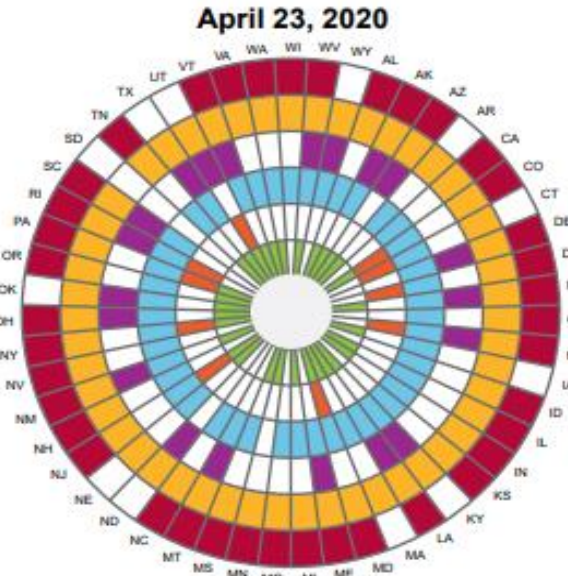
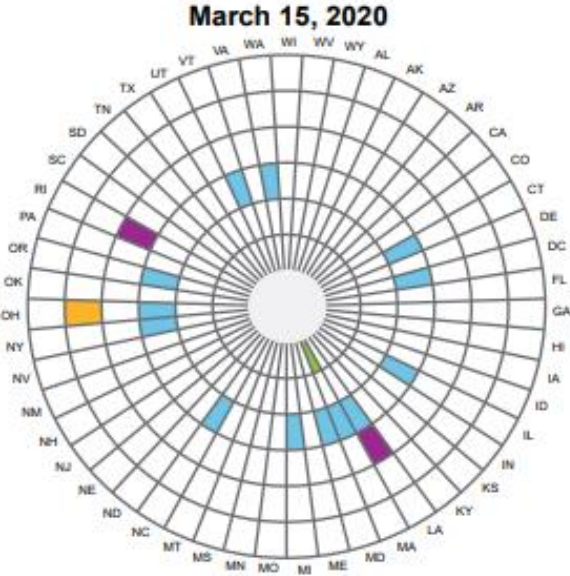
Statewide Emergency Declarations by Day



Statewide Stay-at-Home Orders by Day



Main State Responses



■ Stay-at-home orders
■ Gathering bans

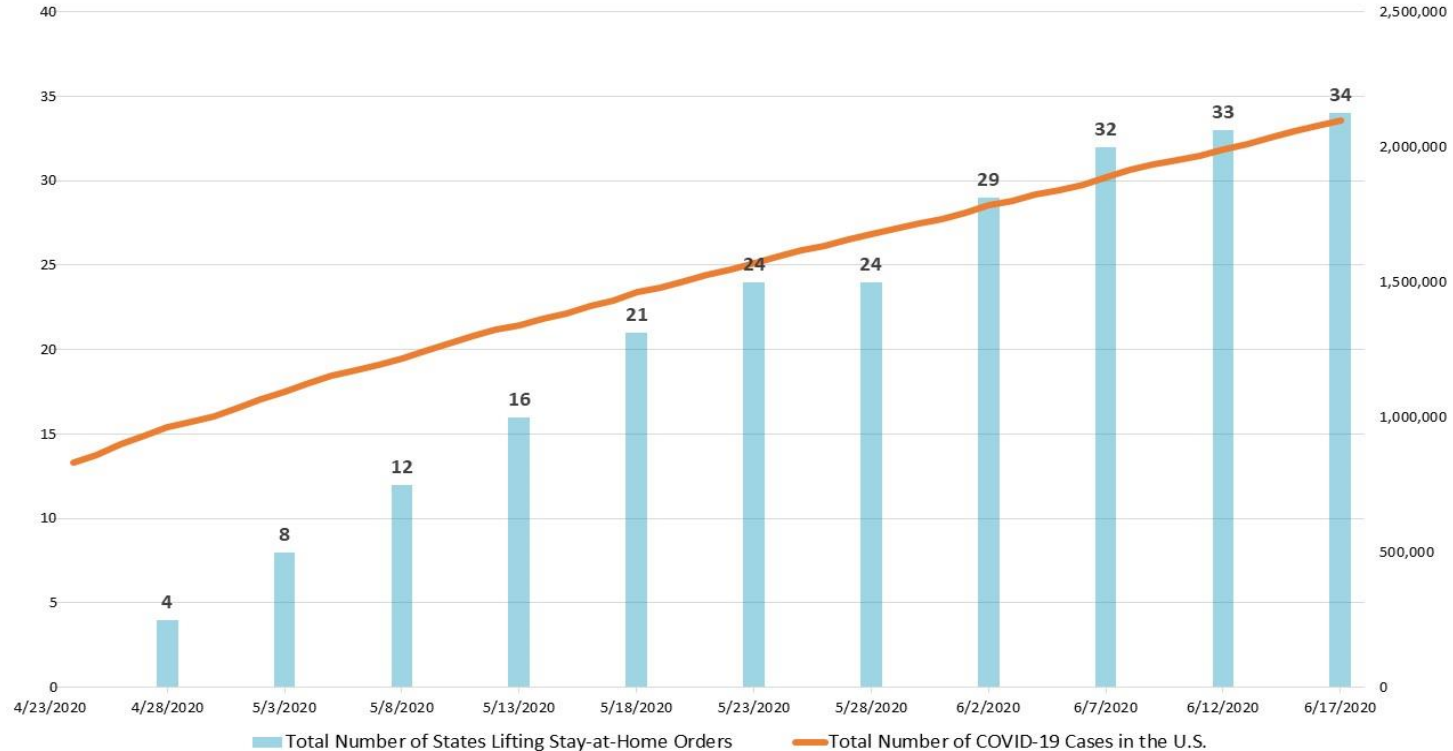
■ Non-essential business closures
■ Face mask requirements

■ Travel restrictions
■ Restrictions on elective medical procedures

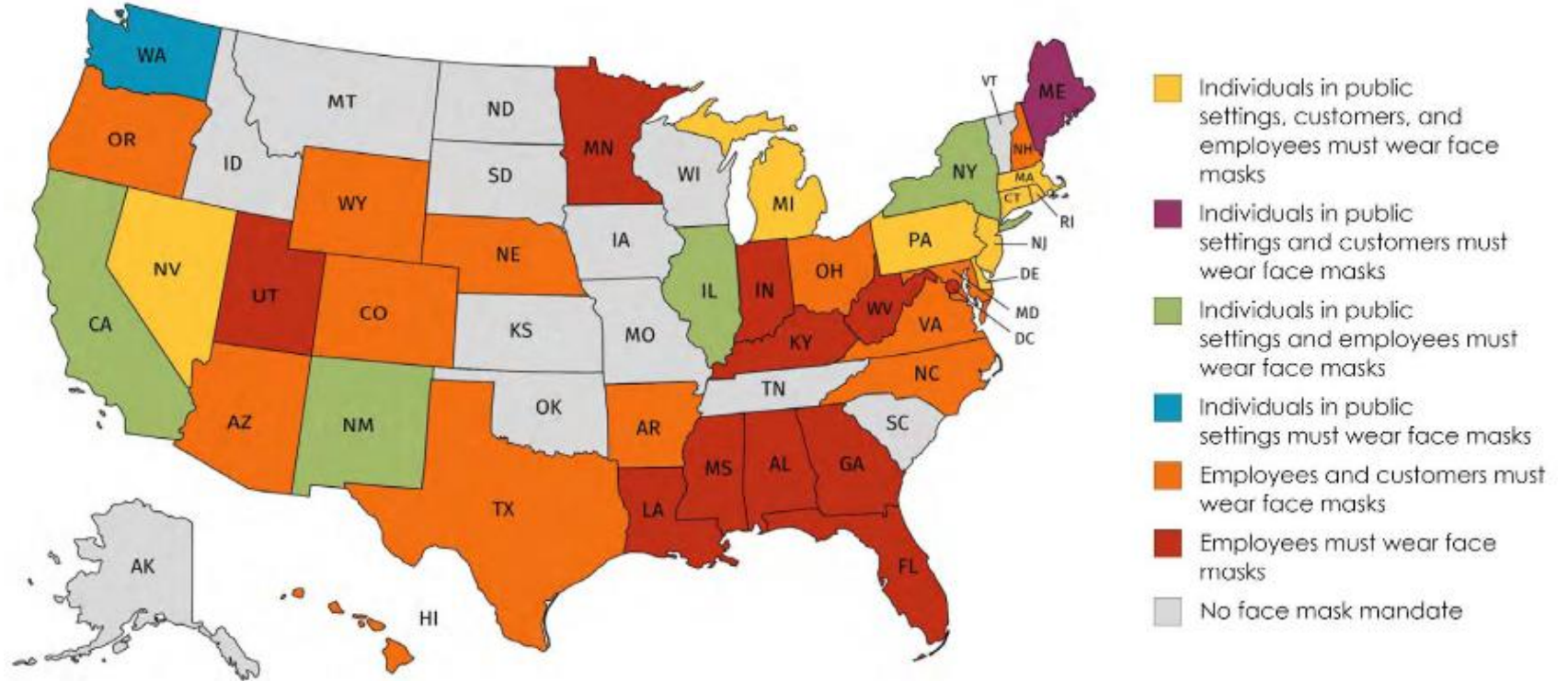
Other Types of State Responses

- **School closures**
- **Preemption of local regulation** (see Chapter 9)
- **Eviction and foreclosure moratoriums** (see Chapter 25)
- **Utility and water shutoff moratoriums** (see Chapter 25)
- **Policies for correctional facilities** (see Chapter 31)

Lifting State Stay-at-Home Orders vs. Case Numbers



State Face Mask Mandates, July 1, 2020



The U.S. Local Response to COVID-19

Local Response Trackers – National League of Cities

COVID-19: LOCAL ACTION TRACKER

A BLOOMBERG PHILANTHROPIES PROJECT, POWERED BY NLC

RESOURCES > COVID-19: LOCAL ACTION TRACKER

IN PARTNERSHIP WITH

Bloomberg Philanthropies

The National League of Cities and Bloomberg Philanthropies have teamed up to collect and share actions taken by local leaders in response to the COVID-19 Pandemic.

The scale of this global crisis is unprecedented, and so is the scope of the local government response. These extraordinary efforts will have far-reaching implications to public health, municipal services, and local economies that we are only beginning to comprehend. Our goal is to ensure mayors, city leaders, and other local decision makers have the information they need to lead their communities through this crisis.

We aim to highlight and uplift the efforts of local leaders. In the coming weeks, we will be developing a more robust mechanism for local government leaders to share actions enacted in their own communities. In the meantime, we ask that you submit your actions by clicking the button below. By working together, we can take steps to ensure the health and safety of residents across the nation.

TRACKING THE COVID-19 RESPONSE

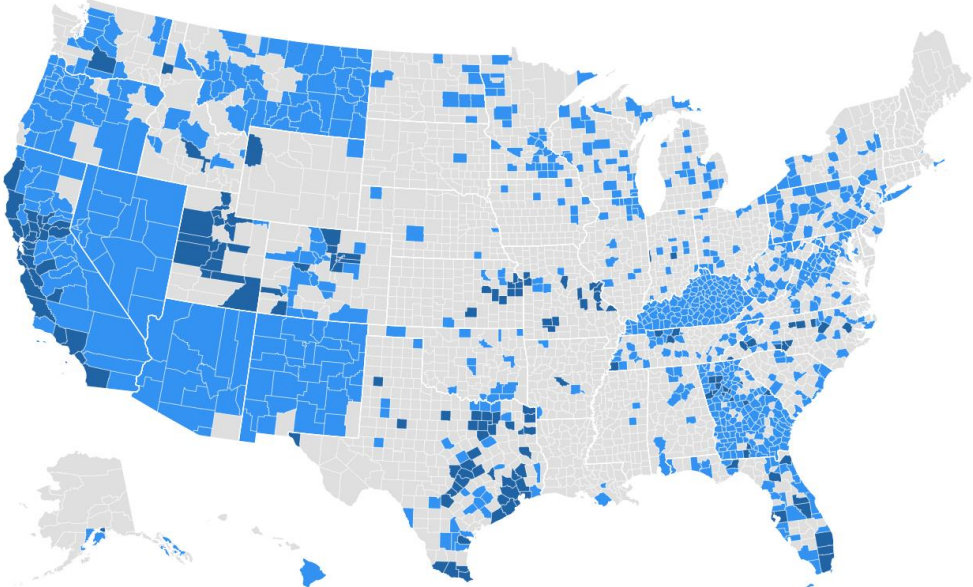
Find and share critical information on COVID-19 in cities, towns, and villages

The NLC Covid Action Tracker is the most complete collection of municipal responses to COVID-19. The information below was collected through active research and direct submissions from local leaders.

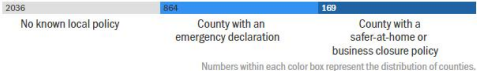
Local Response Trackers – National Association of Counties

COVID-19 PANDEMIC RESPONSE: COUNTY DECLARATION AND POLICIES

If your county has issued an emergency declaration or shelter-in-place policy not reflected in County Explorer, please contact us at research@naco.org.



Source: NACo-collected data, as of April 15, 2020. In the event of a discrepancy between NACo data and data reported by state and local public health officials, data reported by state and local public health officials should be considered the most up to date.



Local Response - Timeline

March 11, 2020

San Francisco, CA is the first city to issue a gathering ban, restricting public or private gatherings of 1,000 or more people.

Atlanta, GA is the first city to issue a moratorium on water shutoffs. **696 cases.**

March 15, 2020

Los Angeles, CA is the first city to issue a business closure order.

Boulder, CO is the first city to issue a public facility closure order. **1,714 cases.**

April 2, 2020

Laredo, TX is the first city to issue a face mask requirement. **187,302 cases.**

June 26, 2020

Boise, ID closes bars after they had been reopened by the state. **2,367,064 cases.**

03.04

March 4, 2020

Los Angeles, CA and Honolulu, HI are the first cities to issue an emergency declaration. **129 cases.**

03.11

03.14

March 14, 2020

Seattle, WA is the first city to issue a moratorium on evictions. **1,678 cases.**

03.15

03.16

March 16, 2020

San Francisco, CA is the first city to issue a stay-at-home order.

Indianapolis, IN is the first city to issue a school closure. **1,714 cases.**

04.02

05.05

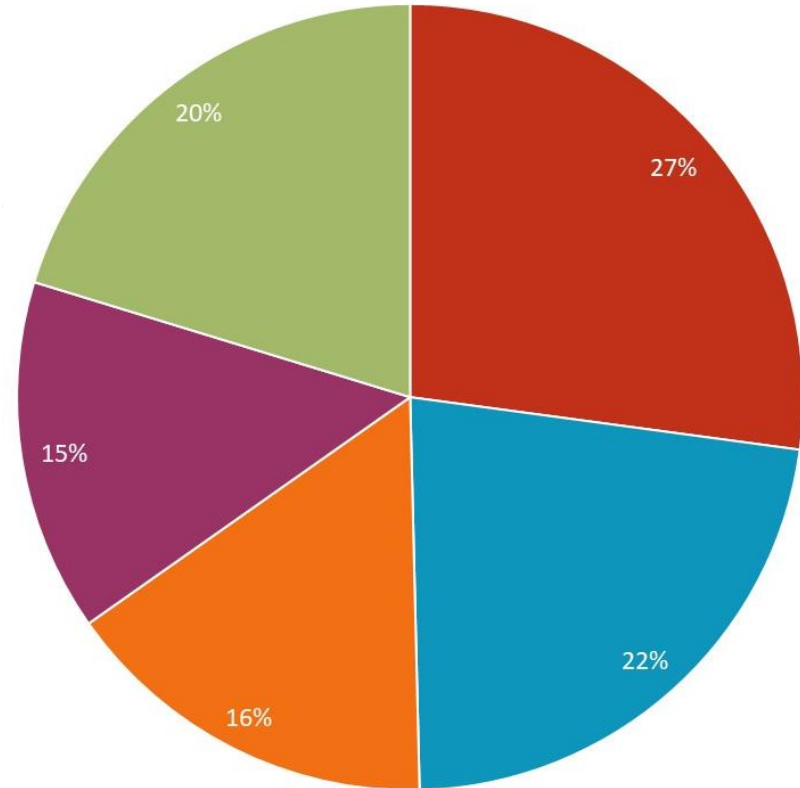
May 5, 2020

Memphis, TN is one of the first cities to issue an order allowing some businesses to reopen. **1,154,985 cases.**

06.26

Local Response – Types of Policies

- Preventing spread/ flattening the curve
(e.g., stay-at-home orders, gathering bans, closure of public facilities, businesses, and schools)
- Government operations
(e.g., emergency declarations)
- Utility issues
(e.g., suspending water, utility shutoffs)
- Housing issues
(e.g., pausing evictions, foreclosures)
- Other
(e.g., public transportation guidelines)



Summary of U.S. Legal Response

- **Federal**

- Travel restrictions
- Emergency appropriations & economic support acts
- Social distancing guidelines

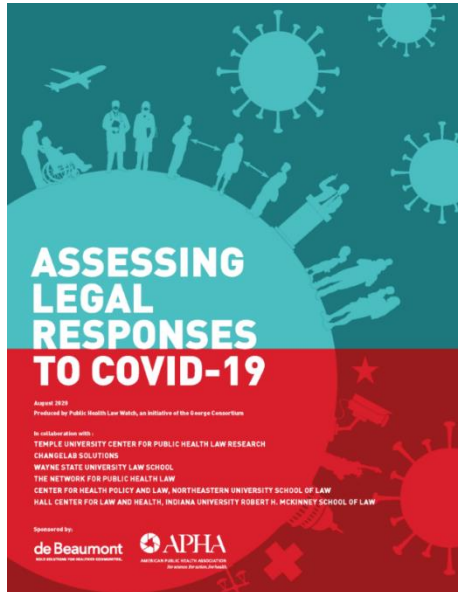
- **State and Local**

- Mandatory social distancing requirements
- Stay-at-home orders and gathering bans
- Business and school closures
- Face mask requirements

- **State activity** - More than 1,000 legal changes as of July 1, 2020

- **Local activity** - More than 850 counties and 500 cities had taken response measures by July 1, 2020

Share Your Thoughts!



If you're tweeting from the Summit, remember to use this hashtag to share your insights with Summit attendees and others:
#COVID19PolicyPlaybook

Access the full *Assessing Legal Responses to COVID-19* report or individual chapters at:
COVID19PolicyPlaybook.org

References

A full list of references can be found on page 19 of the *Assessing Legal Responses to COVID-19* report:

Cloud, L., Moran-McCabe, K., Platt, E., & Prood, N. (2020). A Chronological Overview of the Federal, State, and Local Responses to COVID-19. In Burris, S., de Guia, S., Gable, L., Levin, D.E., Parmet, W.E., & Terry, N.P. (Eds.), *Assessing Legal Responses to COVID-19* (pp. 10-19). Boston: Public Health Law Watch. Available at: <https://www.publichealthlawwatch.org/covid19-policy-playbook>.

QUESTIONS?

Thank You!



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Visit: <http://publichealthlawresearch.org/> and <http://LawAtlas.org>



A Portrait of COVID-19 in Minnesota

(In 20 minutes or less)

Patti Freeman | Legal Counsel/Policy Analyst
Public Health Law Conference, September 16, 2020

PROTECTING, MAINTAINING AND IMPROVING THE HEALTH OF ALL MINNESOTANS

The following presentation is intended for educational purposes only and should not be considered legal advice. The views and opinions expressed here are those of Ms. Segal-Freeman's and do not necessarily reflect the official opinions of Minnesota Department of Health



Purpose & Objectives

OBJECTIVES:

- Describe the Interaction between the governor, health commissioner, legislature, local public health, and tribal health
- Describe specific legal issues encountered with these jurisdictions

- Feb. 29: Incident Command Structure stood up (ICS): Daily “Sitrep reports
- March 5: First Case
- March 13: Governor declared a Peacetime Emergency
- March 14: Governor ordered all schools close
- March 15: State Emergency Operations Center stood up (SEOC)
- March 16: Governor ordered closures of bars, restaurants, salons, etc.
- March 25: Governor ordered Minnesotans to “Stay At Home”

- Weekly Report: September 10, 2020
 - Total Number of Cases: 82,249
 - Total Number of Hospitalizations: 6,380 (ICU:1,927)
 - Total Number of Deaths: 1,884
 - ❖ Over 80% in people over 60
- Disparities:
 - See Weekly Report for more information



- **Minn. Stat. §12.21, Subd. 1. General authority.** The governor (1) has general direction and control of emergency management, (2) may carry out the provisions of this chapter, and (3) during a national security emergency declared as existing under section [12.31](#).
- **Governor has power to declare a Peacetime Emergency (M.S. 12.31)**
The governor may declare a peacetime emergency. A peacetime declaration of emergency may be declared only when an **act of nature**, a technological failure or malfunction, a terrorist incident, an industrial accident, a hazardous materials accident, or a civil disturbance **endangers life and property and local government resources are inadequate to handle the situation.**

- Power to terminate the state of emergency (*M.S. §12.31, subd. 2*)
- Power of the purse (*Minn. Stat. §3.3005*)
 - Appropriate federal funding for spending – legislative advisory commission.
 - Passed law in spring allowing new federal COVID money to go through a 10-day urgent review process. (*2020 Minn. Sess. Laws Ch. 66*)
- Allocate state funding
 - Public Health Response Contingency Account (*M.S. § 144.4199*)

- **General Authority:** Is responsible for the development and maintenance of an organized system of programs and services for protecting, maintaining, and improving the health of the citizens. This authority shall include but not be limited to the following: *(Minn. Stat. 144.05)*
 - (1) conduct studies and investigations, collect and analyze health and vital data, and identify and describe health problems;
 - (2) plan, facilitate, coordinate, provide, and support the organization of services for the prevention and control of illness and disease and the limitation of disabilities resulting therefrom;...
- **Communicable Disease Reporting Rule,** can require reporting of new diseases, such as COVID-19, that can cause serious morbidity or mortality and it is necessary to monitor, prevent, or control the disease or syndrome to protect public health.
(Minn. R. 4605.7080)

- Minn. Stat. § 145A.04, subd 1(b). Jurisdiction; enforcement. ...**Under the general supervision of the commissioner**, “the board shall enforce laws, regulations, and ordinances pertaining to the powers and duties of a board of health within its jurisdictional area.”
- Minn. Stat. § 145A.04, subd. 6. **Investigation; reporting and control of communicable diseases.** “A community health board shall make investigations and reports and obey instructions on the control of communicable diseases **as the commissioner may direct** under section 144.12, 145A.06, subd 2, or 145A.07. Boards of health must cooperate so far as practicable to act together to prevent and control epidemic diseases

Indian Tribes and Reservation Land

- Minnesota has 11 reservations
- Tribal governments are sovereign nations
- Do not have to follow state law*
- Declare their own state of emergency on their reservation lands

*exception: Red Lake run by Indian Health Services

Governor's Declaration of Peacetime Emergency

- 3/13/20: Gov. Declared Peacetime Emergency(EO-20-1)
 - ✓ Act of Nature
 - ✓ Only valid for 30 days (extended 4 times)
 - ✓ Must notify legislature
 - ✓ Within 5 days, governor must get approval the Executive Council to extend it up to 30 days (EC=M.S. § 0.011)
 - ✓ Does not apply to Tribal land.
- Legislature may terminate a peacetime emergency extending beyond 30 days by majority vote.
 - ✓ Split legislature. Democratic House and Republican Senate (MN only state government that has this.)
 - ✓ Senate voted to terminate Peacetime Emergency during all 3 special sessions; House did not.

- 89 Executive Orders Issued since March 13, 2020
 - MDH develops “guidance” documents Often in collaboration with other agencies (Dept. of Labor & Industry, MN Dept. of Education, Human Services Dept.)
 - ❖ Translations (12) & Accessibility (Equity issues)
 - 2 attempts to recall governor for serious “malfeasance.” Dismissed both times by Chief Justice. (June & August)

Executive Orders Law Suit continued...

- Law Suit brought by 13 Legislators and the “Free Minnesota Small Business Coalition” (early July)
 - Claim: governor is abusing his power and interfering with the legislative process
 - Asked judge to enjoin the governor from issuing or enforcing emergency executive orders that he has used to limit businesses’ operations, close schools and require masks in indoor public places
 - Court ruled against them on Sept. 1, 2020.

“The Governor has acted pursuant to the authority delegated to him by the Legislature,” Gilligan wrote. “The COVID-19 pandemic constitutes an act of nature that provides the Governor with the basis to declare a peacetime state of emergency in Minnesota.”

Executive Orders: Jurisdiction & Enforcement

- Who has Jurisdiction? It depends
 - State (Attorney General)
 - County
 - City
- Who enforces the executive order? It depends
 - State or Local Police
 - State or local licensing and regulating entities: Private Sector/Businesses
- How is it enforced?
- What about on Tribal Land?

Enforcement: Restaurants, Bars, Outdoor Events

- Penalties for non-compliance of EO: Criminal Misdemeanor (fine/jail), closure, civil relief
- EO 20-74 (June 5): Continuing safely reopening.
 - Limited numbers on indoor/outdoor gatherings
 - Strict regulations on salons & businesses
 - COVID-19 preparedness plan required for all businesses
 - Encourages state agencies with regulatory functions to utilize those to gain compliance

Itasca Rodeo Pre-Event

- Itasca County rodeo (July 23, 2020)
- MDH & Atty. General spoke to owner to confirm safety precautions taken. Company owner was counseled to follow State restrictions
- Facebook Posting: “The North Star Stampede will take place with no spectators. If people would like to come and protest against this ridiculous Government Over Reach, feel free to do so, I will not stand in the way of peoples 'Right to Assemble.’
- Options to stop rodeo from happening
 - Vendor licensing?
 - Local law enforcement?
 - Ordinance?
 - Evidence?



Itasca Rodeo



- Attorney General has taken legal action against rodeo for violating EO 30-74. They “intentionally drew large crowds to its Itasca County rodeo without taking precautions against the spread of COVID-19.”
 - A.G. is seeking civil penalties of up to \$25,000 per violation, plus restitution, disgorgement, and/or damages to the State.
- Not yet resolved.
- On-line form to file complaint with the A.G.

- From July 13 through Sept. 11, MDH-Food, Pools, & Lodging had received 1,448 complaints.
 - 448 forwarded to locally delegated jurisdictions
 - 900 under MDH jurisdiction
 - Cease and Desist Orders
- Regional Enforcement Sweeps: Dept. of Labor, Dept. of Agriculture; Dept. of Health

Case Investigations, Contact Tracing, & Privacy

Total # of Investigators : 975 (683 FTEs.)

Contractor (145)

**U of MN Medical Reserve Corps (15), BCBS
Volunteers (19),**

**Local Public Health (454),
Tribal health (19)**

**243 Infectious disease staff
10 multilingual
70 'other' MDH Staff**

Optum will be managing all case investigations & contact tracing and training & quality improvement

Contracts

HIPAA

Tennessee Warning

MN Data Practice Act

Case Investigation, Contact Tracing, & Privacy continued...

- Minnesota Data Practices Act: Minn. Stat. § 13.3805
 - Identifiable health data is private
 - Authority to Release Information: Consent, Patient's Health Care Provider, Commissioner Approval
 - ❖ Commissioner Approval: "to control or prevent the spread of serious disease, or to diminish an imminent threat to the public health"
- Tennessee Warning: Minn. Stat. § 13.04
 - Government entity must provide certain information to the individual when collecting their private health data

Case Investigation, Contact Tracing, & Privacy continued...

- Sharing Case Names for Contact Tracing:
 - Is it necessary?
 - With whom?
 - ❖ Tribal Health; Local Public Health; Business/Food Processing Plants; Congregate Settings such as long term care, jails/prisons, homeless shelters, K-12 schools, colleges/universities, child care, etc.
 - Under what authority
 - ❖ Consent, Commissioner's Order, Case's Provider

Data Sharing With Law Enforcement

- Law enforcement asked governor to share case names with local 911 dispatchers.
- Issues to address:
 - Privacy and Confidentiality:
 - ❖ signed confidentiality agreement
 - Logistics: technology, staff resources
 - Opt Out
 - Undocumented Concerns and ICE



Data Sharing With Law Enforcement continued...

- Executive Order 20-34 signed on April 10 – “Protecting Minnesota’s First Responders by Directing the Commissioner of Health to Share Information with the Department of Public Safety, 911 Dispatchers, and First Responder”
- Conditions
 - Shared data must not include identifying information beyond an address
 - MDH notifies DPS when address no longer associated with a contagious person. DPS must promptly delete from 911 dispatch systems
 - Shared data must remain confidential, be encrypted in transit, provided only to the minimum number of people necessary.
 - Data subject to MGDPA – required case’s consent to share
 - Shared data must not be disseminated over any channel of communication that could be actively monitored by the public or uninvolved parties.

Data Sharing With Law Enforcement continued...

- Controversies & Issues Post Order
 - Legislators
 - Organization outside worried about disenfranchised communities
 - Whether this would give a false sense of security b/c need to assume everyone could have it.
 - Law enforcement complained they weren't getting enough data

- Child Care: Family vs Center
 - Licensed by Dept. of Human Services (DHS), Enforced by LPH & DHS
- Schools: Private vs Public (including Charters)
 - Dept. of Education only has enforcement over public schools
- Long Term Care:
 - medical director/standing order
 - who conducts the test
 - consent to test & share for residents and employees & Minnesota Health Records Act
- Mass Testing (shelters, community events, food processing plants, etc.)
 - standing order, testing, consent & minnesota Health Records Act
- Vaccine: Allocation, Distribution, and administration



QUESTIONS

Thank you

Contact Information: Patricia.Segal.Freeman@state.mn.us

MDH COVID-19 Website: <https://www.health.state.mn.us/diseases/coronavirus/index.html>