

Legal Epidemiology and the Transdisciplinary Approach to Public Health Law

Scott Burris

Plenty of Progress

- Better and better infrastructure
 - CDC Public Health Law Academy at ChangeLab Solutions
 - Textbooks for transdisciplinary public health law and public legal epi research methods
 - Training and tools for policy surveillance
 - Competencies
 - Our own MeSH term (be sure to use it)
- More and better research
- Growing interest around the world

Article



Trends in U.S. Population Health: The Central Role of Policies, Politics, and Profits

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Jennifer Karas Montez¹ , Mark D. Hayward²,
and Anna Zajacova³ 

Abstract

Recent trends in U.S. health have been mixed, with improvements among some groups and geographic areas alongside declines among others. Medical sociologists have contributed to the understanding of those disparate trends, although important questions remain. In this article, we review trends since the 1980s in key indicators of U.S. health and weigh evidence from the last decade on their causes. To better understand contemporary trends in health, we propose that commonly used conceptual frameworks, such as social determinants of health, should be strengthened by prominently incorporating commercial, political-economic, and legal determinants. We illustrate how these structural determinants can provide new insights into health trends, using disparate health trajectories across U.S. states as an example. We conclude with suggestions for future research: focusing on structural causes of health trends and inequalities, expanding interdisciplinary perspectives, and integrating methods better equipped to handle the complexity of causal processes driving health trends and inequalities.



Commentary

Scott Burris, JD; Lindsay K. Cloud, JD; Matthew Penn, JD, MLIS

“Legal epidemiology” is the scientific study of the deployment of law as a factor in the cause, distribution, and prevention of disease and injury in a population.¹ Its emergence as a distinct field reflects the indispensability of law to modern public health practice.^{2,3} Proponents of the field aim to remove 2 persistent barriers to the effective use of law in public health: the paucity of the extent of rigorous and timely evaluation of the impact of law and legal practices on health^{4,5}; and the inattention in training and practice to the important legal functions played by nonlawyers in the health system.^{6,7} In the authors’ assessment, the research necessary to identify and spread best legal practices is a high priority because of the limitations affecting millions of Americans are often not evaluated for years, if at all. Innovations that show promise in research or practice are sometimes not scaled, so they either do not spread or spread too slowly. The unintended (or incidental) effects of laws are rarely studied, and the impact of laws is often unexplored.^{8,9} Limited professional training in law, disciplinary boundaries, and, arguably, a cultural tension between law and other health disciplines continue to limit the full integration of law into public health.^{10,11}

The publication of this special supplement of *JPHMP* is an opportune time to take stock. The progress of the field is reviewed, the importance of legal epidemiology, its key methods and tools, and the challenges it faces going forward.

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Contributions from Mr Burris and Ms Cloud were supported by the Robert Wood Johnson Foundation.

The findings and conclusions in this commentary are those of the authors and do not necessarily represent the official position of the Centers for Disease Control and Prevention nor the Robert Wood Johnson Foundation. The authors declare no conflicts of interest.

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S4 www.JPHMP.com

The Emergence of Legal Epidemiology

Rigorous research on the health effects of legal interventions goes back at least 50 years.³ The field of public health law—as a practice of lawyers specializing in how law authorizes, requires, and limits public health work—goes back even further, to the latter part of the 19th century.⁴ Despite their shared focus on law, these 2 strands of public health law work proceeded largely independently of one another. Public health lawyers were usually not trained or supported to participate in empirical research, and scientists who studied the health effects of laws empirically often lacked legal expertise or a sense that they were part of a “field” of public health law research.⁵

What we are now calling the field of legal epidemiology is the product of decades of independent work of many researchers and practitioners.¹ Based on their many years of involvement and experience in public health, these individuals have witnessed foundational developments to have been particularly helpful to the ultimate emergence of this distinct field. The first was the founding of the Public Health Law Program (PHLP) at the Centers for Disease Control and Prevention (CDC) in 2000.² PHLP's early work included the development of a number of important models for the development of a more comprehensive understanding of public health law: providing grant funding for empirical research on the effects of law³ and conducting such research intramurally⁴; supporting an external collaborating center at Georgetown University⁵; and working at Georgetown and Johns Hopkins universities—to provide legal expertise on matters such as emergency powers⁶; and providing legal technical assistance to support state, tribal, and local health departments in understanding the opportunities, limitations, and barriers to using law to address health. Today, the field of legal epidemiology is a distinct discipline within CDC and to foster an ethic under which legal research is as rigorous and transparent as CDC's other research on public health issues.⁷ In recent years, PHLP has administered a new cooperative agreement with ChangeLab Solutions focused on public health law, practice,⁸ and legal epidemiology,⁹ and health law, practice,¹⁰ and legal epidemiology,¹¹ and

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The NEW ENGLAND JOURNAL of MEDICINE

Perspective

MAY 27, 2021

The “Legal Epidemiology” of Pandemic Control

Scott Burris, J.D., Evan D. Anderson, J.D., Ph.D., and Alexander C. Wagenaar, M.S.W., Ph.D.

The centrality of law as a public health intervention has been undeniable during the Covid-19 pandemic. In just the first half of 2020, more than 1000 laws and orders were issued

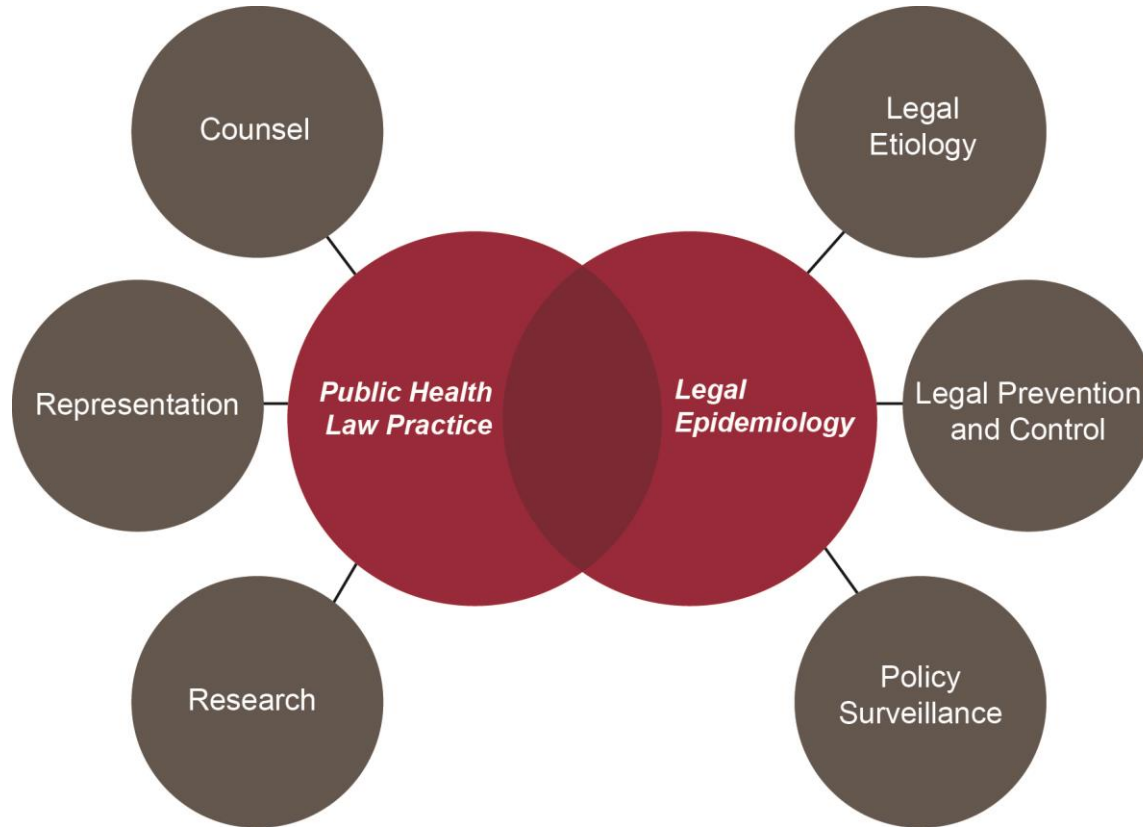
by federal, state, and local authorities in the United States in an effort to reduce disease transmission. Legal interventions include stay-at-home orders, mask mandates, and travel restrictions, as well as more particular rules for business operations, alcohol sales, curfews, and health care. Given their heavy use, importance, and obvious socioeconomic side effects, and the social and behavioral complexities of their implementation, one might have expected the National Institutes of Health (NIH), other research funders, and the research community to jump to the work of determining the right mix, intensity, and enforcement approaches of legal restrictions to control transmission with the least and

most equitably distributed harms. No organized research program emerged. The NIH pumped \$3.6 billion into biomedical research related to Covid-19. The Gates Foundation added \$350 million. Billions more went into the development of vaccines. All reasonable investments. But funding for scientific evaluation of legal effects and public health systems research was paltry, at a time when hundreds of thousands of lives, the socioemotional development of millions of children, and billions of dollars in economic activity directly depended on questions about control measures, enforcement methods, the organization of the health system, and the many ways in which law was immediately influ-

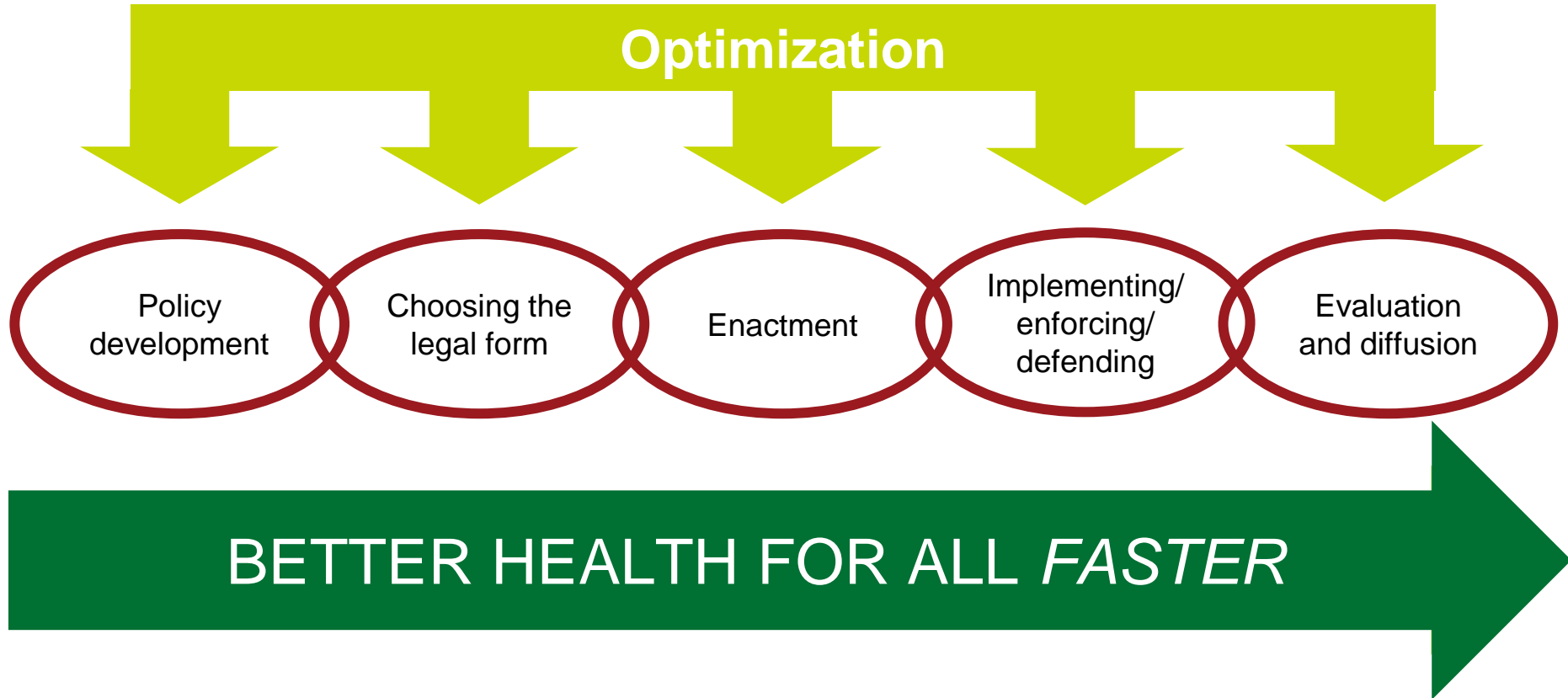
encing vulnerability, resilience, and social behavior. This negligence is a long-standing pattern: between 1985 and 2014, NIH funded just 510 extramural research grants on the health effects of laws or enforcement practices — less than 0.25% of all funded grants.³

It is past time for a broad recognition in our health system that law is a ubiquitous treatment, one to which hundreds of millions of people are routinely exposed. If that simple but telling analogy is accepted, a more pressing point follows: we should devote much more health research money and talent to the scientific study of the health effects of laws and legal practices ("legal epidemiology"). To be sure, considering laws as treatments is a matter of analogy, not identity. Laws are not pills and cannot be developed, pressed, dosed, and delivered like pills. That said, the relative neglect of research on law

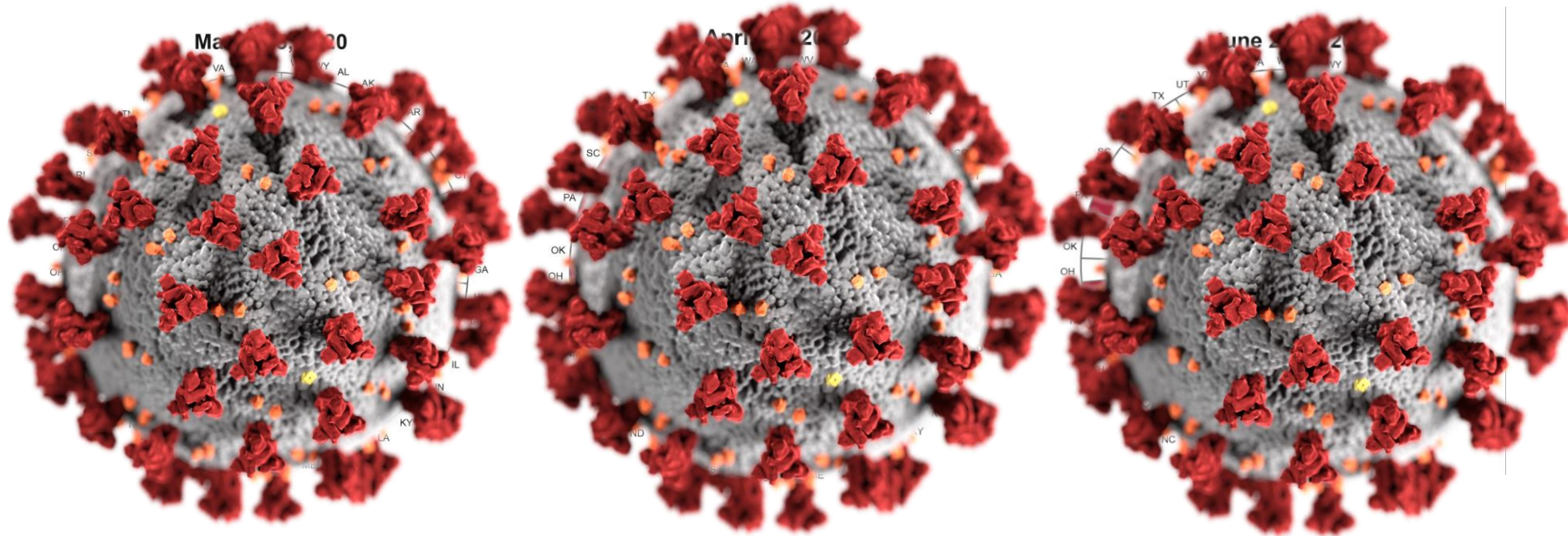
The Transdisciplinary Model



The Five Essential Public Health Law Services: *Transdisciplinary in Practice*



US State COVID Orders



Then came COVID-19



ASSESSING LEGAL RESPONSES TO COVID-19

August 2020

Produced by Public Health Law Watch, an initiative of the George Consortium

In collaboration with:

TEMPLE UNIVERSITY CENTER FOR PUBLIC HEALTH LAW RESEARCH

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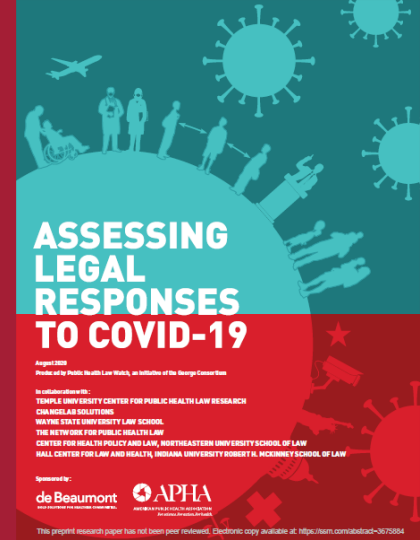
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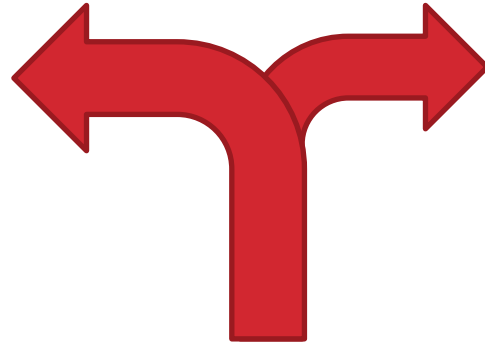
This was not really a problem with the law

- Decades of pandemic preparation focused too much on plans and laws on paper, and ignored the devastating effects of budget cuts and political interference on the operational readiness of our local, state and national health agencies
- Legal responses have failed to prevent racial and economic disparities in the pandemic's toll, and in some cases has aggravated them – COVID-19 has highlighted too many empty promises of equal justice under law
- Ample legal authority has not been properly used in practice – we've had a massive failure of executive leadership and implementation at the top and in many states and cities.



“Following the science”

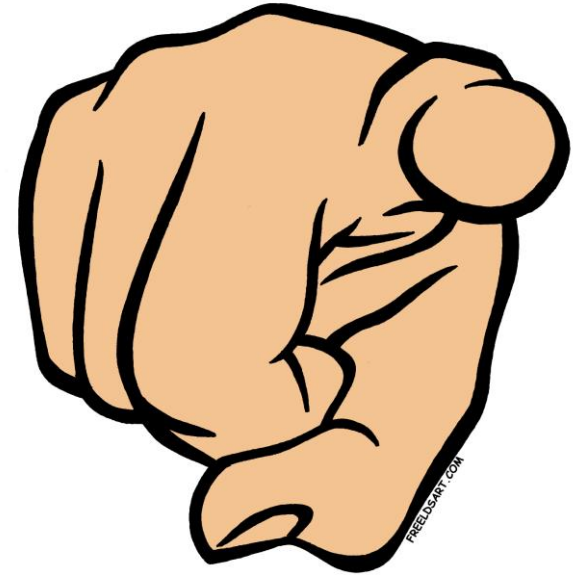
Epidemiology



Legal epidemiology
Psychology
Sociology
Economics
Engineering
...

**More important than ever to be
building a truly transdisciplinary
approach to creating the social
conditions required for
sustainable, equitable human
thriving.**

Today we look at examples of legal epi in action



The background of the poster is a photograph of a city waterfront at dusk or dawn. On the left, a modern building with a glass facade reflects the sky. In the center, a body of water with several boats is visible. On the right, a large stadium with a white, curved roof is prominent. The sky is a mix of soft pinks, oranges, and blues. Overlaid on the image are several thin, dotted lines in a teal color, forming a network-like pattern.

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Leveraging Policy Surveillance to Inform Policy Research and Advocacy

Adam Lustig, Senior Policy Development Manager,
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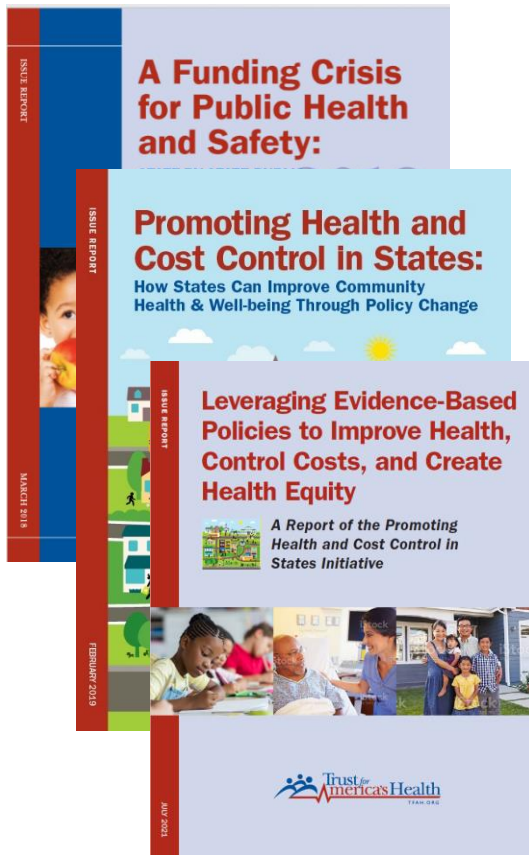
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<https://twitter.com/HealthyAmerica1>

Trust for America's Health (TFAH)

Independent, non-partisan, public health & prevention focus, including:

- Data/research for action
- Health-promoting policies
- Strong public health system
- Informed policymakers

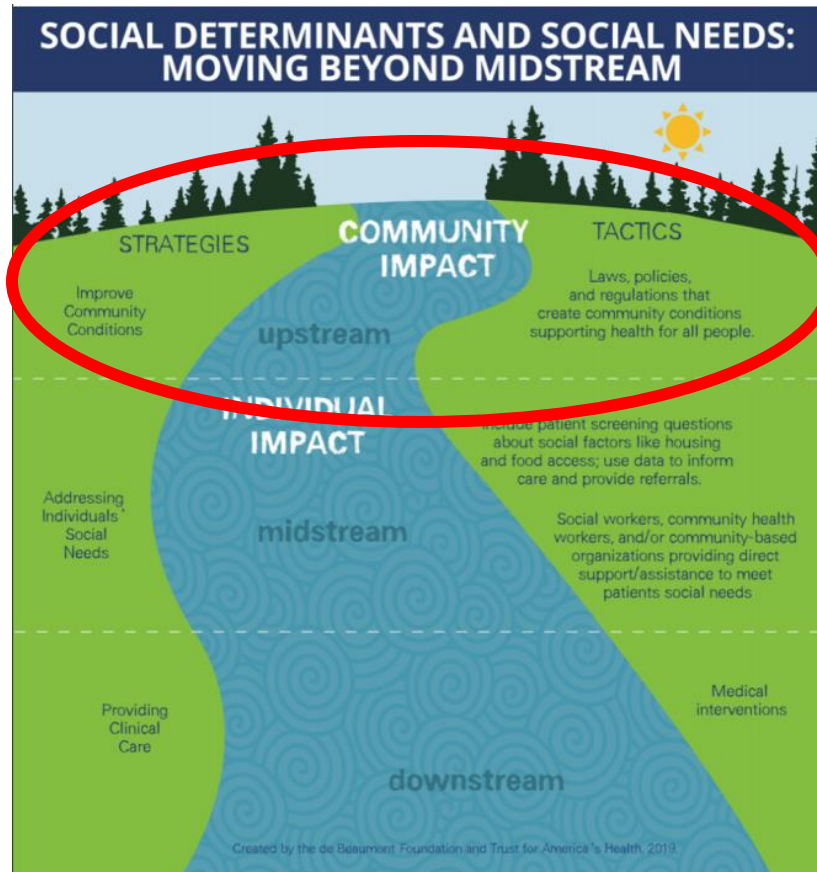


What is the Promoting Health and Cost Control in States (PHACCS) Initiative?

- Focuses on policies that promote health and control cost growth at the state level
- Looks beyond **just** health care in an effort to foster cross-sector collaboration, recognizing impacts in other sectors can improve health



Why We Focus On Social Determinants vs. Social Needs



Address Social Determinants

- Policy-level intervention
- Change underlying social & economic conditions of a community
- Adopt laws, policies, and regulations to create healthy living conditions

Address Social Needs

- Individual-level intervention
- Address the need of individual people or patients
- Screen for social factors and connect to direct support or services

How Has Policy Surveillance Informed Our Work?

Research



Report Development



Advocacy and Education



Research

- Scoping report informed the decision-making process of our Advisory Group
- Allowed us to present a high-level overview of where policies have been implemented
- Feasibility of developing a dataset part of our policy selection process by



Summary Table on Feasibility

High Feasibility	Moderate Feasibility	Low Feasibility
Policy 1: Access to Clean Syringes		
		Policy 2: Proper Drug Disposal Programs
	Policy 3: Complete Streets	
Policy 4: Shared Use Agreements and Creating or Improving Places for Physical Activity		
	Policy 5: Ban the Box Policy 6: Child Tax Credit Expansion	
Policy 7: Earned Income Tax Credit		
	Policy 8: Full Child Support Pass-Through and Disregard	
Policy 9: Paid Family Leave and Paid Sick Leave		Policy 10: Transitional Jobs
	Policy 11: Universal Pre-K Policy 12: Full-Day Kindergarten	
		Policy 13: High School Completion Programs Policy 14: School-Based Violence Prevention Programs
Policy 15: Bicycle Helmet Laws		
	Policy 16: Dram Shop Liability Laws	
Policy 17: Alcohol Taxes Policy 18: Minimum Age for Tobacco Products		
		Policy 19: Sugar-Sweetened Beverage Taxes
Policy 20: Tobacco Taxes Policy 21: Universal Motorcycle Helmet Laws		
		Policy 22: Housing Rehabilitation Loan and Grant Laws
	Policy 23: Integrated Pest Management for Schools	

Report Development

Goal 1: Support the Connections Between Health & Learning

1. Universal Pre-Kindergarten
2. School Nutrition Programs

Goal 2: Employ Harm-Reduction Strategies to Prevent Substance Misuse Deaths and Related Diseases

3. Syringe Access Programs

Goal 3: Promote Healthy Behaviors

4. Smoke-Free Environments

5. Tobacco Pricing

6. Alcohol Pricing

Goal 4: Promote Active Living & Connectedness

7. Complete Streets

Goal 5: Ensure Safe, Healthy, and Affordable Housing for All

8. Housing Rehabilitation Loan & Grant Programs
9. Rapid Re-Housing

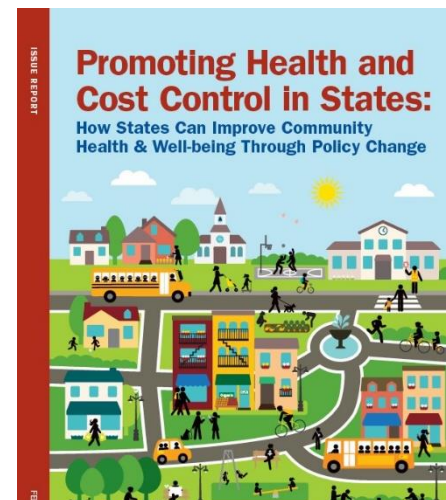
Goal 6: Create Opportunities for Economic Well-Being

10. Earned Income Tax Credit

11. Paid Family Leave

12. Earned Sick Leave

13. Ban the Box (Fair Hiring Protections)



STATES WITH EFFECTIVE LEGISLATION AS OF 12/31/18									
States	Policy Recommendation 1a Universal Pre-Kindergarten Programs	Policy Recommendation 1b School Nutrition: School Breakfast Program	School Nutrition: School Lunch Program	School Nutrition: Competitive Foods	Policy Recommendation 2a Syringe Access Programs	Policy Recommendation 2b Smoke-Free Laws	Policy Recommendation 3a Tobacco Taxes	Policy Recommendation 3b Alcohol Taxes	Policy Recommendation 3c
Alabama	0	0	0	0	0	0	1	1	
Alaska	0	0	1	1	0	1	1	1	
Arizona	0	1	0	1	0	0	1	1	
Arkansas	0	0	0	1	1	1	1	1	
California	0	1	0	1	1	1	1	1	
Colorado	0	1	0	1	1	1	1	1	
Connecticut	0	1	0	1	1	1	1	1	
Delaware	0	1	1	0	1	1	1	1	
D.C.	1	1	0	1	1	1	1	1	
Florida	1	1	0	0	0	0	1	1	
Georgia	1	1	0	0	0	0	1	1	
Hawaii	0	1	1	0	1	1	1	1	
Idaho	0	0	0	0	0	1	1	1	
Illinois	0	1	1	1	0	1	1	1	
Indiana	0	1	0	1	1	0	1	1	
Iowa	1	0	1	0	0	1	1	1	
Kansas	0	1	0	1	0	1	1	1	
Kentucky	0	0	0	1	1	0	1	1	
Louisiana	0	1	1	1	1	0	1	1	
Maine	0	0	1	1	1	1	1	1	
Maryland	0	1	1	1	1	1	1	1	
Massachusetts	0	1	1	1	1	1	1	1	
Michigan	0	1	1	0	0	1	1	1	
Minnesota	0	1	0	0	0	1	1	1	
Mississippi	0	0	0	1	0	0	1	1	
Missouri	0	1	0	0	0	0	1	1	
Montana	0	0	0	0	1	1	1	1	
Nebraska	0	0	0	0	0	1	1	1	
Nevada	0	1	0	0	1	0	1	1	
New Hampshire	0	0	0	0	1	0	1	1	
New Jersey	0	1	1	1	1	1	1	1	
New Mexico	0	1	0	0	1	1	1	1	

Advocacy and Education – Leveraging Legal Data Sets for Targeted Action

1. Does the state have an Earned Income Tax Credit (EITC)?

☒ Yes
☐ No

1.1. Are there state eligibility requirements?

☐ No, the state adopts the federal EITC eligibility requirements
☐ Yes

1.1.1. What are the state eligibility requirements to qualify for the EITC?

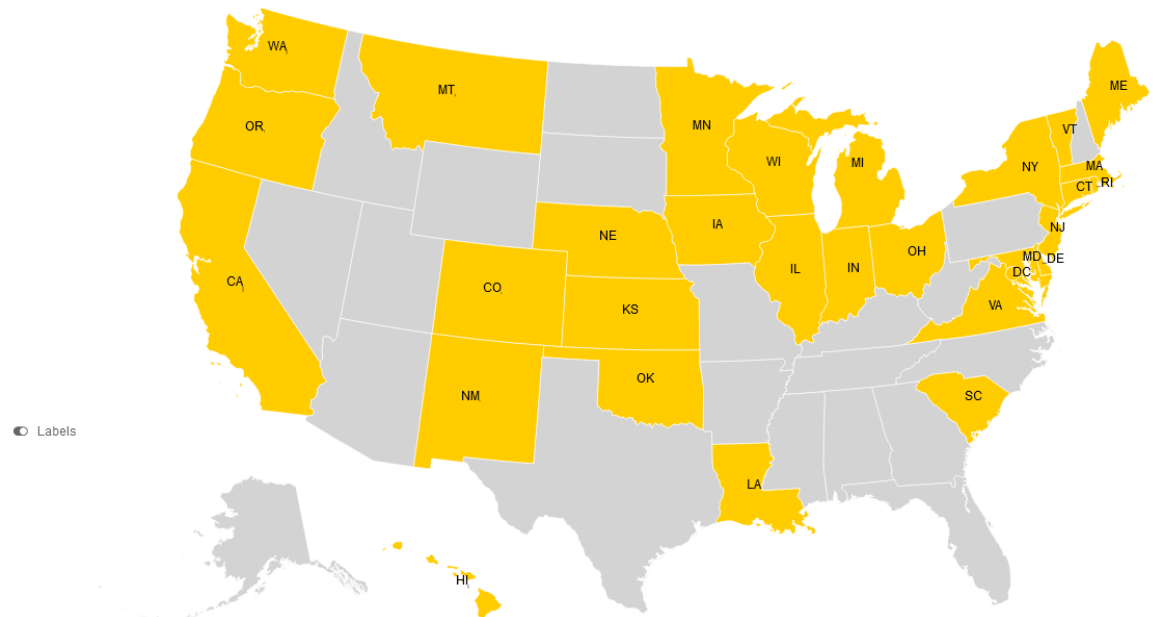
☐ Taxpayer cannot claim EITC if taxpayer claims another tax credit
☐ State budget requirements must be met for payment
☐ Married taxpayers must file jointly
☐ Taxpayer must claim federal credit
☐ Taxpayer must be at least a part-year resident
☐ State sets new maximum for disqualifying income

1.2. What happens when the EITC exceeds a taxpayer's liability?

☐ Taxpayer receives full refund
☐ Taxpayer receives partial refund
☐ The credit is not refundable

1.2.1. How does the state pay out a state EITC refund?


☐ Monthly






Shaped Current Efforts


ISSUE REPORT

Leveraging Evidence-Based Policies to Improve Health, Control Costs, and Create Health Equity



A Report of the Promoting Health and Cost Control in States Initiative



JULY 2021

Goal	Policies
Supporting Access to High-Quality Health Services	<ul style="list-style-type: none"> • Medicaid expansion • Expanding access to home-visiting programs • Supporting increased use and training of community health workers
Promoting Economic Mobility	<ul style="list-style-type: none"> • Earned Income Tax Credit • Living wage policies • Paid leave policies (paid sick leave and paid family leave)
Ensuring Access to Affordable Housing	<ul style="list-style-type: none"> • Low-income housing tax credits (LIHTCs) • Housing choice vouchers • Legal support for tenants in eviction proceedings
Promoting Safe and Healthy Learning Environments for Children	<ul style="list-style-type: none"> • High-quality early childhood education programs • Integrating social-emotional learning programs in schools • Promoting access to and National School Lunch and School Breakfast Programs • School-based health centers
Health-Promoting Excise Taxes	<ul style="list-style-type: none"> • Tobacco taxes • Alcohol taxes • Sugar-sweetened beverage taxes



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Legal Epidemiology & Abortion Law Worldwide

Patty Skuster, JD, MPP

Beck Chair & Visiting Professor of Law, Temple
University Beasley School of Law

Fellow, Center for Public Health Law Research

@pskuster

Global Abortion Laws relating to Self-Managed Abortion

THE POLICY SURVEILLANCE PROGRAM

A LawAtlas Project

Search for...

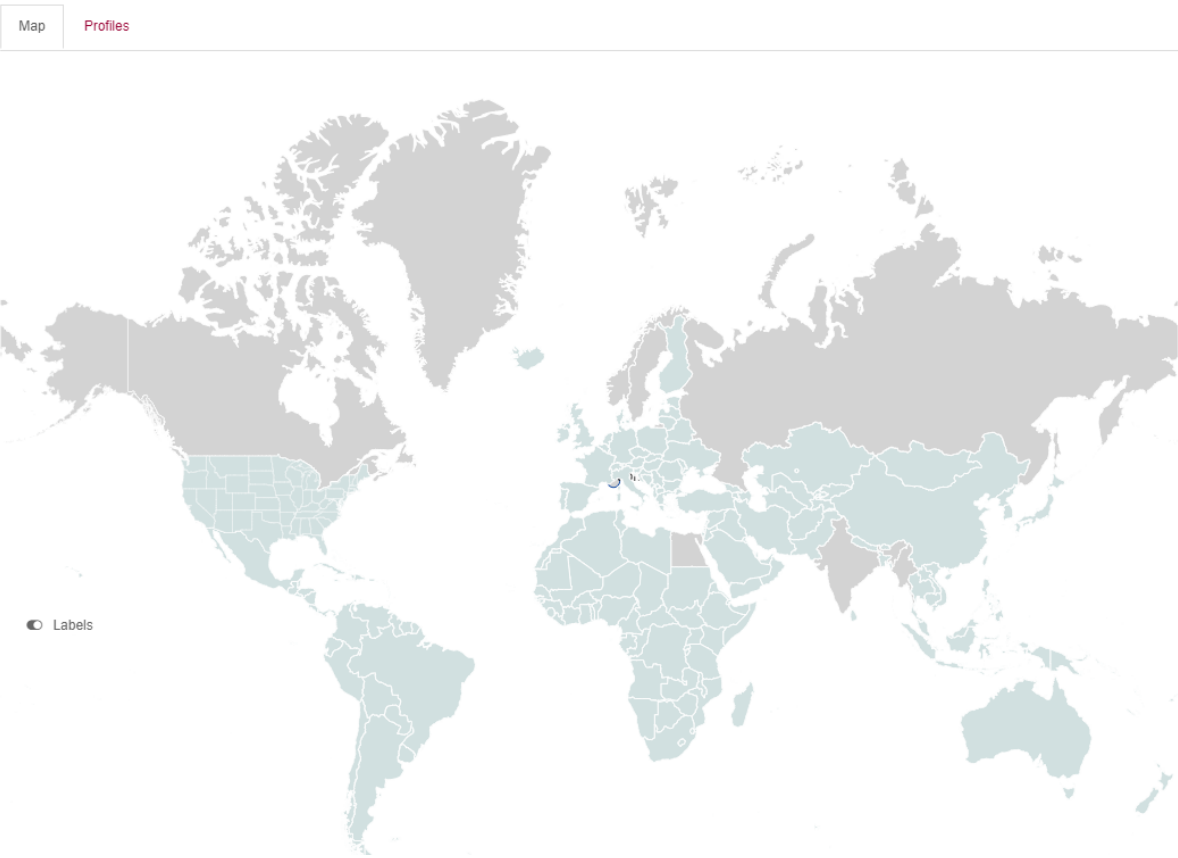
Q

Filter

Explore

Reset

1. Does the country regulate abortion by law?
2. Under which grounds, if any, is abortion permissible under the law?
- 2.1. Is a health care professional required to verify an individual's circumstances are within permissible grounds prior to an abortion?
3. What health care professionals are legally permitted to provide an abortion?
4. What tests are health professionals required to administer in order for a person to have an abortion?
5. Where is abortion legally permitted to take place?
6. Who is subject to penalties for participating in an unlawful abortion?



Global Abortion Laws relating to Self-Managed Abortion

THE POLICY SURVEILLANCE PROGRAM A LawAtlas Project

CREATED BY: Policy Surveillance Program and Ipas

MAINTAINED BY: Policy Surveillance Program and Ipas

VALID FROM: Invalid date

UPDATED THROUGH: Invalid date

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

[See all related maps](#)

Filter **Explore** [Reset](#)

1. Does the country regulate abortion by law?

2. Under which grounds, if any, is abortion permissible under the law?

2.1. Is a health care professional required to verify an individual's circumstances are within permissible grounds prior to an abortion?

3. What health care professionals are legally permitted to provide an abortion?

Medical doctor

Medical practitioner

Medical doctor

Specialist doctor

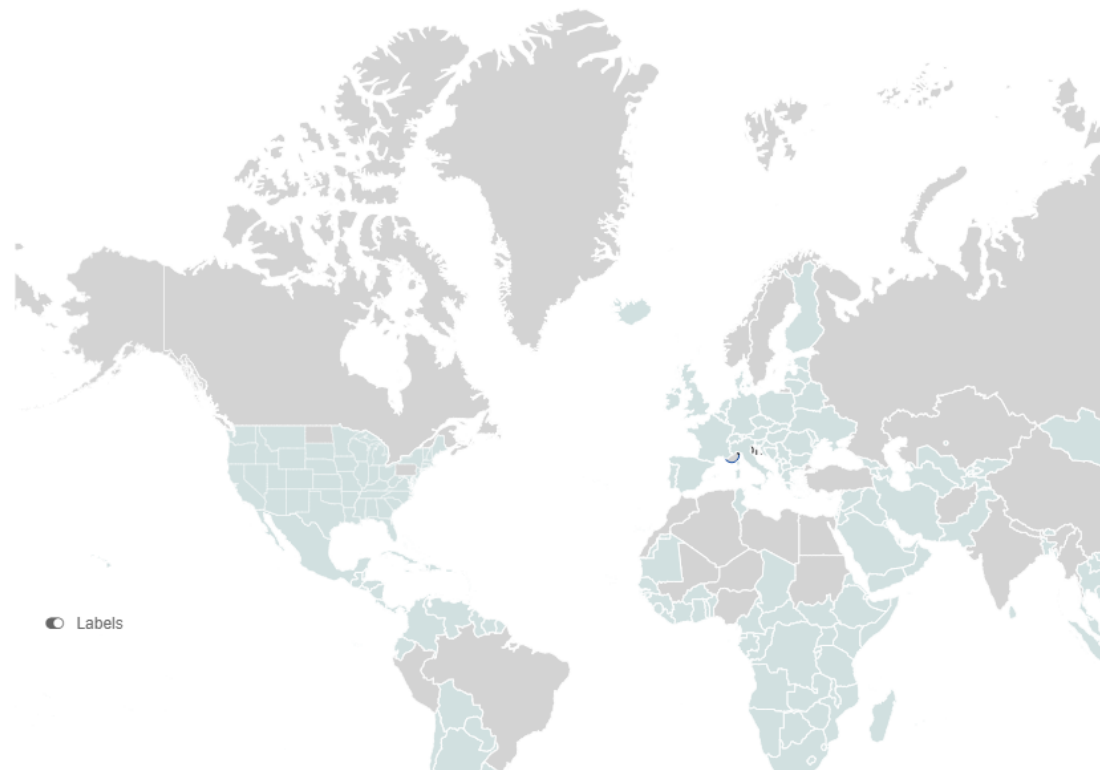
Midwife

Nurse

Pharmacist

Lay health worker

[Map](#) [Profiles](#)



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3. What health care professionals are legally permitted to provide an abortion?

Medical doctor

Medical practitioner

Medical doctor

Specialist doctor

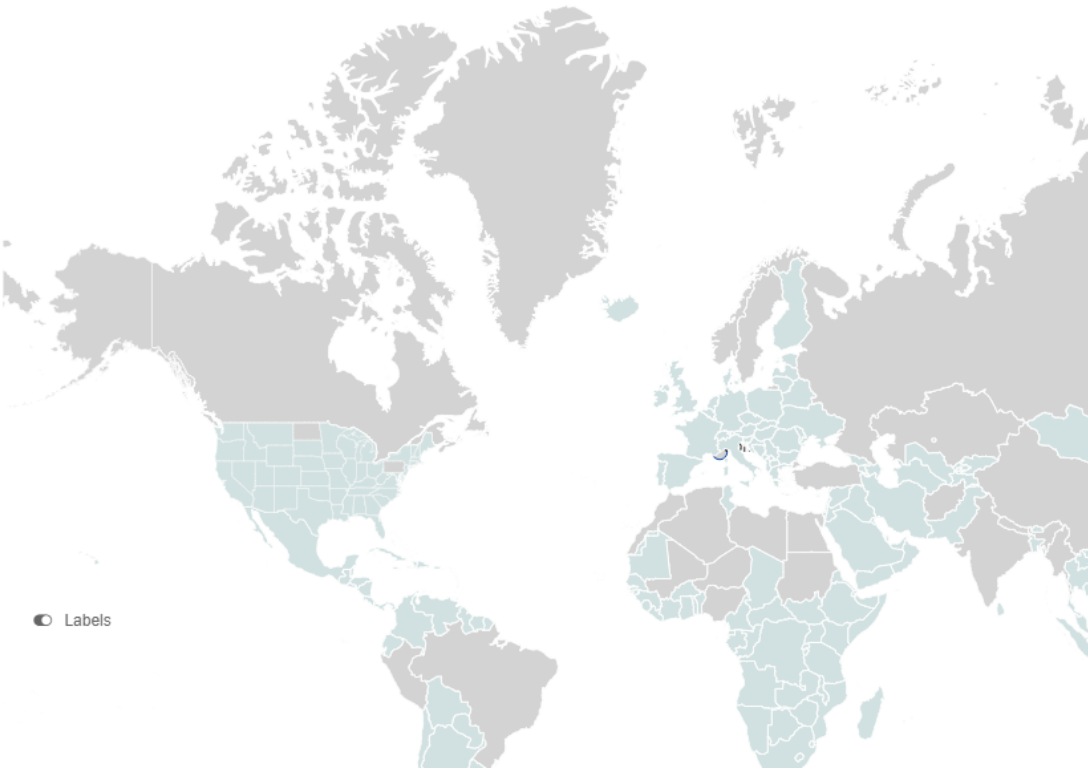
Midwife

Nurse

Pharmacist

Lay health worker

Map Profiles



Labels

Identifying data for the empirical assessment of law (IDEAL)

Burris S, Ghorashi AR, Cloud LF, Rebouché R, Skuster P, Lavelanet A. Identifying data for the empirical assessment of law (IDEAL): a realist approach to research gaps on the health effects of abortion law. *BMJ Glob Health*. 2021 Jun;6(6):e005120. doi: 10.1136/bmjgh-2021-005120. PMID: 34117010; PMCID: PMC8202112.

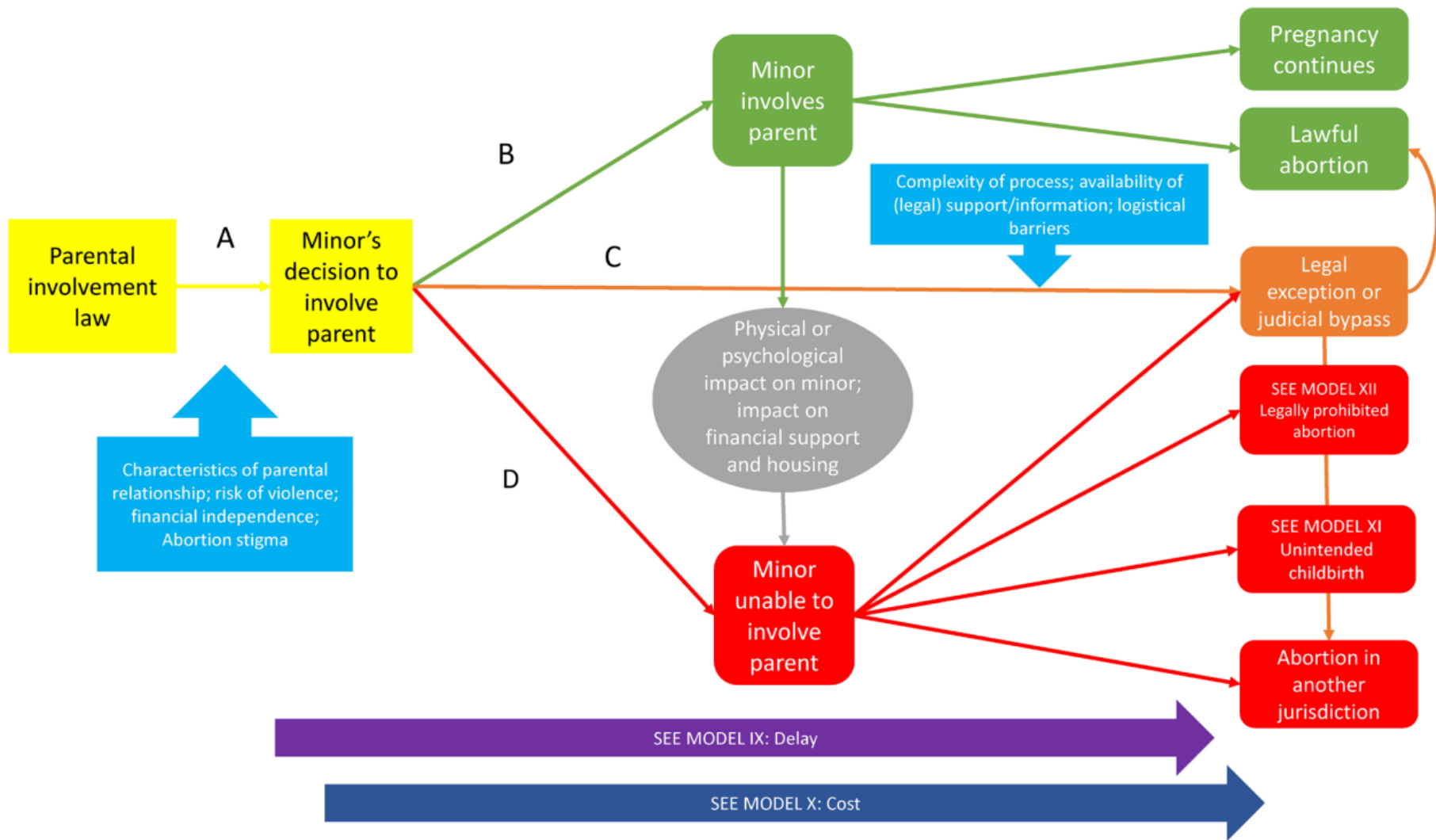


Figure 1 Parental involvement law.

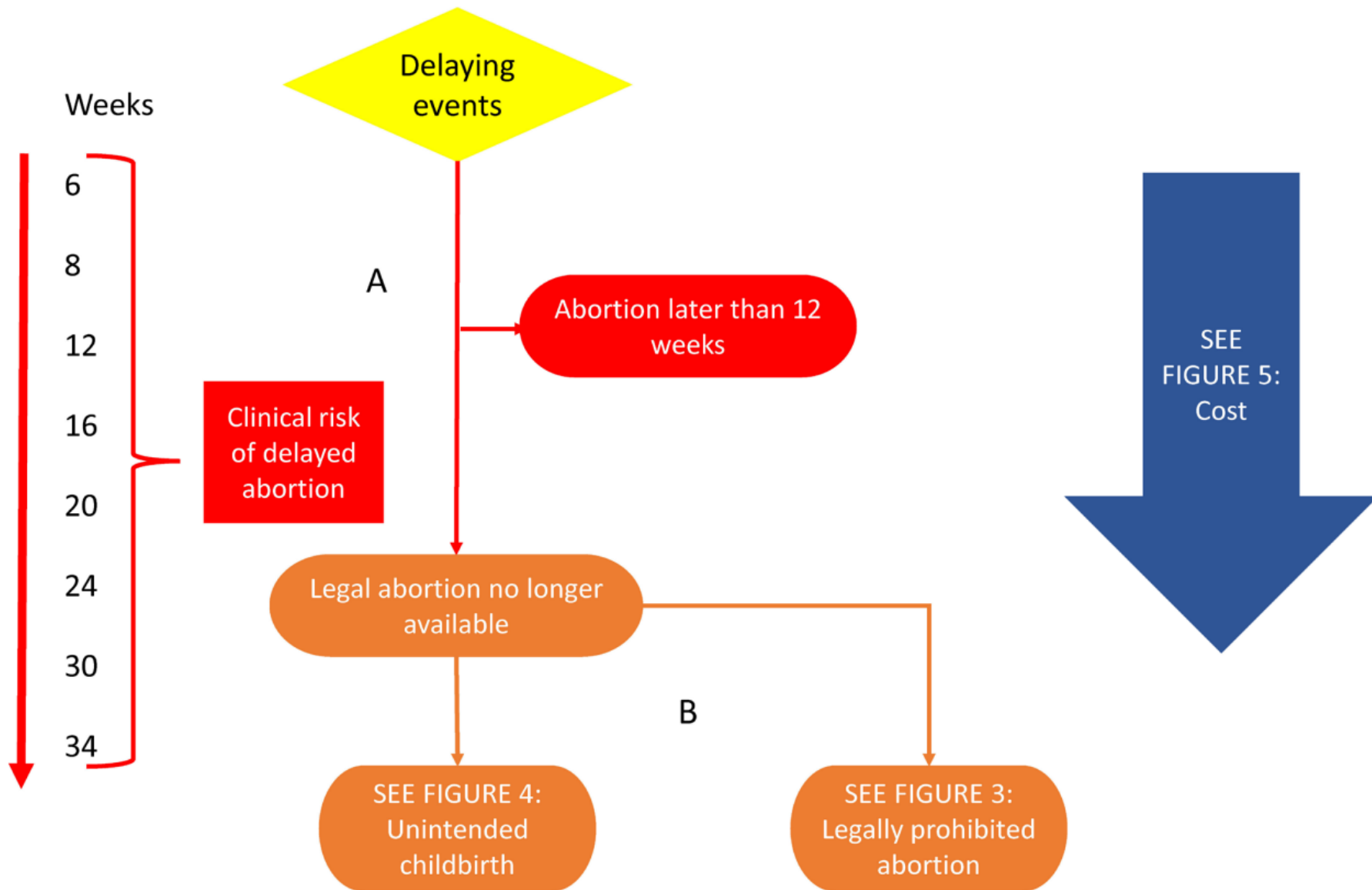


Figure 2 Delayed abortion.



Patty Skuster, JD, MPP

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