



BAIL, THE BALLOT AND PUBLIC SAFETY

A statewide vote on changes to the pretrial system is coming in Ohio, and maybe Wisconsin, while the end to cash bail in Illinois is now only a few months away

by Derek Cantù (dcantu@csg.org)

In the Midwest’s statehouses this year, lawmakers have attempted to respond to rising violent crime rates through myriad strategies (see page 3 for an overview).

The issue that received perhaps the most attention, however, has centered around cash bail.

In places such as Ohio and Wisconsin, voters will or may soon have an opportunity to weigh in on possible changes to their respective state constitutions that would require judges to consider public safety ramifications when setting monetary bail amounts.

In Illinois, an imminent statewide end to cash bail (the result of legislation passed last year) has sparked a political debate over whether such a move will result in greater equity or increased violence.

Indiana, meanwhile, has a new

law limiting who can post bail for defendants.

Considering that a number of changes to pretrial release occurred only in the last few years, and the impact that the COVID-19 pandemic had on the criminal justice system, proving whether bail reform has led to increases or decreases in violent crime is still to be determined.

“When you look across the country, gun violence and murders have risen in blue states, red states, urban areas, rural and suburban areas,” Jullian Harris-Calvin of the Vera Institute of Justice said in an interview last year with PBS NewsHour.

“It’s going to take a while for us to really assess what exactly led to this, and there’s no one factor.”

Part of that assessment is likely to be bail policies that can influence who is released, and isn’t released, from jail prior to trial.

CONSIDER PUBLIC SAFETY WHEN MONETARY BAIL IS SET?

Two years ago, Justin DuBose was arrested in Las Vegas for allegedly killing a man in Hamilton County, Ohio, during a robbery. A legal back-and-forth on bail for DuBose ensued. The amount was initially set at \$1.5 million; DuBose sought a reduction to \$500,000.

The case eventually made its way to the Ohio Supreme Court, and in

January 2022, the justices issued a far-reaching decision: Public safety should not be considered when determining monetary bail amounts.

The court also ruled the initial amount was excessive because it didn’t consider DuBose’s available financial resources.

In Ohio, judges can deny bail altogether for certain offenses (including murder and other violent felonies), and they can impose nonfinancial conditions of release such as electronic monitoring, surrendering a passport or agreeing not to contact witnesses in the case.

But in reviewing existing state laws and rules of criminal procedure, the Ohio Supreme Court concluded that “public safety, although of the utmost importance, is not a factor relevant to the calculation of the bail amount, which is concerned only with ensuring the defendant’s future appearance in court.”

In response to the ruling, political leaders — including Attorney General Dave Yost — are seeking a constitutional change to explicitly include public safety considerations.



Ohio Attorney General Dave Yost



STATISTICS ON JAILS AND BAIL IN STATE JUSTICE SYSTEMS

433%

% INCREASE BETWEEN 1970 AND 2015 IN NUMBER OF PEOPLE DETAINED PRETRIAL IN U.S. JAILS

96%

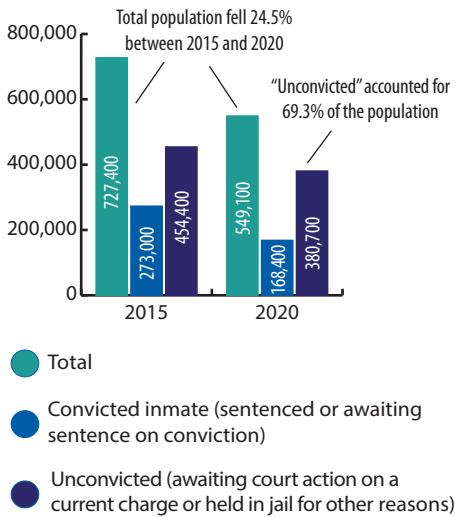
% OF FELONY DEFENDANTS (IN 75 LARGEST U.S. COUNTIES) WHO ARE HELD PRETRIAL IN JAIL, WITH MONETARY BAIL SET, AND WHO WOULD BE RELEASED IF THEY HAD THE MEANS TO POST BAIL (AS OF 2009)

90%

% OF THOSE FELONY DEFENDANTS (SEE ABOVE) WHO COULD NOT AFFORD BAIL

Source: U.S. Commission on Civil Rights, “The Civil Rights Implications of Cash Bail, 2022”

U.S. JAIL POPULATION: 2015 AND 2020



Source: U.S. Bureau of Justice Statistics

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IN INDIANA, A NEW LAW DEFINES, AND SETS NEW RESTRICTIONS ON, ‘CHARITABLE BAIL GROUPS’

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Yost believes the Supreme Court’s recent ruling takes away too much autonomy from local judges.

“There is inherently a tension between the rights of the defendant — which ought to be considered and protected — and the rights of the public to be safe from that same defendant,” he says.

“We should have judges making those determinations based on the specific circumstances of that defendant, that offense, in that community.”

Earlier this year, Ohio lawmakers successfully passed HJR 2, which proposes adding the following constitutional language:

“When determining the amount of bail, the court shall consider public safety, including the seriousness of the offense, and a person’s criminal record, the likelihood a person will return to court, and any other factor the general assembly may prescribe.”

Ohioans will vote on the proposed amendment in November.

As early as next spring, voters in Wisconsin could vote on a similar constitutional provision. AJR 107, approved by lawmakers in February, explicitly allows judges to consider public safety, the seriousness of the offense and the accused’s criminal record when setting monetary bail.

Support for the Wisconsin proposal was bolstered after details emerged about a suspect who allegedly drove his car, intentionally, into a crowd of people during a Christmas parade in Waukesha — killing six.

Five days before the attack, the *Milwaukee Journal Sentinel* reports, the suspect had been released on \$1,000 bail for another violent felony case.

OPPOSITION TO OHIO PROPOSAL

Opponents of such referenda, however, say increasing cash bail amounts does not protect public safety — when considering a wealthy and violent defendant can purchase his or her freedom.

“It’s an arbitrary and artificial sense of ‘we’re safe because we’re charging these high amounts of money for bail,’” says Kevin Werner of the Ohio Justice & Policy Center.

To protect public safety, he points to alternatives to a reliance on cash bail.

For instance, Ohio’s system provides for “no bail hearings,” in which prosecutors can ask a judge to deny pretrial release.

Additionally, a bill introduced last year (HB 315) would add offenses such as burglary, vehicular assault, and unlawful

“There is inherently a tension between the rights of the defendant — which ought to be considered and protected — and the rights of the public to be safe from that same defendant.”

Ohio Attorney General Dave Yost

sexual conduct with a minor to an existing list of offenses in which judges must hold a “no bail” hearing upon the request of a prosecutor.

That same measure, along with SB 182, includes changes to Ohio’s cash-bail system designed to stop “wealth-based” detention. Supporters say these measures would give judges more tools to detain individuals who pose a risk to public safety, but also create a fairer pathway to release for low-risk defendants.

Werner’s biggest criticism against cash bail is that it separates defendants into two groups, those who can afford to get out and those who can’t. It’s a distinction that often runs along racial lines.

“What really is going to happen [if the referendum passes] is we’re going to see race disparity in the criminal justice system in Ohio explode through the roof,” he believes.

Yost says he’s interested in exploring automatic bail review for misdemeanor cases so defendants don’t have to spend extended periods behind bars.

THE END OF CASH BAIL IN ILLINOIS

Last year, as part of a comprehensive set of changes to the state’s criminal justice policies known as the “SAFE-T Act” (HB 3653), Illinois lawmakers committed to end cash bail by Jan. 1, 2023.

During a webinar hosted this year by the Midwestern Legislative Conference Forum on Social Justice, Rep. Justin Slaughter, one of the chief sponsors of the SAFE-T Act, said the goal is to stop wealth-based detention and pivot “to a system that’s more so going to look at the actual severity of the offense.”

The law’s enacting date was recommended by the Illinois Supreme Court Commission on Pretrial Practices, which argued municipalities would need ample time to adjust to a no-cash-bail system.

But Illinois House Republican Leader Jim Durkin believes most municipalities won’t be prepared come New Year’s Day, and that transitioning away from monetary bail will weaken public safety.

Although the new law still gives judges the discretion to deny bail to individuals who pose a public safety risk, Durkin says the new system will place greater weight on the offense in question — as opposed to a person’s previous history of violence or court attendance.

“If [the offense is] not a forcible felony and probation-able, [the defendant] will be given a little notice to appear in court,” says Durkin. “I’m not prepared to say that the criminal element in Chicago and street gangs are ones who abide by the honor system.”

Durkin is particularly concerned about drug dealers and traffickers not being detained before trial.

Also under the SAFE-T Act, if a defendant hasn’t appeared in trial for more than 90 days, his or her release

must be granted. Some lawmakers attempted to extend this window to 120 days in order to give prosecutors more time to convict violent offenders, but the proposal (HB 4684) died in committee.

Along with his concerns about public safety, Durkin questions the constitutionality of the SAFE-T Act.

In 2014, Illinois voters adopted a constitutional amendment that included stronger protections for

crime victims — referred to as “Marsy’s Law.” Subsequent legislation was passed (HB 1121 of 2015) ensuring that victims be free from harassment and intimidation throughout the criminal justice process.

Under the SAFE-T Act, Durkin argues, defendants will be allowed to compel victims to testify at pre-detention hearings.

Proponents of the new law, however, point to the strong support that the legislation received from survivor groups.

“We actually strengthened, when it comes to domestic violence and sexual assault, to make sure that if someone is accused of it, they have to [prove to the state] that they did not commit that abuse,” says Illinois Sen. Robert Peters, another chief sponsor of the measure.

Peters adds that the objective of the new law is to break the status-quo use of the “hammer of incarceration,” an approach that has disproportionately affected minority populations.

REGULATION OF ‘CHARITABLE BAIL’

In Indiana, this year’s legislative discussions on bail centered on who should be allowed to pay.

With the recent passage of HB 1300, Indiana classifies entities that post bail for four or more defendants in a 180-day period as “charitable bail organizations.”

Along with being required to register with the Indiana Department of Insurance, these organizations are barred from bailing out defendants who have been charged with a violent offense or who have a history of violence.

Charitable bail groups are also ineligible to receive funding, directly or indirectly, from governmental bodies.

Rep. Peggy Mayfield, a chief sponsor of HB 1300, says one of her primary objectives was to implement regulatory oversight similar to that for traditional for-profit bail bondsmen.

The measure also distinguishes organizations that post bail occasionally — such as a place of worship — and those that do it habitually.

“Say you’ve got two parishioners from a church who have gotten into trouble, and the Knights of Columbus offers to post their bail,” Mayfield explains. “Those aren’t the kind of organizations that do it as a business model, and so we didn’t want them to be caught in the regulatory framework.”

Opponents, however, argue the bill does not create an even playing field, and say the true intent was to punish a single organization, the Bail Project. That organization has operated in the Indianapolis area since 2018, eventually receiving more than \$100,000 in funding from a nonprofit group that was allocated money by the Indianapolis City-County Council.

According to the *Indianapolis Star*, taxpayer dollars that ultimately went to the Bail Project were used for administrative costs (for example, transporting defendants to their court hearings) and not for directly paying bail.

Additional reporting found that since the Bail Project began operations, 37 people had committed homicides in Marion County while out on bail — three of whom were linked to the Bail Project.

Sen. Greg Taylor, an opponent of HB 1300, points out that many of the defendants who reoffend while on pretrial release have been assisted by traditional bondsmen: Over the same time period since 2018, commercial bondsmen in Marion County had assisted 10 pretrial murderers. (In all, a total of 225 murder cases were reported in Marion County.)

During debate over HB 1300, he offered amendments to restrict for-profit bondsmen from assisting violent offenders and require them to report data on how often clients show up to court.

“All of the information that we have is anecdotal right now because there’s no reporting requirement,” Taylor says. “A person who gets bailed out from a for-profit bail company, once they show up for court, that bail company’s name is removed from [public record].”

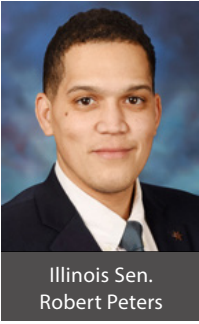
The Bail Project has filed suit against Indiana, claiming the new law violates its First Amendment rights.



Illinois House Minority Leader Jim Durkin



Indiana Rep. Peggy Mayfield



Illinois Sen. Robert Peters



Indiana Senate Minority Leader Greg Taylor



REGIONAL ROUNDUP: A LOOK AT RECENT PROPOSALS, LAWS IN MIDWEST STATES TO ADDRESS VIOLENT CRIME

Most recent data show rates falling in many cities, after increasing between 2020 and 2021

by Derek Cantù (dcantu@csg.org)

Between 2020 and 2021, violent crime increased in some of the nation's big cities. The Council on Criminal Justice has been regularly tracking data and reporting crime trends from cities nationwide (including Chicago, Cincinnati, Detroit, Milwaukee, Minneapolis and Omaha in the Midwest), and its end-of-year report for 2021 showed a 44 percent rise in homicides compared to 2019.

Increases also were reported in the number of aggravated assaults, gun assaults, robberies, motor vehicle thefts and domestic violence cases. (Between 2020 and 2021, the council's findings showed a decline in burglaries, larceny and drug offenses.)

In recent legislative sessions, the response from many state policymakers has been to propose, and often approve, new violence-prevention plans. In states such as Illinois, Minnesota and Wisconsin, too, governors and other leaders have committed millions of dollars from the American Rescue Plan Act for violence intervention initiatives in high-crime areas.

Some of the new laws, investments and proposals from the Midwest are highlighted on this page.

According to Thomas Abt, a senior fellow with the Council on Criminal Justice, effective intervention strategies are ones that appropriately involve a range of local partners — including community organizations, law enforcement and other groups.

"Ultimately, it is about having clarity on what your outcomes are," Abt says. "The focus really needs to be on saving lives, and saving lives immediately."

The council, through its Violent Crime Working Group, has developed 10 "essential actions" for policymakers to consider (see list on this page).

Meanwhile, before some of the new state laws took effect, there were some encouraging signs about crime numbers: The council's mid-year report for 2022 documented a decrease in homicides, gun assaults, domestic violence cases, and drug offenses. However, it showed an increase in aggravated assaults, robberies, motor vehicle thefts, burglaries and larceny cases compared to early 2021.

ILLINOIS

Last November, Illinois Gov. J.B. Pritzker signed an executive order that declared gun violence a "public health crisis." He also committed to investing \$250 million over the next three years in violence prevention programs. His executive order reflects public safety goals outlined by

the Illinois Criminal Justice Information Authority and SB 2017, the Reimagine Public Safety Act passed by Illinois legislators in 2021.

Through this law, new state-funded grants are available for organizations that address violence prevention in specified high-crime areas — geographic locations that reported the highest number of firearm victims, per capita (excluding self-inflicted cases), between 2016 and 2020.

In addition, lawmakers this year passed legislation creating a crime reduction task force (HB 4736) and established new incentives to recruit and retain members of law enforcement — including lowered retirement ages and day care grants and behavioral health services for first responders.

"There's a variety of different approaches we wanted to make sure that we took that weren't rooted in a mechanism of the past that didn't work," says Illinois Sen. Robert Peters, who was a chief sponsor of HB 4736 and also serves as co-chair of The Council of State Governments' Midwest Legislative Conference Criminal Justice & Public Safety Committee.

INDIANA

This year, Indiana lawmakers passed two significant pieces of legislation to address crime in the Indianapolis area and to monitor offenders on release.

SB 7 establishes the Marion County Violent Crime Reduction Pilot Project. With this law in place, various law enforcement agencies (including city police and security outfits employed by local hospitals, universities and sporting arenas) can establish interoperability agreements. The goal of the project is not only to foster long-term cooperation and dialogue among local law enforcement groups, but also provide them with grants to bolster services in high-crime areas.

"When you talk about violent-crime reduction, everybody immediately thinks about law enforcement responses," says Indiana Sen. Jack Sandlin, a chief sponsor of SB 7 and a former Indianapolis police officer.

"But there are a lot of things that impact violence in a community. It could be lack of education opportunities, lack of job opportunities, hunger."

Another bill, SB 9, will streamline standards for notification when an offender on supervised release disables his or her electronic monitoring system.

MINNESOTA

This year's session in Minnesota included many new legislative proposals for how to invest more in public safety — at a time when crime rates were on the rise and the state had a historically large budget surplus.

However, a final agreement in the politically divided Legislature proved elusive.

In the Republican-led Senate, lawmakers passed a bill to provide bonus payments to police officers, require public documentation of stayed and dismissed criminal cases, create new criminal penalties for carjacking and retail theft, and establish new mandatory minimum sentences for certain violent crimes.

According to Minnesota Sen. Warren Limmer, the chief sponsor of SF 2673, new criminal deterrents are needed in Minnesota due to prosecutor leniency.

"It's not a time necessarily to develop long-term reforms that we normally do during more passive times," he says.

Provisions in HF 4608, a bill passed by the Democrat-led House, included new state dollars for local community policing, violence interruption programs, and wellness and mental health services for at-risk youths, the Minnesota Legislature's publication *Session Daily* noted in an analysis of the differences between SF 2673 and HF 4608.

Despite bipartisan support in areas such as officer recruitment/retention and the funding of additional services for youths, a final compromise could not be reached prior to adjournment.

"Given Minnesota's current budget situation, it's not an either-or funding question," Minnesota Sen. Ron Latz says. "We have the resources to do both. We just need the political will to put the funds in those directions."

WISCONSIN

In October 2021, Wisconsin Gov. Tony Evers announced a public safety investment totaling \$45 million. The entirety of this funding came from the federal American Rescue Plan Act.

More than half of this money is going to violence prevention: \$17 million for statewide initiatives and \$8 million for the city of Milwaukee.

The new state investment is being used in part to develop new competitive grants and partnerships among local government, nonprofit, neighborhood and faith groups.

The remaining \$20 million is being used to bolster victim services.

PUBLIC SAFETY AND THE AMERICAN RESCUE PLAN: USE OF FISCAL RECOVERY FUNDS BY MIDWESTERN STATES (AS OF MARCH 2022)

State	\$ invested in public safety/criminal justice*	% of total spending from state's allocation of funds
Illinois	\$125.9 million	4.5%
Indiana	\$37.0 million	1.2%
Minnesota	\$31.8 million	1.9%
North Dakota	\$8.8 million	0.9%
Ohio	\$175.0 million	8.4%
Wisconsin	\$45.0 million	2.2%

* As of March 2022, Fiscal Recovery Funds had not gone to public safety-related initiatives in Iowa, Kansas, Michigan, Nebraska or South Dakota. Nationwide, about 2 percent of these funds had been used by states on criminal justice — for example, premium pay for police and other front-line workers, job training for at-risk teens and formerly incarcerated individuals, community-based violence prevention and mediation programs, and technology and equipment upgrades.

Source: Center on Budget and Policy Priorities

10 ESSENTIAL ACTIONS TO REDUCE VIOLENCE IDENTIFIED BY COUNCIL ON CRIMINAL JUSTICE'S VIOLENT CRIME WORKING GROUP

- 1 SET A CLEAR GOAL: COMMIT TO SAVING LIVES BY STOPPING VIOLENCE
- 2 IDENTIFY THE KEY PEOPLE AND PLACES DRIVING THE VIOLENCE
- 3 CREATE A CITYWIDE PLAN FOR ENGAGING KEY PEOPLE AND PLACES
- 4 ENGAGE KEY PEOPLE WITH EMPATHY AND ACCOUNTABILITY
- 5 ADDRESS KEY LOCATIONS USING PLACE-BASED POLICING AND INVESTMENT
- 6 PLACE RESPONSIBILITY FOR VIOLENCE REDUCTION EFFORTS AT THE TOP
- 7 EMPHASIZE HEALING WITH TRAUMA-INFORMED APPROACHES
- 8 INVEST IN ANTI-VIOLENCE WORKFORCE DEVELOPMENT
- 9 SET ASIDE FUNDING FOR NEW STAKEHOLDERS AND STRATEGIES
- 10 COMMIT TO CONTINUOUS IMPROVEMENT BASED ON EVIDENCE, DATA AND PEER-TO-PEER LEARNING



INDIANA SUPREME COURT RULES ONLY THE GOVERNOR CAN CALL A SPECIAL LEGISLATIVE SESSION

In passing HB 1123 last year, **Indiana** legislators gave themselves statutory authority to call an “emergency” session to address bills related to a governor-declared state of emergency.

Gov. Eric Holcomb vetoed the bill, saying the state’s constitution gives the governor sole authority to call a special session. When the General Assembly overrode his veto, Holcomb then sued the legislature, saying the bill “purports to grant the General Assembly, through its Legislative Council, a constitutional power granted exclusively to the governor.”

The legislature argued the bill was a permitted exercise of its constitutional authority to set its own schedule.

In June, the Indiana Supreme Court unanimously sided with Holcomb, ruling that HB 1123 was unconstitutional.

“Under our constitution, the General Assembly simply cannot do what the challenged law permits absent a constitutional amendment,” Chief Justice Loretta Rush wrote in the bench’s June 3 opinion.

Justices ruled the law violated the constitution’s separation of powers by allowing an emergency session to be set at a time when the legislature is out of session, which is “an authority conferred only upon the governor”; and further violated its “fixed-by-law” requirement by allowing a special session to be called via a simple resolution rather than a “properly enacted bill.”

The *Indianapolis Star* reported that in a related dispute, Holcomb hired private attorneys to handle his lawsuit — a move that Indiana Attorney General Todd Rokita tried to block, arguing only his office could represent the state in legal disputes. A lower court rejected Rokita’s position, but ruled HB 1123 constitutional, setting the stage for Holcomb’s appeal to the Supreme Court.

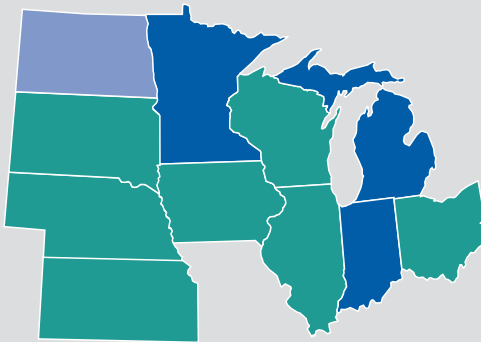
Justices rejected that reasoning, saying to do so would violate the constitution’s separation of powers.

“The Attorney General’s authority, statutorily granted by the General Assembly, simply cannot trump the Governor’s implied power to litigate in executing his enumerated powers ...,” their decision says.

Indiana joins **Michigan** and **Minnesota** as states where only the governor can call the legislature into a special session (Wisconsin’s special sessions can run concurrently with regular sessions).

In all other states, both the governor and legislature can call a special session, although **North Dakota** legislators can do so only if they have not exceeded their constitutional cap of 80 session days per biennium.

WHO CAN CALL A SPECIAL LEGISLATIVE SESSION IN MIDWESTERN STATES (AUGUST 2022)?



- Only governor can call special session
- Governor can call special session; legislature can call one if it has not reached its constitutional cap on session days for the biennium (80 days)
- Governor or legislature can call special session (“extraordinary session” if legislature calls it in Wisconsin)

Sources: The Council of State Governments’ “Book of the States” and CSG Midwest research

NEW ILLINOIS LAW AIMS TO MAKE HEALTHY-FOOD DESERTS BLOOM WITH FRESH PRODUCE

A new **Illinois** program to increase the availability of fresh food in the state’s “food deserts” — areas where there is a lack of fresh food vendors — will begin in 2023.

HB 2382, the “Healthy Food Program Development Act,” which became law in June, directs the Department of Human Services to expand access to health food in historically under-utilized business zones (as defined by federal law) using a combination of grants, loans, tax credits or other financial assistance, plus equipment or technical aid, to qualified vendors who agree in writing to sell produce “or other healthy foods” for at least three years.

The department must appoint a “grocery ambassador” to work with such vendors, which may include grocery stores, neighborhood corner stores, farmers’ markets or other “small food retailers.” Participating vendors will be “strongly encouraged” to accept benefits from the federal Supplemental Nutrition Assistance Program (SNAP) and Women, Infants and Children (WIC) program, and employ Illinois residents.

While food deserts and food insecurity are problems predating the COVID-19 pandemic, the national health crisis exacerbated the problem, according to an August 2021 Brookings Institution report, “Beyond ‘food deserts’: America needs a new approach to mapping food insecurity.” In 2019, the report said, 10.5 percent of all U.S. households faced food insecurity, and that rate doubled from February to May 2020.

Some states try to fill food deserts through schools. **Nebraska**’s Farm to School Program Act (LB 396 of 2021), for example, helps local school districts connect with local farmers and ranchers to provide fresh food in schools. It arose from a 2020 interim session study (LR 337 of 2020) which recommended establishing a statewide farm-to-school program and the creation of two full-time positions to coordinate statewide farm-to-school activities. That study was an update of a 2009 interim study (LR 42 of 2009) of the potential for such programs.

The **Michigan** Department of Education administers the “10 Cents a Meal” program that uses state grants to match what schools spend — up to 10 cents per meal — on Michigan-grown fruits, vegetables and legumes. The state’s fiscal year 2023 budget doubled spending on the program from \$4.5 million to \$9.3 million.



NEW MINNESOTA GRANT PROGRAM HELPS YOUTH EMERGE FROM FOSTER CARE SYSTEM

A new grant program will provide **Minnesota** youth and young adults who were in the foster care system with financial aid to attend participating public, private or tribal colleges and universities.

The Fostering Independence Grant program is funded with \$3.8 million authorized in the state’s 2021-22 budget (HF 7 of the 2021 special session). Awards can be used to cover tuition and fees, books, housing and transportation.

Students must be Minnesota residents under age 27 who are either already eligible for the state’s Education Vouchers for Former Youth in Foster Care program, or have been in the state’s foster care system at any time from age 13 whether that means placement in, or adoption from the system.

To be considered, students just fill out the Free Application for Federal Student Aid or the Minnesota Dream Act applications. Students who self-identify as having been in foster care (and who meet all eligibility requirements) will automatically have the Fostering Independence Grant factored into their financial aid packages.

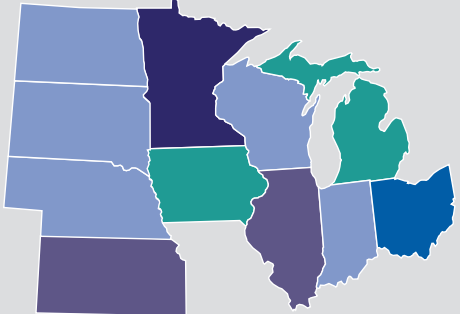
In a June 9 press release from the Minnesota Office of Higher Education, Hannah Planalp, foster advocates program manager, said the new grant funding changes the calculation for the 80 percent of foster youths who want to go to college.

“That dream can be real now,” she said. “These grants will ease the burden of meeting basic needs so that fosters can follow the pathway that is right for them.”

The **Ohio** Reach scholarship program has similar eligibility for youth exiting the state’s foster system. It provides a \$1,000 award per semester, renewable for two semesters, up to four years. The award can be used for tuition and fees, and books and supplies.

All states (and the District of Columbia) manage the federal Chafee Education and Training Voucher program, which offers students from foster systems up to \$5,000 annually for post-secondary education or training. Those funds may be used for tuition and fees, books and housing. The Family First Prevention Services Act of 2018 made youth from foster care eligible from ages 14-26, and allows ETV funds to be used for 5 years total.

POST-SECONDARY FINANCIAL ASSISTANCE FOR FOSTER YOUTHS IN MIDWEST (2021)



- Statewide tuition waiver and grant
- Statewide tuition waiver
- State-funded scholarships
- State-funded grants
- Only federal Chafee Educational Training Voucher

Source: University of Washington

IN KANSAS, LEGISLATORS ARE ASKING VOTERS FOR POWER TO ‘VETO’ AGENCY RULES

by Tim Anderson (tanderson@csg.org)

In November, Kansans will decide whether a second kind of veto should be added to its century-and-a-half-old state Constitution: the power of the Legislature to repeal or suspend rules and regulations from executive branch agencies and officers.

The legislatively referred constitutional amendment has been years in the making in Kansas, says state Rep. Barbara Wasinger, who serves as vice chair of the Joint Committee on Administrative Rules and Regulations.

Ever since a state Supreme Court ruling from 1984, the Legislature has only been able to review and voice concerns about administrative rules and regulations, through the joint committee that Wasinger now helps lead and has served on since joining the House.

“I remember my first meeting as a committee member, and I got done and said [to the committee chair at the time], ‘Am I getting this right? We listen to everything they’re going to do, but if we don’t agree with it, if we think they’re doing something wrong, we can tell them, but they don’t have to listen to us?’” Wasinger recalls asking.

Her surprise at the lack of legislative

controls soon turned to concern about the impact of new rules coming from the executive branch — from an additional regulation on hair salons that she says forced some smaller operations in rural Kansas out of business, to big changes to the workers’ compensation system.

Prior to the state Supreme Court ruling from 38 years ago, Kansas had a statute allowing the Legislature to pass a concurrent resolution that revoked or modified administrative rules.

Governors are powerless to act on concurrent resolutions, a fact that has led

courts in Kansas and several other states to overturn “legislative vetoes” as unconstitutional on the grounds that they violate separation-of-powers principles, says Northern Illinois University law professor Mark Falkoff.

The best course of action for Kansas legislators, Wasinger says, was to ask voters to change the Constitution. To get the amendment on the ballot, Wasinger and supporters first needed to secure a two-thirds vote in the House and Senate. That occurred earlier this year.

Under the language of HCR 5014, the Legislature would have the authority to establish a process for revoking

or suspending administrative rules through a majority vote of the members of each legislative chamber.

“This is not about discrediting anyone who works for the government [agencies], and I would say a majority of them want to do a good job for Kansas,” Wasinger says. “This is about accountability.”

THE POWER OF A JOINT COMMITTEE IN ILLINOIS

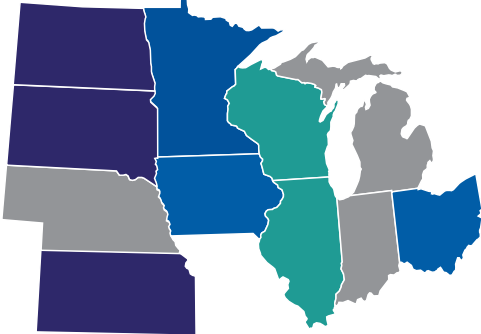
State legislatures have varying levels of oversight authority of administrative rules and regulations (see map).

Illinois has been cited as having one of the strongest such legislative checks because of the statutory powers granted to the General Assembly’s 12-member Joint Committee on Administrative Rules. Democrats and Republicans are equally represented on the bicameral committee.

A three-fifths vote of this committee can block agency rules. Earlier this year, for example, the committee stopped an attempt by the Illinois Department of Public Health to reinstate a mask mandate in schools.

Falkoff, though, believes the powers granted to the Joint Committee on Administrative Rules are on constitutionally shaky grounds.

RATINGS OF STATE LEGISLATURES’ AUTHORITY TO OVERSEE EXISTING OR PROPOSED ADMINISTRATIVE RULES BY EXECUTIVE BRANCH

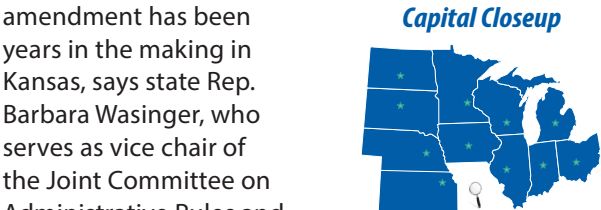


Source: The Carl Levin Center for Oversight and Democracy at Wayne State University

“Illinois is kind of an extreme version of the legislative veto in that it doesn’t even require two houses, or even one full house,” he says.

“It’s just this one committee that can do it. When you look at court rulings across the country, with the lone exception of Idaho, any type of legislative veto [of administrative rules] has been deemed unlawful [minus a change in the state constitution].”

Capital Closeup is an ongoing series of articles focusing on institutional issues in state governments and legislatures. Previous articles are available at csgmidwest.org.



QUESTION OF THE MONTH

QUESTION | Do any states in the Midwest provide tax credits to renters?

Among the 11 states in the Midwest, at least six offer some kind of tax credit or deduction for renters. These programs often limit eligibility based on factors such as household income, age and/or disability.

Michigan’s assistance is provided as part of its homestead property tax credit. For renters with an annual income of \$60,600 or less, some kind of credit may be available. The exact amount is calculated based on the household’s total resources and the rent paid. Under current law, a larger credit typically is available for the disabled or people 65 or older. In recent years, the maximum renters tax credit in Michigan has been \$1,500, but it may increase due to statutory language that allows for inflation-based changes in this cap.

In **Wisconsin**, the renters credit in tax year 2021 was available for households with incomes of \$24,679 or less. The maximum credit is capped (at \$1,168), and the exact amount available to each renter is based on his or her income and the rent paid.

A provision in the Wisconsin law requires filers to have earned income in order to qualify for the renters tax credit (exceptions are made for the disabled and individuals 62 and older). In addition, the amount of the credit may be reduced for renters receiving certain types of public assistance.

The programs in **North Dakota** and **Iowa** are only for senior citizens and the disabled.

A refund of up to \$400 is available in North Dakota for senior or disabled renters who meet

the following criteria: their yearly income does not exceed \$42,000, and 20 percent of their annual rent exceeds 4 percent of their annual income.

Iowa funds a “reimbursement” of up to \$1,000. To qualify in tax year 2021, the renter’s income had to be less than \$24,354. An individual is eligible for a credit equal to 23 percent of the total rent that he or she paid. A sliding income scale also is used: The higher the renter’s income (up to the \$24,354 threshold), the less the credit.

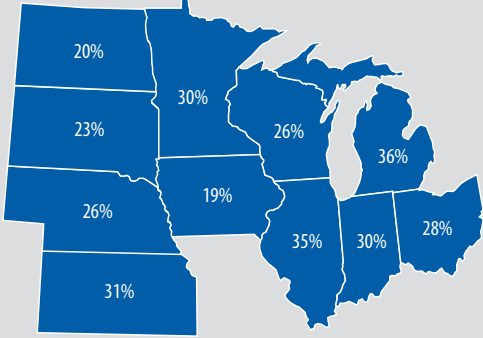
Indiana does not have age, disability or income restrictions; it offers a tax deduction of \$3,000 to renters.

This year in **Minnesota**, legislators contemplated several changes to the state’s renters tax credit, but these proposals (part of HF 3669) failed to pass prior to adjournment.

Under current law, renters must get a “certificate of rent paid” by their landlord and then seek reimbursement through the state’s property tax relief fund. Among this year’s legislative proposals: simplify the process for renters by providing the relief as a refundable income tax credit. Other changes would have expanded eligibility and offered larger refunds, according to the Minnesota Budget Project, a nonpartisan initiative of nonprofit groups in the state.

In tax year 2021, Minnesota renters with incomes of less than \$64,920 were eligible for the existing credit. According to research done by the Minnesota House, more than 314,000

% OF LOW-INCOME RENTER HOUSEHOLDS SPENDING MORE THAN 30 PERCENT OF THEIR INCOME ON HOUSING COSTS AND UTILITIES



Source: National Low Income Housing Coalition

renters received refunds in 2018. The average refund was \$690 (it was higher for seniors and the disabled). The maximum refund in tax year 2020 was \$2,210.

Legislation has been introduced in the U.S. Congress to provide for a federally funded, state-administered renters tax credit. The credit would go to building owners who rent to low-income tenants. To qualify for the credit, a building owner would need to keep the amount paid by tenants (in rent and utilities) below 30 percent of their incomes.

Question of the Month response by Tim Anderson (tanderson@csg.org), director of communications for CSG Midwest, which provides individualized research assistance to legislators, legislative staff and other government officials. This section highlights a research question received by CSG Midwest. Inquiries can be sent to csgm@csg.org.



CHECKUP ON CHILD WELL-BEING: FIVE TAKEAWAYS FOR STATES FROM NEW ‘KIDS COUNT’ REPORT

In its most recent national, state-by-state analysis of child well-being, the Annie E. Casey Foundation sheds light on what it says is a youth mental health crisis unfolding in communities across America.

“It reflects not only the turmoil of the past two-plus years, but also issues that were making life harder for kids well before the pandemic,” the foundation notes in its “2022 Kids Count Data Book.”

This year’s edition was released in August. The annual “Kids Count” report uses 16 indicators in areas such as education, health, family and poverty to measure and track trends in child well-being — both nationally and in every state.

None of these indicators directly assesses mental health, but authors of this year’s study say they could not overlook alarmingly high rates of anxiety, depression and attempted suicide being reported by the nation’s young people.

But there were some positive trends as well — for example, big drops in the rate of teen births, lower child poverty rates, and a higher percentage of high school students graduating on time.

Four Midwestern states rank among the top 10 in the nation for child well-being (see map), with Minnesota leading the way in this region.

Here is a look at five findings from the “Kids Count” study, including what it shows about the conditions of children growing up in the Midwest.

1 MIDWEST PART OF RISE IN YOUTHS REPORTING ANXIETY, DEPRESSION

Nationwide, between 2016 and 2020, the number of children between the ages of 3 and 17 reporting struggles with anxiety or depression rose by 1.5 million, an increase of 25.8 percent (5.8 million to 7.3 million).

States in the Midwest mostly followed this trend, with only **Illinois** and **North Dakota** showing rates of youth anxiety or depression dropping between 2016 and 2020 (see map). **South Dakota** had the largest increase in the nation, according to “Kids Count.”

The study also notes that mental health issues are particularly prevalent among Native American/ Alaska Native youths — for example, 25 percent of high school students in this racial/ethnic group reported attempting a suicide in 2019.

One “Kids Count” recommendation for states: focus on policies that ensure young people’s basic needs are being met, because those growing up in unsafe neighborhoods, and without stable housing, family lives and access to nutritious food, are three times more likely to develop mental health conditions.

Other ideas include ensuring access to health insurance and staffing K-12 schools with an adequate number of social workers, psychologists and other mental health professionals.

2 DATA SHOW STEEP DROP IN NUMBER OF BIRTHS BY TEENS

Among the 16 indicators tracked in the “Kids Count” study, one of the more striking, decade-long trends has been a drop in the rate of teen births.

In 2010, the U.S. rate was 34 births per 1,000 females between the ages of 15 and 19. It fell to 15 in 2020. Over this time period, the rate also declined significantly in every Midwestern state (see table).

Some combination of higher abstinence levels and greater use of birth control among teens is causing this trend, but the U.S. Centers for Disease Control and Prevention notes that the “[exact] reasons for the declines are not totally clear.”

“Still, the US teen birth rate is substantially higher than in other western industrialized nations, and

racial/ethnic and geographic disparities in teen birth rates persist,” the CDC notes.

Teen birth rates are one of four measures that “Kids Count” uses to assess the “family and community” well-being of children.

A second indicator, the percentage of children living in single-parent families, has remained the same nationally in recent years — at 34 percent. Most Midwestern states fall below this rate, with the three exceptions being **Indiana** (35 percent), **Michigan** (35 percent) and **Ohio** (37 percent).

Across the country there were signs of improvement in two other areas.

First, a lower percentage of children is living in high-poverty areas, down to 9 percent in 2016-2020. Among Midwestern states, the rates range from a high of 12 percent in **Michigan** to a low of 3 percent in **Iowa**. Second, it is now less common for a child to live in a family in which the head of the household lacks a high school diploma. The national rate is down to 12 percent, and even lower in all Midwestern states.

3 ACROSS-THE-BOARD GAINS IN ECONOMIC WELL-BEING

On all four indicators of economic well-being, conditions for children improved between 2008 and 2020 — a decline in poverty rates, more children living with parents who have secure employment, fewer of them living in a household with a high housing cost burden, and a lower percentage of teens not working and not in school.

Authors of the “Kids Count” study say one cause of these across-the-board improvements may have been the pandemic-fueled increase in spending by the federal government on public programs.

With the exceptions of **Indiana**, **Michigan** and **Ohio**, every Midwestern state has a childhood poverty rate lower than the U.S. average; **North Dakota**’s is the lowest in the region (see table).

Nebraska experienced the steepest decline in child poverty — from 17 percent in 2008-2012 to 12 percent in 2016-2020.

4 PRE-PANDEMIC, GRADUATION RATES REACHED ALL-TIME HIGH

In the years immediately prior to the COVID-19 pandemic, high school graduation rates climbed across the nation, including every Midwestern state.

By the 2018-2019 school year, 86 percent of U.S. students were completing high school on time. That is an all-time high. According to “Kids Count,” **Iowa** has the highest on-time graduation rate in the nation, 92 percent.

“Experts anticipate that virtual learning and social isolation will likely increase disconnection from school and worsen educational achievement in the coming years,” the authors warn, noting the pre-pandemic data used in the 2022 study.

The reading proficiency of U.S. fourth-graders improved slightly between 2010-2011 and 2018-2019, while math proficiency remained the same.

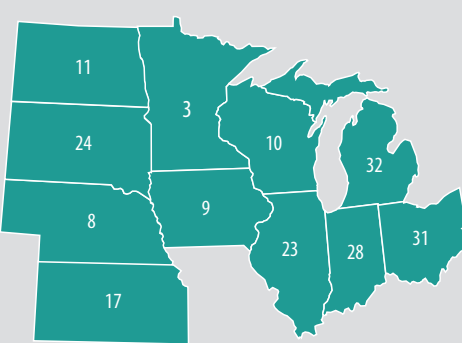
5 GUN VIOLENCE BECOMES LEADING CAUSE OF DEATH IN YOUNG PEOPLE

In 2020, for the first time, gun violence became the leading cause of death among young people in the United States (ages 1 to 19).

This rise in firearms-related fatalities, along with more drug overdoses, caused an overall increase in the child and teen death rate — 28 per 100,000 youths in 2020 compared to 26 in 2010. Over this time period, rates of death among young people increased in six Midwestern states: **Illinois**, **Indiana**, **Iowa**, **Michigan**, **Ohio** and **Wisconsin**.

Minnesota has the lowest youth death rate in this region, 24; **Indiana** has the highest, 33.

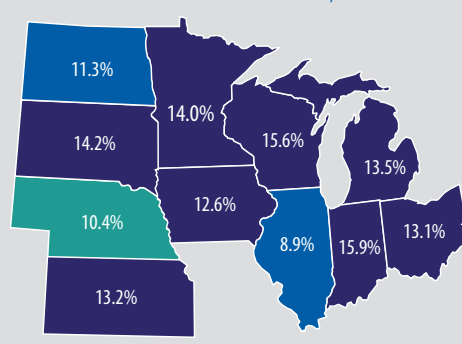
MIDWESTERN STATES’ RANKINGS ON OVERALL CHILD WELL-BEING*



* The rankings are based on 16 indicators of child well-being: 1) economic; 2) education; 3) health; and 4) family and community.

Source: The Annie E. Casey Foundation, “2022 Kids Count Data Book”

% OF CHILDREN, AGES 3 TO 17, WHO HAVE BEEN DIAGNOSED WITH OR REPORTED HAVING ANXIETY OR DEPRESSION, 2020



- State’s rate in 2020 was lower than in 2016 and was lower than U.S. average (11.8%)
- State’s rate in 2020 was higher than in 2016 but still lower than U.S. average (11.8%)
- State’s rate in 2020 was higher than in 2016 and was higher than U.S. average (11.8%)

Source: The Annie E. Casey Foundation, “2022 Kids Count Data Book”

TWO TRENDS IN CHILD WELL-BEING: LOWER RATES OF BIRTHS BY TEENS, LOWER RATES OF CHILDREN LIVING IN POVERTY

State	Births to teens per 1,000 females, ages 15 to 19		% of children living in poverty	
	Rate in 2020	Change from 2010	Rate in 2016-2020	% point change from 2008-2012
Illinois	14	-19	16%	-3
Indiana	19	-18	18%	-3
Iowa	13	-16	13%	-3
Kansas	18	-19	14%	-4
Michigan	14	-16	19%	-4
Minnesota	9	-14	12%	-2
Nebraska	15	-16	12%	-5
North Dakota	14	-15	11%	-4
Ohio	18	-16	19%	-3
South Dakota	19	-16	16%	-2
Wisconsin	11	-15	14%	-3
United States	15	-19	17%	-4

Source: The Annie E. Casey Foundation, “2022 Kids Count Data Book”

HEALTH & HUMAN SERVICES

U.S. Supreme Court's *Dobbs* decision overturning *Roe v. Wade* turns Midwest into a patchwork of abortion rights, access

by Jon Davis (jdavis@cs.org)

The U.S. Supreme Court's late June decision overturning *Roe v. Wade* triggered an electoral earthquake in Kansas, a new law in Indiana and may have opened myriad future constitutional questions about how states interact with each other.

Kansas voters on Aug. 2 decisively defeated a proposed constitutional amendment which would have specified the state's constitution does not protect abortion access.

Days later, Indiana enacted a new law (SB 1) tightening such access to very limited circumstances. And Michigan voters might consider a proposal to constitutionally protect access in the Nov. 8 general election.

As of August in the Midwest, abortion access is:

- Illegal, with narrow exceptions in Indiana, North Dakota (whose law banning abortion was stayed by a court injunction), South Dakota, and Wisconsin, where trigger laws or pre-*Roe* bans took effect with the Supreme Court's *Dobbs v. Jackson Women's Health Care Organization* decision.
- Constitutionally protected via state Supreme Court rulings in Illinois, Kansas and Minnesota; and
- legal and available to varying degrees in Iowa, Michigan, Nebraska and Ohio.

Every state that has banned or sharply restricted abortion makes an exception for the life of the mother. Indiana and North Dakota also allow abortions in cases of rape or incest; Indiana also allows it for fatal fetal anomalies. In states where abortion remains legal, the procedure is subject to various restrictions and/or mandates (see chart).

For example, Kansas requires counseling on fetal pain, negative psychological effects and potential links to breast cancer. Iowa, Kansas, Michigan, Nebraska and Ohio ban abortion services via telemedicine.

And except for Illinois and Minnesota, all Midwestern states where abortion is legal require parental consent or notice for minors seeking the procedure.

Those laws, however, govern what takes place within their states' borders. No Midwestern legislature

has considered criminalizing traveling out of state for abortion services, but Missouri's did earlier this year. While SB 1202 did not advance, it raised questions about whether such a law could be constitutional.

A draft paper, "The New Abortion Battleground," scheduled for publication in 2023 in the *Columbia Law Review*, predicts such legislation and ensuing litigation are probable as states wrestle with the *Dobbs* decision, and the availability of telemedicine and abortion-inducing medications.

"Given the underdeveloped and contested jurisprudence, the competing fundamental constitutional principles involved, and the complex web of factual scenarios that could possibly arise, the post-*Roe* judiciary will soon be mired in interjurisdictional complexities that will make the workability of the previous era look simple in comparison," the paper states.

CONSTITUTIONAL QUESTIONS

Kansas's referendum on whether the state constitution protects abortion access rights was the first post-*Dobbs* election result.

A proposed amendment would have specified that the constitution does not provide a right to abortion, and undone a 2019 ruling by the state Supreme Court that the document does. Voters in the Aug. 2 primary election defeated the proposal 59 percent to 41 percent, leaving abortion legal (though subject to restrictions).

Michigan voters may get the next chance to constitutionally enshrine abortion access. A citizen-initiated amendment, the "Michigan Right to Reproductive Freedom Initiative," would add new language that "every individual has a fundamental right to reproductive freedom" that "shall not be infringed upon unless justified by a compelling state interest achieved by the least restrictive means."

In late July, organizers said they had turned in 753,759 signatures to the Michigan secretary of state for verification (425,059 valid signatures are required to get an initiative on the ballot). If approved by voters in the Nov. 8 general election, it would take effect 45 days after the election.

Iowa legislators in 2021 passed a proposed amendment declaring the state's Constitution does not protect abortion access. That came in reaction to a 2018 Iowa Supreme Court decision that abortion is constitutionally protected.

But in June, the court reversed itself to undo that protection, and also reversed a lower court's decision invalidating a 2020 law requiring a 24-hour waiting period.

If legislators pass the amendment again in 2023 or 2024, the proposal will go to Iowa's voters in '24.

Supreme courts in Illinois and Minnesota have also ruled that abortion access is protected by their respective state constitutions.

POST-DOBBS LEGISLATION

Indiana legislators in an early August special session passed new restrictions on abortion, which Gov. Eric Holcomb signed into law.

As reported by the Associated Press, the law bans abortions, with exceptions for cases of rape and incest; to protect the life and physical health of the mother; or if the fetus is diagnosed with a lethal anomaly.

Abortions may be performed only in hospitals or outpatient centers owned by hospitals, meaning all abortion clinics will lose their licenses.

Nebraska Gov. Pete Ricketts in mid-August canceled plans to call a special session of the Unicameral Legislature to consider tighter restrictions on abortion after falling three votes short of a filibuster-proof majority.

In contrast, Illinois legislators in 2021 passed the Reproductive Health Act, which became law in December of that year. The law makes abortion access a "fundamental right"; eliminated felony penalties for doctors who perform abortions; and removed waiting periods and a requirement that a married woman get consent from her husband. The law also states a "fertilized egg, embryo or fetus does not have independent rights."

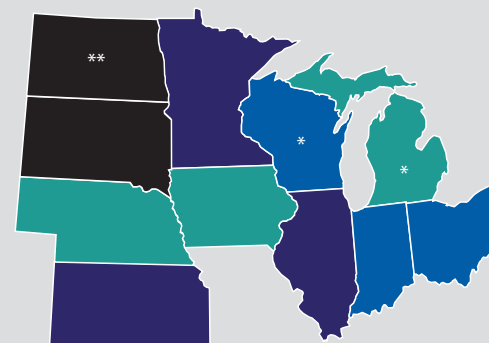
ABORTION IN CANADA

In Canada, abortion is legal, but access varies among the provinces, which can regulate or restrict access based on gestational limits and set "bubble" or access boundaries around abortion clinics in which protests are banned (see table)

Abortion was illegal until a 1969 law legalized therapeutic abortions in cases where a panel of doctors agreed it was necessary. That stood until the Canadian Supreme Court ruled in 1988 that the law violated Section 7 of the Canadian Charter of Rights and Freedoms.

Minnesota Rep. Jennifer Schultz and Michigan Rep. Bronna Kahle serve as co-chairs of the Midwestern Legislative Conference Health & Human Services Committee. Kansas Sen. Pat Pettey is vice chair. Jon Davis is CSG Midwest staff liaison to the committee.

LEGAL STATUS OF ABORTION IN MIDWESTERN STATES AS OF AUGUST 2022



● Legal, constitutionally protected

● Legal, not constitutionally protected

● Illegal except in cases of rape or incest, danger to life of mother or other narrowly defined circumstances

● Illegal except for danger to life of the mother

* State has a pre-*Roe* law banning abortion still in place, but subject to lawsuit or a restraining order

** State's trigger law banning abortion if *Roe* was overturned is enjoined by a state judge in a current case challenging it

Sources: New York Times, Ballotpedia, Planned Parenthood, The Fuller Project

ABORTION RESTRICTIONS IN MIDWESTERN STATES WHERE THE PROCEDURE IS STILL LEGAL (AUGUST 2022)

State	Banned after	Parental consent or notice	Required wait after counseling
Illinois	Viability	None	None
Indiana	10 weeks	Consent	18 hours
Iowa	20 weeks	Notice	24 hours*
Kansas	20 weeks	Consent	24 hours
Michigan	Viability	Consent	24 hours
Minnesota	Viability	None	None
Nebraska	20 weeks	Consent	24 hours
Ohio	20 weeks	Consent	24 hours
Wisconsin	20 weeks	Consent	24 hours

* Iowa's 24-hour waiting period is temporarily enjoined by a court order.

Source: Guttmacher Institute

GESTATIONAL LIMITS ON ABORTION SERVICES* IN MIDWESTERN PROVINCES (AUGUST 2022)

Province	Limit	Access zone law?
Alberta	24 weeks	Yes
Manitoba	19 weeks, 6 days	No
Ontario	24 weeks	Yes
Saskatchewan	18 weeks, 6 days	No

* Abortion is legal in Canada; provinces may regulate gestational limits and set "bubble" or access zones restricting protests around abortion clinics.

Source: National Abortion Federation





PROFILE: SASKATCHEWAN MLA CARLA BECK

From social worker to provincial history-maker, staying connected to people is still key to Saskatchewan’s new Opposition Leader’s success as a legislator

by Mitch Arvidson (marvidson@csg.org)

By the mid-2010s, Carla Beck had developed a successful and gratifying social work career at several organizations around Regina, Saskatchewan, including the Regina General Hospital’s Women and Children’s Team and a local women’s shelter.

However, it was becoming clear how much more she could accomplish as a legislator. While serving on the Regina School Board (from 2009 to 2015), she was encouraged by colleagues to run for the Legislative Assembly; she won a contested New Democratic Party (NDP) nomination race in 2015 and was then elected to the legislature in 2016.

“The promise of being able to direct public policy in a way that would really improve the lives of not only the people that I worked for, but for everyone in my community, is what got me into politics,” Beck says. “Initially I thought I would want to go back to school and do something around public policy, but I got asked to put my name forward and the rest is history.”

Beck proved herself as an effective legislator and party leader. In June, she was elected as the Saskatchewan NDP’s first female leader. In a May interview with CSG Midwest, Beck discussed authenticity, staying connected with her constituents, some silver linings from the COVID-19 pandemic, and why Saskatchewan has just what the world needs right now. Here are excerpts.

Q How did your experiences as a social worker and school board member shape your work as a legislator?

A It’s informed everything that I’ve done. Every time I put my name forth to run and built a team to win, it has been because I wanted better; not only for my kids but for all the women, the children, and the families that I worked with, and for the province.

I felt like there was a lot I could do as a social worker. We built a great team and did some amazing work at our shelter. But it became very clear to me that what we could do in a day or even a year paled in comparison to what could happen if we had better legislation or better decisions about budgets and priorities.

I had always been interested in politics and public policy, but hadn’t considered running and didn’t see myself as a leader. Once I was on the school board, I was encouraged by the previous trustee in the subdivision and a current colleague to put my name forward.

It became clear that the ability to



BIO-SKETCH: SASKATCHEWAN MLA CARLA BECK

- ✓ first elected to the Legislature in 2016; chosen as opposition leader in 2022 after serving as opposition critic for education, early learning & child care from 2016-2022
- ✓ graduated from the University of Regina with degrees in sociology and social work
- ✓ worked as a social worker for 20 years
- ✓ lives in Regina with her husband, Guy Marsden, and their three children, Hannah, Nolan and Maya

“Work across the aisle, work hard, admit when you are wrong — all of those things mean you’re better able to serve the people that you’re elected to represent.”

shape the decisions around the issues I cared about — particularly around education and women and children — were being made at the provincial level. Eventually I decided to put my name in the ring and go for it, and I’m happy I did.

Q What have you observed about effective legislative leadership? What works best?

A The first word that comes to mind is authenticity. Our democracies are representative, and people bring their own set of strengths to this role. Some are great orators who can tell and weave a story and that’s their gift and that helps them. Some are great litigators and can ask the right questions. Some are really good at making connections. I think authenticity and being connected to the people you serve is [most important].

I think there is a tendency or proclivity for people in elected positions [to become disconnected]. If you don’t fight against it, we call it “dome-itis”; our roles are so busy and rather intense, if you don’t actively work to remain connected to your community’s needs and the concerns of the people that you serve, it can be difficult. So the best folks I see are the ones who put the needs and interests of the people that they serve at the forefront.

Additionally, work across the aisle, work hard, admit when you’re wrong — all of those things mean that you’re better able to serve the people that you’re elected to represent.

As politicians we have privileges that folks who aren’t elected in these roles don’t have. You have to remember that our experience is not the experience of

everyone out there. You have to really work to ensure you are connected.

Q What have been your focus and priority areas in this legislative session?

A The first thing that comes to mind is pandemic recovery. We’ve had various stages of feeling like we’re through the worst of the pandemic. That’s been top of mind for folks, and also how to repair some of the damage that has impacted the last 2½ years, whether that’s economics, mental health or addiction. This is something that was an issue before the pandemic, but we’ve seen it really exacerbated in a lot of places.

Affordability has been top of mind with the economic uncertainty of the last 2½ years. On top of that, we’re seeing record high inflation; inflation that we haven’t seen for 30 years, literally since I was in high school. It’s top of mind for people out there, their ability to put gas in their car to get to work and what they’re paying for groceries. That affordability piece really has been informed by being out there, in talking to people and getting the input from the constituency.

I’ve been all around the province and there’s a little bit of difference from place to place, but those are the main issues in every community that we’ve been to.

Q What are some of Saskatchewan’s biggest challenges, and opportunities?

A Being able to find people to work in certain jobs, especially in health care. The impacts of automation, the

pandemic and a mass retirement. As baby boomers move through the workforce we need to ensure we have people to fill the positions that have the skills they need.

I also think of energy strategy as a challenge and opportunity. Also, for us here in Canada and Saskatchewan, I think of reconciliation.

Here in Saskatchewan, we have what the world needs. For housing affordability, we have a landmass of 652,000 square kilometers (252,000 square miles) and only about one and a half million people. We have the space. When you look at resources, we have potash and lithium minerals, water, air, and opportunity, I see that here.

On the energy side, we need to reduce emissions, modernize our grid and invest in renewables. But in the short and medium term, we have what the world needs when you look at energy security right now, especially with the war in Ukraine. Potash, oil, and gas, all of those things are here in Saskatchewan. In a relatively stable environment, both in terms of climate but also geopolitically, I think this is a strength of this province.

Regarding reconciliation, we’ve started to learn about what was kept secret about the history of the treatment of Indigenous people in this province. Indigenous people are one of the fastest growing and youngest demographics in the province.

So with reconciliation and a growing group of young people and the jobs that are needed and available, I think the opportunity is there for a very bright future in this province for all people; indigenous, non-indigenous, newcomers, if we get it right. I think there’s a great story to tell in Saskatchewan.

FIRST PERSON: PROMISING NEW WAYS OF PROTECTING WISCONSIN'S WATER QUALITY

Recent laws aim to reduce phosphorus, nitrate runoff into state's waterways by enabling innovative 'pollution prevention partnerships'



by Wisconsin Sen. Robert Cowles
(Sen.Cowles@legis.wisconsin.gov)

Having been born and raised in northeast Wisconsin, it seems not that long ago when it was ill-advised to swim in or eat fish from the Fox River and lower portion of Green Bay. After a long cleanup process, we're almost ready to put the issue of PCBs (polychlorinated biphenyls) in the past.

But as we begin enjoying our local waters again, new challenges await.

The waterways of my youth continue to be plagued by algal blooms that lead to fish kills. Nutrient pollution doesn't only impact my region; this issue overwhelms waterways throughout the state, halting recreation, harming our \$7.8 billion outdoor recreation economy, and damaging aquatic wildlife and their habitat for years to come.

Wisconsin has more than 1,500 impaired waterways, including more than 800 impaired by phosphorus or total suspended solids. Unfortunately, tackling these pollutants isn't as easy as it often sounds.

One source of contamination is point source dischargers, such as municipal wastewater treatment plants, paper mills and cheese factories. These facilities, which discharge treated wastewater through a pipe, are stringently regulated under the federal Clean Water Act and are removing nearly all pollutants before

Tackling water quality woes in Wisconsin has required the Legislature to look beyond inflexible regulation and work towards innovation.

discharging into a body of water under a Wisconsin Pollutant Discharge Elimination System (WPDES) permit from the state's Department of Natural Resources.

Phosphorus regulations promulgated in 2010 tightened these regulations even more, resulting in expensive upgrades for minimal improvements to waterways. To reduce the cost burden on municipal utility ratepayers and small businesses while securing noticeable water quality improvements, Wisconsin decided that we must be more innovative.

Nonpoint sources don't discharge from a pipe, but rather from land runoff at places like some farms, golf courses and roadways. The Clean Water Act, designed in 1972, largely didn't address nonpoint sources because there wasn't a good way to measure the true impact from landscape-scale runoff.

Now, 50 years later, it's easier to model runoff thanks to technology.

NEW POLLUTION PREVENTION PARTNERSHIP

That's why Rep. Joel Kitchens and I authored 2019 Wisconsin Act 151, which became law in March 2020.

Recognizing a largely ineffective party-to-party water quality trading system, we set out to create the nation's first statewide third-party trading clearinghouse to improve connections between parties, ease the administrative and regulatory burdens, and absorb party liability via what we call "Pollution Prevention Partnerships."

The clearinghouse should facilitate water quality trades in which a farmer or other nonpoint source can voluntarily agree to get payments from a point source to implement more advanced land

and water management practices.

While this doesn't let a point source off the hook, it gets flexibility in meeting our state WPDES permit standards in exchange for paying for these practices. To account for uncertainty in land conservation practices, at least 1.2 times more nonpoint pollution must be prevented than the flexibility granted to the point source.

The result?

A point source avoids costly facility upgrades to prevent utility ratepayer bills and consumer product prices from skyrocketing; a nonpoint source has the financial incentive to reduce runoff and reap benefits such as increased yields and decreased fertilization costs; the rest of us enjoy the net improvement to water quality.

This legislation (SB 91 of 2019) had more than 50 bipartisan co-sponsors and was supported by 30 stakeholder groups representing agricultural, business, environmental, local government and property development interests.

Since Act 151 was signed, I've been in constant contact with the governor's administration on implementation, including the drafting of guidance and release of a request for proposals for a clearinghouse operator.

In July, Texas-based RES was chosen by a selection committee, and contract negotiations are underway. Our hope is that the clearinghouse will be operating by the start of the 2023 growing season.

MORE OPTIONS WITH NEW LAWS

While Act 151 was one of the larger efforts we've undertaken to reduce the impacts of nutrients in Wisconsin waterways, it isn't the only one.

Laws signed in 2013 (Act 378) and 2015 (Act 205) created the "Multi-Discharger Phosphorus Variance" (MDV) program, which allows point source polluters to pay \$50 per pound of phosphorus to their county land and water conservation department instead of upgrading infrastructure to reduce phosphorus discharges.

County officials then work with farmers or other nonpoint sources to reduce nearby runoff.

A recent five-year review of the program found that with 122 WPDES permit holders across 28 watersheds participating, this program prevented about 19,000 additional pounds of phosphorus annually from entering waterways versus what would have been otherwise achieved.

An almost 15 percent increase in pollution reductions while creating cheaper permit-compliance options shows the program was undeniably successful.

Beyond those efforts (in partnership with Rep. Amy Loudenbeck), I co-authored (with Rep. Kitchens) a bill last year providing farmers with incentive payments and technical assistance for land and water conservation practices.

Introduced with the support of agricultural and environmental groups, 2021 Wisconsin Act 223 pilots funding for farmers to implement Commercial Nitrogen Optimization Projects which use new methods to reduce nitrate leaching and runoff. Results may be used as new best-management practices in the clearinghouse or MDV programs.

Act 223 further provides payments of \$5 per acre as a crop insurance rebate for planting cover crops. It also creates a new hydrogeologist position in the University of Wisconsin System to assist local governments with requests for groundwater data to help farmers with more effective nutrient applications.

Not only do Wisconsin residents and visitors rely on clean and safe ground and surface water for their health and safety, but the natural scenery and recreation we enjoy from our pristine waterways enhances our standard of living and sustains our tourism industry.

Tackling water quality woes in Wisconsin has required the Legislature to look beyond inflexible regulation and work towards innovation. While our goals have been to create a reduction in pollutants entering our waterways, programs created by these acts will have numerous ecological, financial and recreational benefits across our state.

With these new laws and others, Wisconsin is again set apart as a leader in nonpoint source pollution solutions. I look forward to continuing to see the positive results of our efforts to provide everyone in Wisconsin with even more drinkable, fishable and swimmable waters.

Sen. Robert Cowles was first elected to the Senate in 1987, after serving in the Assembly from 1982-86. He serves as chair of the Senate Committee on Natural Resources & Energy and is co-chair of the Joint Legislative Audit Committee.

SUBMISSIONS WELCOME

This page is designed to be a forum for legislators and constitutional officers. The opinions expressed on this page do not reflect those of The Council of State Governments or the Midwestern Legislative Conference. Responses to any FirstPerson article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or tanderson@csrg.org.



GREAT LAKES LEGISLATORS TO MEET SEPT. 23-24 IN CHICAGO; REGISTRATION OPEN AND SCHOLARSHIPS AVAILABLE

The Great Lakes-St. Lawrence Legislative Caucus will hold its 2022 Annual Meeting on Sept. 23-24 in downtown Chicago.

With staff support from CSG Midwest, the GLLC aims to strengthen the role of state and provincial legislators in protecting the Great Lakes and other water resources. Its Annual Meeting — open to all legislators representing the 10 states and provinces in the Great Lakes basin — helps the caucus achieve this goal. It includes sessions featuring scientists and experts on Great Lakes policy, as well as opportunities for lawmakers to learn from one another.

This year's agenda features a full day of programming; a site visit highlighting the Chicago River and Lake Michigan; and a luncheon presentation by Western Michigan University professor Lynne Heasley, author of "The Accidental Reef and other Ecological Odysseys in the Great Lakes."

A limited number of travel scholarships are available to caucus members. (Caucus membership is free and open to all Great Lakes legislators.) For full details, registration and hotel information, visit greatlakeslegislators.org or call 630.925.1922.

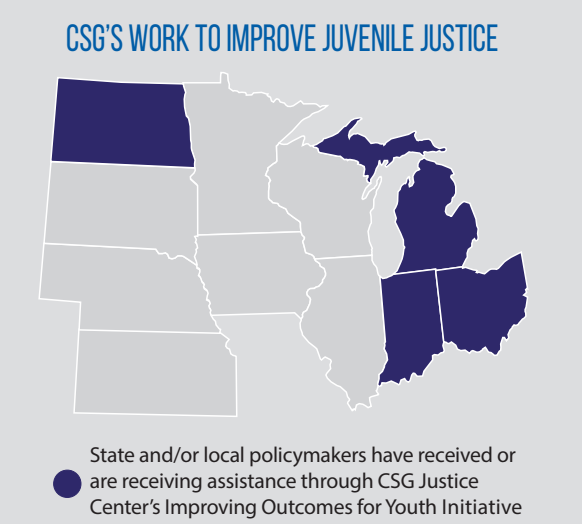


MICHIGAN, CSG PARTNERING TO IMPROVE STATE'S JUVENILE JUSTICE SYSTEM

The Michigan Task Force on Juvenile Justice Reform has approved a comprehensive list of recommendations to improve the state's juvenile justice system.

These new ideas are the result of an unprecedented, system-wide assessment — an evaluation grounded in what research shows works to improve community safety, reduce disparities and improve youth outcomes. The CSG Justice Center, which is supporting the work of the task force, provided research on evidence-based policies. This research led to approval of 32 recommendations. For example:

- expand diversion opportunities for youths who are not a public safety risk;
- create a statewide juvenile public defense system and best-practice standards;
- increase funding for effective community-based programs and tie funding to evidence-based practices;
- adopt data-driven tools to guide diversion, court and detention decisions and expand data collection to measure system performance, outcomes and equity;
- strengthen standards and quality assurance for local probation practices and statewide residential programs; and
- establish a statewide advisory board of youths and families impacted by the system to help guide improvements.



ALL THREE BRANCHES OF STATE GOVERNMENT REPRESENTED IN MIDWEST'S TOLL FELLOWS CLASS

CSG's prestigious leadership program now counts more than 1,300 graduates

Nine legislators from seven Midwestern states are among the region's dozen Henry Toll Fellows for 2022.

The premier national leadership development opportunity for state leaders, The Council of State Governments' Toll Fellowship Program includes participation from elected and appointed officials in all three branches of state government.

Along with the nine legislators (see photos below), this year's class from the Midwest includes Thomas Beadle, state treasurer in North Dakota; Jace Beehler, chief of staff for North Dakota Gov. Doug Burgum; and Shawn Jurgensen, special counsel to Kansas Supreme Court Chief Justice Marla Luckert.

Each year, the CSG program brings 48 people from all three branches of state government to Lexington, Ky., for an intensive, five-day "leadership boot camp." Sessions are designed to stimulate personal assessment and growth while also providing priceless networking and relationship-building opportunities.

It is meant to be a "graduate level" program that complements leadership development programs

offered by CSG's regional offices — including the Bowhay Institute for Legislative Leadership Development, or BILLD, a program of the Midwestern Legislative Conference. (CSG Midwest provides staff support to the MLC, a nonpartisan group of legislators from the region.)

Ten members of this year's Toll Fellows class are graduates of the BILLD program — all nine legislators from the Midwest along with Beadle.

"Toll Fellows are selected based on their demonstrated commitment to solve problems, to work collaboratively to get things done, and their belief that state government can and must be a force for good," says CSG executive director/CEO David Adkins, a former Kansas state senator and 1993 Toll Fellowship alumnus.

There are more than 1,300 graduates of the Toll Fellowship program, which began in 1986. Distinguished alumni include five state/territorial house speakers, three sitting state supreme court justices, 10 sitting members of the U.S. Congress and five sitting governors. In addition, 200 Toll alumni currently serve as state/territorial legislators.

CONGRATULATIONS TO THE MIDWEST'S LEGISLATORS CHOSEN AS 2022 TOLL FELLOWS



Illinois Sen. Dale Fowler



Illinois Rep. Sonya Harper



Illinois Sen. Ann Gillespie



Kansas Sen. Dinah Sykes



Minnesota Rep. Ruth Richardson



Ohio Rep. Paula Hicks-Hudson



Nebraska Sen. Megan Hunt



South Dakota Rep. Taylor Rehfeldt



Wisconsin Rep. Lisa Subeck

CSG'S MIDWESTERN LEGISLATIVE CONFERENCE BRINGS DELEGATION TO ISRAEL



This summer, legislators from six Midwestern states took part in Project Interchange, an educational and cultural exchange held in Israel. The delegation made the visit thanks to an ongoing partnership between Project Interchange, an initiative of the American Jewish Committee (AJC), and The Council of State Governments' Midwestern Legislative Conference. Legislators met with some of Israel's top political, academic, media, business and social leaders. Project Interchange is designed to be apolitical and nonpartisan.

Pictured at the Western Wall are Arie O'Sullivan, the delegation's guide; Jacob Millner from the AJC; Ohio Rep. Jessica Miranda; Indiana Rep. Ed Clere; Illinois Sen. Laura Murphy; Illinois Rep. Jennifer Gong-Gershowitz; North Dakota Rep. Shannon Roers Jones; Laura Kliwer, CSG Midwest representative; North Dakota Rep. Corey Mock; South Dakota Sen. Gary Cammack; Wisconsin Sen. LaTonya Johnson; and Sarah van Loon of the AJC.

The Council of State Governments was founded in 1933 as a national, nonpartisan organization to assist and advance state government. The headquarters office, in Lexington, Ky., is responsible for a variety of national programs and services, including research, reference publications, innovations transfer, suggested state legislation and interstate consulting services. The Midwestern Office supports several groups of state officials, including the Midwestern Legislative Conference, an association of all legislators representing 11 states (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin) and the Canadian province of Saskatchewan. The provinces of Alberta, Manitoba and Ontario are MLC affiliate members.

BILLD ALUMNI NOTES:
GRADUATES RUNNING FOR
GOVERNOR, CONGRESS

Sen. Derek Schmidt (class of 2001) was successful in his primary race for governor. He served in the Kansas Senate from 2001 to 2010; during the last five years of his tenure, he was majority leader. Since 2010, Schmidt has been the state's attorney general.



In May, **Erin Houchin** (class of 2018) won her primary race for Indiana's Ninth Congressional District. Earlier in the year, Houchin resigned from her state Senate seat, which she had held since 2015, to focus on her campaign for U.S. Congress. In the Indiana Senate, Houchin served on several committees: Commerce and Technology; Elections; Family and Children Services; Homeland Security and Transportation; Utilities; and Veterans Affairs and the Military.



Iowa Sen. Zach Nunn (class of 2015) won his primary race for the state's Third Congressional District in June. Nunn served two terms in the Iowa House before being elected to the Senate in 2019. He currently is a member of the Commerce Committee and the Joint International Relations Committee.



Ohio Rep. Emilia Strong Sykes (class of 2019) ran unopposed in the May primary for the state's 13th Congressional District. She will face a challenger in the November general election. Sykes has served in the Ohio House since 2015 and held several leadership positions: assistant minority whip, minority whip and minority leader. She is a member of the Infrastructure and Rural Development Committee and the Technology and Innovation Committee.



In July, **Mike Flood** (class of 2005) was sworn in to serve as Nebraska's First District congressman. He won a special election for the vacant seat in June. Flood will also run for the seat in the November general election. He served two stints in the Nebraska Unicameral and was speaker of the chamber for six years.



Also in Nebraska, **Sen. Tony Vargas** (class of 2017) was successful in his primary race for the state's Second Congressional District. Vargas was first elected to the Unicameral in 2016 and serves on the Appropriations Committee.



Several BILLD graduates/former state legislators also are now incumbent members of the U.S. Congress and seeking re-election this year: U.S. Reps. **Ashley Hinson** of Iowa (class of 2017); **Bill Huizenga** (class of 2004); and **John Moolenaar** (class of 2004) of Michigan; and **Adrian Smith** of Nebraska (class of 2001).

Please submit Alumni News to Laura Tomaka, CSG Midwest program manager for BILLD. She can be reached at ltomaka@csg.org.

ETHICAL EXCELLENCE CANNOT COME FROM LAWS
AND TRAINING ALONE; IT REQUIRES A DEEPER,
PERSONAL EXPLORATION FROM PUBLIC OFFICIALS

Everything has been figured out, wrote the French philosopher Jean-Paul Sartre, except how to live.

While the question of how we shall live lies at the core of true ethics education, ethics is most often seen as something that is lacking in public officials — and therefore must be imposed on them.

Ethics education and training comes in two basic flavors: objective or external, and subjective or internal. Objective or codified ethics is grounded in ethics laws, codes of ethics, rules, standards of conduct, tables of penalties, and conflicts of interest.

Most public officials have been exposed to some form of objective ethics training. This type of training is necessary and essential, but it is not sufficient for developing collective and institutional ethics. Ethics training may promote awareness and compliance, but it does not promote ethical excellence.

Ethics laws tend to specify what a public official must do, such as file a financial disclosure statement, or may not do, such as accept a bribe. Almost always, these laws identify what will happen to an official who does what he or she is not supposed to do.

Such measures are reactive in that they are passed to stop or restrict officials from doing what they are already doing or have done in the past, and in that they presume, by virtue of delineating the consequences of violating the ethics law, that the law will be violated in the future. In order to have the desired effect, ethics laws seek to eliminate or narrow the discretion public officials have.

Ethics codes acknowledge the considerable discretion public officials have, but in order to preserve that discretion, they tend to prescribe things a public official should do, such as “work on behalf of the public interest; serve others, not ourselves; use resources with efficiency and economy; treat all people fairly; use the power of our position for the well-being of our constituents; and create an environment of honesty, openness and integrity.”

Guest Author: Phillip Boyle

Dr. Phillip Boyle is the president and co-founder of Leading and Governing Associates. He is a sought-after lecturer, speaker and facilitator on the subject of public leadership. He frequently conducts workshops for public officials representing municipalities, counties, public school districts and state legislatures.



Such statements are easier to agree with than to do. By virtue of their vagueness, such statements are also prone to multiple and conflicting interpretations, which, in turn, require discretion to resolve.

In contrast, normative ethics are subjective and internal, are grounded in values and morality rather than laws and rules, and involve concepts such as character, virtue, moral authority, duty and obligation, and principles for resolving ethical dilemmas.

Public officials can only encounter a true ethical dilemma if they are free to exercise discretion in deciding how to best resolve that dilemma. But the paradox is that in exercising discretion, moral and ethical dilemmas inevitably arise.

To avoid all ethical dilemmas, we must eliminate all discretion. But since public officials cannot govern without using discretion, they will encounter moral and ethical dilemmas.

Discretion, dilemmas, and decisions comprise a three-legged ethical stool for helping public officials understand and do ethics. Hence the importance of ethics education in addition to ethics training.

ETHICS EDUCATION: 7 WAYS IT HELPS PUBLIC OFFICIALS BECOME BETTER PUBLIC LEADERS

- 1

Officials recognize both the advantages and limitations of codified ethics.
- 2

Officials are able to talk about how values, morality, virtue, character and obligations play out in their everyday relationships and decisions.
- 3

Officials discuss sources of moral authority and how these sources inform their personal moral and ethical decision making.
- 4

Officials distinguish “right vs. right” dilemmas from “right vs. wrong” dilemmas.
- 5

Officials apply ethical decision-making principles to dilemmas and decisions.
- 6

Officials discuss the moral dimensions, goals, virtues and temptations of leadership.
- 7

Officials see public service and public leadership as a moral enterprise.

STATELINE MIDWEST

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CSG EVENTS

CSG Midwestern Legislative Conference Virtual Events for Legislators

Visit csgmidwest.org and csg.org to find dates of upcoming webinars and view recordings of past webinars on public policy, professional development and leadership training.



MLC

Great Lakes-St. Lawrence Legislative Caucus Annual Meeting

September 23-24, 2022 | Chicago, Illinois

Contact: Mike McCabe ~ mmccabe@csg.org
630.925.1922 | greatlakeslegislators.org



GREAT LAKES
GLLC
ST. LAWRENCE
LEGISLATIVE CAUCUS

Midwest Interstate Passenger Rail Commission Annual Meeting

November 16-18, 2022 | Indianapolis, Indiana

Contact: Laura Kliewer ~ lkliewer@miprc.org
630.925.1922 | miprc.org



CSG National Conference

December 7-10, 2022 | Honolulu, Hawaii

Contact: membership@csg.org
859.244.8000 | web.csg.org



Midwestern Legislative Conference Annual Meeting

July 9-12, 2023 | Detroit, Michigan

Contact: Jenny Chidlow ~ jchidlow@csg.org
630.925.1922 | csgmidwest.org



Bowhay Institute for Legislative Leadership Development

August 18-22, 2023 | Madison, Wis.

Contact: Laura Tomaka ~ ltomaka@csg.org
630.925.1922 | csgmidwest.org



BILLD

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