

Flurry of New Laws Move Blue and Red States Further Apart

A wave of legislation, particularly in the West, is making states “not only a little different but radically different,” says one expert on government.

April 3, 2022



Anti-abortion activists in Washington, D.C., in January. Republican activists have aggressively pursued conservative social policies in state legislatures, while liberal states have taken defensive actions. Kenny Holston for The New York Times

SACRAMENTO — After the governor of Texas ordered state agencies to investigate parents for child abuse if they provide certain medical treatments to their transgender children, [California](#) lawmakers proposed a law making

the state a refuge for transgender youths and their families.

When Idaho proposed a ban on abortions that empowers relatives to sue anyone who helps terminate a pregnancy after six weeks, nearby [Oregon](#) approved \$15 million to help cover the abortion expenses of patients from out-of-state.

As Republican activists aggressively pursue [conservative social](#) policies in state legislatures across the country, liberal states are taking defensive actions. Spurred by a U.S. Supreme Court that is expected to soon upend an array of longstanding rights, including the constitutional right to abortion, left-leaning lawmakers from [Washington](#) to [Vermont](#) have begun to expand access to abortion, bolster voting rights and denounce laws in conservative states targeting L.G.B.T.Q. minors.

The flurry of action, particularly in the West, is intensifying already marked differences between life in liberal- and conservative-led parts of the country. And it's a sign of the consequences when state governments are controlled increasingly by single parties. Control of legislative chambers is split between parties now in two states — Minnesota and Virginia — compared with 15 states 30 years ago.

"We're further and further polarizing and fragmenting, so that blue states and red states are becoming not only a little different but radically different," said [Jon Michaels](#), a law professor who [studies government](#) at the University of California, Los Angeles.

Americans have been sorting into opposing partisan camps for at least a generation, choosing more and more to live among like-minded neighbors, while legislatures, through gerrymandering, are reinforcing their states' political identities by solidifying one-party rule.

"As states become more red or blue, it's politically easier for them to pass legislation," said [Ryan D. Enos](#), a Harvard political scientist who studies partisan segregation. "Does that create a feedback loop where more sorting happens? That's the part we don't know yet."

With some 30 legislatures in Republican hands, conservative lawmakers, working in many cases with shared legislative language, have begun to enact a tsunami of restrictions that for years were blocked by Democrats and moderate Republicans at the federal level. A recent [wave of anti-abortion bills](#), for instance, has been the largest since the landmark 1973 decision in *Roe v. Wade*.

Similar moves have recently been [aimed at L.G.B.T.Q. protections](#) and voting rights. In Florida and Texas, teams of "[election police](#)" have been created to crack down on the rare crime of voter fraud, fallout from former President Donald J. Trump's specious claims after he lost the 2020 presidential election.

Florida state Senator Dennis Baxley, sponsor of the bill that opponents call "Don't Say Gay," during a legislative session. Wilfredo Lee/Associated Press

[Carrying concealed guns](#) without a permit is now legal in nearly half of the country. "[Bounty](#)" laws — enforced not by governments, which can be sued in federal court, but by rewards to private citizens for filing lawsuits — have proliferated on issues from classroom speech to vaccination since the U.S. Supreme Court declined to strike down the legal tactic in Texas.

The moves, in an election year, have raised questions about the extent to which they are performative, as opposed to substantial. Some Republican bills are bold at first glance but [vaguely worded](#). Some appear designed largely to energize base voters.

Many, however, send a strong cultural message. And divisions will widen further, said [Peverill Squire](#), an expert on state legislatures at the University of Missouri, if the Supreme Court hands more power over to the states on issues like abortion and voting, as it did when it said in 2019 that partisan gerrymandering was beyond federal jurisdiction.

Some legal analysts also say the anticipated rollback of abortion rights could throw a host of other privacy rights [into state-level turmoil](#), from contraception to health care. Meanwhile, entrenched partisanship, which has already hobbled federal decision making, could block attempts to impose strong national standards in Congress.

"We're potentially entering a new era of state-centered policymaking," said Karthick Ramakrishnan, a professor of public policy and political science at the University of California, Riverside. "We may be heading into a future where you could have conservative states and progressive states deciding they are better off pushing their own visions of what government should be."

In recent weeks, several states including [Colorado](#) and [Vermont](#) have moved to codify a right to abortion. More — [Maryland](#) and [Washington](#), for example — have expanded access or legal protection in anticipation of out-of-state patients.

But no state has been as aggressive as California in shoring up alternatives to the Republican legislation.

[One package of pending California bills](#) would expand access to California abortions and protect abortion providers from out-of-state legal action. Another proposal would thwart enforcement of out-of-state court judgments removing children from the custody of parents who get them gender-affirming health services.

Yet another would enforce a ban on ghost guns and assault weapons with a [California version](#) of Texas' recent six-week ban on abortion, featuring \$10,000 bounties to encourage lawsuits from private citizens against anyone who sells, distributes or manufactures those types of firearms.

In a "State of the State" address last month, Gov. Gavin Newsom took more than a half-dozen swipes at Florida and Texas, comparing California's expanded sick leave, family leave and Medicaid coverage during the pandemic with the higher Covid-19 death rates in the two Republican-led states, and alluding to states "where they're [banning books](#)" and "where you can [sue your history teacher](#) for teaching history."

After Disney World employees protested the corporation's initial reluctance to condemn the Florida bill that opponents call "Don't Say Gay," Mr. Newsom suggested Disney cancel the relocation of some 2,000 West Coast positions to a new Florida campus, [saying on Twitter](#) that "the door is open to bring those jobs back to California — the state that actually represents the values of your workers."

Dan Schnur, a former Republican strategist who teaches political science now at the University of Southern California and the University of California, Berkeley, said that without strong Republican opposition, Mr. Newsom has been using the governors of Texas and Florida as straw men.

"It's an effective way of strengthening himself at home and elevating his name in Democratic presidential conversations," Mr. Schnur said.

In his "State of the State" address, Gov. Newsom of California took more than a half-dozen swipes at Florida and Texas. Jim Wilson/The New York Times

Conservatives in and outside California have criticized the governor for stoking division.

A spokeswoman for Gov. Ron DeSantis of Florida, who is a Republican presidential contender, noted in an email that Disneyland was closed three times longer than Disney World during the pandemic, and that hundreds of thousands of Americans moved to Florida between April 2020 and July 2021 while hundreds of thousands left California. Mr. Newsom, she wrote, "is doing a better job as a U-Haul salesman."

"Politicians in California do not have veto power over legislation passed in Florida," the spokeswoman, Christina Pushaw, added. "Gov. Newsom should focus on solving the problems in his own state."

The office of Gov. Greg Abbott of Texas — who, in 2018, ran on the slogan "Don't California My Texas" — did not respond to emails and calls requesting comment.

In an interview, Mr. Newsom noted that California has been grappling for decades with the cultural and demographic changes that are only now hitting other parts of the country, including early battles over such issues as gay rights and immigration. "I'm very concerned broadly about what's happening and whether or not it's fully understood by the majority, not just of the American people but people within my own party," he said.

"We are not going to sit back and neutrally watch the progress of the 20th century get erased," he added, decrying the "zest for demonization" and an "anti-democratic" tilt in recent policies to restrict [voting](#) and L.G.B.T.Q. [protections](#).

"If you say nothing, you're complicit," Mr. Newsom said. "You have to take these guys on and push back."

California's stance has broad implications. Although U.S. census figures showed stalled growth in the state in 2020, its population of nearly 40 million

is the nation's largest, encompassing one in nine U.S. residents.

"In a world in which the federal government has abdicated some of its core responsibility, states like California have to figure out what their responsibilities are," said Mr. Michaels, the U.C.L.A. professor. "The hard question is: Where does it end?"

For example, he noted, the fallout could mean that federal rights that generations have taken for granted could become available only to those who can afford to uproot their lives and move to the states that guarantee them.

"It's easy for Governor Newsom to tell struggling Alabamians, 'I feel your pain,' but then what? 'Come rent a studio apartment in San Francisco for \$4,000 a month?'"

Violet Augustine's plan to move from Texas to California with her trans daughter solidified when Gov. Greg Abbott of Texas and the Texas attorney general directed the state to investigate parents with transgender children for possible child abuse. Shelby Tauber for The New York Times

Violet Augustine, 37, an artist, art teacher and single parent in Dallas, worries about the limits of interstate refuge. For months, she said, she considered moving away from Texas with her transgender daughter, a kindergartner, to a state where she doesn't constantly fear for their safety. When Mr. Abbott and Texas' attorney general directed the state to investigate parents with transgender children for possible child abuse, her plan solidified.

An appeal on GoFundMe has raised some \$23,000, and she recently made a visit to Los Angeles, staying at a hotel in the heart of the city's Koreatown and meeting with leaders of a community group that describes itself as "radically inclusive" of L.G.B.T.Q. families.

"The city itself just felt like a safe haven," Ms. Augustine said. But, she

added, her \$60,000 salary, which allows her to rent a house in Texas, would scarcely cover a California apartment: "We're going to have to downsize."

Michael Wines contributed reporting.