

State of the States

Legislative Roadmap for Reducing Overdose Deaths and Increasing Access to Treatment

Jon Woodruff, Esq. and Joseph Maschman, Esq.
Legislative Analysis and Public Policy Association (LAPPA)





About LAPPA



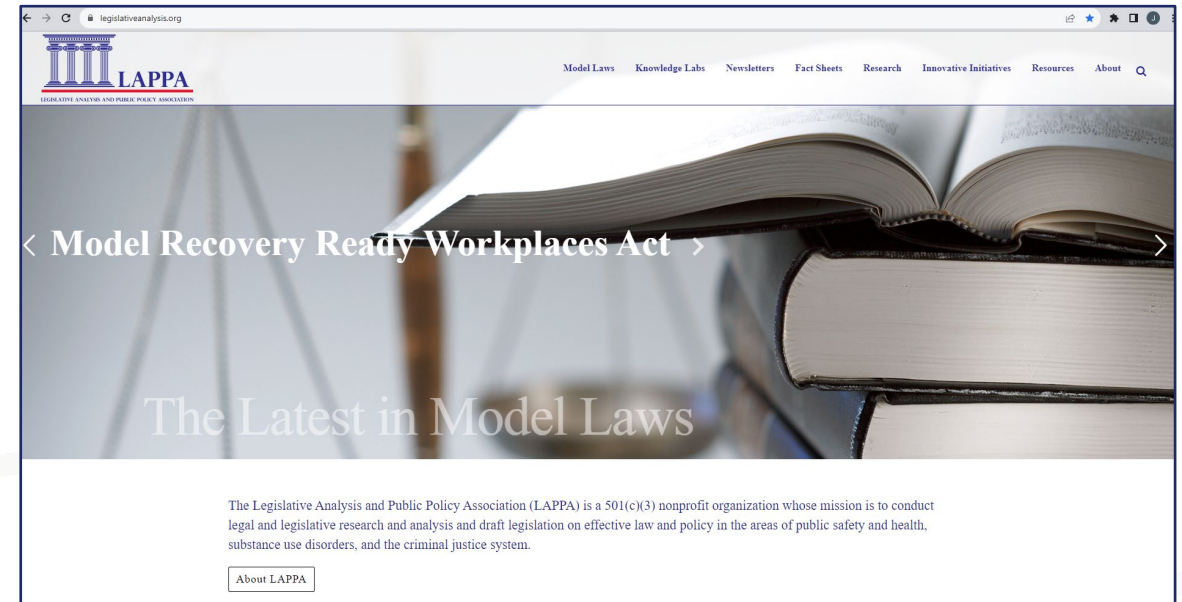
501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft legislation on effective law and policy in the areas of public safety and health, substance use disorders, and the criminal justice system.

ONDCP's Model Acts Program Grant recipient for 2019-21, 2021-23, and 2023-25.

www.legislativeanalysis.org

What LAPPA does

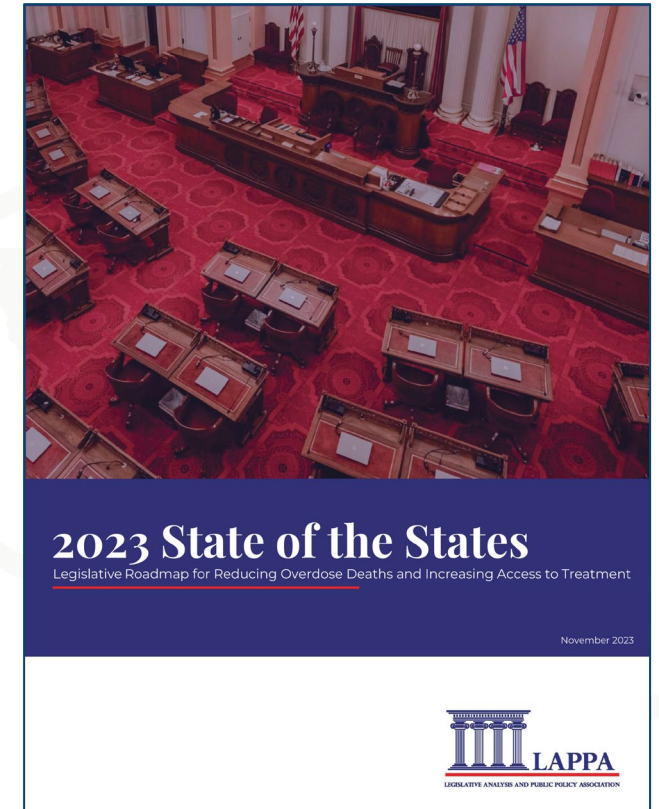
- Model Acts grant
 - ❖ Model laws (18 published)
 - ❖ 50-state Summary of Laws (17 published)
 - ❖ Fact sheets (41 published)
 - ❖ Case Law Monitor (six per year)
 - ❖ News Bites (six per year)
 - ❖ Knowledge Labs (six in 2023)
 - ❖ Technical assistance (TA)
- TA on additional subawards





2023 State of the States

- In 2023, LAPPA developed a roadmap of 10 evidence-based legislative strategies to reduce overdose deaths and expand access to treatment.
- The strategies flow from provisions within published LAPPA model acts.
- We then examined state policy to measure the nationwide adoption of these strategies.





State of the States - topics covered by strategies

1. Syringe services programs
2. Fentanyl test strips (FTS)
3. Other drug-checking equipment besides FTS
4. Medication for addiction treatment (MAT) in correctional settings
5. Withdrawal management services in correctional settings
6. School response to drug-related incidents
7. Naloxone in schools
8. Substance use treatment in emergency departments
9. Substance use during pregnancy and family care plans
10. Overdose fatality review teams

State of the States - adoption

Number of Adopted Strategies by State

Adopted 7-10 strategies

ME MD NH RI 4 states

Adopted 5-6 strategies

CA CO CT DE MA MN NV NM NY OH OR PA UT VT WA 15 states

Adopted 3-4 strategies

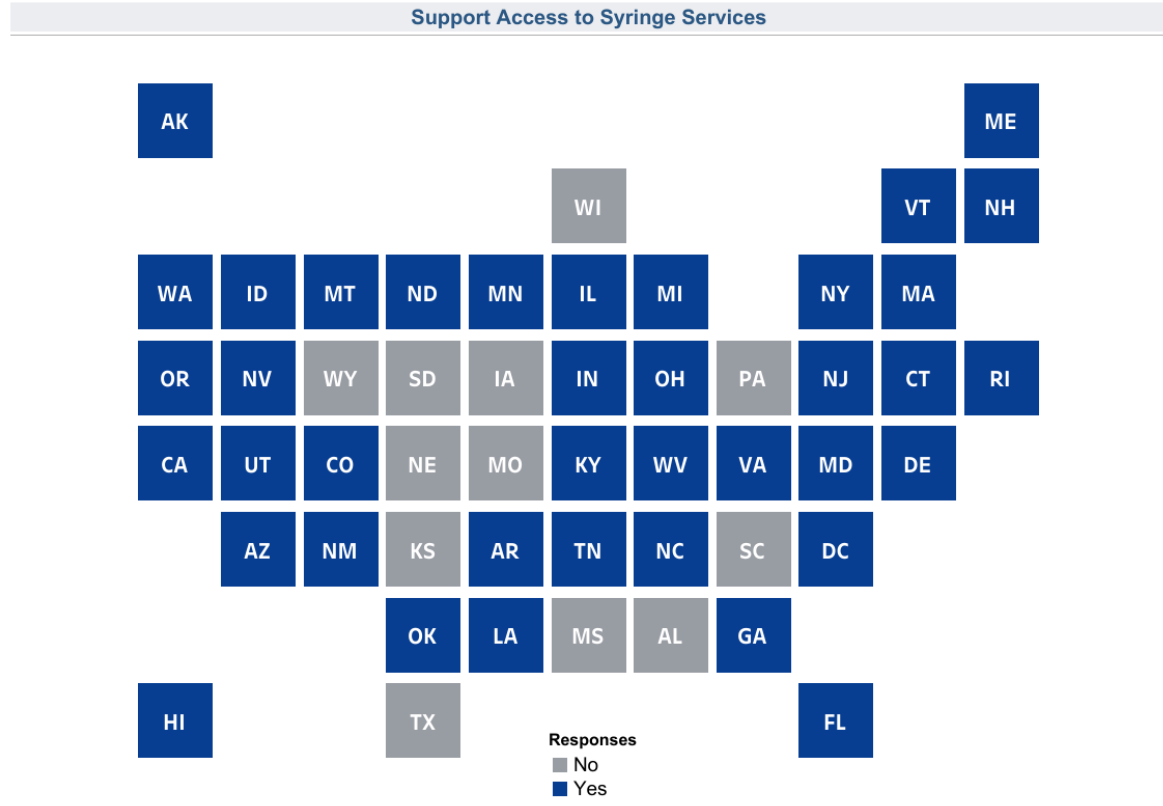
AK AZ AR DC FL IL LA MI MT NE NJ NC ND OK VA WV WY 17 states and D.C.

Adopted 0-2 strategies

AL GA HI ID IN IA KS KY MS MO SC SD TN TX WI 15 states

Strategy 1: Syringe Services Programs

- 39 jurisdictions support access to syringe services programs by adopting laws that implicitly or explicitly authorize them.
- SSPs prevent the spread of bloodborne disease and provide additional services, including linkages to SUD treatment and recovery services, emergency opioid antagonists, and other testing, education, and support.



Data as of August 2023

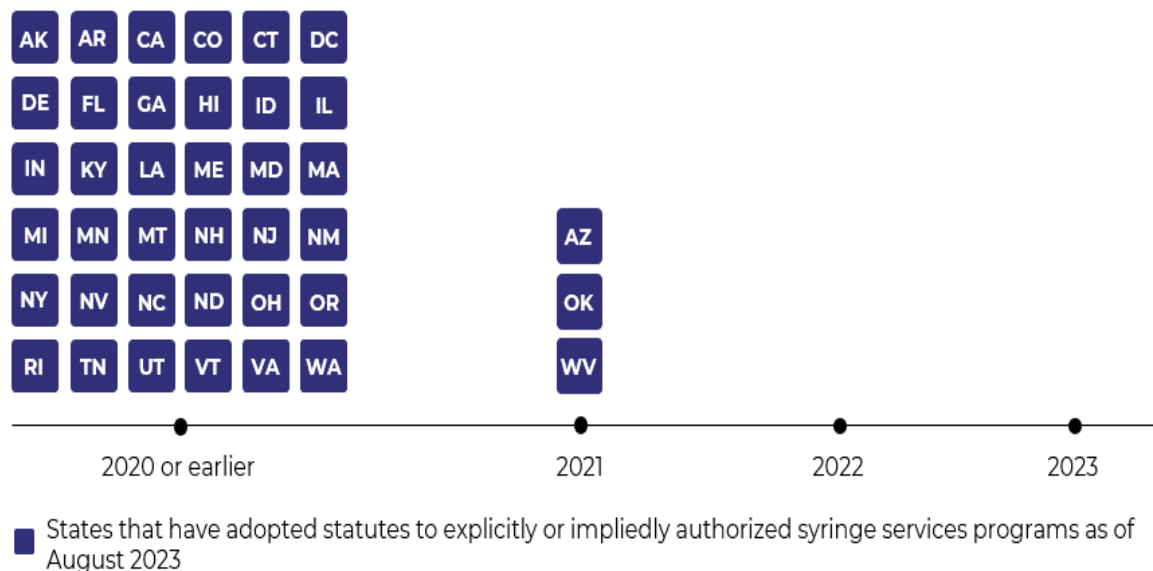


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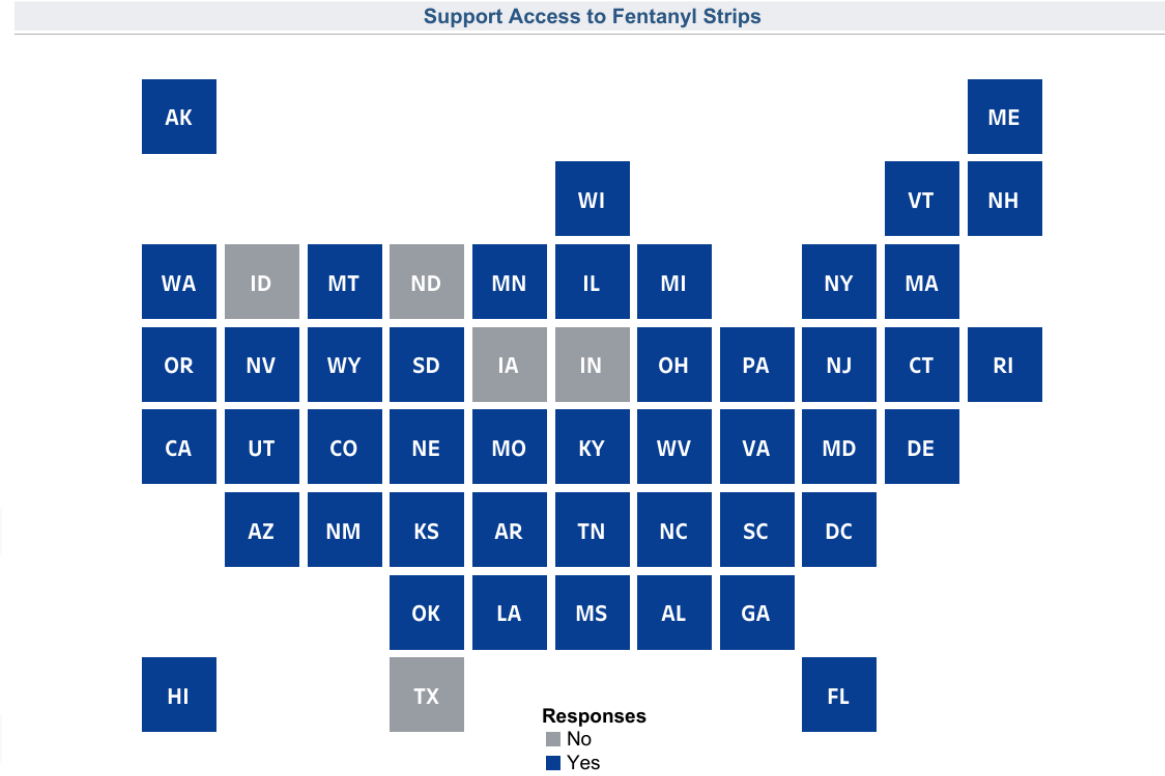
Implementation Timeline: Access to Syringe Services Programs

39 jurisdictions (38 states and D.C.) support access to syringe services programs by having jurisdiction-wide laws that explicitly or impliedly authorize them



Strategy 2: Fentanyl Test Strips

- 46 jurisdictions support the use of fentanyl test strips (FTS) by adopting laws that exclude their possession from drug paraphernalia penalties.
- FTS are accurate, easy to use, and low cost. They save lives and are associated with safer or reduced drug use.



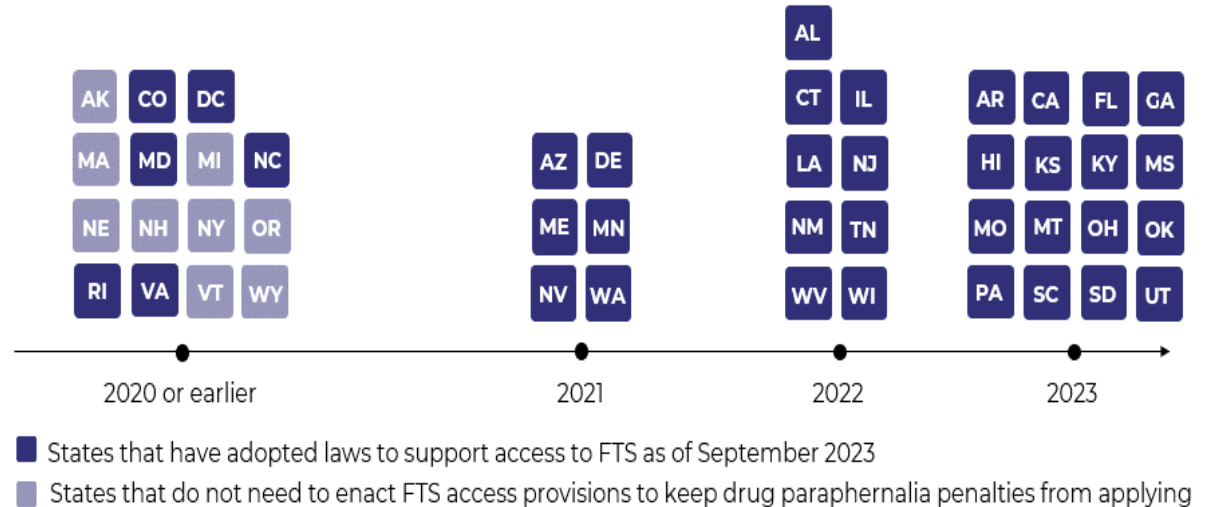
Data as of September 2023

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Implementation Timeline: Fentanyl Test Strips

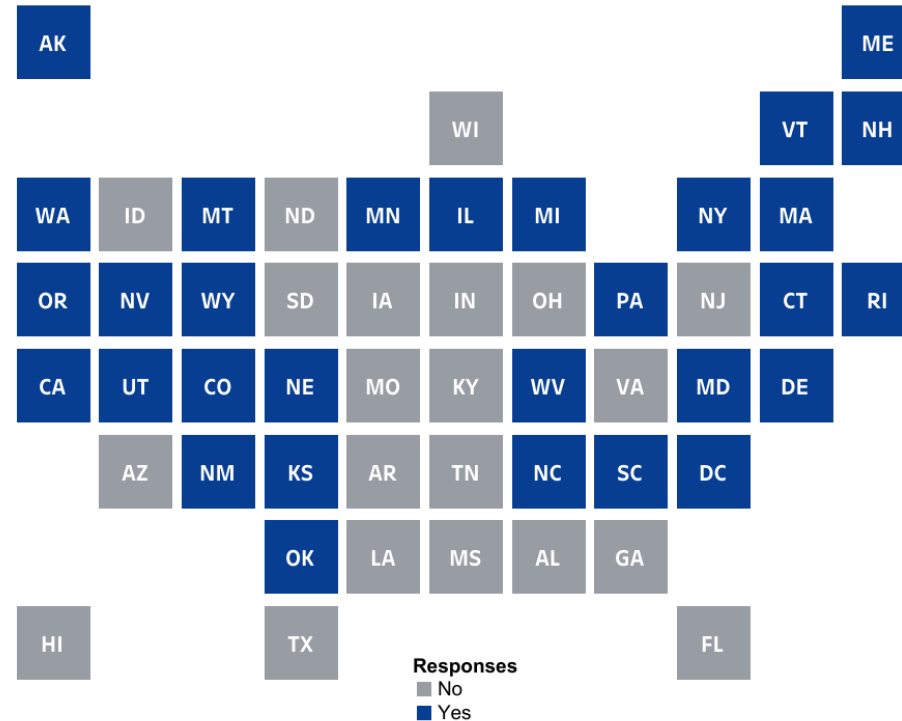
46 jurisdictions (45 states + D.C.) support access to fentanyl test strips via jurisdiction-wide laws that do not subject the possession or use of fentanyl test strips to drug paraphernalia penalties



Strategy 3: Other Drug-checking Equipment

- 30 jurisdictions support drug-checking equipment for substances other than fentanyl by adopting laws that do not subject that equipment to drug paraphernalia penalties.
- Xylazine is an example of a drug that would not be found using an FTS.

Support Access to Drug-checking Equipment for Drugs Other Than Fentanyl/synthetic Opioids



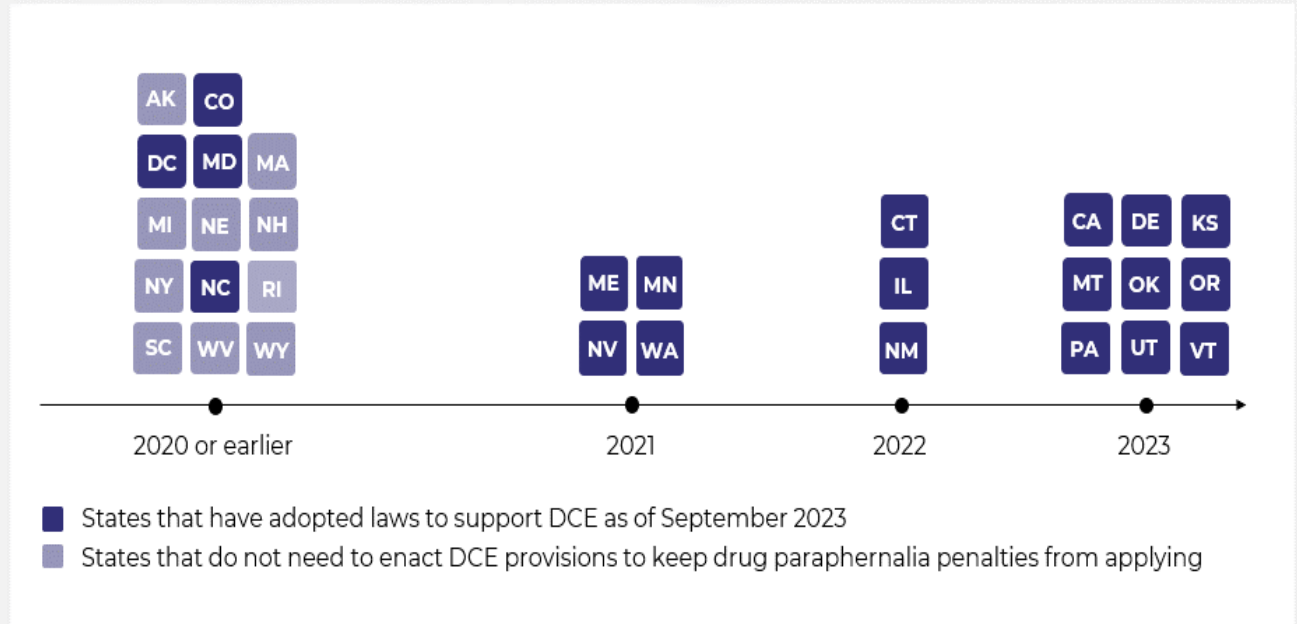
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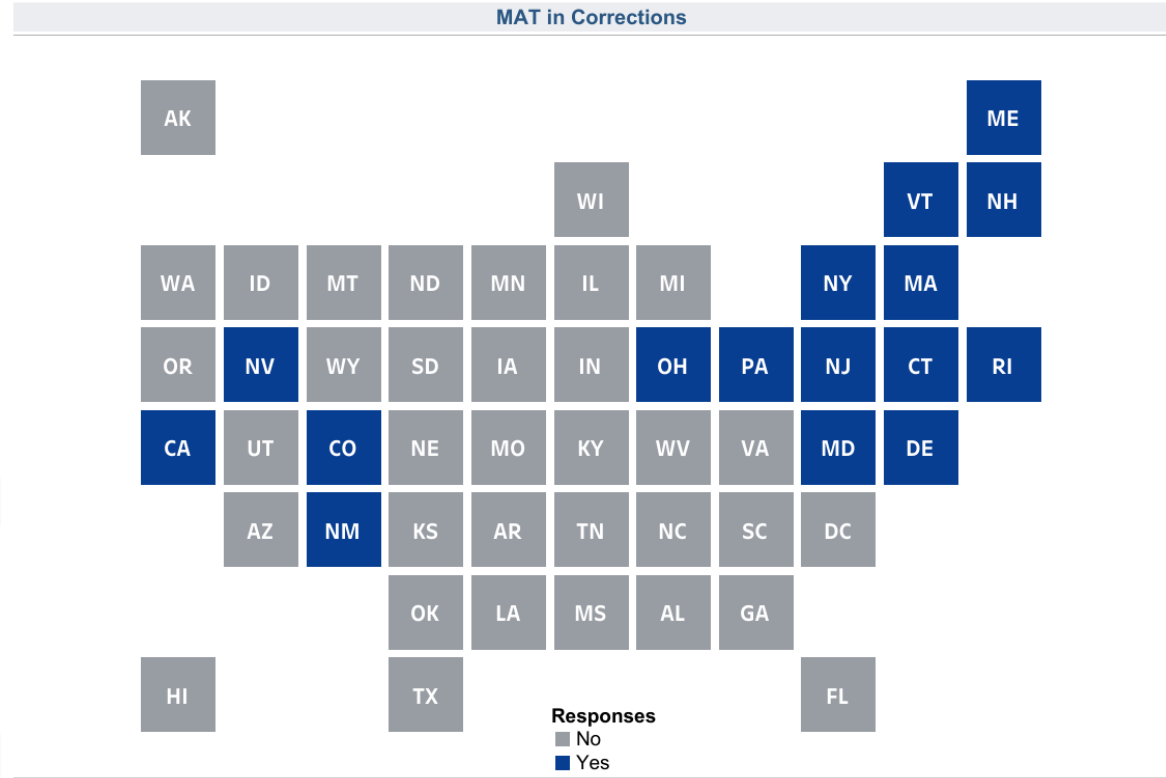
Implementation Timeline: Drug Checking Equipment

30 jurisdictions (29 states + D.C.) support access to drug checking equipment (DCE) that tests for substances other than fentanyl by not subjecting DCE to drug paraphernalia penalties.



Strategy 4: MAT in Correctional Settings

- 16 jurisdictions require state or local correctional facilities to provide medication for addiction treatment (MAT) through statewide law or state policy.
- Rates of SUD are high among incarcerated populations, and newly released individuals are at a high risk for overdose.

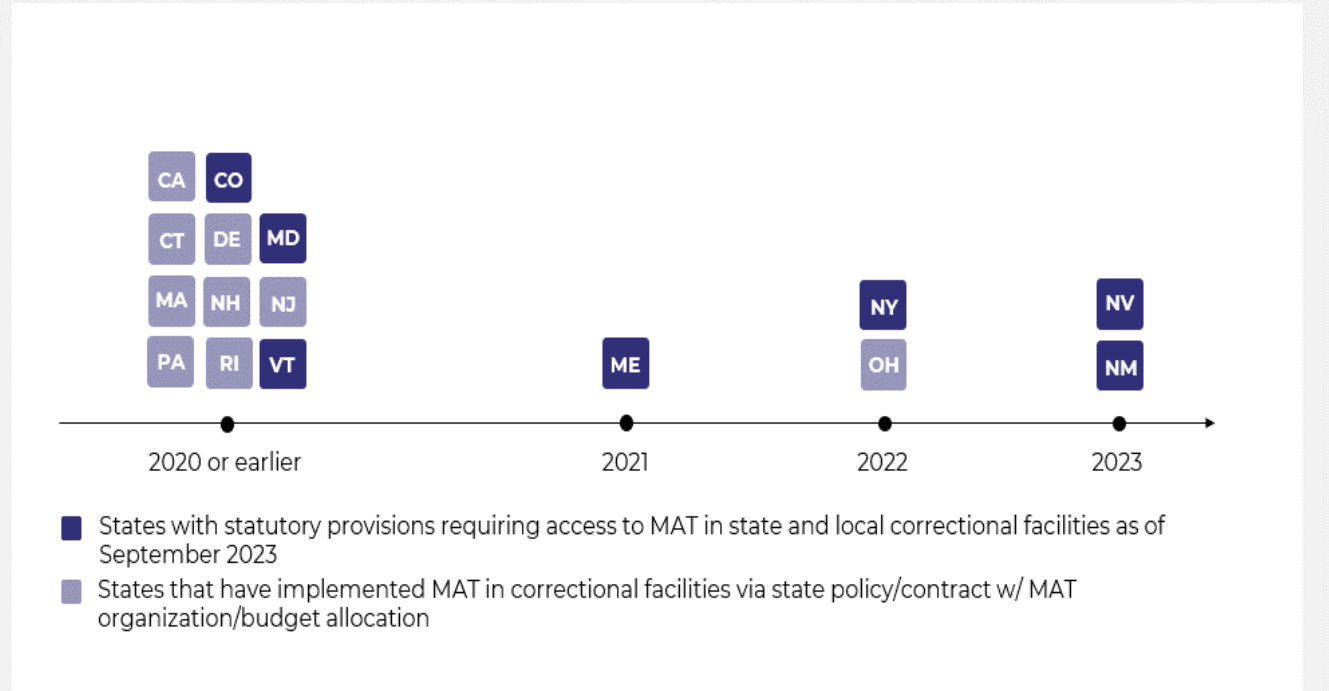


Data as of September 2023

Strategy 4: MAT in Correctional Settings

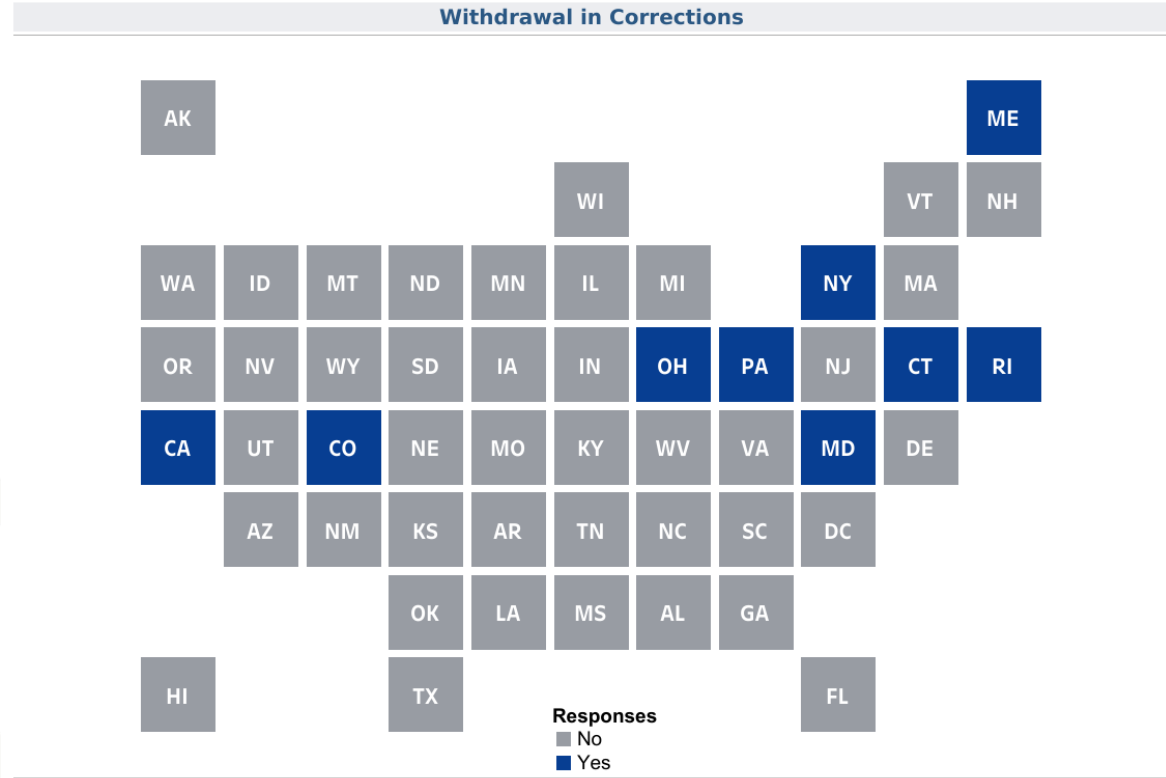
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- Rates of SUD are high among incarcerated populations, and newly released individuals are at a high risk for overdose.

Implementation Timeline: Access to Medically Assisted Treatment (MAT) in Correctional Facilities
16 states require access to MAT in all (or the vast majority of) state and local correctional facilities



Strategy 5: Withdrawal Management in Correctional Settings

- 9 jurisdictions require state or local correctional facilities to provide withdrawal management services through statewide law or state policy.
- Justice-involved individuals have an elevated risk of dangerous withdrawal, and withdrawal from substances without medication increases future overdose risk.



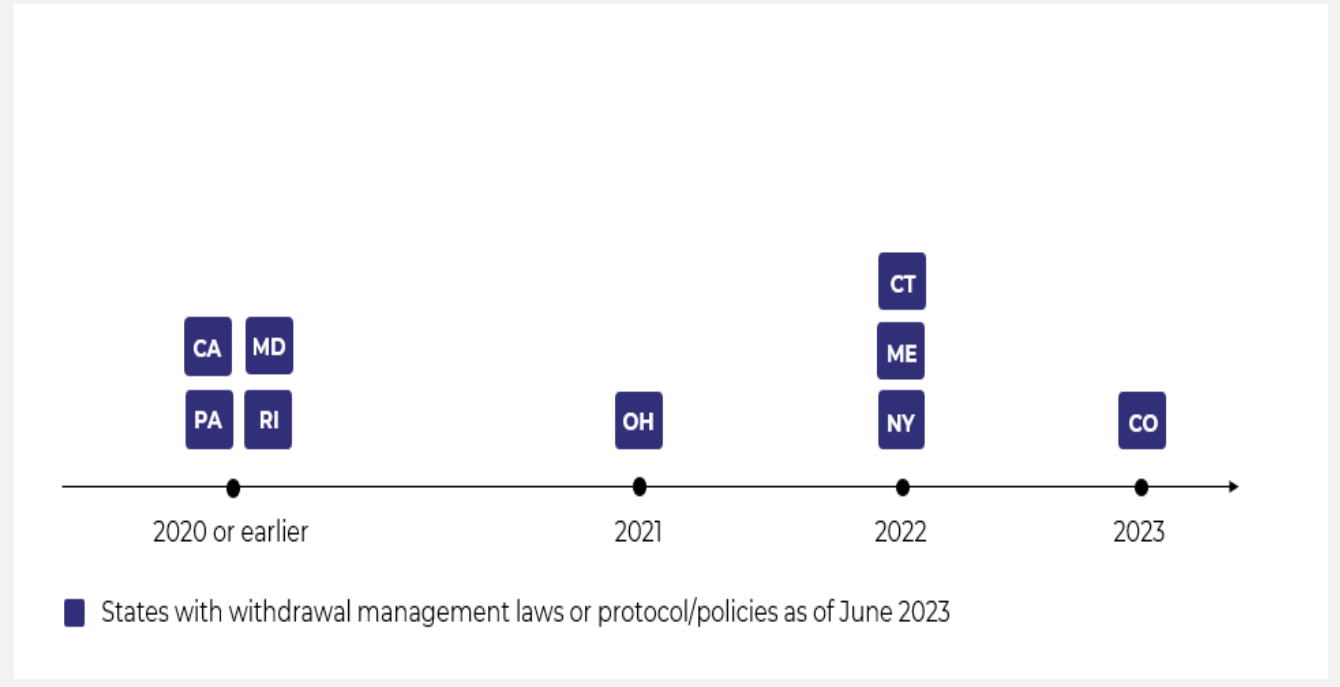
Data as of June 2023

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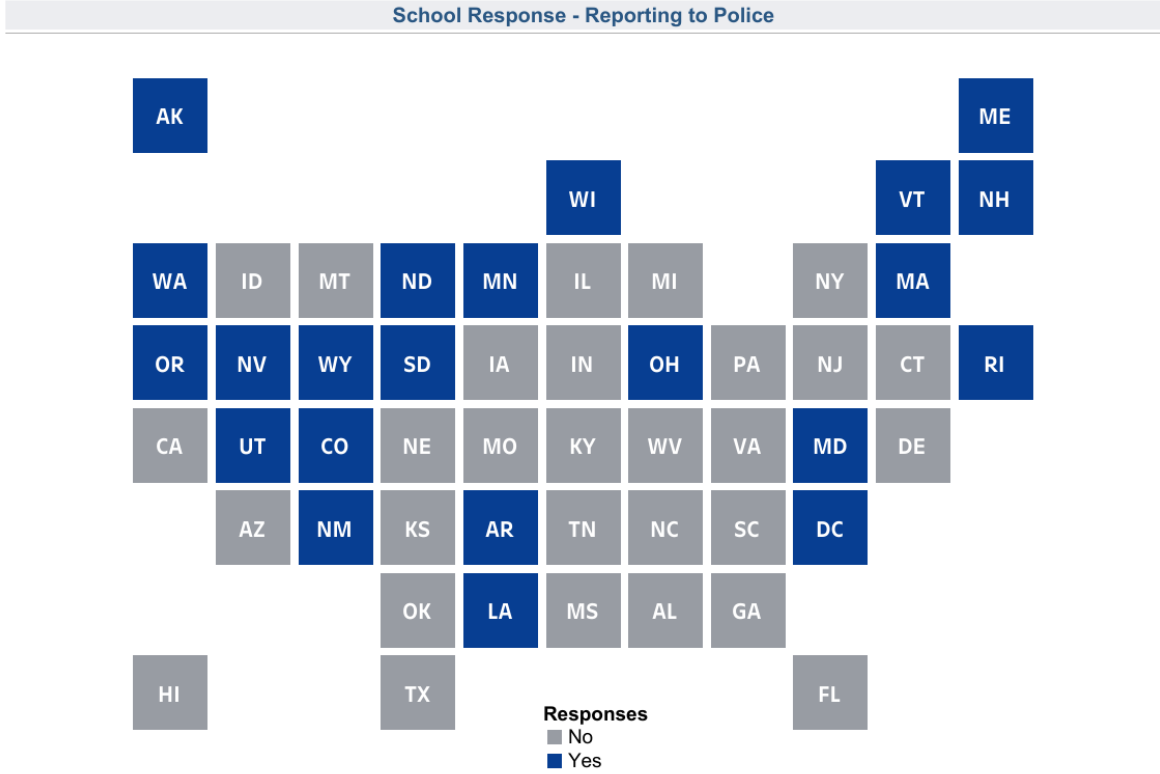
Implementation Timeline: Withdrawal Management in Corrections

9 states have laws, protocols, or policies that require withdrawal management protocols in corrections settings



Strategy 6: School Response to Drug-related Incidents

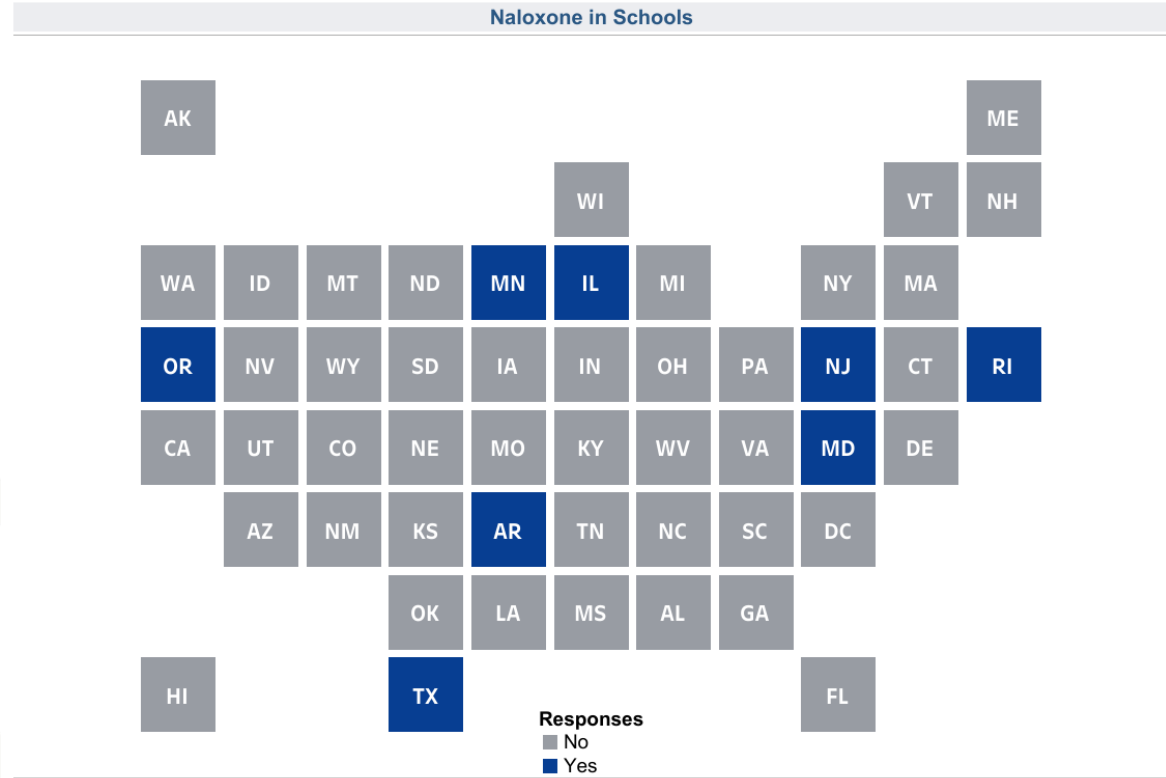
- 22 jurisdictions do not require school drug-related incidents to be reported to law enforcement.
- This encourages evidence-based policy approaches that establish a consistent and positive response to drug-related incidents. Without comprehensive policies, responses can be harmful or discriminatory.



Data as of 2022

Strategy 7: Naloxone in Public High Schools

- 8 jurisdictions require all public high schools to store naloxone on site for overdoses at school or school-sponsored events.
- Because youth overdose rates are increasing and youth face barriers to acquiring naloxone, placing naloxone in school increases access and saves lives.



Data as of September 2023

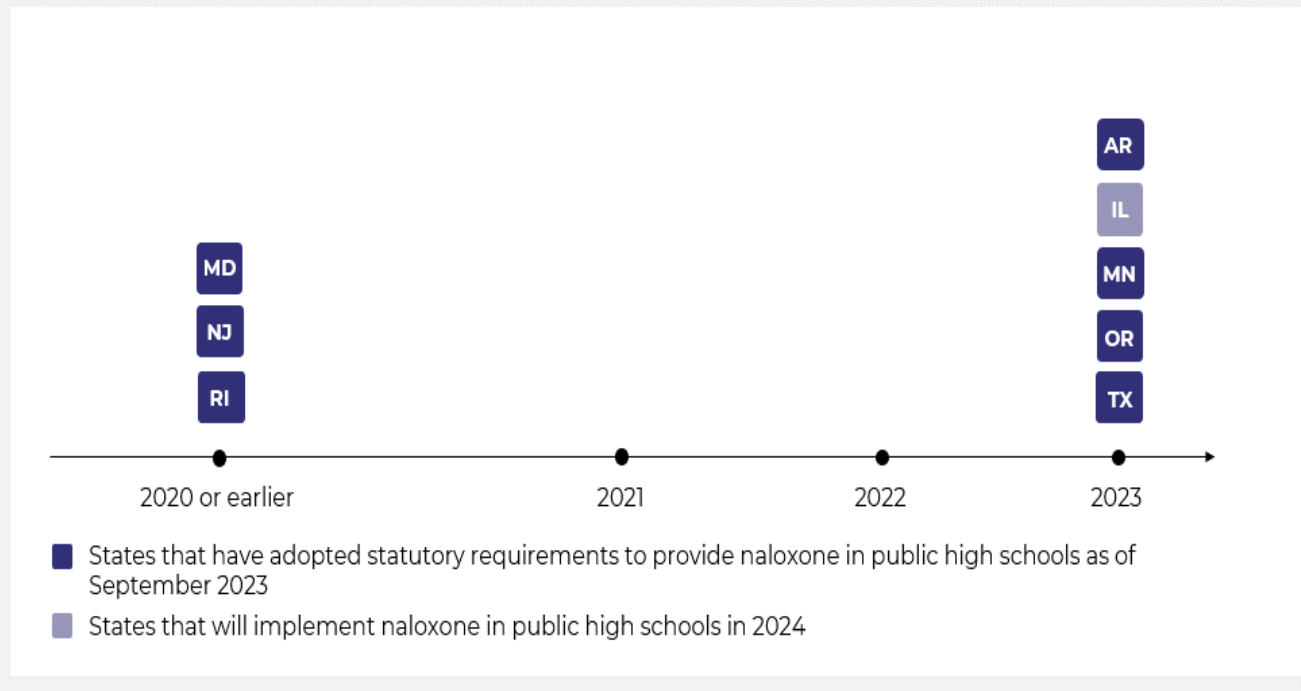


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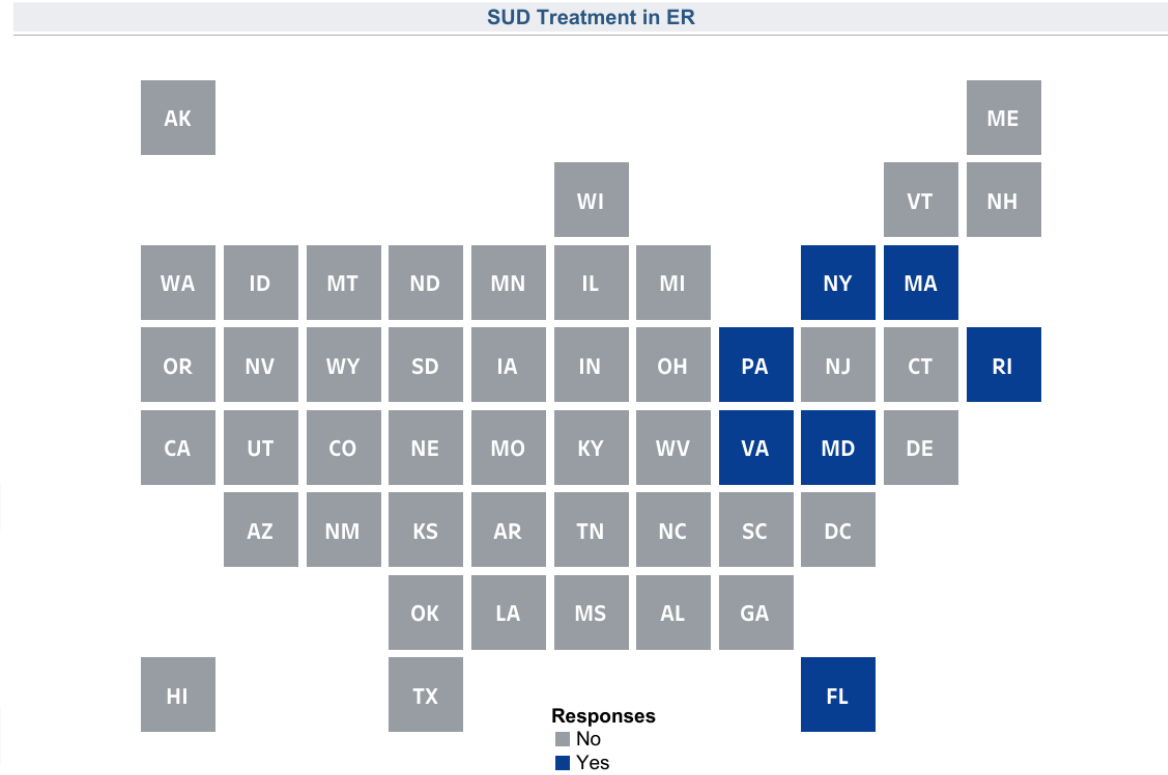
Implementation Timeline: Naloxone in Schools

8 states encourage naloxone access by having statewide laws requiring all public high schools to keep naloxone on site for responding to overdoses at school or at school-sponsored events



Strategy 8: Substance Use Treatment in Emergency Departments

- 7 jurisdictions require in-hospital or satellite ERs treating individuals for SUD or an overdose to establish specific discharge protocols for such patients, including referrals to outside SUD treatment providers or initiation of MAT, where appropriate.
- Hospitals are a critical point of intervention for substance-use impacted populations.



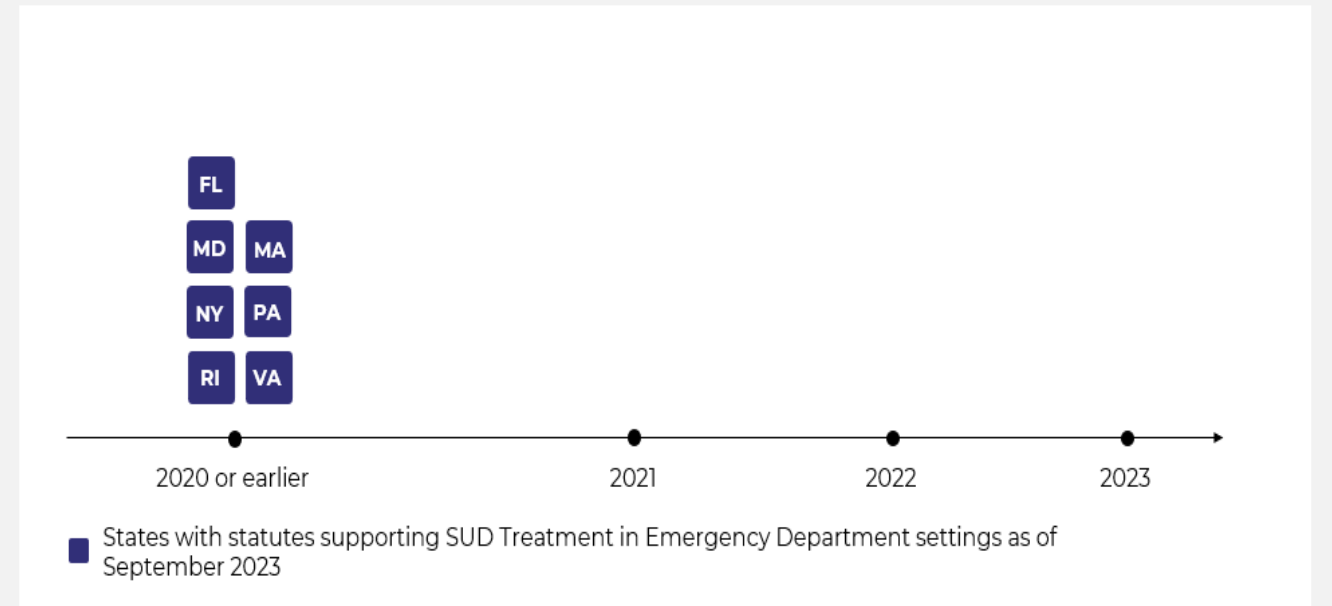
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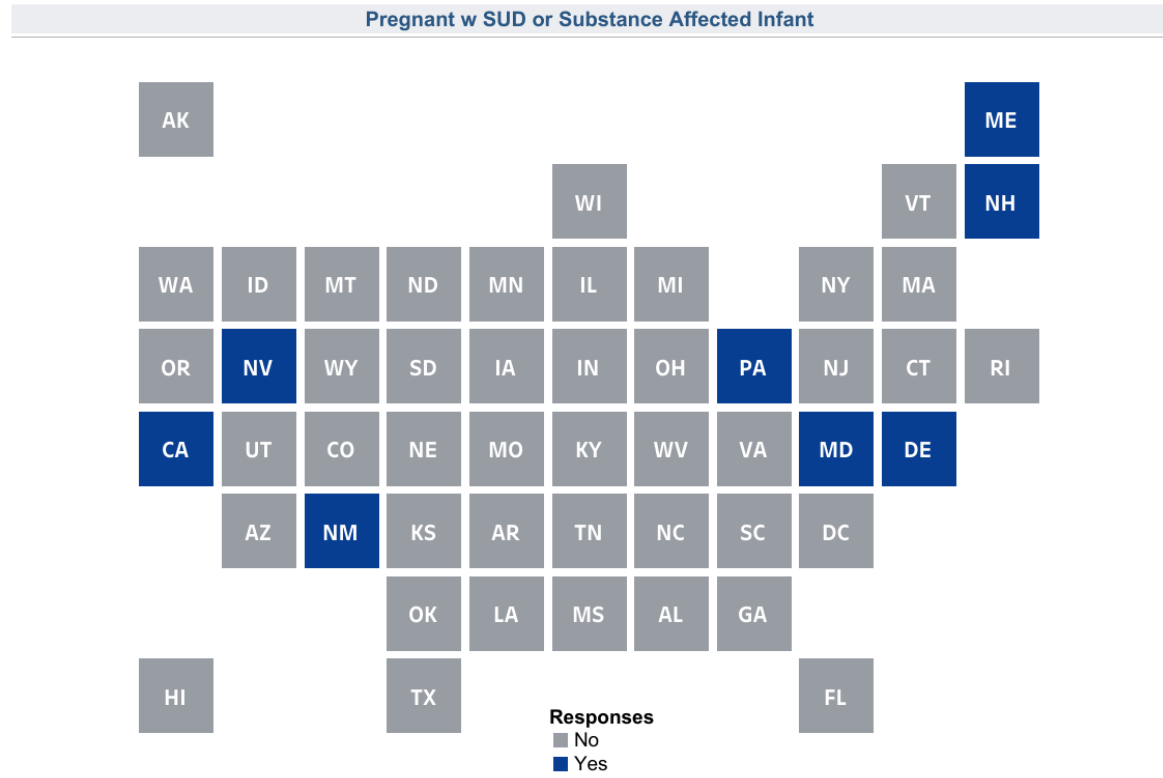
Implementation Timeline: SUD Treatment in Emergency Department Settings

7 states encourage emergency department (ED)-initiated interventions for substance use disorder (SUD) by having statewide laws that require EDs to either establish specific discharge protocols for patients treated for substance use-related emergencies or initiate medication for addiction treatment for those patients, where clinically appropriate



Strategy 9: Substance Use During Pregnancy / Family Care Plans

- 8 jurisdictions have specific laws/regulations: (1) designed to help families with substance-exposed infants; and (2) that do not automatically consider substance use during pregnancy or giving birth to a substance-exposed infant to be child abuse or neglect.
- Stigma and fear of legal repercussions can discourage pregnant individuals from seeking care.



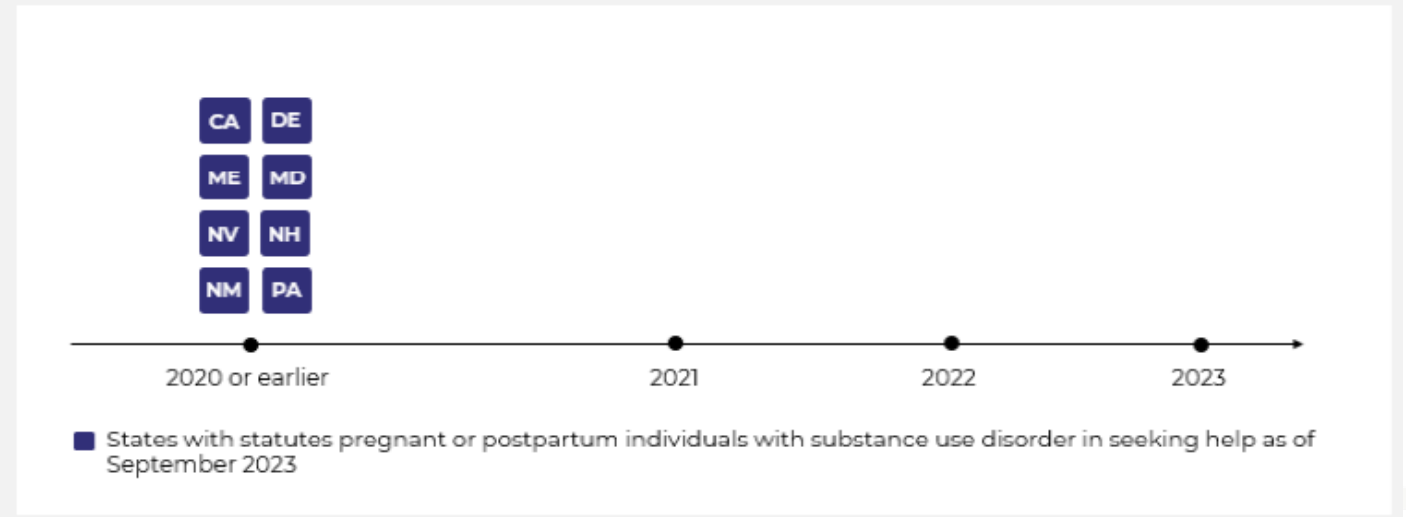
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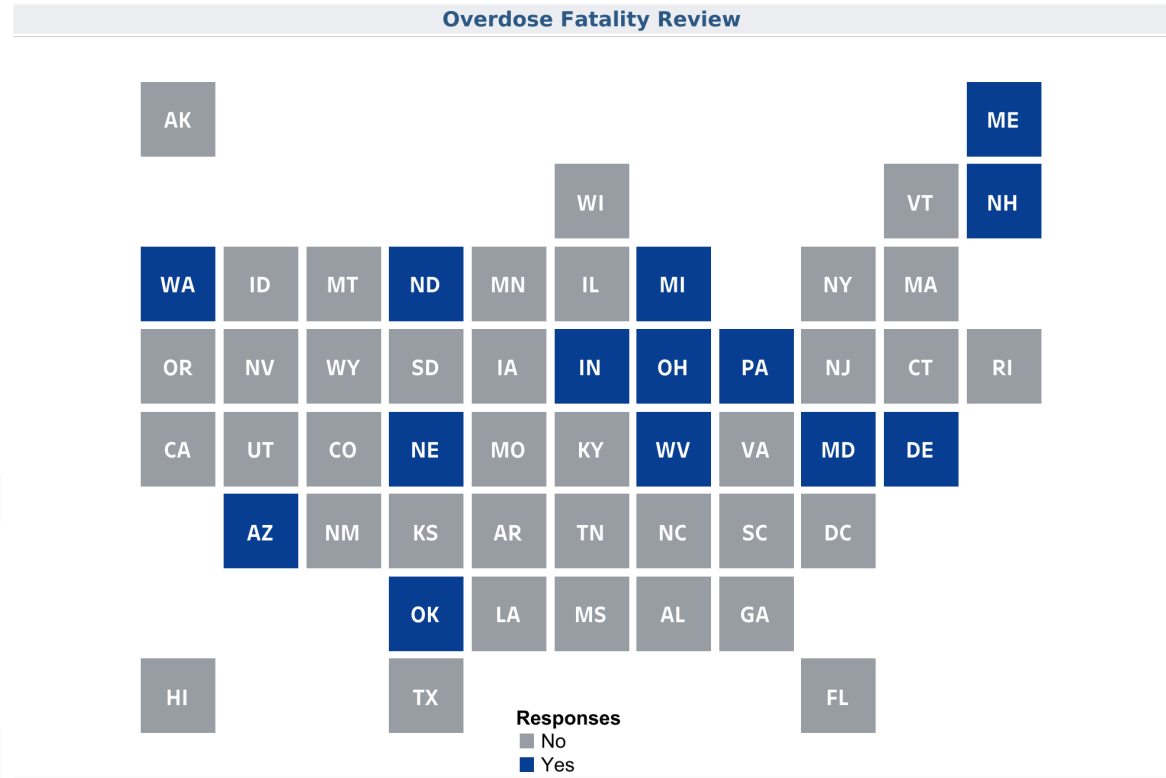
Implementation Timeline: Substance Use During Pregnancy and Family Care Plans

Eight states assist pregnant or postpartum individuals with substance use disorder in seeking help by having specific laws/regulations designed to help families with substance-exposed infants and not automatically considering substance use during pregnancy or giving birth to a substance-exposed infant to be child abuse or neglect, by itself.



Strategy 10: Overdose Fatality Review Teams

- 14 jurisdictions expressly authorize overdose fatality review teams (OFRs) to obtain certain disclosure-protected information from state and local entities.
- Information collection is a key challenge for overdose fatality review, and OFRs can improve cross-sector collaboration in communities.



Data as of January 2024

Strategy 10: Overdose Fatality Review Teams

- 14 jurisdictions expressly authorize overdose fatality review teams (OFRs) to obtain certain disclosure-protected information from state and local entities.
- Information collection is a key challenge for overdose fatality review, and OFRs can improve cross-sector collaboration in communities.

Implementation Timeline: Overdose Fatality Review Information Sharing

14 states help OFR teams obtain certain disclosure-protected information from state and/or local entities





The Ten Strategies and California

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Syringe Services Programs - California

- California has authorized SSPs by statute since at least 2000.
- [Cal. Health & Safety Code § 11364](#): needles and syringes excepted from general prohibition on drug paraphernalia (until January 1, 2026).
- [Cal. Health & Safety Code § 121349, et seq.](#): authorizes city and county officials to establish hypodermic needle and syringe exchange services.
- [Model Syringe Services Programs Act](#) (December 2021)



Fentanyl Test Strips and Other Drug-Checking Equipment - California

- California legalized certain drug checking equipment in 2023.
- [Cal. Health & Safety Code § 11014.5](#): prohibited drug paraphernalia does not include “any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl.”
- [Model Fentanyl/Xylazine Test Strip and Other Drug Checking Equipment Act \(April 2023\)](#)



MAT in Correctional Settings - California

- California provides MAT in state correctional facilities, but this is not a statutory requirement.
- The state first enacted a pilot program to provide MAT in 2016.
- Beginning with its 2022-2023 budget, California has appropriated \$162.5 million annually for its [Integrated Substance Use Disorder Treatment Program Project](#) statewide.
- [Model Access to Medication for Addiction Treatment in Correctional Settings Act](#) (October 2020)



Withdrawal in Correctional Settings - California

- California has required correctional withdrawal management since 1995.
- [Cal. Health & Safety Code § 11222](#): “it is the duty of the person in charge of the place of confinement to provide the person so confined with medical aid as necessary to ease any symptoms of withdrawal from the use of controlled substances.”
- [Model Withdrawal Management Protocol in Correctional Settings Act](#) (July 2021)



Pregnancy & Family Care Plans - California

- [Cal. Penal Code § 11165.13](#): “a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. If other factors are present that indicate risk to a child, a report shall be made. However, a report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent’s substance use shall be made only to a county welfare or probation department, and not to a law enforcement agency.”

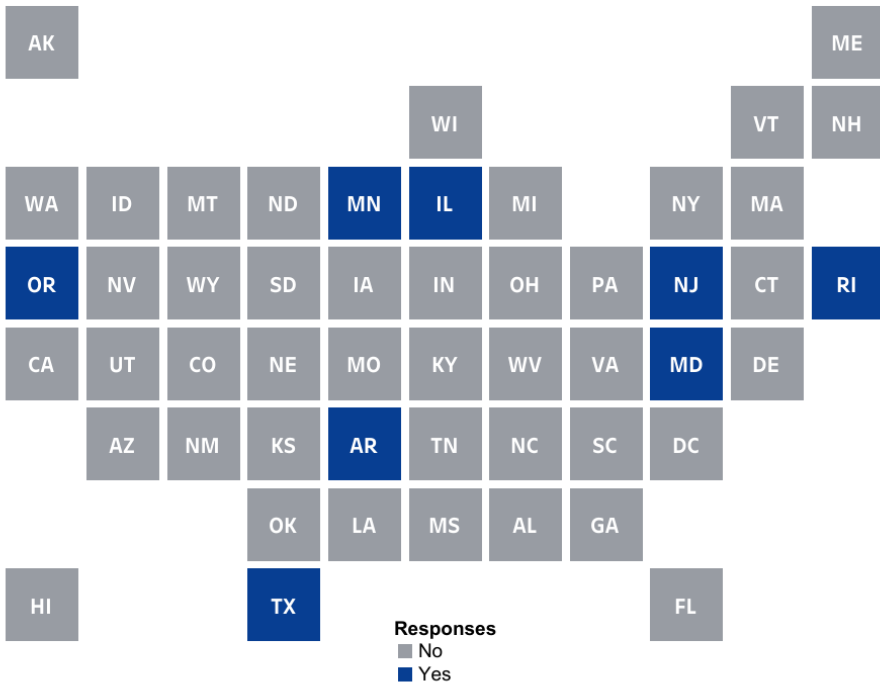


Pregnancy & Family Care Plans - California

- [Cal. Health & Safety Code § 123605](#): Provides that a county must establish protocols between county health departments, county welfare departments, and all public and private hospitals in the county, regarding the application and use of an assessment of the needs of, and a referral for, a substance exposed infant to a county welfare department.
- This includes identifying needed services for the mother, child, or family, including, where applicable, services to assist the mother caring for her child and services to assist maintaining children in their homes.
- [Model Substance Use During Pregnancy and Family Care Plans Act](#) (March 2023)

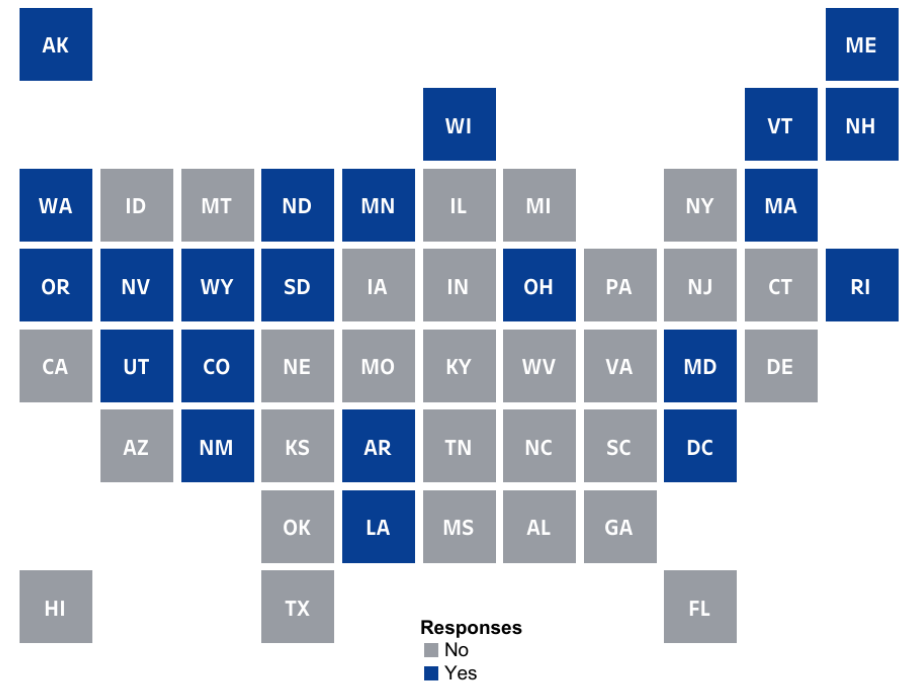
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Naloxone in Schools



[Model Expanded Access to Emergency Opioid Antagonists Act](#)
(November 2021)

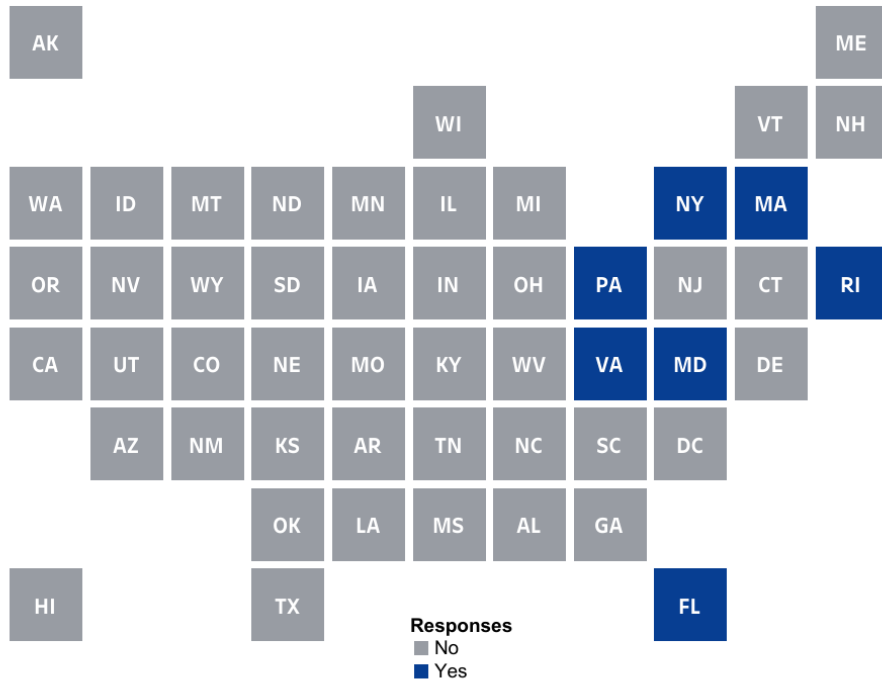
School Response - Reporting to Police



[Model School Response to Drugs and Drug-related Incidents Act](#)
(May 2023)

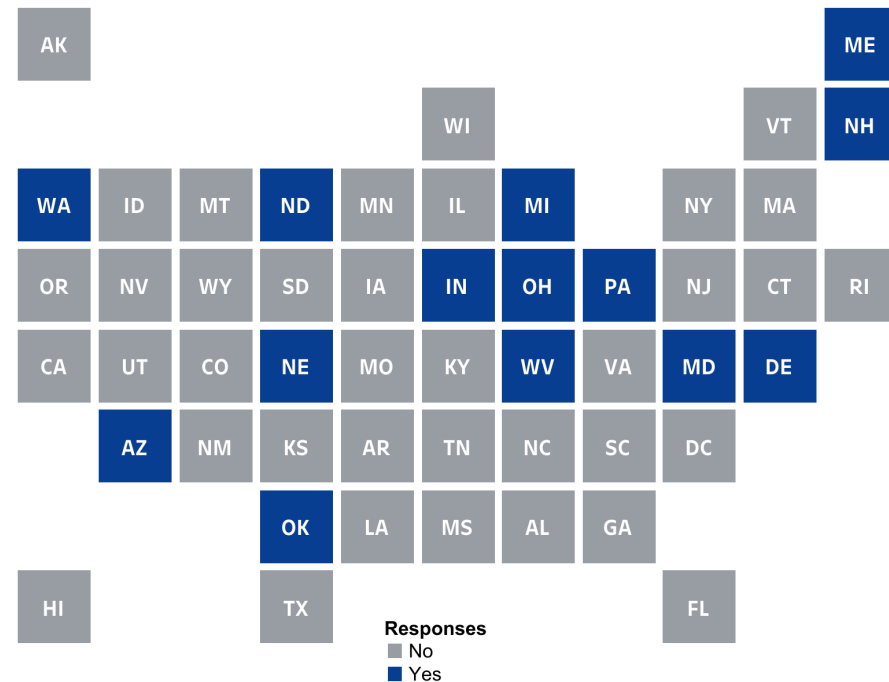
The Ten Strategies and California

SUD Treatment in ER



[Model Substance Use Disorder Treatment in Emergency Settings Act](#) (March 2023)

Overdose Fatality Review



[Model Overdose Fatality Review Teams Act](#) (February 2021)



Recent California Legislation

- **2023 Senate Bill 234**, which passed last year, requires stadiums, concert venues, and amusement parks to carry naloxone, but the original bill would have also covered public schools.
- **2023 Senate Bill 472** would similarly require naloxone in schools. This bill died in committee last year.
- **2023 Assembly Bill 1288** would have prohibited insurers from subjecting MAT to prior authorization or step therapy. The bill was vetoed.
 - A similar bill (Assembly Bill 1842) was introduced this year.
- **2023 Assembly Bill 1915 (pending)** would require naloxone in high schools.
- **2023 Assembly Bill 1841 (pending)** would require college and university student housing to stock naloxone.



California Opioid Litigation Proceeds

California is due to receive approximately \$2.05 billion from the Janssen and Distributors settlements through 2038, allocated as follows:

- 15% to the state government,
- 70% to the California Abatement Accounts Fund, and
- 15% to local governments.

For the 2023-2024 fiscal year, state funds were allocated toward these projects:

- DHCS Naloxone Distribution Project (\$15 million)
- Grants for community SSPs (\$15.25 million)
- Grants for fentanyl education, testing, recovery, and support services (\$7.5 million)
- Development and procurement of low-cost generic nasal naloxone (\$25 million)

Questions?



Jon Woodruff, Esq.
Managing Attorney
jwoodruff@thelappa.org
434.252.3303



Joe Maschman, Esq.
Legislative Attorney
jmaschman@thelappa.org
434.216.4427