

2023 Mid-Session Overview

Conservative lawmakers in states across the country are making their total disdain for local democracy, and their own constituents, abundantly clear. These elected officials have wasted no time in the 2023 legislative session using every lever available to strengthen their own grip on power and thumb their noses at the will of the people. When voters pass policies they don't like, these lawmakers and their corporate donors simply pass state laws overturning them. When local governments dare to enact measures meant to address local needs, they run the risk of state lawmakers responding with a tsunami of punitive legislation designed to weaken local power.

The Local Solutions Support Center (LSSC) is already tracking more than 650 abusive preemption bills this session.

This power grab is playing out in capitols every single day: In Tennessee, conservative state officials have relentlessly sought to minimize the voice and power of those living in Nashville – [even attempting to slash the size of the city's Metro Council](#). They've [expelled popularly elected state representatives](#) because they viewed their support for common sense gun safety measures as out-of-line. In Montana, state legislators silenced a transgender lawmaker – who won nearly 80 percent of the vote in her election less than a year ago – simply for speaking out against anti-transgender legislation.

Texas advocates are confronting a similar contempt for democracy: The state legislature is advancing a [behemoth "Death Star" preemption bill](#) which would shift power from the hands of Texans and their local elected officials to big corporations and their legions of lawyers. The legislation would allow any person affected by a municipal ordinance to file a lawsuit against – or even ban – local policies that protect construction workers on the job; restrict

predatory lending practices; allow for responses to disasters and public health crises; regulate local fire, building, zoning, and billboard regulations; and even undermine local speed limits. Florida is considering a [similarly sweeping Death Star bill](#) which would allow businesses to sue a city every time they don't like a policy – essentially grinding local government to a halt.

More people than ever before are hearing about how abusive preemption is impacting so many different communities – but we didn't get here overnight. State officials, often at the behest of their corporate allies, have systematically abused preemption for over a decade. Year after year, state legislatures have siphoned power away from local governments. They've deployed abusive preemption – just as they've deployed voter suppression or gerrymandering – to take power away from the people and communities they deem threatening.

The scope of these abusive preemption bills are widening – from Death Star preemption; to efforts to undermine the power of reform-oriented prosecutors; to discriminating against transgender youth; to making it harder for local officials to successfully conduct elections. LSSC's mid-session report explores the top trends we're tracking so far this session, as well as a few promising victories that advocates are securing. **Some of the most concerning preemption trends this session include:**

"Death Star" Preemption



Prosecutorial Discretion



Anti-LGBTQ+ Discrimination



“Death Star” Preemption



You don't need to be a Star Wars aficionado to understand that “Death Star” preemption bills are extraordinarily dangerous. These abusive preemption bills are, by design, sweeping in nature and hold the potential to dramatically curtail local decision making across an array of local policies.

Death Star preemption legislation represents one of the most alarming power grabs from state officials and their corporate allies, and the scope of the bills have expanded in recent years: in 2015, Michigan passed a Death Star preemption bill broadly undermining the ability of local elected officials to set local policies around terms of employment – impacting issues like wages and working conditions. The Death Star bills advocates are confronting now are even larger - expanding well beyond terms of employment and undermining local decision making across issues like zoning, public health and disaster response, and community safety.

This new class of Death Star bills even go out of their way to make cities vulnerable to costly litigation whenever corporations don't like local policies. The litigation not only could grind local policymaking to a halt, but could be used to disproportionately harm marginalized communities. For example, businesses could sue when a city sets fair wages for municipal contractors; or when a town passes environmental measures meant to ensure clean drinking water.

There are several Death Star bills in play this session, including:



Florida

[SB 170](#) / [HB 1515](#)

What the Legislation Does: Allows companies to sue county and city governments that pass “arbitrary or unreasonable” policies that could harm business profits. The bills essentially allow for corporate litigation to grind local governance to a costly halt, requiring city and county legislative bodies to prepare and publish “business impact statements.” The impact of the legislation would be sweeping – so sweeping, in fact, that Governor Ron DeSantis [vetoed](#) similar legislation last year. That veto hasn't stopped corporate lobbyists and some lawmakers from pushing a revised version of the bill once more.



Texas

[HB 2127](#) / [SB 814](#)

What the Legislation Does: This Death Star legislation aims to restrict the ability of local officials to pass policies that protect the health, safety, and freedom of local constituents. The bills would allow any person adversely affected by a municipal ordinance to file a lawsuit against – or even ban – local policies that protect construction workers; restrict predatory lending practices; allow for responses to disasters and public health crises; regulate local fire, building, zoning, and billboard regulations; and regulate sanitation and pest control.

The bill is [wildly unpopular](#) across the Lone Star State – a recent poll from RABA Research found that 64 percent of Texans oppose many of its provisions; while 66 percent believe their local governments should be the ones making decisions on issues like paid sick leave, wages for city workers and contractors, and safety on construction sites.

“We are witnessing an attack on democracy and freedom in Texas. HB 2127 is poised to unleash incredible harm upon Texas workers and their families, and the very ability of our local elected officials to keep us all safe. State lawmakers should be working to protect the health and well-being of all Texans – not banning local governments from ensuring their communities can thrive.”

– Luis Figueroa

Every Texan's Chief of Legislative Affairs



Prosecutorial Discretion

State lawmakers are increasingly going after local reform prosecutors, even though voters tend to back these prosecutors in election and re-election. In 2022, reform prosecutors won in Dallas and Hays Counties, Texas; Polk County, Iowa; Marion County, Indiana; and Hennepin County, Minnesota.

State lawmakers, however, are choosing to trample over the express desire of voters – instead moving to undermine popular local reform efforts that are meant to advance more effective and equitable approaches to safety. The highest-profile examples of these clashes between state officials and local prosecutors have unfolded in Florida and Pennsylvania over the last year; but those aren't the only states where lawmakers are working to undermine the discretion of reform prosecutors. Here are a few of the prosecutorial discretion preemption bills LSSC is tracking this session:



Georgia

SB 92

What the Legislation Does: Creates a commission that would have the power to review the decisions of local prosecutors; as well as issue punishments against local prosecutors – including removal from office.



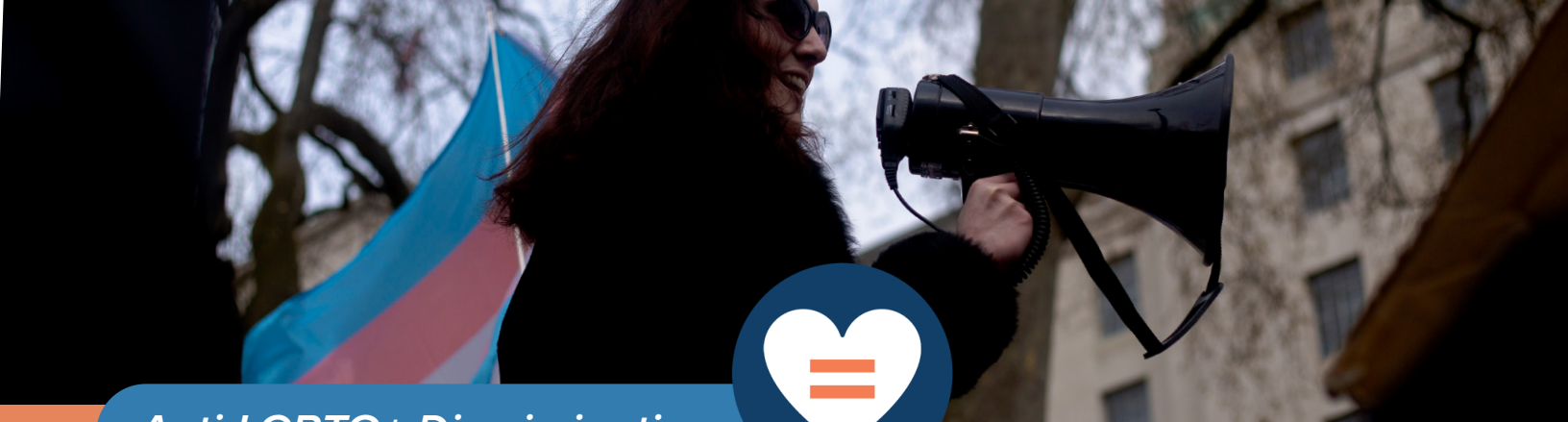
Texas

SB 20

What the Legislation Does: Would prohibit district attorneys from adopting or enforcing a policy by which the district attorney refuses to pursue criminal offenses; and could result in the district attorney's removal from office. This is particularly concerning for communities where prosecutors may see value in not pursuing some of the state's discriminatory anti-LGBTQ+ or anti-abortion policies. These policies include banning discussion of LGBTQ+ people and families in schools (more on that below) and even have resulted in the state government investigating parents of transgender youth.

HB 200

What the Legislation Does: Would establish a prosecuting attorneys coordinating council, which would have the power to punish or remove local prosecutors from office. The coordinating council would have a political bent – the majority of the members would be appointed by the governor, lieutenant governor, and Speaker of the House.



Anti-LGBTQ+ Discrimination

State lawmakers have introduced [approximately 500 anti-LGBTQ+ bills this year](#), according to the Equality Federation. That makes 2023 another dangerous year for LGBTQ+ people nationwide – particularly transgender youth. Many of those bills involve preemption, either banning or threatening punitive action against schools and local governments that otherwise want to protect LGBTQ+ people from discrimination.

Florida Governor Ron DeSantis and his allies in Tallahassee made headlines last year when they enacted the draconian “Don’t Say Gay or Trans” law, banning discussion of LGBTQ+ people and families in schools. This session, the legislature expanded the discriminatory measure – extending the ban through middle and even high schools.

Beyond Florida, state lawmakers in a number of legislatures continued to single out transgender youth for harm, advancing more bills that ban transgender kids from participating in school sports. Many GOP lawmakers also became singularly focused on banning drag shows. Here’s a small snapshot of some of the anti-LGBTQ+ bills in play this session:



Iowa

[SF 496](#)

What the Legislation Does: Bans instruction of LGBTQ+ people and families through sixth grade.



Oklahoma

[HB 2186](#)

What the Legislation Does: Would ban Drag Queen Story Hours, and override any municipal licenses that authorized businesses to host Drag Queen Story Hours.



Texas

[SB 13](#)

What the Legislation Does: Would prohibit “harmful” library materials in local schools and establish a local school library advisory council with mandatory membership representing the clergy and business communities that could oversee implementation of these policies.



Utah

[HB 132](#)

What the Legislation Does: Would prevent minors from receiving gender-affirming care.

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Other preemption trends LSSC is tracking this session include:



Abortion



Housing



Democracy & Elections



Abortion

Thirteen states now ban abortion, [according to the Guttmacher Institute](#). The abortion access landscape has changed rapidly since the Dobbs ruling, and for many states criminalizing abortion isn't enough – many legislatures also are moving further and preempting local governments from helping people obtain safe and legal abortions. Here is just a snapshot of some of the abortion preemption bills moving this session:



Tennessee

HB 90 / SB 600

What the Legislation Does: Governor Bill Lee signed into law legislation that prohibits local governments from providing insurance to municipal employees that covers abortion, or from creating funding sources for people to travel to another state to obtain a legal abortion.



Virginia

HB 1488

What the Legislation Does: This legislation, which died in committee, would have prohibited any government agency, including municipalities, from providing a grant to a facility that offers abortions. This would have prevented local governments from providing financial support to clinics, even to support their other reproductive and family planning services.



West Virginia

HB 2326

What the Legislation Does: This legislation, which also died in committee, would have prohibited municipalities from expending funds originating from the state to support abortion or health plans that cover abortion.

“2023 is the year that more Tennesseans than ever before are beginning to understand how preemption is being used to take power away from people and to harm communities across our state – not just urban areas like Nashville or Memphis, but suburban and rural communities as well. From a lack of paid leave & other workplace protections to unequal broadband access, abortion bans to stifled democratic debate in our state capitol – we have faced enormous challenges over the last few years. I’m hopeful that Tennesseans from all walks of life are now more energized than ever to reclaim the freedom to make our own decisions for our local communities.”

– Feroza Freeland

A Better Balance’s
Policy Manager of the
Southern Office

Housing



Rents are skyrocketing in many cities, imperiling the ability of families to maintain a safe and sustainable place to call home. Many local governments have passed local policies, like tenant bills of rights, in response. Conservative state lawmakers and their corporate donors, however, often lash out against bills that would protect housing security for families. Unsurprisingly, these actions are at odds with the policies Floridians say they need to thrive: A [2022 Local Progress poll](#) found that 80 percent of Florida voters think the state should limit rent hikes and require landlords to give at least 60 days notice regarding rent changes. These are exactly the types of policies many localities have enacted – and which the state legislature is eagerly eviscerating.

Here are just a few of the housing preemption bills in play this session:



Florida

[HB 1417](#) / [SB 1586](#)

What the Legislation Does: Would prohibit local regulation of the landlord-tenant relationship, particularly regarding terms of rental agreements, fees, and eviction protections. The legislation would supersede existing policies meant to protect tenants, such as Orange County’s Tenant’s Bill of Rights.

[HB 102](#)

What the Legislation Does: Governor DeSantis has signed HB 102 into law. The new law prohibits municipalities across Florida from enacting rent control – under any circumstances; and even voids an exception that had previously allowed municipalities to enact rent control measures under certain declared emergencies.



North Carolina

[SB 553](#) / [HB 551](#)

What the Legislation Does: Preempts local governments from passing ordinances that would protect tenants from landlords who refuse to accept federal housing vouchers.

“Across the state of Florida, local electeds and communities are working together to pass laws and set standards that meet the unique needs of their communities. But state legislators have made it clear that they do not respect local democracy or care about what their constituents really need. They have prioritized corporate lobbyists and big business interests over the will of the people at every turn: from their attempts to grind local policymaking to a halt so their corporate actors can sue every time they don’t like a policy, to their glee at undermining renter protections meant to strengthen housing security for working families all across our state.”

– Francesca Menes

Local Progress Deputy
Organizing Director

Democracy & Elections



Lawmakers in many states are using abusive preemption to undermine the very fabric of our democracy, and the mechanisms for participating in civic society – like elections. Advocates should be clear and loud about one thing: This is about suppressing large segments of the vote. These preemption bills, fueled in large part by conspiracy theories related to the 2020 election and amplified by far-right lawmakers, aim to make it more difficult for voters to access the polls. Many of the bills undermine the ability of local elected officials to register voters and administer secure elections.

While these preemption bills haven't garnered as much media attention over the last few months as the "Death Star" preemption bills or anti-LGBTQ+ bills, they shouldn't be underestimated – LSSC expects anti-democracy preemption bills to continue bubbling up nationwide heading into the 2024 elections. Here are two of the bills moving this year:



Arizona

[SB 1265](#)

What the Legislation Does: Would prohibit the state from using ranked choice voting or any method involving multiple rounds of tabulation.



Montana

[HB 892](#)

What the Legislation Does: Would prohibit "double voting," so individuals could not vote in the same election in both Montana and another jurisdiction. Although there has been little to no evidence of double voting in Montana or across the country—despite candidates like [Donald Trump encouraging voters to vote twice](#)—this bill could have the effect of deterring people from voting or targeting people who have recently moved from another state and re-registered in Montana.

2023 Victories

There are some bright spots on the horizon, where advocates have made enormous strides forward to protect local power and democracy, defeat preemption, and roll back long standing policies designed to weaken the ability of people and their local elected officials to enact commonsense local policies:



West Virginia

Advocates in **West Virginia once again defeated a sweeping "Death Star" preemption bill** in their state legislature.

In debriefing their latest campaign efforts, state advocates highlighted the importance of pointing out the racial inequities often inherent in preemption, as well as the importance of local government, when making the case against the legislation.



Michigan

Advocates in Michigan are poised to **return a substantial amount of power to communities with the repeal of a 2015 law** that preempted

local decision making on terms of employment. Should this legislation pass, it would represent a significant victory for workers and families, and would come on the heels of the successful repeal of the state's anti-labor so-called "right to work" law earlier this session.