

Addressing Inequities in Labor Laws for Agricultural Workers



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How familiar are you with legal epidemiology?

- A. Very familiar
- B. Somewhat familiar
- C. Not at all familiar
- D. Other (please type in chat)

Legal Epidemiology



Labor Laws and Agricultural Worker Health



State Level Policies



Results and Next Steps



A Little About Me



- I grew up in Pateros, WA
- Mexicana Americana
- Proud daughter of farmworkers
- Occupational health equity researchers



Legal Epidemiology





Supporting Underserved Workers through Collaborative Research

The purpose of the Work Equity Research Center (WEREC) is to work with communities to co-create research projects and develop solutions to improve work-related outcomes for historically and currently underserved workers. We do this by bringing together stakeholders to focus attention and invest resources on the work-related concerns, needs, barriers, and solutions for communities that are currently underserved.



Legal epidemiology is the study of law as a factor in the cause, distribution, and prevention of disease and injury (CDC).

What Does That Involve?



Measure the distribution of laws across jurisdictions and over time



Evaluate the implementation and impact of legal interventions on public health



Analyze the implementation and impact of laws



Enable and support the rapid diffusion of healthier laws and policies



Anti-Bullying Laws

This longitudinal dataset provides a comprehensive overview of anti-bullying laws across all 50 states and the District of Columbia, from January 1, 1999, through January 1, 2018.

Variables

- Does the state regulate bullying?
- Does the law define bullying?
- Does the law regulate cyberbullying?
- Does the law recognize the link between bullying and adverse outcomes?
- Plus 19 others...

Public Health Topic Maternal, Infant and Child Health	Geography 50 U.S. states and the District of Columbia	Source LawAtlas
Date Range January 01, 1999 – January 01, 2018	Last Updated Apr 25, 2024	



Foodborne illness outbreaks and state laws on unpasteurized milk

- Authors used legal epi methods to collect state statutes related to the sale of unpasteurised milk for human consumption.
- Found an association between state laws that increase the availability of unpasteurised milk and more outbreak-associated illnesses and outbreaks.

Foodborne illness outbreaks linked to unpasteurised milk and relationship to changes in state laws – United States, 1998–2018

Lia Koski^{1,2}, Hannah Kisselburgh¹, Lisa Landsman³, Rachel Hulkower³, Mara Howard-Williams³, Zainab Salah¹, Sunkyung Kim¹, Beau B. Bruce¹, Michael C. Bazaco⁴ , Michael B. Batz⁴ , Cary Chen Parker⁴, Cynthia L. Leonard⁴, Atin R. Datta⁴, Elizabeth N. Williams⁴, G. Sean Stapleton^{1,5} , Matthew Penn³, Hilary K. Whitham¹ and Megin Nichols¹

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Abstract

Consumption of unpasteurised milk in the United States has presented a public health challenge for decades because of the increased risk of pathogen transmission causing illness outbreaks. We analysed Foodborne Disease Outbreak Surveillance System data to characterise unpasteurised milk outbreaks. Using Poisson and negative binomial regression, we compared the number of outbreaks and outbreak-associated illnesses between jurisdictions grouped by legal status of unpasteurised milk sale based on a May 2019 survey of state laws. During 2013–2018, 75 outbreaks with 675 illnesses occurred that were linked to unpasteurised milk; of these, 325 illnesses (48%) were among people aged 0–19 years. Of 74 single-state outbreaks, 58 (78%) occurred in states where the sale of unpasteurised milk was expressly allowed. Compared with jurisdictions where retail sales were prohibited ($n = 24$), those where sales were expressly allowed ($n = 27$) were estimated to have 3.2 (95% CI 1.4–7.6) times greater number of outbreaks; of these, jurisdictions where sale was allowed in retail stores ($n = 14$) had 3.6 (95% CI 1.3–9.6) times greater number of outbreaks compared with those where sale was allowed on-farm only ($n = 13$). This study supports findings of previously published



COVID-19 and state-wide closures and mask mandates

- Authors obtained data on statewide closures and mask mandates from state government websites and executive orders.
- Found that counties in states with closures of <59 days were associated with increased incidence of COVID-19.



Brief communication

Differences in rapid increases in county-level COVID-19 incidence by implementation of statewide closures and mask mandates – United States, June 1–September 30, 2020



Sharoda Dasgupta, PhD, MPH^{a,1}, Ahmed M. Kassem, MD, PhD^{a,1}, Gregory Sunshine, JD^{a,b}, Tiebin Liu, MSPH^a, Charles Rose, PhD^a, Gloria J. Kang, PhD, MPH^a, Rachel Silver, MPH^a, Brandy L. Peterson Maddox, MPH^a, Christina Watson, DrPH^a, Mara Howard-Williams, JD, MPH^b, Maxim Gakh, JD, MPH^c, Russell McCord, JD^{a,b}, Regen Weber, BA^b, Kelly Fletcher, MPH^a, Trieste Musial, MS^a, Michael A. Tynan, BA^a, Rachel Hulkower, JD, MSPH^{a,b}, Amanda Moreland, JD, MPH^b, Dawn Pepin, JD, MPH^a, Lisa Landsman, JD^b, Amanda Brown, JD^b, Siobhan Gilchrist, JD, MPH^a, Catherine Clodfelter, JD^a, Michael Williams, MPH^a, Ryan Cramer, JD^a, Alexa Limeres, JD^a, Adebola Popoola, JD^a, Sebnem Dugmeoglu, MPH^a, Julia Shelburne, JD^b, Gi Jeong, JD^b, Carol Y. Rao, MSc, ScD^{a,*}

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ABSTRACT

Background and Objective: Community mitigation strategies could help reduce COVID-19 incidence, but there are few studies that explore associations nationally and by urbanicity. In a national county-level analysis, we examined the probability of being identified as a county with rapidly increasing COVID-19 incidence (rapid riser identification) during the summer of 2020 by implementation of mitigation policies prior to the summer, overall and by urbanicity.

Methods: We analyzed county-level data on rapid riser identification during June 1–September 30, 2020 and statewide closures and statewide mask mandates starting March 19 (obtained from state government websites). Poisson regression models with robust standard error estimation were used to examine differences in the probability of rapid riser identification by implementation of mitigation policies (P -value < .05); associations were adjusted for county population size.

Results: Counties in states that closed for 0–59 days were more likely to become a rapid riser county than those that closed for >59 days, particularly in nonmetropolitan areas. The probability of becoming a rapid riser county was 43% lower among counties that had statewide mask mandates at reopening (adjusted prevalence ratio = 0.57; 95% confidence intervals = 0.51–0.63); when stratified by urbanicity, associations were more pronounced in nonmetropolitan areas.

Legal Epidemiology In Summary



- ✓ Systematically code the law to understand status of laws
- ✓ Assess the association of laws and health



Labor Laws and Agricultural Worker Health



U.S. Agricultural Workers



- There are about 2.6 million agricultural workers in the US.
- States with the highest number of agricultural workers:
 - California
 - Texas
 - Tennessee
 - Oklahoma
 - Florida

Demographics of US Agricultural Workers



National Agricultural Workers Survey 2019-2020 data	
Latinx ethnic background	78%
US born	30%
Foreign born	70%
Authorized permission to work in US	56%
Self-reported English-speaking ability (not at all or somewhat)	67%
Self-reported English reading ability: not at all or somewhat-	69%
Mean/median family income	\$25,000-\$29,999



Occupational health risks:

- Exposure to heat
- Repetitive motion
- Pesticide and chemical exposure

Environmental conditions:

- Crowded or substandard housing
- Minimal sanitation standards
- Barriers to health care
- Language barriers
- Lack of transportation

Injuries and Deaths



- In 2015, the agricultural industry had the highest fatal work injury rate of **22.8 per 100,000** full-time workers compared to an all-worker fatal injury rate of 3.4.
- **573 total number of fatal work injuries** in 2019 (surpassed only by the transportation and warehousing industry)
- **100 agricultural workers** across the US have an injury that results in work time loss per day.



A form of structural oppression that excludes agricultural workers from most worker protection laws in the US.

“Why is it that farmworkers feed the nation, but they can’t get food stamps?”

- Dolores Huerta, American Labor Leader & Civil Rights Activist

Federal Law Exclusions



- National Labor Relations Act (NLRA) of 1935
- Federal Fair Labor Standards Act (FLSA) of 1938
- Agricultural workers (as well as domestic workers) were intentionally excluded from FLSA and NLRA.



Do you think legal epidemiology methods could be applied in your work?

- A. Definitely
- B. Maybe
- C. I'm not sure I see a connection
- D. Other (please type in chat)

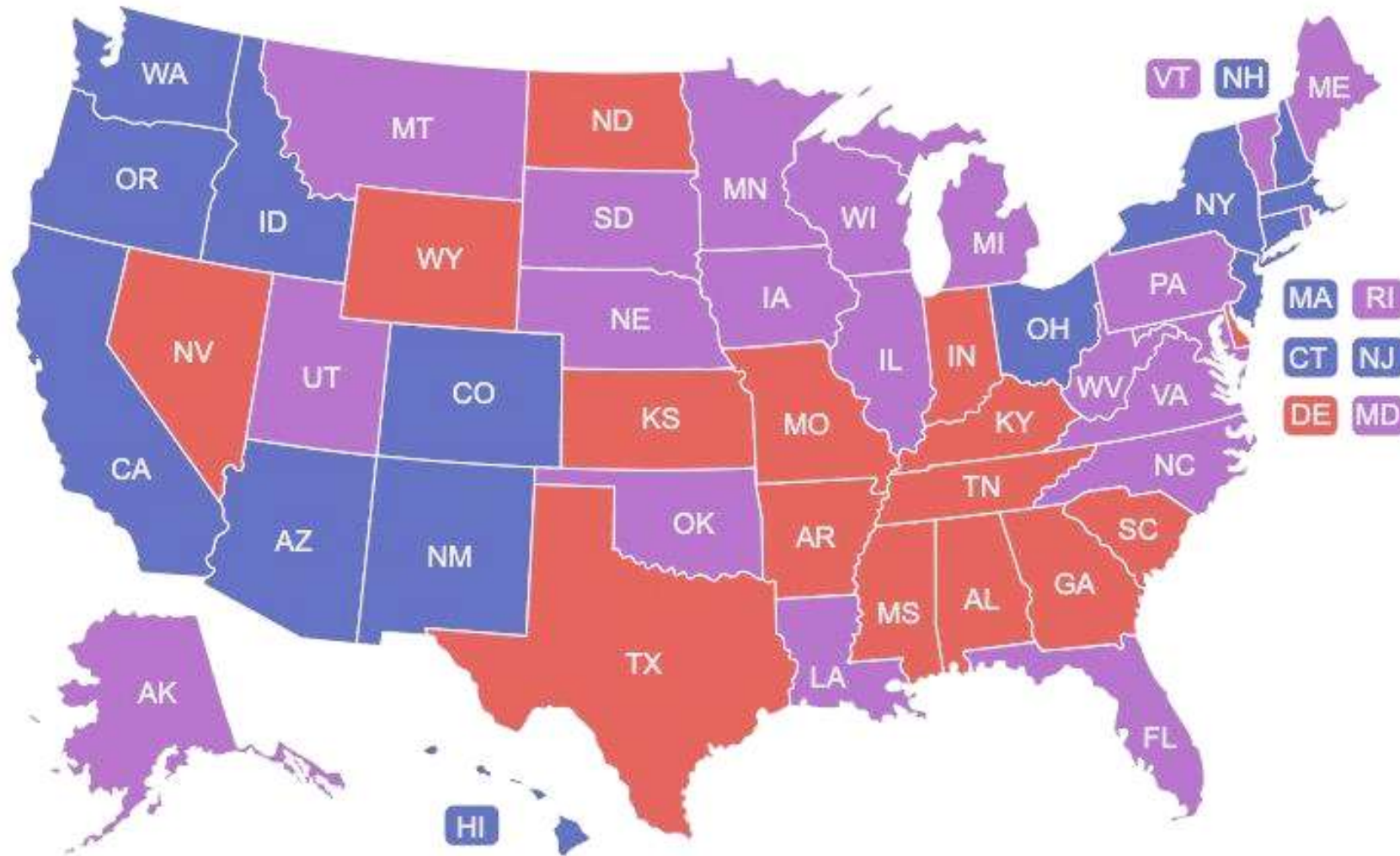


Overview of State-Level Policies

Workers' Compensation Map



Please note that some state workers' compensation laws additionally exclude from coverage workers who are not state residents, which may affect some workers' eligibility.

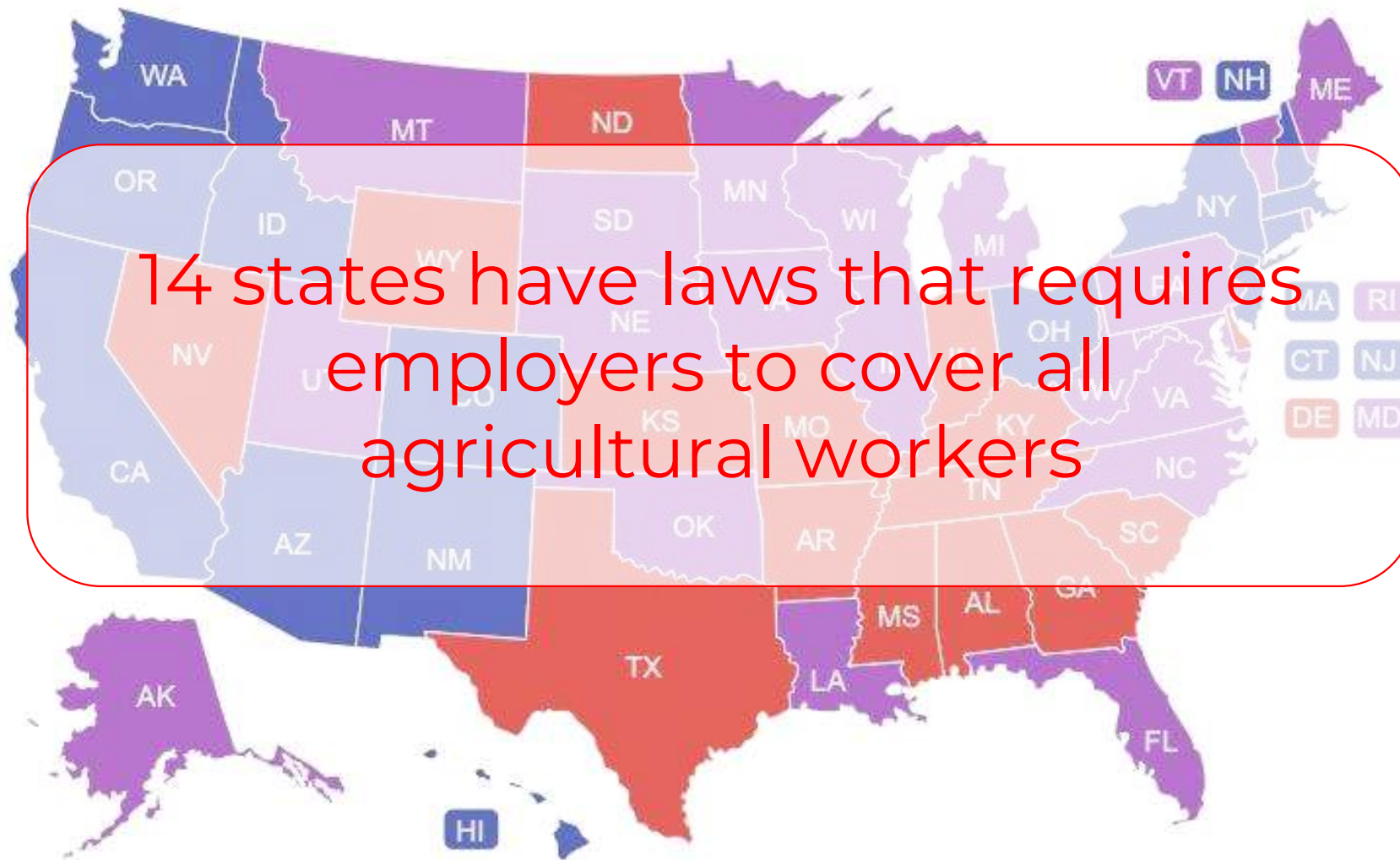


- Full Coverage (state law requires employers to cover agricultural workers)
- Limited Coverage (state law limits coverage requirements to only certain agricultural employers or agricultural workers)
- Optional Coverage (state law does not require coverage for any agricultural workers, but employers may elect to provide coverage)

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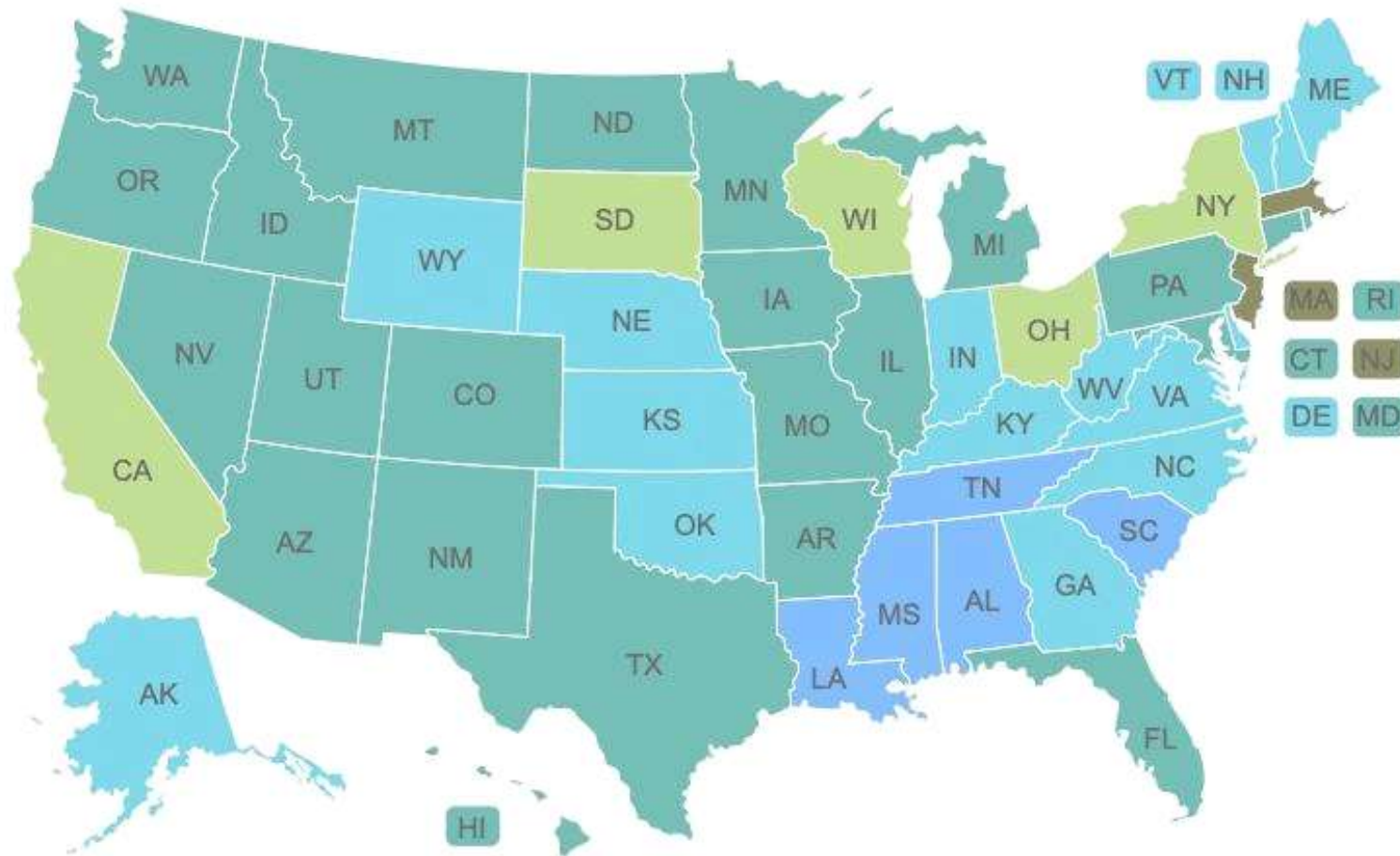


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Wages Map



The federal Fair Labor Standards Act (FLSA) establishes that agricultural workers are covered by the federal minimum wage (with some limited exceptions). Therefore, in states where there is no minimum wage law or where farmworkers are not covered by the state minimum wage, federal law still applies and farmworkers generally should be paid at least the federal minimum wage, which is currently \$7.25 per hour.



- Agricultural workers are covered by the state minimum wage law
- Agricultural workers are covered by the state minimum wage law, but have a lower wage than other workers
- Some agricultural workers are covered by the state minimum wage law, but with limitations or exceptions
- Agricultural workers are not covered by the state minimum wage law
- State does not have a state minimum wage law

Wages Map

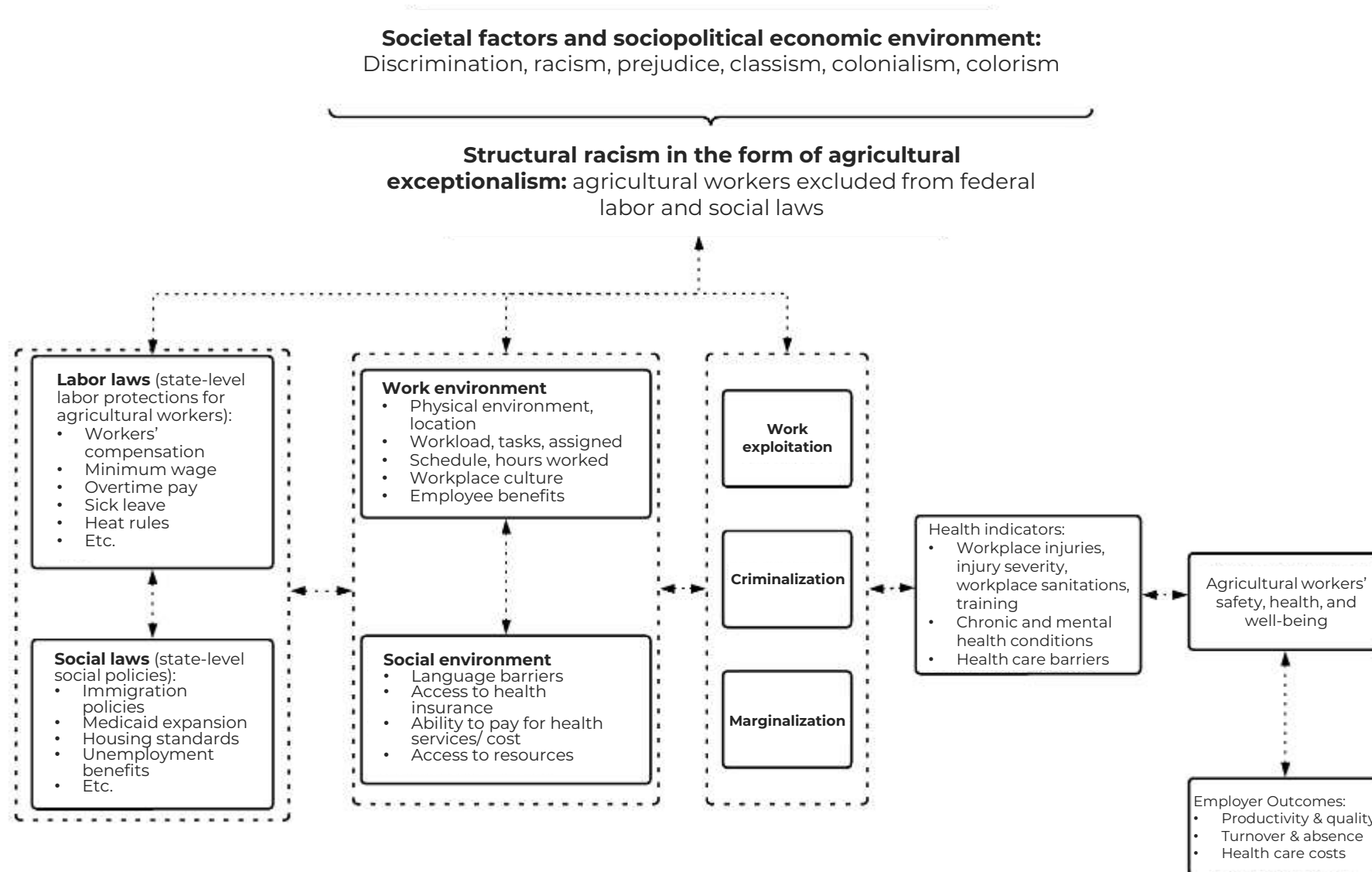


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Conceptual Model





Develop a labor law equity index (LLEI) that captures how states across the US include (or exclude) agricultural workers in their workers' compensation, minimum wage, and overtime pay laws.



**Labor laws for
39 states**



**Laws/protections
included:**

- Workers' compensation
- Minimum wage
- Overtime pay



**Assess changes in
these laws during
January 1, 2001 to
December 31, 2017**



**We assessed
criteria for adult
agricultural
workers (18+)**



Developed coding questions



Collected the law using WestLaw



Coding the law (N = 39 states)



Creating the index

Coding Questions (Workers' Compensation Example)



Order	Question	Possible Answers	Public Description*	Internal Notes**	Question Type
1 (P)	Does the state have a workers compensation law?	1 - Yes 0 - No	State has a statute for workers compensation for any and all workers		Binary – mutually exclusive
2 (C)	Does the workers compensation law include agricultural workers?	2 - Yes, all AW included 1 - Yes, some AW are included 0 - Optional for employers to include AW -1 - No, AW are excluded from WC law	State has a statute for workers compensation that covers agricultural workers	All AW included (state law requires employers to cover AW) Some AW included (state law limits coverage requirement to only certain agricultural employers or AW) Optional (state law does not require coverage for any AW, but employers may elect to provide coverage) AW are explicitly excluded (state law does not include AW in their definition of employee, explicitly excluded)	Categorical – mutually exclusive
3 (G)	If selected “Yes, some AW are included,” what is the exemption?	Small farms (specified by number of employees or payroll) Family working on farm Other	Description of state exemption of certain AW or AW employers from WC.		Categorical – select all that apply

Westlaw Software – Example of Workers' Compensation



THOMSON REUTERS
WESTLAW

All Content Enter terms, citations, databases, anything ...

§ 11-9-102. Definitions
AR ST § 11-9-102 | West's Arkansas Code Annotated | Title 11. Labor and Industrial Relations | Effective: July 28, 2021 (Approx. 6 pages)

Document Notes of Decisions (1,504) History (146) Citing References (10,020) Context & Analysis (77) Powered by KeyCite

Go To § Table

West's Arkansas Code Annotated
Title 11. Labor and Industrial Relations
Chapter 9. Workers' Compensation (Refs & Annos)
Subchapter 1. General Provisions (Refs & Annos)

Effective: July 28, 2021

A.C.A. § 11-9-102

§ 11-9-102. Definitions

Currentness

As used in this chapter:

- (1) "Carrier" means any stock company, mutual company, or reciprocal or interinsurance exchange authorized to write or carry on the business of workers' compensation insurance in this state. Whenever required by the context, the term "carrier" shall be deemed to include duly qualified self-insureds or self-insured groups;
- (2) "Child" means a natural child, a posthumous child, a child legally adopted prior to injury of the employee, a stepchild, an acknowledged illegitimate child of the deceased or of the spouse of the deceased, and a foster child;



AR ST § 11-9-102

Acts of 1999, Act 20, § 1, eff. July 30, 1999

“(12) ‘Employment’ means:

(A) Every employment in the state in which three (3) or more employees are regularly employed by the same employer in the course of business, except:

- (i) An employee employed as a domestic servant in or about a private home;
- (ii) An employee employed to do gardening, maintenance, repair, remodeling, or similar work in or about the private home or residence of the person employing the employee;
- (iii) Agricultural farm labor;

2) Does the workers compensation law include agricultural workers? 🛎

- Yes, all AW are included
- Yes, some AW are included
- Optional for employers to include AW

No, AW are excluded from WC law

RM ÉC ÉC

Hide pincites ^

RM AR ST 11-9-102 (iii)

ÉC AR ST 11-9-102 (A); AR ST 11-9-102 (iii)

ÉC AR ST 11-9-102 (A); AR ST 11-9-102 (iii)

Flags and Comments

< Previous question

Next question >

AR ST § 11-9-102

[Acts of 1999, Act 20, § 1, eff. July 30, 1999](#)

RM

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ÉC

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ÉC

(iii) Agricultural farm labor;

(iv) The State of Arkansas and each of the political subdivisions 1401 - 6-17-1405, 14-26-101 - 14-26-104, 14-60-101 - 14-10-202 - 19-10-210, 19-10-401 -19-10-406, and 21-5-601 -

(v) A person for whom a rule of liability for injury or death arising is provided by the laws of the United States;

(vi) A person performing services for any nonprofit religious, cha

- Scores for each protection ranged from -1 to 2
- Summing the scores of the three laws
- Total theoretical score for each state would range from -3 to 6 (WC, OT, MW) for each year and state.





Results & Next Steps



Workers' compensation - no significant amendments

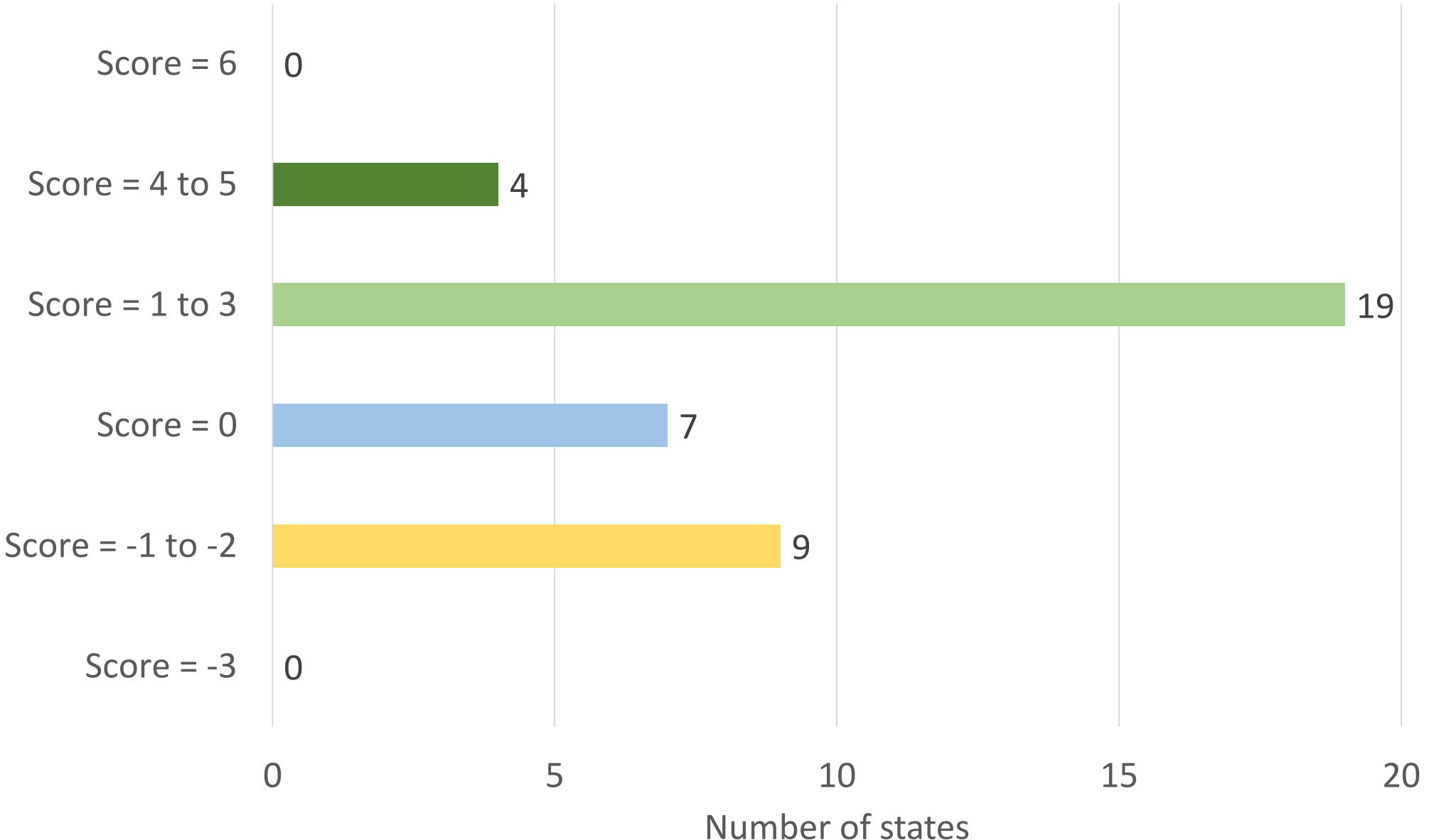
Minimum wage - 3 amendments

- Florida – “no state minimum wage law” → “some agricultural workers included” in 2006.
- Idaho – “agricultural workers not included” → “some agricultural workers included” in 2002.
- Missouri – “agricultural workers not included” → “some agricultural workers included” in 2007.

Overtime pay – 2 amendments

- Nebraska - "optional" → "some agricultural workers included" in 2004.
- New Mexico – “optional” → “some agricultural workers included” in 2017.

Distribution of Labor Law Equity Index Scores

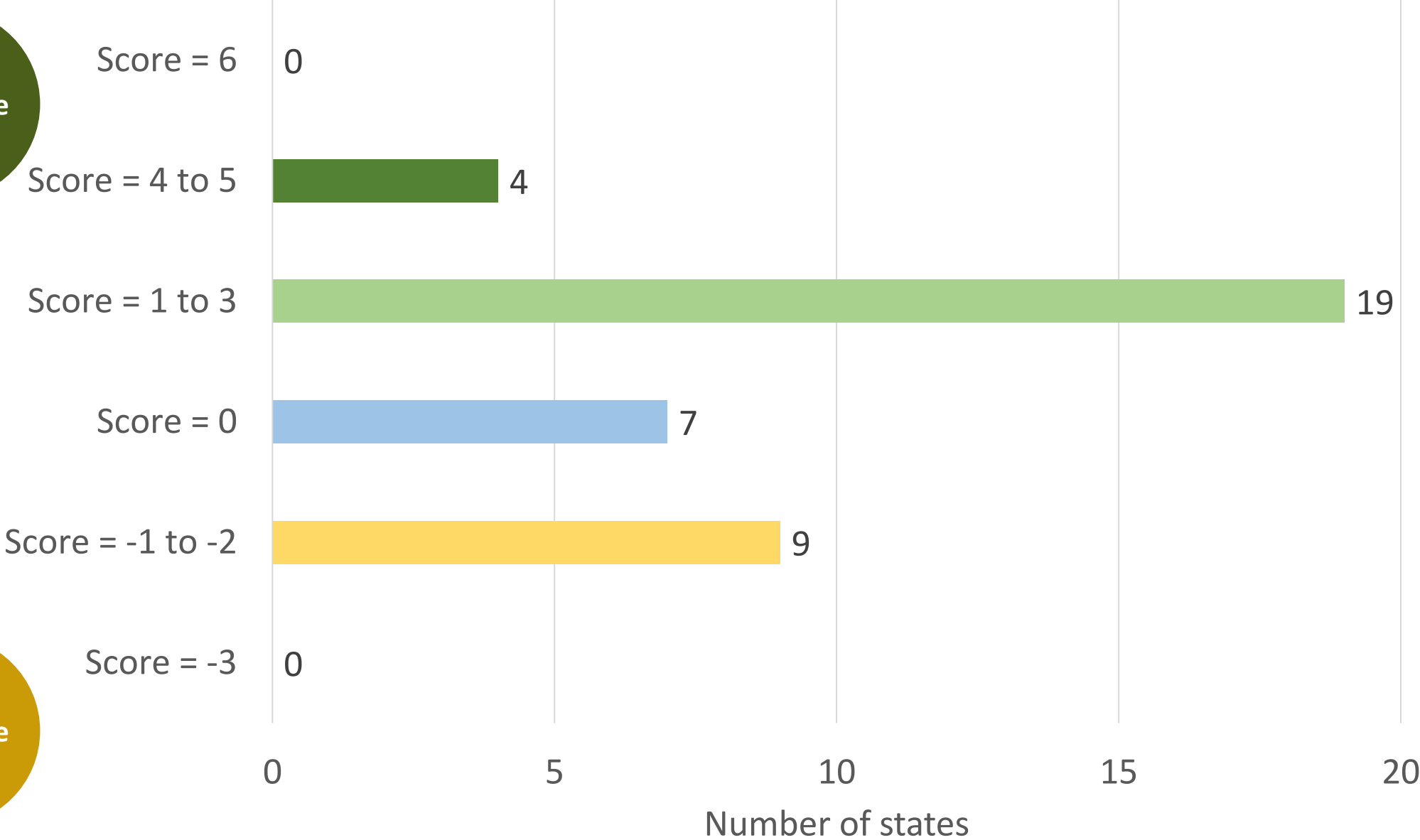


Distribution of Labor Law Equity Index Scores

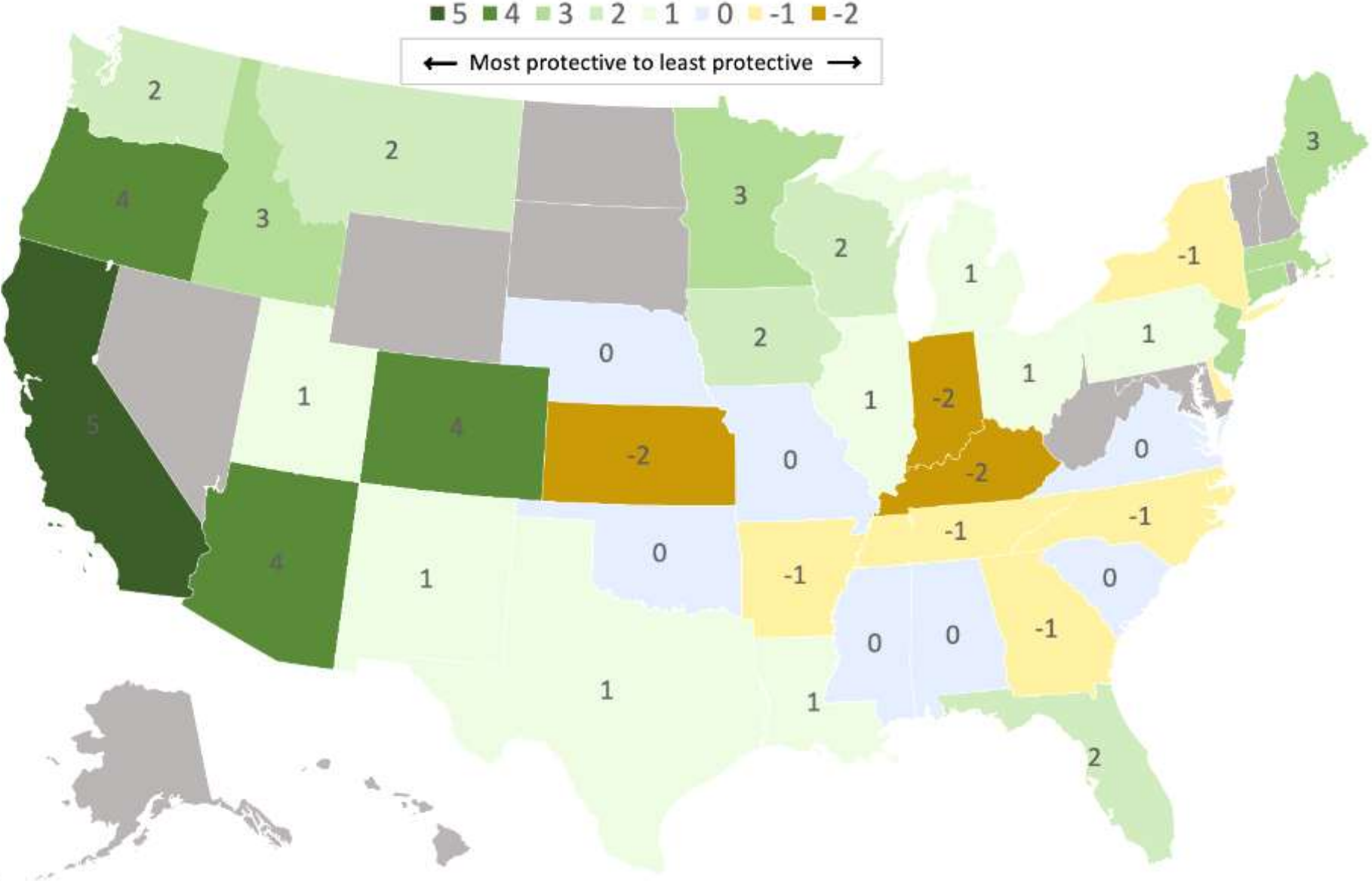


Most protective laws

Least protective laws



Labor Law Equity Index Scores





Limitations:

- There are amendments to these laws that occurred after 2017 that are not captured in this index.
- Not able to assess how the law is practiced or implemented.

Impact & implications:

- First time an index is created to capture level of protective state-level laws for agricultural workers.
- Address the gap in knowledge about the role of labor laws in worker health.



Assessing the association of the labor law equity index with agricultural worker health outcomes



Examine the association of the index with workplace health indicators using the National Agricultural Worker Survey data.



Hypothesis: States with a higher LLEI score (more protective laws), will be associated with more positive health indicators (i.e., higher provision of water/toilet/handwash station/training).



- ✓ This index measures to some extent how agricultural workers are differentially treated and also, provides insight to general labor laws in these states.
- ✓ Patterns in states that include agricultural workers or uphold agricultural exceptionalism.
- ✓ Work is an important determinant of health and agricultural workers are essential workers. It's unjust that they are not provided the same benefits as other workers.
- ✓ Legal epidemiology is a tool that we can use to understand and address occupational health inequities.



Sue
Grinnell



Erica Chavez
Santos

To ask a question, please click the Q&A icon in your Zoom toolbar!



Tell us what you think about today's webinar:





Gracias! | Thank you!

Feel free to reach out with further questions 😊

Erica Chavez Santos

erica.chavezsantos@lni.wa.gov

Website: [Work Equity Research Center \(WERC\)](#)



Farmworker Justice

<https://www.farmworkerjustice.org/general-map/>

The National Agricultural Law Center

<https://nationalaglawcenter.org/state-compilations/agpay/>

LawAtlas

<https://lawatlas.org/>

CDC Public Health Law Program

<https://www.cdc.gov/phlp/php/index.html>