

WASHINGTON (Nov. 4, 2019) — Noncriminal responses to crises are increasingly popular at the local level, but the parameters under which these strategies operate is often set at the state level. While the general trend across the states has been to expand these authorities, gaps and variations within each policy area remain. The success of these local diversion efforts will thus turn not just on whether state policies change, but how.

In a [new policy study](#), R Street Resident Senior Fellow of Criminal Justice and Civil Liberties Lars Trautman and R Street Resident Fellow of Criminal Justice and Civil Liberties Jonathan Haggerty examined pre-arrest diversion and related crisis response strategies across all 50 states. Trautman and Haggerty conducted a review of all current statewide laws or rules in five policy areas that directly affect the ability of local officials to use pre-arrest diversion and related crisis response strategies. They also examined recent legislative efforts to alter these policies and provided select recommendations for future policy development.

Trautman and Haggerty found that over the last decade, lawmakers across the country have advanced crisis response measures that generally expand the options and authorities available to law enforcement and other first responders. In particular, responses to crises involving drugs have captured legislative attention, resulting in near universal adoption of Good Samaritan laws and a growing number of states authorizing civil protective custody for drug impairment. Significant room for improvement remains, however, especially with the continued use of jails and police stations as detention sites for civil custody in many states.

The authors highlight that while nearly every state has adopted some form of crisis response law, the details of these laws vary tremendously, with significant differences in how states treat everything from who can use these procedures to where an individual can be taken and for how long. As a result, it is not enough for advocates, policymakers or researchers to simply determine whether a state has a given procedure and check a box accordingly; the particulars matter, and the conversation should shift to how to improve this web of laws.

The authors conclude that while “no state may have yet figured out how to create the most conducive environment possible for pre-arrest diversion and crisis response, in their divergent approaches they present a wealth of promising options.”