



State and Local Voucher Protection Laws

Introducing a New Legal Dataset

Solomon Greene, Patrick Spauster, Martha Galvez, and Daniel Teles
URBAN INSTITUTE

with Philip Tegeler
POVERTY & RACE RESEARCH ACTION COUNCIL

October 2020

In this brief, we introduce a new dataset of state and local laws that prohibit discrimination by landlords against renters with Housing Choice Vouchers (HCVs). The dataset includes 12 state laws and 87 city and county laws passed between 1971 and the end of 2019. In the dataset, we identify key features of the laws that may influence their effectiveness; in this brief, we provide a framework for assessing the relative strength of the laws. We find that the share of voucher holders covered by voucher protection laws is growing and that in 2019, these laws collectively covered about half of all voucher holders nationally. Compared with households in places without protections for voucher holders, households that have vouchers in jurisdictions with protections are more likely to be headed by an older adult, to be headed by a Hispanic/Latino person, and to include someone with a disability. They are also less likely to include children or be headed by a Black person. We also find that voucher protection laws are diverse and have strengthened over time. These findings suggest that researchers interested in assessing voucher protection laws should consider how they vary across jurisdictions. The dataset is publicly available through the Urban Institute's data catalog for use by researchers, policymakers, and advocates.¹

To build the dataset, we worked closely with the Poverty & Race Research Action Council (PRRAC), which tracks state and local laws that bar source-of-income discrimination. This brief and dataset accompany a companion brief, “Protecting Housing Choice Voucher Holders from Discrimination: Lessons from Oregon and Texas,”² which explores two states’ experiences with source-of-income protections. In this brief, we also share several high-level findings related to the diversity of state and local voucher protection laws, who they cover, and how they have evolved.

Background

The federal Housing Choice Voucher program is the nation’s largest rental housing assistance program, helping more than 2 million households afford their housing every year.³ About 75 percent of housing vouchers are used by households that earn 30 percent of their area’s median income or less.⁴ An important feature of vouchers is their portability; voucher holders can search across a broader range of neighborhoods and housing than they could otherwise afford or would be possible with place-based assistance.⁵ This can help households find housing in neighborhoods that best meet their needs, and the HCV program can help reduce concentrated poverty and support racial and economic integration (Galvez 2010; McClure 2010; Sard 2008; Turner 2003). Voucher assistance is scarce, and recipients may wait years for a voucher.⁶ Federal funding for rental housing assistance of any kind can support only about 1 in 5 of the households eligible for it based on their income (Kingsley 2017).

Although the HCV program aims to improve mobility and neighborhood choice, renters with vouchers tend to live in higher-poverty neighborhoods, and relatively few live in low-poverty, opportunity-rich neighborhoods (McClure, Schwartz, and Taghavi 2015; Schwartz, McClure, and Taghavi 2016). Voucher holders often face discrimination from landlords, which can severely limit their housing options. Recent research shows that in some housing markets, discrimination against renters with vouchers is especially common among landlords in higher-income neighborhoods (Cunningham et al. 2018). Discrimination can prolong housing searches and can result in the loss of vouchers among renters who cannot secure housing before time limits expire (Equal Rights Center 2013).

Federal fair housing laws do not protect voucher holders from discrimination. In most places in the US, landlords can legally discriminate against voucher holders, although some advocates have advanced “disparate impact” claims that voucher discrimination has a stark racial impact (Hutt 2018). For example, in places without voucher protection laws, landlords can advertise that they do not accept vouchers and deny qualified applicants who use vouchers to help cover their rent regardless of whether they are otherwise suitable tenants. However, discrimination has also been documented in places with protections in place (Cunningham et al. 2018).

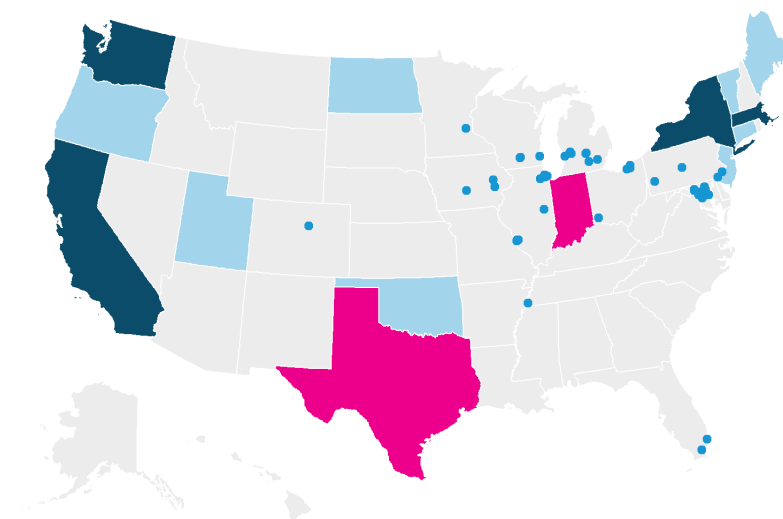
Recognizing the prevalence and harms of discrimination against voucher holders, some state and local governments have adopted laws that prohibit landlords from denying rental applicants based on their use of a voucher. These protections are typically part of broader fair housing laws that prohibit landlords from turning away applicants based on their “source of income.” State and local laws may explicitly include housing vouchers as a protected income source, or courts may interpret more general

source-of-income protections to include vouchers. Where these protections are in place, landlords cannot lawfully reject rental applicants based on their use of a voucher, but they can screen applicants based on other criteria such as credit scores and rental history.

Between 1971 and 2019, 12 states and 87 cities and counties passed laws that prevent landlords from discriminating against voucher holders.⁷ As discussed in more detail below, we estimate that by the end of 2019, state and local voucher protection laws covered about 1.05 million voucher households nationwide.⁸ See figure 1 for a map of places with voucher protections and preemptions (state laws that prevent local governments from adopting voucher holder protections) enacted as of December 2019. Voucher protections continue to expand, and as of mid-2020, two more states (Virginia and Maryland) had adopted statewide protections (not shown on map). Several bills pending in Congress in 2020 would extend federal fair housing protections to voucher holders.

FIGURE 1
State and Local Protections for Voucher Holders, as of December 2019

No protections
 State protections only
 State and local protections
 State preemption
 Local protections only



URBAN INSTITUTE

Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination.

Notes: California's statewide voucher protection law was adopted at the end of 2019 and went into effect in 2020. We do not include California in our analysis of voucher holders covered by protections in 2019.

Although the evidence on the prevalence and harms of discrimination against voucher holders is growing, we know little about the effectiveness of voucher antidiscrimination laws. Having a law on the books does not necessarily lead to better outcomes for voucher holders: landlords might find ways to evade these laws or may not know they exist, state and local enforcement may be weak or uneven, and renters with vouchers may not know their rights and options. In addition, the laws themselves may have

features that lead to stronger or weaker enforcement or encourage or discourage landlord compliance (Poverty & Race Research Action Council 2020a).

The limited empirical research to date offers mixed results about the effectiveness of state and local voucher protections laws. Research has found modest positive effects of laws on outcomes for voucher holders, such as the percentage of households that successfully find housing with their vouchers and average poverty rates in neighborhoods where voucher holders live (Finkel and Buron 2001; Freeman 2012; Freeman and Li 2014; Galvez, 2011), but no effects on reducing concentrations of voucher holders (Galvez 2011; Metzger 2014). Discrimination testing has found that landlords commonly reject vouchers in places with and without protections, although places with them have been found to have lower incidences of overt discrimination (for an example, see Cunningham et al. 2018). Researchers do not know what makes laws more effective in some places and apparently insufficient in others.

A first step toward filling these knowledge gaps is to document the laws themselves and the considerable variation in local approaches to voucher holder protections. To that end, we worked with PRRAC to create a dataset of all state and local laws that prohibit landlords from discriminating against renters based on their use of a voucher. This dataset includes dates of adoption and key features of the laws that may support or weaken enforcement and compliance.

Documenting Voucher Protection Laws

Since 2009, PRRAC has been collecting information on state and local laws that prohibit discrimination in the housing market based on source of income. In 2013, PRRAC worked with the Urban Institute to update and publish an inventory of these laws as an appendix to the jointly authored report *Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program* (Scott et al. 2013). PRRAC regularly updates the appendix, which has become known in the housing field as “Appendix B”; PRRAC published the most recent update in August 2020 (Poverty & Race Research Action Council 2020b).

In 2019, the Urban Institute research team developed a process for coding the state and local source-of-income laws and their key features based on scientific legal mapping methods developed by the Center for Public Health Law Research at Temple University (Burriss et al. 2016; Moran-McCabe, Waimberg, and Ghorashi 2020).⁹ The research team then worked with PRRAC to update Appendix B and create the dataset.

The published dataset includes all state and local laws that either implicitly or explicitly protect voucher holders from discrimination and were adopted between 1971 (when Massachusetts adopted the nation’s first source-of-income protections) and December 2019. We also identified and included laws that were substantively amended to protect voucher holders (i.e., an existing antidiscrimination law was extended to cover voucher holders) and laws that were enforced for a period but then overturned by courts. One of the laws in our dataset was substantively amended, and one was overturned. As of December 2019, 12 states and 86 cities or counties had laws in effect that protect voucher holders from discrimination by landlords.

Although Appendix B contains all laws that prohibit source-of-income discrimination, we limited the dataset to laws that recognize housing vouchers as a protected income source, whether through explicit mention, court interpretation, or enforcement by local agencies.¹⁰ We included general source-of-income laws that do not explicitly mention vouchers only if courts have interpreted the laws as covering vouchers or if evidence exists that these laws have been enforced to protect voucher holders. For example, we did not include California’s 2000 source-of-income antidiscrimination law because we found no evidence that the state law was enforced to protect voucher holders between 2000 and 2010, when a state appellate court held that it did not protect voucher holders. We consider the California state law as including vouchers starting in 2020, when an amendment adopted by the state legislature in 2019 took effect.

This approach has a few limitations. We drew heavily on information in Appendix B, which is a comprehensive catalog of laws and is regularly updated and checked, with input from fair housing advocates and members of a listserv of legal services lawyers. However, some laws may have escaped the attention of PRRAC and its networks. In addition, not all the published judicial opinions that PRRAC cataloged have been examined to establish whether they were subsequently questioned or altered, but PRRAC is generally apprised of legal developments by housing advocates. Also, some judgment calls are necessary when reviewing laws and court decisions, which are highly contextualized and have varying levels of detail and ambiguity.

Coding Key Features of the Laws

In the dataset, we also record notable features of the laws, including whether they mention housing vouchers, how the law defines who can bring a complaint and the types of relief available to the complainant, whether the law carves out exceptions for landlords or property types, and whether the law includes incentives for landlords who participate in the HCV program. We identified four main dimensions along which laws varied, and under each, we identified features that are likely to affect the law’s effectiveness as a tool to prevent discrimination.

First, as discussed above, some laws explicitly protect vouchers holders, while others include broader source-of-income protections but leave it to courts and local enforcement agencies to determine whether vouchers are a protected income source. Presumably, laws that do not explicitly include voucher holders are less effective because landlords (or enforcement entities) may not know whether discrimination is prohibited. We refer to this dimension as “**explicitness**.”

Second, most laws include language related to who can enforce the law and the type of relief available to voucher holders who are discriminated against (Poverty & Race Research Action Council 2020a). We refer to the ways that the laws define who can bring a complaint and what relief is available as “**enforcement**” features. In theory, more specificity in the laws around potential enforcement mechanisms and penalties for violations could signal to landlords that local areas are committed to enforcement, and stronger penalties are likely to discourage violations.

Unless otherwise specified, we assume that all laws can be enforced through administrative action—that is, public agencies that are charged elsewhere in the law with enforcement can investigate alleged violations and file complaints. However, some laws also include a private right of action, which allows aggrieved private parties (typically renters with vouchers and their advocates) to file a civil lawsuit in court.

Several laws specify the type of relief available when a court finds that a defendant has violated the statute. Unless otherwise specified, we assume that all laws can be enforced through injunctive relief, which means that a court orders the defendant to stop violating the law (e.g., to stop discriminating against voucher holders and, in some cases, to adopt formal policies to that effect). However, some laws also allow the plaintiff—whether a public enforcement agency or a private party—to seek monetary relief in the form of damages or attorney fees. Still other laws impose civil or criminal penalties on defendants found guilty of violating the law.

Third, some laws create loopholes that allow landlords to reject voucher holders or exemptions for some types of properties or landlords. We refer to these loopholes or exemptions as “**exemption**” features. Exemptions could undermine a law’s effectiveness or exclude landlords in large segments of the affordable rental market or in certain neighborhoods from having to follow the law.

The two most common loopholes are provisions that allow the landlord to require an applicant to earn a minimum income from sources other than the voucher (“minimum income” requirements) and provisions that allow the landlord to reject an applicant based on a “good faith business decision” or “reasonable business judgment,” phrases that are often not defined in the statute. Exemptions include, for example, provisions that allow landlords to discriminate against renters with vouchers if the owner lives on the property or if the property has a small number of residential units (often four or fewer). Other laws exempt properties owned by religious or nonprofit institutions.

Lastly, in a few cases, laws include features designed to encourage participation in the HCV program. The two most common are the creation of a landlord mitigation fund to reimburse landlords for unpaid rent or tenant-caused property damage and a property tax abatement for landlords who participate in the HCV program. Combined, we refer to mitigation funds and tax abatement options as “**incentive**” features.

Table 1 lists the four main dimensions along which state and local voucher protection laws vary, and it provides definitions and examples of each of the key legal features that are likely to affect the law’s effectiveness as a tool to prevent discrimination.

TABLE 1

Definitions of Key Legal Features

Dimension	Feature name	Definition	Example
Explicitness	Includes HCV (Housing Choice Voucher)	Statute explicitly mentions housing vouchers or federal rental assistance as a protected income source.	The city of Bellevue, Washington, prohibits landlords from refusing to rent to an applicant “solely on the basis that the applicant proposes to rent such unit pursuant to a Section 8 voucher or certificate issued under the Housing and Community Development Act of 1974.”
Enforcement	Administrative complaint	Allows private parties to file a complaint with the public agency charged in statute with enforcement responsibilities.	Alameda County, California, “may issue an administrative citation to any Landlord for a violation of this Article.”
	Private right of action	Allows private parties to file a civil lawsuit in court. Some statutes require a private party to exhaust administrative remedies before filing a lawsuit.	In Miami-Dade County, “the complainant may file a private action with a court of proper jurisdiction.”
	Injunctive relief	Allows a court to order a losing defendant to stop engaging in an unlawful activity, adopt specific policies, or provide nonmonetary relief to winning plaintiff.	The city of Harwood Heights, Illinois, allows one to “petition the appropriate court for temporary relief, pending final determination of the proceedings under this title, including an order or decree restraining the respondent from doing or causing any act which would render ineffectual a recommendation with respect to the complaint.”
	Civil penalties	Allows public enforcement agency or court to charge a fine to losing defendant in a civil case.	Alameda County, California, permits civil penalty: “In civil actions brought by the People of the State of California or by the City of Alameda to enforce this article, courts may assess civil penalties.”
	Civil damages	Allows a court to order a losing defendant to pay monetary relief to winning plaintiff in a civil case.	In Oregon, “the aggrieved party can also sue and recover compensatory damages.”
	Attorney fees	Allows court to order a losing defendant to reimburse winning plaintiff for costs of legal representation.	“Under [Maryland] CODE ANN. §20-1033, an administrative law judge in an administrative proceeding may allow the prevailing party...to receive reasonable attorney’s fees and costs.”
	Criminal penalties	Allows court to impose a fine or sentence on a losing defendant in a criminal case.	In Annapolis, Maryland, “a person who is found guilty of violating any of the provisions of this chapter relating to discrimination practices is subject to a fine and costs, or to imprisonment, or to both as established by resolution of the City Council.”

Dimension	Feature name	Definition	Example
Exemptions	Applicant background	Allows the landlord to consider applicant's background, rental history, credit score, and other qualifications.	In Washington, Spokane's law states that "nothing in this Title 18 prohibits the use of reasonable, non-discriminatory factors in housing decisions, including, without limitation, criminal background or rental history."
	Good faith business decision	Allows landlords to deny housing based on a "good faith business" determination or use of their "reasonable business judgment."	The city of Holland, Michigan, allows landlords to deny housing to a voucher holder based on a "good faith business determination relating to a person's ability to meet the financial burdens involved."
	Minimum income	Allows the landlord to require that an applicant earn a minimum income from sources other than the housing voucher.	The city of Novato, California, allows landlords to require minimum income from voucher holders: "Nothing in this chapter shall be construed to prohibit a requirement for a guarantor or co-signer based on amount of income."
	Owner-occupied	Exempts properties that the owner occupies.	The law in Prince George's County, Maryland, exempts owner-occupied units: "Nothing in this Subsection requires...(c) Discrimination shall not be wrongful with regard to the leasing of a room(s) or apartment(s) in an owner-occupied dwelling consisting of not more than three (3) rental units except as specified in (a)(4) of this Section."
	Property size	Exempts properties that have a certain number of units or fewer.	Iowa City's law creates a loophole for those renting "dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other."
	Religious or nonprofit owner	Exempts properties owned by religious or nonprofit organizations.	In Denver, the law "shall not apply to religious organizations or associations."
Incentives	Landlord mitigation fund	Creates a fund to reimburse landlords for qualifying costs, such as damage to property or unpaid rent and utilities.	Washington state permits landlords "renting private market rental units to low-income tenants using a housing subsidy program" to seek "reimbursement from the mitigation fund."
	Tax abatement	Allows property owner to apply for a property tax abatement when renting to a voucher holder. Typically, the property must be in an "opportunity area" defined by statute.	Illinois landlords who rent to voucher holders "may apply for a housing opportunity area tax abatement."

Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination.

To code the laws for each feature, the PRRAC team reviewed each law using the jurisdiction's current published statute and tracked amendments using Westlaw and additional documents (e.g., court decisions, legislative records, or third-party analyses) that could shed light on a law's features and how they may have changed over time. In some cases, the PRRAC team contacted local officials, including city clerks, to clarify when ordinances were enacted and how they were amended. When a law's characteristics were ambiguous and document review could not clarify, the law was reviewed and discussed with a senior expert on both the PRRAC and Urban Institute research teams.

Assessing the Strength of the Laws

To estimate the relative strengths and weaknesses of the state and local laws, we created a simple measure based on which of the features within the four dimensions (explicitness, enforcement, exemptions, and incentives) a law has. Table 2 lists the features we include in our strength assessment and their assigned scores.

For each feature in the explicitness and enforcement dimensions that we hypothesize strengthens a law, we assigned a +1 point. For example, we assigned a +1 enforcement point for a provision in a statute that grants a private right of action because this allows a broader range of parties to initiate a lawsuit and strengthens the role of tenants and their advocates in enforcement. Similarly, for each feature that we hypothesize weakens a law, we assigned a -1 point and deducted the point from the maximum possible score of 4 for the "exemptions" dimension. For example, we assigned a -1 exemption point to the "minimum income" exemption because this allows landlords to disregard a voucher when evaluating a prospective tenant's ability to pay. We combined two features that are similar in nature and are often paired in a statute: exemptions based on owner occupancy and those based on property size. If either feature was present, we assigned the law a -1 exemption point. Finally, for each feature that provides incentives for landlord participation in the housing voucher program, like a tax abatement, we assigned a +1 incentive point. To create a total strength score for each law, we scale the explicitness, enforcement, exemption, and incentive scores to a common denominator of 1 and sum the scores for the four dimensions to create a total score out of a maximum of 4 strength points.¹¹

We did not include in our scoring system certain features that we hypothesized were likely to have little or no effect on enforcement, compliance, or voucher program participation. For example, we did not include provisions that allow a landlord to consider an applicant's background (for example, their credit score or eviction or criminal history) because a landlord is assumed to have this ability even when a statute does not include such language. Similarly, we do not assign points for the administrative complaint, injunctive relief, and civil penalty features because we assume these are the default enforcement features.

TABLE 2

Scoring of Key Law Features

Feature	Score
Explicitness	
Includes HCV (Housing Choice Voucher)	+1
Enforcement	
Private right of action	+1
Civil damages	+1
Attorney fees	+1
Criminal penalties	+1
Exemptions	
Good faith business decision	-1
Minimum income	-1
Owner-occupied or property size	-1
Religious or nonprofit owner	-1
Incentives	
Landlord mitigation fund	+1
Tax abatement	+1

Notes: A law's explicitness score is 0 or 1. Its enforcement score could be 0, 1, 2, 3, or 4, depending on the features it has. The strongest score for exemptions is 4; we deduct 1 point for each exemption present, for a minimum of 0. A law's incentives score can be 0, 1, or 2. After tallying each dimension's features, we weight each dimension equally so the maximum score for each is 1. For example, the score for enforcement, with its four component features, could be 0, 0.25, 0.5, 0.75, or 1, depending on how many features a law has. Finally, we sum the dimension scores to create a strength score between 0 (the weakest possible features) and 4 (the strongest possible features).

It is worth emphasizing that we designed our strength score to suggest how likely a law is to enforce or encourage compliance based solely on the formal (written) features of the law itself. The scoring system does not capture other factors likely to affect enforcement or landlord behavior—for example, the policies and procedures of local public housing authorities that administer vouchers or local capacity to support effective enforcement, such as the presence of local fair housing advocacy organizations or the availability of resources to conduct periodic testing or engage in public education.

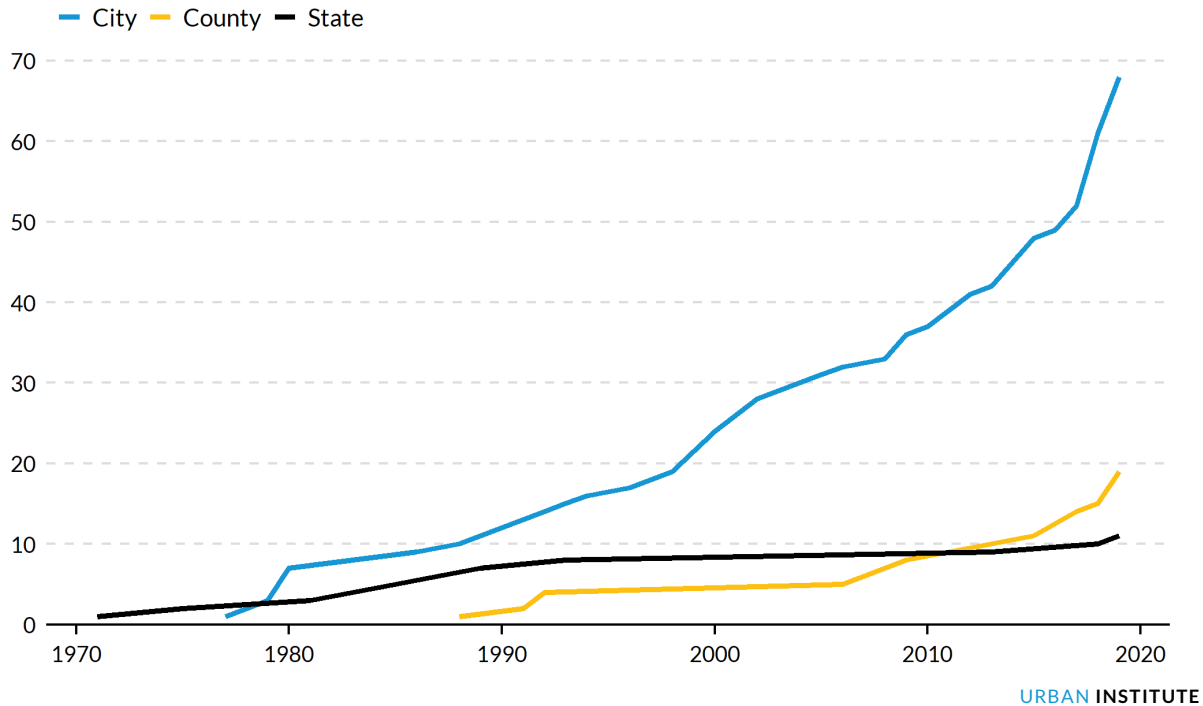
Trends in Voucher Protection Laws

As described in more detail in “Protecting Housing Choice Voucher Holders from Discrimination: Lessons from Oregon and Texas,” states were early leaders in adopting source-of-income protection laws and after a surge in local (city and county) laws in the 1990s and 2000s have returned to enacting laws. Between 1971 and 1993, eight states adopted source-of-income protections that included voucher holders, while only a handful of cities and counties did so. No states adopted protections between 1993 and 2012, but more than 30 cities and counties did (figure 2). In 2019, New York's statewide law took effect, causing a spike in the number of voucher holders covered by protections (figure 3).¹²

FIGURE 2

Growth in State and Local Protections for Voucher Holders, 1971 to 2019

Cumulative number of laws



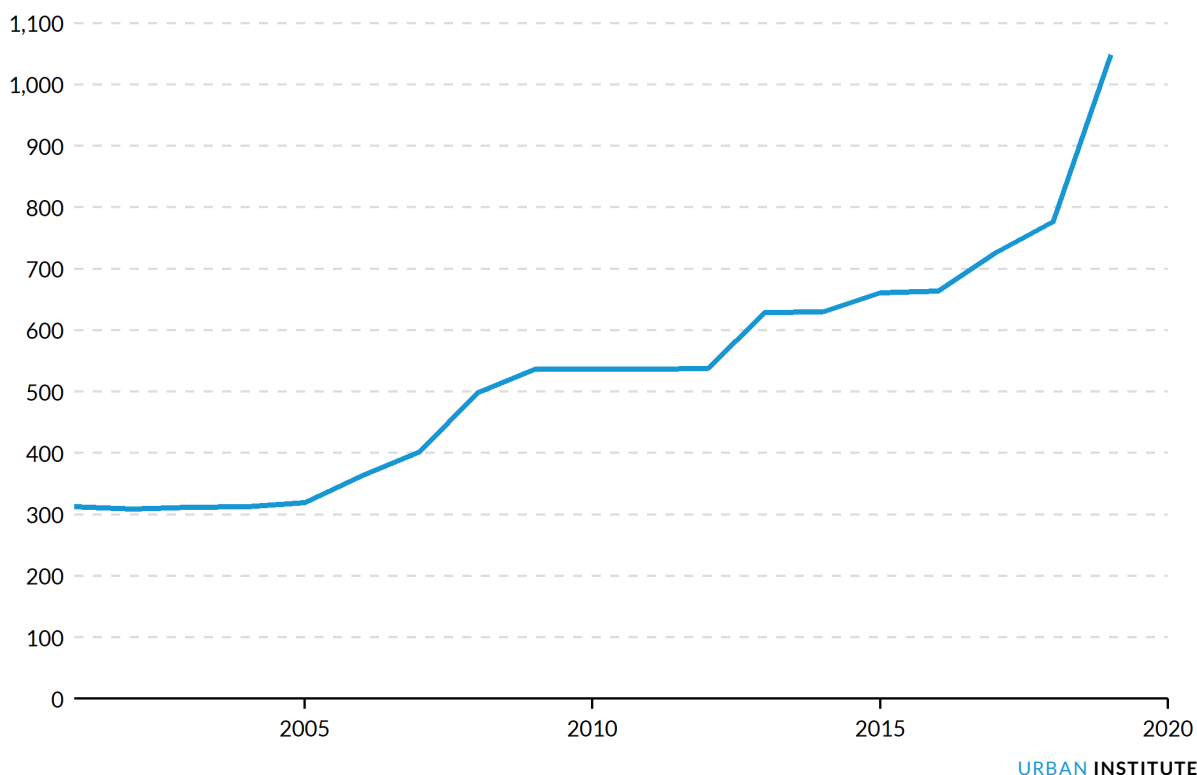
Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination.

We estimate that by the end of 2019, about 1.05 million voucher households—more than half the voucher households identified in the US Department of Housing and Urban Development administrative data available for this study—lived in a neighborhood (census tract) covered by a state, county, or city voucher holder protection law.¹³ Figure 3 shows the change in the number of voucher holder households living in a jurisdiction covered by voucher protection laws from 2001 through 2019, an increase of more than 750,000 households. The sharp increase in households covered by protection laws between 2018, when roughly one-third of all voucher holders were covered (Bell, Sard, and Koepnick 2018), and 2019 is the result of several state and local laws, including in New York and Washington state, that were passed in that period.

FIGURE 3

Number of Voucher Households Covered by Voucher Protection Laws, 2001–19

Thousands of households



Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination and data from the US Department of Housing and Urban Development Public and Indian Housing Information Center.

Note: The number of voucher households covered by voucher protection laws is estimated using the locations of voucher households in 2017.

Table 3 describes voucher holder characteristics nationally and in places with and without protections. We use data for voucher holders as of 2017—the most recent year for which data were available for this study—to describe households living in jurisdictions (states, counties, cities, or towns) that had passed laws as of 2019. Compared with places without protections, voucher households in places with them were less likely to be Black and were more likely to be Hispanic/Latino. Voucher holder households in places with protections were also more likely to be headed by a person 62 years or older and more likely to contain a member with a disability. They were less likely to contain children (from birth through age 17). Average household income was higher in places with laws, although the program primarily serves households with incomes at or below 30 percent of the local area's median income. Investigating the reasons for these differences and their implications is beyond the scope of this brief and merits additional research.

TABLE 3

Characteristics of Voucher Holders, 2017

	US	Places with a voucher protection law	Places without a voucher protection law
Number of households with vouchers	2,042,488	1,049,260	993,228
Average household income	\$14,428	\$15,418	\$13,382
Household head is a woman	80%	78%	82%
Household includes children (up to 17 years old)	45%	42%	49%
Head of household or spouse is 62 years or older	24%	27%	21%
Any household member has a disability	49%	51%	47%
Black (non-Hispanic)	48%	42%	53%
Asian (non-Hispanic)	2%	3%	1%
White (non-Hispanic)	32%	32%	31%
Hispanic	17%	21%	13%
Other race/ethnicity	1%	1%	1%
Families with children in high-poverty tracts (≥ 30 percent poverty)	38%	37%	39%

Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination and administrative data from the US Department of Housing and Urban Development.

Notes: Table uses race/ethnicity categories from HUD's Public and Indian Housing Information Center data. People identified as Hispanic may be of any race. The race/ethnicity categories refer to the head of a voucher household.

Characteristics of Voucher Protection Laws

Between 1971 and the end of 2019, 12 states and 87 cities and counties passed laws that protect voucher holders from discrimination. Table 4 summarizes the laws and their features; figure 4 shows the distribution of laws based on their strength according to our scoring system.

The table highlights how diverse the laws are. Some features, like civil penalties and exemptions for property ownership and size, are common. Other features, like criminal penalties and landlord incentives for participation in the voucher program, are rare. The features also tell an important story about the strengths of the various laws. The average strength score for all laws was 1.94 (out of a possible total score of 4), with a great deal of score variation: the standard deviation was 0.67, and the highest score was 3.5.

TABLE 4

Key Features of Voucher Protection Laws and Their Prevalence

Number of local and state laws, out of 99, that have the given feature

Feature	Number of laws with feature
Explicitness	
Included HCV (Housing Choice Voucher)	68
Enforcement	
Administrative complaint	80
Private right of action	55
Injunctive relief	78
Civil penalties	83
Civil damages	72
Attorney fees	66
Criminal penalties	21
Exemptions	
Applicant background	13
Good faith business decision	3
Minimum income	10
Owner-occupied	65
Property size	53
Religious or nonprofit owner	62
Incentives	
Landlord mitigation fund	5
Tax abatement	5

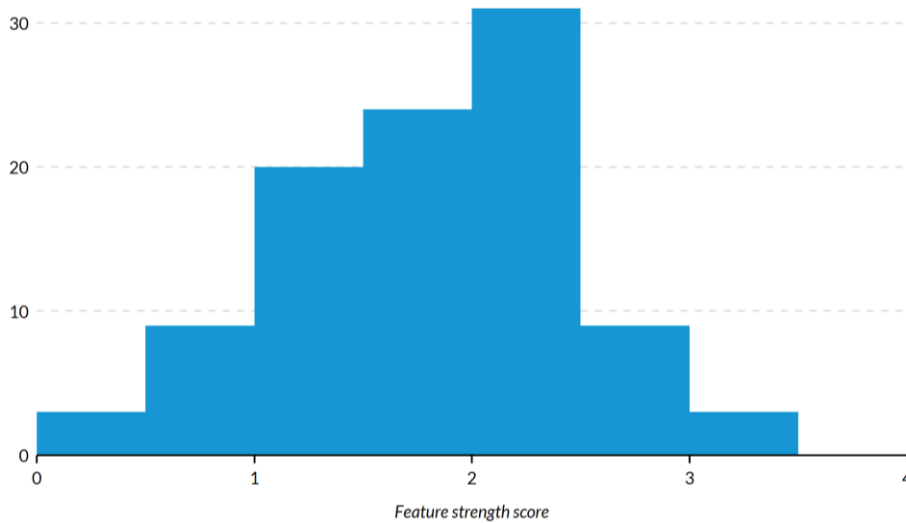
Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination.

Note: This table shows tallies for the 99 state and local voucher protection laws passed between 1971 and the end of 2019.

FIGURE 4

Voucher Protection Law Feature Strength Scores

Number of laws with a score in the given range



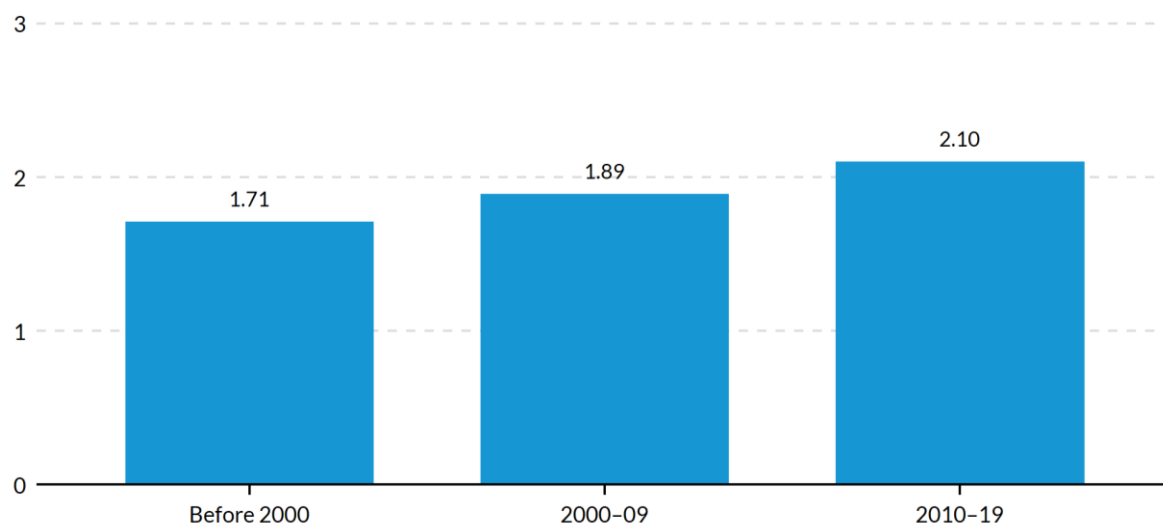
URBAN INSTITUTE

Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination.

Notes: Scores are for the 99 state and local voucher protection laws passed between 1971 and the end of 2019. The strength of each law is measured on a scale of 0 to 4.

Notably, voucher protection laws have strengthened since 2000 (figure 5): the 29 laws passed before 2000 had an average strength score of 1.71, while the 70 laws passed in 2000 or later had an average score of 2.04. This strengthening occurred because jurisdictions passing laws began including more features. For example, the language that policymakers used to protect voucher holders grew more explicit. Only 13 of the 29 laws passed before 2000 specified housing assistance as being covered under source of income protections. In contrast, 66 of the 70 laws passed in 2000 or later specified housing assistance as a protected source of income. This corresponds roughly with a shift in the share of federal housing assistance being provided through portable vouchers compared with place-based assistance. From the mid-1990s to the mid-2000s, the number of public housing and privately owned, subsidized rental units dropped, while the number of vouchers grew (Kingsley 2017).

FIGURE 5
Voucher Protection Law Feature Strength Scores, by Time Period
Average feature strength score



URBAN INSTITUTE

Source: Authors' analysis of state and local laws that prohibit housing voucher discrimination.

Notes: Scores are for the 99 state and local voucher protection laws passed between 1971 and the end of 2019. Twenty-nine laws were passed before 2000, 21 were passed between 2000 and 2009, and 49 were passed between 2010 and 2019. The strength of each law is measured on a scale of 0 to 4.

In addition, laws are not static; their features and strength may change over time. For example, the law in Marin County, California—originally passed in 2017 and amended in 2018—is the nation's strongest. The 2017 law included all available types of relief, private right of action, criminal penalties, and a landlord mitigation fund, for an initial score of 3.25—but also included exemptions for owner-occupied properties and certain property sizes. In 2018, the law was amended to remove the two exemptions, increasing its score from 3.25 to 3.5.

The diversity of laws and the extent to which they may evolve are potential challenges for research measuring the effectiveness of laws. Combining data for voucher programs in jurisdictions with very different laws—or even combining longitudinal data within jurisdictions that have seen laws change substantially over time—may be problematic if the laws or amendments vary in ways that affect voucher holders’ housing market experiences. A goal for this dataset is to help address this challenge in future research, by providing more detailed and nuanced information about the laws.

Conclusions

The dataset of voucher antidiscrimination laws comprehensively catalogs existing laws, identifies their common elements, and categorizes them based on the presence of features that advocates and practitioners believe make laws effective. The dataset does not include all possible features of the laws or local factors that may influence landlord decisions—such as local market characteristics, fair housing testing or enforcement efforts, or public housing authority practices. Nevertheless, we hope the dataset and scoring system provide a useful starting point for understanding the landscape of voucher discrimination laws nationally, including the range of places that have passed laws, the variation found across jurisdictions and over time, and the laws’ strengths and weaknesses.

Several insights emerged from our initial assessment of the laws that merit further investigation and highlight some potential challenges to research on the effectiveness of laws.

First, the share of voucher holders in places with laws is increasing. The number of laws has surged since 2018, and by the end of 2019, half of all voucher households were covered by protections. That share has increased in 2020 as state laws in California, Maryland, and Virginia went into effect.

Second, voucher households in jurisdictions with protections differ in some key ways from other voucher holders nationally and from voucher households in places without protections. Households in places with protection laws are more likely to be headed by an older adult, less likely to contain children, more likely to contain someone with a disability, more likely to be headed by a Hispanic/Latino person, and less likely to be headed by a Black person than households in areas without protections.

Third, across jurisdictions, voucher protection laws are diverse in both their features and their overall strength based on our scoring framework. The implications of this variation are not well understood. And there is little information available to capture local factors that might be important to the laws’ effectiveness, such as public housing authority policies, enforcement activity, or landlord and voucher holder awareness and perception of laws. Research examining the effectiveness of voucher protection laws should consider collecting information that documents variations in local contexts.

Finally, over time, laws have become “stronger” based on our measure. This may suggest that some places with older laws should revisit and strengthen them. And researchers interested in measuring the effectiveness of laws may need to differentiate between places with older laws and places with newer laws. More research is needed to understand whether or how various features improve laws’ effectiveness in practice.

Notes

- ¹ The dataset is available at <https://datacatalog.urban.org/dataset/state-and-local-voucher-protection-laws>.
- ² The companion brief is available at <https://www.urban.org/research/publication/protecting-housing-choice-voucher-holders-discrimination-lessons-oregon-and-texas>.
- ³ “Housing Choice Voucher Fact Sheet,” US Department of Housing and Urban Development, accessed October 27, 2020, https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet.
- ⁴ Picture of Subsidized Households data, US Department of Housing and Urban Development, <https://www.huduser.gov/portal/datasets/assths.html>.
- ⁵ Public housing authorities can use 20 to 30 percent of their voucher funds for project-based voucher assistance, which is provided through contracts with landlords to maintain certain units and properties for low-income households. As of 2016, public housing authorities supported about 140,000 project-based vouchers nationwide (Galvez et al., forthcoming; Mast and Hardiman 2017). Individual housing authorities may limit voucher use across voucher program jurisdictions.
- ⁶ Alicia Mazzara, “Housing Vouchers Work: Huge Demand, Insufficient Funding for Housing Vouchers Means Long Waits,” *Off the Charts* (blog), Center on Budget and Policy Priorities, April 19, 2017, <https://www.cbpp.org/blog/housing-vouchers-work-huge-demand-insufficient-funding-for-housing-vouchers-means-long-waits>.
- ⁷ States and local governments typically include voucher protections in a broad ordinance that protects renters from discrimination based on their “source of income,” which can cover a range of sources other than wages and salaries that can be used to pay rent (like alimony or disability insurance benefits). Not all source-of-income discrimination laws protect renters with vouchers: in some cases, laws explicitly exclude vouchers; in others, courts have ruled that ambiguous or general language in laws does not cover vouchers. In this analysis, as well as our companion brief and database, we consider only source-of-income discrimination laws that include protections for vouchers. Since we completed our analysis of these laws at the end of 2019, two additional states (Virginia and Maryland) and one county (Prince George’s County, Maryland) have adopted laws that protect voucher holders from discrimination. We do not include these most recent laws in our calculations or maps in this brief because data on voucher holders in 2020 are not available.
- ⁸ Authors’ calculations using the Urban Institute database of state and local voucher protection laws. The estimate is based on jurisdictions with laws enacted through 2019 and voucher holder locations recorded in household-level Public and Indian Housing Information Center data from the US Department of Housing and Urban Development for 2017.
- ⁹ More information on policy surveillance is available at <http://publichealthlawresearch.org/content/policy-surveillance-program>.
- ¹⁰ We reviewed all source-of-income protection laws (both original laws and later amendments, where applicable) to determine whether they explicitly mentioned housing vouchers and/or federal rental assistance programs as protected sources of income. If they did, we coded these laws as providing “explicit” voucher holder protections. For laws that did not explicitly mention housing vouchers or federal rental assistance programs as protected sources of income, we reviewed state court decisions to determine whether the courts have weighed in on whether the laws covered vouchers.
- ¹¹ A law’s explicitness score is 0 or 1. Its enforcement score could be 0, 1, 2, 3, or 4, depending on the features it has. The strongest score for exemptions is 4; we deduct 1 point for each exemption present, for a minimum of 0. A law’s incentives score can be 0, 1, or 2. After tallying each dimension’s features, we weight each dimension (explicitness, enforcement, exemptions, and incentives) equally so the maximum score in each is 1. For example, the score for enforcement, with its four component features, could be 0, 0.25, 0.5, 0.75, or 1, depending on how many features a law has. Finally, we sum the dimension scores to create a strength score between 0 (the weakest possible features) and 4 (the strongest possible features).
- ¹² California also adopted a statewide voucher protection law in 2019, but it did not go into effect until 2020. We do not include California in our calculations of voucher holders covered by protections in 2019.

¹³ We used US Department of Housing and Urban Development administrative tract-level population data that identify the locations of voucher holders in 2017—the most recent year of data available for this study—to estimate the number of voucher holders living in census tracts. We estimate the number of voucher holders for all jurisdictions with laws in place as of December 2019. City or county jurisdictions’ boundaries, and thus city laws, do not always match up with tract boundaries. Tracts are considered covered by a law if at least 50 percent of the tract’s population is covered by the law. In some cases, tracts are covered by more than one law. In those cases, the tract is assigned the law that covers more of the tract’s population.

References

- Bell, Allison, Barbara Sard, and Becky Koepnick. 2018. *Prohibiting Discrimination against Renters Using Housing Vouchers Improves Results: Lessons from Cities and States That Have Enacted Source of Income Laws*. Washington, DC: Center on Budget and Policy Priorities.
- Burris, Scott, Marice Ashe, Donna Levin, Matthew Penn, and Michelle Larkin. 2016. “A Transdisciplinary Approach to Public Health Law: The Emerging Practice of Legal Epidemiology.” *Annual Review of Public Health* 37:135–48.
- Cunningham, Mary, Martha Galvez, Claudia L. Aranda, Rob Santos, Doug Wissoker, Alyse Oneto, Rob Pitingolo, and James Crawford. 2018. *A Pilot Study of Landlord Acceptance of Housing Choice Vouchers*. Washington, DC: US Department of Housing and Urban Development, Office of Policy Development and Research.
- Equal Rights Center. 2013. “Will You Take My Voucher? An Update on Housing Choice Voucher Discrimination in the District of Columbia.” Washington, DC: Equal Rights Center.
- Finkel, Meryl, and Larry Buron. 2001. *Study on Section 8 Voucher Success Rates. Volume I: Quantitative Study of Success Rates in Metropolitan Areas*. Washington, DC: US Department of Housing and Urban Development, Office of Policy Development and Research.
- Freeman, Lance. 2012. “The Impact of Source of Income Laws on Voucher Utilization.” *Housing Policy Debate* 22 (2): 297–318.
- Freeman, Lance, and Yunjing Li. 2014. “Do Source of Income Anti-Discrimination Laws Facilitate Access to Less Disadvantaged Neighborhoods?” *Housing Studies* 29 (1): 88–107.
- Galvez, Martha M. 2010. “What Do We Know about Housing Choice Voucher Program Location Outcomes? A Review of Recent Literature.” Washington, DC: Urban Institute.
- Galvez, Martha M. 2011. “Defining ‘Choice’ in the Housing Choice Voucher Program.” PhD diss., New York University.
- Galvez, Martha M., Daniel Teles, Alyse D. Oneto, and Matthew Gerken. Forthcoming. *Moving to Work Agencies’ Use of Project-Based Voucher Assistance*. Washington, DC: US Department of Housing and Urban Development.
- Hutt, Maia. 2018. “This House Is Not Your Home: Litigating Landlord Rejections of Housing Choice Vouchers under the Fair Housing Act.” *Columbia Journal of Law and Social Problems* 51 (3): 391–429.
- Kingsley, G. Thomas. 2017. “Trends in Housing Problems and Federal Housing Assistance.” Washington, DC: Urban Institute.
- Mast, Brent D., and David Hardiman. 2017. “Project-Based Vouchers.” *Cityscape* 19 (2): 301–22.
- McClure, Kirk. 2010. “The Prospects for Guiding Housing Choice Voucher Households to High-Opportunity Neighborhoods.” *Cityscape* 12 (3): 101–22.
- McClure, Kirk, Alex F. Schwartz, and Lydia B. Taghavi. 2015. “Housing Choice Voucher Location Patterns a Decade Later.” *Housing Policy Debate* 25 (2): 215–33.
- Metzger, Molly W. 2014. “The Reconcentration of Poverty: Patterns of Housing Voucher Use, 2000 to 2008.” *Housing Policy Debate* 24 (3): 544–67.

- Moran-McCabe, Katie, Joshua Waimberg, and Adrienne Ghorashi. 2020. "Mapping Housing Laws in the United States: A Resource for Evaluating Housing Policies' Impacts on Health." *Journal of Public Health Management and Practice* 26 (2S): S29–36.
- Poverty & Race Research Action Council. 2020a. "Crafting a Strong and Effective Source of Income Discrimination Law." Washington, DC: Poverty & Race Research Action Council.
- Poverty & Race Research Action Council. 2020b. "Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program, Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination." Washington, DC: Poverty & Race Research Action Council.
- Sard, Barbara. 2008. "How to Promote Housing Integration and Choice through the Section 8 Voucher Program." Statement before the National Commission on Fair Housing and Equal Opportunity, Boston, October 6.
- Schwartz, Alex, Kirk McClure, and Lydia B. Taghavi. 2016. "Vouchers and Neighborhood Distress: The Unrealized Potential for Families with Housing Choice Vouchers to Reside in Neighborhoods with Low Levels of Distress." *Cityscape* 18 (3): 202–27.
- Scott, Molly M., Mary Cunningham, Jennifer Biess, Jennifer Lee O'Neil, Philip Tegeler, Ebony Gayles, and Barbara Sard. 2013. *Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program*. Washington, DC: Urban Institute; Poverty & Race Research Action Council.
- Turner, Margery Austin. 2003. "Strengths and Weaknesses of the Housing Voucher Program." Statement before the Committee on Financial Services, Subcommittee on Housing and Community Opportunity, US House of Representatives, Washington, DC, June 17.

About the Authors

Solomon Greene is a senior fellow in the Research to Action Lab and the Metropolitan Housing and Communities Policy Center at the Urban Institute. His research focuses on how land use law, housing policy, and regional planning can reduce racial and economic segregation and how cities can use data and technology to promote more inclusive development. Before joining Urban, Greene was a senior adviser at the US Department of Housing and Urban Development and a senior program officer at the Open Society Foundations. Greene serves on the board of the National Housing Law Project.

Patrick Spauster is a research assistant in the Metropolitan Housing and Communities Policy Center. His research focuses on housing affordability, public housing service delivery, homelessness, place-based economic mobility, and nonprofit measurement and evaluation.

Martha Galvez is a principal research associate in the Metropolitan Housing and Communities Policy Center. Her expertise is in housing and homelessness policy, with a focus on examining how interventions aimed at improving housing stability and choice for low-income families are implemented and how they affect individuals, families, and neighborhoods.

Daniel Teles is a research associate in the Metropolitan Housing and Communities Policy Center, where he specializes in applied microeconomic policy analysis. His research examines the local effects of public policy.

Acknowledgments

Support for this brief was provided by the Robert Wood Johnson Foundation's Policies for Action program. We are grateful to them and to all our funders, who make it possible for Urban to advance its mission.

The views expressed are those of the authors and should not be attributed to the Robert Wood Johnson Foundation or to the Urban Institute, its trustees, or its funders. Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute's funding principles is available at urban.org/fundingprinciples.

We would like to thank Megan Haberle at the Poverty & Race Research Action Council for partnering with us on the creation of the dataset and advising us on how to prioritize, classify, and score the features of state and local laws. Abigail Hollinger, PRRAC's 2019 law and policy intern from George Washington University Law School, meticulously reviewed and coded most of the laws in the dataset, and we are grateful for her support. Yipeng Su provided valuable data analysis, and Alyse Oneto provided project management support for this research. Meghan Ashford-Grooms provided thorough and smart edits on this brief.



500 L'Enfant Plaza SW
Washington, DC 20024

www.urban.org

ABOUT THE URBAN INSTITUTE

The nonprofit Urban Institute is a leading research organization dedicated to developing evidence-based insights that improve people's lives and strengthen communities. For 50 years, Urban has been the trusted source for rigorous analysis of complex social and economic issues; strategic advice to policymakers, philanthropists, and practitioners; and new, promising ideas that expand opportunities for all. Our work inspires effective decisions that advance fairness and enhance the well-being of people and places.

Copyright © October 2020. Urban Institute. Permission is granted for reproduction of this file, with attribution to the Urban Institute.