



POLICY SPOTLIGHT

How to Create a Fresh Start Initiative in Your State: A Step-by-Step Guide

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States interested in improving their ability to respond to public health crises such as COVID-19 should start by looking at their own regulations. As the COVID-19 crisis has intensified, policymakers at the federal, state, and local levels have started suspending or rescinding laws and regulations that hinder sensible and speedy responses to the pandemic. While examples abound at all levels of government, the following are a few examples of such actions taken by state governments.

- The National Academy of Medicine recommends that nurse practitioners be permitted “full practice authority,” meaning that they should be allowed to evaluate patients and initiate treatment without physician approval. Acting upon this advice, Maryland has now [granted](#) all healthcare professionals the authority to work beyond their current scope of practice, and eight other states (Idaho, Maine, Michigan, Missouri, New Hampshire, New York, Pennsylvania, and Texas) have moved to [waive or modify](#) their scope-of-practice requirements.
- As of March 31, 22 states had [suspended or somehow modified](#) their certificate-of-need (CON) laws to allow healthcare providers greater flexibility to deal with the pandemic. CON laws require healthcare providers to first obtain permission before they may open or expand their facilities. Researchers [find](#) that these rules are associated with higher costs, lower quality, and, above all, more limited access to care.
- Several states have lowered the regulatory barriers facing restaurants, bars, breweries, wineries,

and distilleries. For example, Virginia [adjusted regulations](#) to allow restaurants and bars to deliver wine, beer, and [mixed cocktails](#) to customers’ homes without needing a delivery permit. The prohibition of home delivery without a delivery permit has been relaxed for breweries and wineries in Virginia as well.

The crisis has been a stress test for American institutions. It has laid bare the outdated, overlapping, and often-contradictory morass of rules that make it nearly impossible for public and private entrepreneurs to respond to changing circumstances.

If policymakers thought prudent to abandon these rules during the current crisis, it is then equally prudent to assess whether the rules in question should be permanently repealed or at least comprehensively reformed to ease economic recovery after the crisis and to allow for more flexible responses to future crises.

Accordingly, when the pandemic subsides, state policymakers should create “Fresh Start Initiatives” that

would carefully consider which rules should be reinstated and which should not. These initiatives would involve the following three steps.

STEP 1: IDENTIFY AND STUDY ALL THE RULES REVISED OR SUSPENDED DURING THE CRISIS

Any rules suspended or modified during the pandemic would remain in suspension until it has been plausibly demonstrated that reinstating them would serve a legitimate public purpose.

STEP 2: FORMULATE A SET OF RECOMMENDED REGULATORY REFORMS FOR EACH OF THOSE RULES

The state legislature could authorize the formation of a Fresh Start Initiative committee made up of subject-matter experts. The authorizing legislation would require the Fresh Start Initiative to undertake a three-to-six-month study inventorying all the laws and regulations frozen or temporarily repealed during the COVID crisis. The Fresh Start Initiative would also collect and summarize relevant academic literature or government reports relating to the effectiveness of programs or policies being considered. For each of the laws and regulations examined, the expert committee would evaluate the evidence as well as the experience during the time the rules were frozen. Whenever the benefits of suspending the rules exceeded the costs, the committee would then recommend either sunseting the law or regulation in question or significantly modifying it.

STEP 3: CRAFT A PLAN AND TIMETABLE FOR AUTOMATICALLY SUNSETTING OR COMPREHENSIVELY REFORMING THOSE POLICIES OR PROGRAMS AS PART OF A SINGLE REFORM PACKAGE

The Fresh Start Initiative would then issue a final report that would bundle together all of these laws and establish a timetable for repeal or reform. The Fresh Start Initiative's reform package would take effect automatically unless both chambers passed, and the governor signed, a resolution rejecting the package proposal. To avoid partisan bias, no amendments to the reform proposal would be allowed. Of course, legislators would always be free to enact separate legislation that would reinstitute programs and policies they believe might still serve an important public purpose.

CONCLUSION

Rules and regulations tend to accumulate over time. Obsolete, ineffective, and counterproductive rules are rarely rescinded, especially if they protect concentrated interests from competition. The COVID-19 pandemic has brought this to light, and Fresh Start Initiatives can help policymakers update regulatory codes for 21st-century needs.

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