

# Warning of Potential Violence

**M**ental health professionals must maintain patients' confidentiality. But many states also require or allow them to protect possible victims by disclosing information to potential victims or law enforcement about patients they believe may become violent. Most of these laws were passed following a 1976 California Supreme Court case that ruled psychotherapists have a legal duty to warn specific people at risk of violence from a patient. Some providers express concern that laws requiring, rather than permitting, a warning may discourage potentially violent people from seeking treatment or fully revealing their intentions, or that potential liability may dissuade therapists from treating such patients because their ability to predict violent behavior is limited.

A lawsuit alleging breach of this duty has been filed against the psychiatrist whose patient allegedly killed 12 people and injured dozens more in a movie theater in Aurora, Colo. last July. New York lawmakers were the first to pass new legislation on this topic following the Newtown tragedy, modifying their law from allowing, to requiring, mental health professionals to report patients they believe may pose a danger to themselves or others. New York joins 28 other states, including Colorado, with mandatory requirements.

Sixteen states and the District of Columbia allow, but do not require, providers to take action. In Georgia, providers have a duty to protect potential victims when a hospitalized patient makes credible threats and is released negligently; otherwise, courts there have continued to enforce confidentiality laws. Maine, Nevada, North Carolina and North Dakota have no duty to warn or protect.

State laws vary in the details. The most common circumstance that triggers a duty to warn is when a patient communicates a serious threat of imminent physical violence against a specific person or an identifiable group. Determining the threat's credibility usually depends upon the provider's "reasonable" judgment. Laws may apply to psychologists, psychiatrists, marriage and family therapists, licensed professional counselors, licensed social workers, mental health institutions and support staff employed by any of the above.

Both mandatory and permissive laws usually exempt the mental health providers from liability for breaking confidentiality laws or for failing to report if they act "in good faith." Some states also require mental health professionals to seek voluntary hospitalization or emergency involuntary commitment for patients likely to be dangerous, and New York's new law will allow law enforcement officials to remove any firearms the patients may own.

—Amber Widgery and Amy Winterfeld



- Requires mental health providers to warn or protect
- Allows providers to warn or protect
- Requires providers to protect only in specific circumstances
- Has no duty to warn or protect

Note: Arizona, Delaware and Illinois have different duties for different professions.

Source: NCSL, Jan. 15, 2013.



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To view a 50-state chart with more details on duty to warn and protect laws, go to [www.ncsl.org/magazine](http://www.ncsl.org/magazine).

# Marijuana Joins Smoke-Free Laws



**W**ith voters in Colorado and Washington choosing to legalize recreational marijuana, many are looking ahead for any public health concerns that might arise with these new state laws.

Marijuana smoke contains as much tar and 50 percent to 70 percent more carcinogens than tobacco smoke, according to the National Institute on Drug Abuse. And even though marijuana users usually smoke less often, they tend to inhale more deeply and longer than tobacco smokers do, increasing their lungs' exposure to carcinogenic smoke. The institute reports that several studies have suggested marijuana smoke may cause lung cancer, but supporting evidence has been inconclusive.

Other respiratory problems suffered by tobacco smokers, such as chronic coughs, acute chest illnesses and lung infections, may also plague regular marijuana users. Frequent marijuana users, even those who don't smoke tobacco, have more health problems and miss more days of work than nonsmokers, according to the American Lung Association.

To limit exposure to second-hand marijuana smoke, some states have added marijuana to their smoke-free laws. Colorado added medical marijuana when it legalized its use in 2010. Washington's smoke-free law includes "any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment," which most likely covers marijuana smoke. Other state actions include:

- ◆ Montana lawmakers specifically added medical marijuana to their statewide clean indoor air act in 2011.
- ◆ California prohibits smoking medical marijuana in any place where smoking already is banned.
- ◆ Rhode Island bans marijuana smoke in public places, on school grounds and wherever it may harm children's health, and bans operating vehicles, aircraft and boats under the influence of marijuana.
- ◆ Vermont bars smoking marijuana in all indoor and many outdoor public places and prohibits operating vehicles, boats or heavy machinery while under the influence of marijuana.
- ◆ Maine forbids marijuana smoke in places where smoking is prohibited by a landlord.
- ◆ North Dakota's recently expanded smoke-free law includes "lighted or heated tobacco or plant product intended for inhalation."

— Amy Winterfeld

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To find more resources on marijuana's health effects, go to [www.ncsl.org/magazine](http://www.ncsl.org/magazine).

## Private Tax Help

It's tax time, and states like Iowa are finding ways to get the word out about free tax preparation services and the earned income tax credit. With a federal Volunteer Income Tax Assistance matching grant and a little less than \$200,000 a year from the Iowa General Assembly, ISED Ventures of Des Moines helps low-income people prepare their taxes and claim the federal earned income tax credit. The federal tax credit is refundable and is designed to help working people get ahead by reducing their taxes. If the credit is larger than the amount of taxes owed, a refund is issued.

The Annie E. Casey Foundation provided the seed money for the tax prep program in Iowa, which began with about 30 volunteers in 2001. In 2012, the coalition had more than 700 volunteers who helped file taxes for more than 11,000 people. Iowa recipients shared a portion of more than \$6 million in federal earned income tax credits and \$16 million in federal tax refunds. The General Assembly appropriated another \$195,678 to continue these efforts in 2013. In the past five years, Delaware, Hawaii, Louisiana, New Jersey and Virginia have funded similar services as well.

Private sector firms such as Walmart, Intuit Inc., and the Computer & Communications Industry Association also help low-to-moderate income taxpayers file their taxes and claim the earned income tax credit for free.

The MyFreeTaxes program sponsored by the Walmart Foundation allows qualifying taxpayers to file online and supports a national van tour captained by tax experts who visit local neighborhoods to help people file in person. The FreeFile program hosted by the Internal Revenue Service allows eligible people to file their federal tax returns online with software offered by a coalition of commercial tax companies dubbed the FreeFile Alliance.

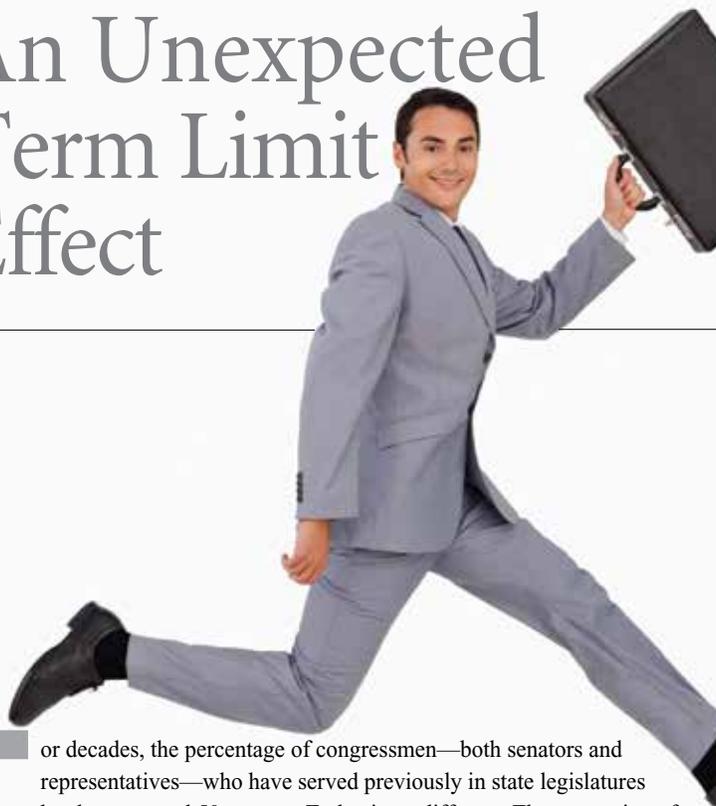
Intuit Inc., creator of TurboTax software and a member of the FreeFile Alliance, launched a free mobile app that calculates earned income tax credit eligibility on the spot. Also, the Computer & Communications Industry Association sponsors TaxPrepHelp.org, a website that houses an earned income tax credit calculator, a volunteer income tax assistance site locator, and an interactive map. Users can click on the map to determine if they are in one of the 22 states that have FreeFile programs that prepare state and federal returns online at no cost for eligible filers.

—By Qiana Torres Flores

## SL ONLINE

To find tax assistance sites near you where IRS-certified volunteers will prepare taxes for your qualified constituents, visit [www.ncsl.org/magazine](http://www.ncsl.org/magazine).

# An Unexpected Term Limit Effect



## Census Bureau Gears Up for 2020

**A**fter every 10-year population count, the Census Bureau asks state legislatures: How'd we do? Did you have all the data you needed for legislative redistricting? How can we make the information even more useful to you next time?

"Now is the time to begin thinking about your experiences working with the bureau in 2010," says Cathy McCully, chief of the Census Redistricting Data Office. "Providing thoughtful input into how well the bureau delivered timely and nonpartisan population and housing data will help us improve the process in 2020," she says.

Responses will be included in the bureau's redistricting publication, "The View From the States." Some changes are already planned for 2020. New technology will allow residents to respond to census questions through the Internet. This is part of a larger, ongoing effort to lower costs while maintaining high-quality data useful to states and the nation.

To learn more and offer comments, go to [www.ncsl.org/magazine](http://www.ncsl.org/magazine). NCSL will work with the Census Bureau's Redistricting Data Office on the comments offered and present the findings at the 2013 Legislative Summit this summer in Atlanta.

**F**or decades, the percentage of congressmen—both senators and representatives—who have served previously in state legislatures has been around 50 percent. Today is no different. The proportion of former state legislators serving in the 113th Congress is 49 percent. What's interesting of late is that state legislatures with legislative term limits have a significantly higher proportion of former members in Congress than do states with no limits. Currently, an average of 57 percent of congressmen from the 15 term-limited states have state legislative experience, compared to only 48 percent from the other 35 states.

It is not hard to infer the reason. Legislators in term-limited states who want to continue their political careers are more willing to take risks, such as giving up their term-limited legislative seat, to run for other offices. They know they will be looking for work soon anyway.

Serving in state legislatures is valuable training for serving in Congress. It can also be valuable for states to have advocates in the federal arena who remember what it's like back home in the trenches. This is one unexpected effect of state legislative term limits.

—By Karl Kurtz

### Proportion of Congressman Who Are Former State Legislators in the 15 Term-Limited States

