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When the State Takes Over:
How state officials usurping local control threatens local Black political power

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“They are looking to colonize Jackson, not only in terms of them putting their military force over Jackson but also dictating who has the province over decision-making. ... It is taking us back in time, and it puts us on the wrong side of history. It’s colonization, it’s apartheid; it’s the worst of what Mississippi can be.”

- CHOKWE ANTAR LUMUMBA, MAYOR OF JACKSON, MISSISSIPPI, RESPONDING TO MS HOUSE BILL 1020, WHICH MANDATED THE APPOINTMENT OF SPECIAL JUDGES AND PROSECUTORS BY MISSISSIPPI STATE OFFICIALS IN HINDS COUNTY, WHERE JACKSON IS LOCATED, FEBRUARY 2023

State takeovers of local governmental authorities are increasingly being used in majority-Black cities across the United States to seize control from local Black elected leaders and deny the will of Black voters. These takeovers are typically enabled by state laws that allow state government officials to intervene in local functions (e.g., public school administration, municipal finances, and policing) when those local functions are deemed to be underperforming or failing. Importantly, long-standing issues rooted in structural racism, including racial residential segregation and declining state and federal funding for cities, have deprived many majority-Black cities of the material resources needed to adequately fund city functions. It is critical that states play an active role in funding and supporting city services and holding cities accountable for providing quality services to their residents. However, rather than investing in solutions to address the root causes of these long-standing issues, states often initiate takeovers after years of neglecting majority-Black cities. In the process, states usurp local political power, undermine the will of voters, and promote the false notion that local elected leaders in majority-Black cities are incompetent. Political representation through voting is vital to ensuring citizenship and full participation in a democratic society. State takeovers threaten this essential democratic principle.

This Brief reviews and critically analyzes the growing trend of state takeovers across multiple domains: education, economic justice, the criminal legal system, and voting. When considered together, state takeovers represent a far-reaching, anti-democratic shift that suppresses local Black political power. Moreover, this shift is rooted in and further perpetuates a dangerous narrative that majority-Black localities are unfit to govern their own communities.

LOCAL BLACK POLITICAL POWER AND THE EMERGENCE OF BLACK-LED CITIES

While the United States has yet to realize the goal of equal access to the ballot for Black people, decades of civil rights activism have increased access to the franchise and the political power that comes with it. Racial residential segregation due to redlining and other forms of housing discrimination often concentrated Black political power in urban areas, leading to the emergence of Black-led cities.
The Fifteenth Amendment to the U.S. Constitution, ratified in 1870 during the Reconstruction Era following the Civil War, first established Black men’s right to vote and fully participate as citizens. Black women later obtained the right to vote when the Nineteenth Amendment to the U.S. Constitution was ratified in 1920. As Black Americans began to exercise their right to vote and build political power, many states enacted discriminatory voting policies and practices (e.g., literacy tests and poll taxes) that targeted and disenfranchised Black voters with great precision despite being facially race neutral. In many cases, these discriminatory policies were focused on urban centers, where most Black people as well as poor white people lived. These tactics led to the immediate erosion of Black political power. It was not until the Civil Rights Movement in the middle of the twentieth century and the passage of the Voting Rights Act of 1965 (VRA) that Black people across the country were finally able to exercise their right to vote and build political power. The implications of the VRA for Black political participation were immediately clear: By the end of 1965, the year Congress passed the VRA, a quarter of a million new Black Americans had registered to vote. The Black voter registration rate continued to increase, reaching sixty-one percent by 1969 compared to just twenty-three percent prior to the VRA. In turn, Black voter turnout increased.

This increase in Black political participation also led to increased Black representation in elected offices, particularly at the local level, and the growth of local Black political power. In the South, where Black political participation had been especially restricted, the number of Black elected officials increased from seventy in 1965 to 1,314 in 1974. The largest gains in Black representation were initially in local elected positions, including city councils, school boards, and county commissions, rather than in state and federal elected positions. This initial success for Black candidates in local positions was often the result of grassroots community organizing, which started at the local level before later growing to statewide and nationwide organizing. Accordingly, local elected positions have long served as the entry points for Black political participation.

As local Black political power grew in the 1960s through the 1980s, racial residential segregation also greatly expanded through redlining, other discriminatory housing practices, and white flight to the suburbs. Black people were systematically excluded from new housing opportunities in the suburbs and were largely relegated to cities with declining infrastructure and tax bases. This created urban centers with larger concentrations of Black communities. Together, these two phenomena led to the emergence of Black political leadership in many major U.S. cities. Increased Black political representation in cities has brought about many positive outcomes for Black residents. For example, a higher rate of relative Black political power in city government is associated with a lower Black infant mortality rate. Additionally, increased racial and ethnic diversity on school boards is associated with academic improvement among students of color. At the same time, many major U.S. cities continue to struggle with poverty and resource deprivation resulting from structural challenges, including but not limited to declining tax bases, deindustrialization, white flight, aging infrastructure, resource-poor schools, and a lack of political will from state governments to provide funding support.
THE GROWTH OF STATE POWER

The 1960s through the 1980s were also marked by an increased concentration of state-level power. In the middle of the twentieth century, the capacity and power of states grew stronger as a result of: 1) significant grants from the federal government to address local-level issues related to education, poverty, and infrastructure; and 2) the Nixon administration’s “New Federalism” policy, which transferred authority on many social and civic programs from the federal government to the states. New Federalism was further expanded under the Reagan administration. Through these shifts in federal funding and policy, states gained more authority over local affairs that was formerly held by the federal government. Local municipalities also began to rely more heavily on state funding during this time because declining tax bases, deindustrialization, and aging infrastructure placed more financial strain on cities.

Political science and legal scholars have illuminated how racial politics also played a role in the expansion of state power over local governments. Following the Civil Rights Movement, the federal government began to show increased support for a pro-civil rights agenda and was allied with cities in advancing and safeguarding civil rights. This alliance between the federal government and major cities, coupled with the growth of local Black political power, posed a threat to the conservative political agenda. Although conservatives typically favor smaller government, they were motivated to consolidate power at the state level in order to disrupt liberal-leaning federal-urban alliances that favored the pro-civil rights agenda.

A NEW TREND OF STATE TAKEOVERS OF BLACK-LED CITIES

By the mid-1970s, the powers of state governments had greatly expanded. Merely one decade after Black voters were able to begin mobilizing and building local political power, conservative state officials increased the use of state takeovers to strip away that power. State takeovers occur when state governments intervene in local (i.e., city or county) affairs by suspending local government autonomy and taking some degree of control over local government administration. These interventions often include removing local elected officials (e.g., school board members) and transferring their authority to unelected administrators appointed by the state, representing an anti-democratic approach that contradicts the American ideal of ensuring political representation through elections. Common interventions include state takeovers of financially distressed cities (a trend that began to increase in popularity in the mid-1970s) and state takeovers of school districts deemed academically underperforming (a trend that began in 1989).

Concerns over failing finances, failing schools, or other examples of purported incompetence in local government administration are commonly cited as justifications for state takeovers. However, the foundational issues that give rise to failing local government administration—such as structural racism and resource deprivation through segregation, white flight, decimated tax
bases, and withholding of state funding—are not addressed through takeovers. Furthermore, as the following sections discuss, claims of failing government administration often do not fully explain why states take over some cities and not others.

Although laws that facilitate state takeovers are facially race neutral, in practice, state takeovers often appear to be attempts to usurp local Black political power while evading the requirements of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.

Race-neutral laws that disproportionately facilitate state takeovers in majority-Black jurisdictions can still have discriminatory impacts that violate the Equal Protection Clause. These facially neutral laws, however, may be more insidious and difficult to challenge if they do not show intentional discrimination on the basis of race (in the same way poll taxes and literacy tests were used to evade the protections of the Fourteenth Amendment).26

For example, in 2017, a coalition of local community leaders in Michigan filed a lawsuit in federal court challenging the Local Financial Stability and Choice Act, a state law that enables state-appointed emergency managers to take over cities during times of financial distress.27 The plaintiffs argued that the law violated their rights under the Equal Protection Clause of the Fourteenth Amendment by allowing an unelected official to rule Michigan cities and that the law “by its terms and in practice is overwhelmingly invoked to disempower African-descended majority communities.”28 The court ultimately dismissed the claim, stating: “Plaintiff has not demonstrated that the legislature had a racially discriminatory intent. There is a clear non-racial explanation for why the majority of Michigan’s [B]lack population came under emergency management.”29 As another example, in 2023, the NAACP and the U.S. Department of Justice filed a complaint challenging parts of Mississippi House Bill (HB) 1020, which facilitates state interference in the City of Jackson’s local criminal legal functions. The complaint alleges that the bill violates the Equal Protection Clause of the Fourteenth Amendment by intentionally discriminating against Black residents in Jackson.30 Both of these examples will be discussed further in this Brief.

This Brief synthesizes the existing social science evidence on state takeovers and highlights how such interventions have been used systematically in Black-led cities and counties across multiple domains, most commonly in education31 and economic justice,32 and, to an increasing extent, in criminal justice33 and voting.34 The Brief provides an example of an attempted or completed state takeover in each of these four domains and reviews the existing evidence on the implications of these types of takeovers. When considered together and across multiple domains, state takeovers can be seen as a growing anti-democratic trend in which state officials usurp local Black political power and undermine the political will of Black voters. At the same time, takeovers are built upon and further promote the dangerous racialized narrative that Black elected leaders are incompetent and cannot effectively govern their communities.
EDUCATION: TAKEOVERS OF SCHOOL DISTRICTS

Houston, Texas

On June 1, 2023, the Texas Education Agency initiated a hostile takeover of the Houston Independent School District (ISD) despite strong opposition from residents in the district.35 The Houston ISD is the largest school district in Texas and one of the largest in the U.S., serving nearly 200,000 students, eighty-four percent of whom are Black or Latinx.36 The state agency announced its plans to take over the district in 2019, citing the school board’s “failure of governance” and the poor academic performance of one of the district’s high schools.37 The Houston ISD then sued the agency and was granted a temporary injunction that halted the takeover efforts because the court stated that state officials did not have the necessary authority to initiate the takeover under the Texas Education Code at the time.38 In response to the lawsuit, the Texas legislature passed Senate Bill (SB) 1365, amending the Texas Education Code to clarify the education commissioner’s power to appoint a board of managers to govern a school district (or order the closure of a school) when a school has demonstrated unacceptable performance.39

Under the new state law, the Texas Supreme Court allowed the Texas Education Agency to proceed with the takeover.40 In August 2023, the state announced that, as part of the takeover plan, it would dismiss librarians and close libraries in some of the city’s poorest schools and use the library spaces for other purposes, including student discipline.41 Houston residents have described the takeover as an “act of racial violence.”42 Notably, the school district takeover occurred at the same time Texas was also preempting local authority by enacting a law that would prevent municipalities and counties from passing local laws that are stronger than state laws, such as labor protections, and enacting laws to enable state interventions in elections in Harris County, where Houston is located.43

The Houston Independent School District state takeover, while one of the largest in U.S. history, is just one among hundreds of state takeovers of local school districts since 1989. The large majority of these takeovers have occurred in districts predominantly serving students of color.44 Political scientist Dr. Domingo Morel compiled a dataset of state takeovers of local school districts from 1989 to 2013 and found that more than eighty percent of takeovers occurred in cities with a Black and Latinx majority.45 Moreover, Drs. Beth Schueler and Joshua Bleiberg analyzed takeovers from 1989 through 2016 and found that school districts serving larger concentrations of Black students were more likely to be taken over regardless of academic performance.46

Not only are cities with a higher percentage of Black and Latinx residents at higher risk of school takeovers, but cities with higher levels of Black political power are also at higher risk of takeovers. Specifically, Dr. Morel’s analysis shows that an increase in the percentage of Black city council members is correlated with an increase in the likelihood of a school district takeover after controlling for poverty levels, demonstrating how Black political empowerment is associated with cities being targeted by state takeovers.47
Takeovers of majority-Black school districts also result in more serious consequences for the locally elected school boards. Dr. Morel found that, in majority-Black school districts, thirty-three percent of state takeovers involved the school board being abolished with no replacement, compared to just four percent of takeovers in majority-white districts and zero percent of takeovers in majority-Latinx districts (see Figure 1). Even when the state did not abolish the locally elected school board, it still undermined Black political power in majority-Black districts by appointing a new school board in forty-three percent of cases. Dr. Morel’s research further documents how takeovers that resulted in a state-appointed school board were associated with a five percentage-point reduction in Black representation on the district’s school board.

Together, this body of research from Drs. Morel, Schueler, and Bleiberg demonstrates that state takeovers of local school districts are disproportionately targeted at majority-Black school districts and Black-led cities, and that these takeovers have particularly harmful consequences for Black political power, including the total removal of the elected school board.

**Figure 1. School board type after state takeover of local school district**

<table>
<thead>
<tr>
<th>District</th>
<th>School board remained elected</th>
<th>State appointed new school board</th>
<th>State abolished school board</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majority-white district</td>
<td>70%</td>
<td>26%</td>
<td></td>
</tr>
<tr>
<td>Majority-Latinx district</td>
<td>46%</td>
<td>54%</td>
<td></td>
</tr>
<tr>
<td>Majority-Black district</td>
<td>24%</td>
<td>43%</td>
<td>33%</td>
</tr>
</tbody>
</table>

Chart: Thurgood Marshall Institute • Source: Adapted from Figure 3.3 in Takeover: Race, Education, and American Democracy (Morel 2018, p. 63) • Created with Datawrapper

In addition to the negative impact on local Black political power, available evidence suggests that takeovers generally do not improve student academic outcomes and educational experiences, despite that being their ostensible goal. Case studies from multiple cities paint a complex picture of the consequences of school district takeovers.

New Orleans, Louisiana, is one of few examples of a state takeover that was evaluated and shown to improve academic outcomes for students, in the wake of Hurricane Katrina. The evaluation was conducted by researchers at the Education Research Alliance for New Orleans at Tulane University. Importantly, the circumstances of this takeover were unique given that the city was rebuilding from the unprecedented devastation of the hurricane. Additionally, the takeover involved an upheaval of the entire public school system: Nearly all public school teachers were fired, and all public schools were converted to charter schools. As a result, it is difficult to isolate the effects of the state takeover from the effects of the full transition to charter schools as well as the effects of the hurricane on population displacement, health, employment, and housing. The findings from New Orleans therefore likely cannot be generalized to other localities. Furthermore, evidence suggests that the changes to the New Orleans school system did not equitably benefit all students: The observed improvements in student performance were smaller among Black students and students eligible for free or reduced-price lunch. The New Orleans takeover was also associated with increased suspension rates for Black male students.
Case studies from other cities, including Detroit, Michigan; Memphis, Tennessee; and Newark, New Jersey, also show inequitable consequences of state takeovers like harsher disciplinary practices for Black students, potentially fueling the school-to-prison pipeline. In these cities, takeovers were not associated with gains in student academic achievement. In addition to these city-specific case studies, Drs. Schueler and Bleiberg conducted a study of the effects of school district takeovers across the country between 2011 and 2016, and they found no evidence that takeovers improved student academic achievement. Beyond a lack of academic improvement, the data suggest takeovers may result in negative effects on English Language Arts scores in the early years following a takeover.

The available evidence on school district takeovers demonstrates that majority-Black districts are at higher risk of being taken over regardless of academic performance, and these takeovers are more likely to remove locally elected school boards and reduce Black representation on school boards. Majority-Black school districts continue to be targeted for takeovers even though takeovers have demonstrated no consistent benefits for students—and have actually demonstrated harms for students, such as the exacerbation of the school-to-prison pipeline.

ECONOMIC JUSTICE: TAKEOVERS OF FINANCIALLY DISTRESSED CITIES

**FLINT, MICHIGAN**

In the late 2000s, Flint, Michigan, was in financial distress, operating under a deficit and struggling to fund city expenses. The majority-Black city, which was once a thriving hub for manufacturing, grappled with deindustrialization, racial segregation, population loss, and aging infrastructure, like many Rust Belt cities. Michigan is one of twenty states with a law that allows the state to appoint an emergency manager to take control of cities experiencing financial distress. From 2011 to 2015, Flint was under the authority of four different emergency managers who aimed to cut costs, using strategies such as eliminating city government positions, charging Flint residents higher rates for city services, and renegotiating city contracts. Most notably, in April 2014, while under the control of an emergency manager, Flint switched its drinking water supply from Lake Huron to the Flint River in an effort to cut costs. Because officials failed to properly treat the water, this change led to a devastating water contamination crisis in which Flint residents were exposed to unsafe lead levels and an outbreak

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1 The twenty states with emergency manager laws are Connecticut, Florida, Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, and Texas. Northeastern states are most likely to have emergency manager laws, perhaps reflecting how older cities have been struggling with deindustrialization. See Urahn et al., 2013 for more (https://www.pewtrusts.org/-/media/assets/2016/04/pew_state_role_in_local_government_financial_distress.pdf).
of Legionnaires’ disease that killed twelve people. In November 2021, Flint residents won a $626 million class action lawsuit against the State of Michigan, the City of Flint, and other parties. Flint residents, especially Flint children, continue to suffer from long-term health consequences of the water contamination crisis nearly a decade later. Nakiya Wakes, a Black mother and Flint resident, said, “It leaves me in a state of fear and also angry because like I said, I couldn’t even protect my own kids from this.”

The emergency management of Flint is among the most notable examples of a state takeover with devastating consequences for a city’s majority-Black residents. While Flint is an egregious case, state takeovers of financially distressed cities continue to occur across the country. These takeovers are typically not considered to be politically or racially motivated; instead, they are often viewed as a race-neutral, technocratic approach to save cities from financial crisis. However, existing data on state takeovers of financially distressed cities demonstrate that states have disproportionately targeted majority-Black cities and that the takeovers have not resulted in sustainable financial improvements.

Because Michigan has used its emergency management law (the Local Financial Stability and Choice Act) more extensively than any other state, much of the research on state takeovers of financially distressed cities is focused on Michigan. In a study of takeovers in Michigan between 2007 and 2013, Drs. Nate Breznau and L. Owen Kirkpatrick found that about ten percent of Michigan residents (about one million residents) had lived in a city that had been taken over by a state-appointed emergency manager and fifty-one percent of these residents were Black, while Black people comprise just ten percent of the state population. As discussed previously, Black residents in many U.S. states are often concentrated in resource-poor cities due to decades of disinvestment, deindustrialization, and segregation practices. Still, this stark disparity in how takeovers disproportionately impact Black Michigan residents cannot be explained solely by the concentration of Black residents in financially distressed cities: Drs. Breznau and Kirkpatrick found that, after controlling for a city’s fiscal score, the size of a city’s Black population was still an independent predictor of whether the city would be taken over, causing them to conclude that the emergency manager law had been implemented in a racially discriminatory way. In fact, the odds of a takeover increased by fifty percent for every ten percentage-point increase in the local Black population over this time period. In another study of financial state takeovers in Michigan, researchers found that the top two predictors of whether a city would be taken over were intergovernmental revenue per capita followed by the percentage of Black residents.

While there is much debate over the effectiveness of state takeovers in lifting cities out of financial distress, evidence suggests that cities do not fare better following a takeover. A recent study of city financial outcomes following eight state takeovers found that state-appointed emergency managers were associated with small, short-term improvements in a city’s budgetary solvency and fiscal reserves, but they were also associated with long-term deterioration in a city’s financial health. The researchers concluded that emergency managers do not perform better than the locally elected officials that they replace.
State takeovers of financially distressed cities are likely ineffective because they fail to address the root causes of financial distress—namely, decades of white flight, deindustrialization, aging infrastructure, and economic deprivation, all of which disproportionately impact Black communities.\textsuperscript{79} Many U.S. cities have sought financial support from state and federal governments to address these long-standing structural issues and have been ignored.\textsuperscript{80} Instead of responding to the root causes of municipal financial distress, takeovers have a short-sighted focus on cost-cutting, which often involves decreasing and weakening city services while charging residents more for remaining services.\textsuperscript{81} Furthermore, the ramifications of cost-cutting and charging residents more for worse city services can make these cities less desirable places to live, perpetuating the cycle of resource deprivation and financial distress.

Notably, in the name of cost-cutting, emergency managers have made changes to several cities’ drinking water systems, such as changing the water source or increasing water bills, even beyond the case of Flint. Out of eleven Michigan cities that were affected by emergency management, six changed their drinking water systems during takeovers, and these changes have generally negatively impacted residents.\textsuperscript{82} Changes to water systems led to poorer water quality, increased water service shutoffs, and increased water bills.\textsuperscript{83} Additionally, takeovers have involved attempts to privatize cities’ water systems, contributing to crackdowns on unpaid water bills and more frequent water shutoffs among residents who could not afford to pay overdue bills.\textsuperscript{84}

Replacing locally elected officials with state-appointed officials strips residents of their political power, with dire consequences. For example, Flint residents were immediately aware of the water crisis because they could see, taste, and smell the contaminated water and its effects on their skin.\textsuperscript{85} The state-appointed emergency managers in Flint were not elected and had no obligation or incentive to listen to residents.\textsuperscript{86} Thus, by the time officials finally acted to solve the crisis, Flint residents had been exposed to contaminated water for nearly two years.\textsuperscript{87} In this way, state takeovers can amount to taxation without representation, where residents pay taxes but cannot use their vote to express how their tax money should be spent—a scenario that runs counter to democratic principles.

**CRIMINAL LEGAL SYSTEM: TAKEOVERS OF LOCAL POLICING, PROSECUTORS, AND JUDGES**

**JACKSON, MISSISSIPPI**

In April 2023, Mississippi Governor Tate Reeves signed into law two bills that represent what Jackson residents and elected leaders describe as a hostile state takeover of the City of Jackson.\textsuperscript{88} The first law, SB 2343, expanded the jurisdiction of the state-controlled Capitol Police from a limited perimeter around state buildings to cover almost the entire City of Jackson.\textsuperscript{89} The second law, HB 1020, established a new court system for part of the city to be served by a state-appointed judge and state-appointed prosecutors, and it encroached upon the
power of the county’s democratically elected circuit court judges by mandating the appointment of four new circuit court judges to serve alongside the elected judges. The circuit court judges hear felony criminal prosecutions, civil lawsuits, and appeals from lower courts. Together, these laws subject Jackson residents, more than eighty percent of whom are Black, to a “separate and unequal” criminal legal system controlled by the appointees of white state officials, thereby usurping the political power of the city’s majority-Black locally elected leaders. The laws have been challenged in state and federal lawsuits. Jackson Mayor Chokwe Antar Lumumba has firmly denounced these actions by the State of Mississippi, stating, “They don’t think Black people can govern themselves. They want to seize through policy what they can’t achieve through a democratic process.” In September 2023, the Mississippi Supreme Court ruled that HB 1020’s provision requiring the appointment of circuit court judges in Hinds County was unconstitutional because the Mississippi Constitution states that circuit court judges “shall be elected by the people.” Other provisions of the law are still being challenged in court.

Mississippi’s recent takeover of components of Jackson’s criminal legal system—by changing local police jurisdiction, establishing a new court system with appointed judges and prosecutors, and mandating the appointment of new circuit court judges—is one example among many in which a state has taken control over local criminal legal roles and functions including policing, elected prosecutors, and elected judges.

Policing

Throughout U.S. history, there have been multiple examples of state authorities taking over local police departments. For example, Baltimore’s police department had been under state control since 1860 and operated as a state agency until the ratification of a charter amendment, Question H, which was supported by eighty-two percent of local votes cast in 2022. Meanwhile, for the more than 150 years the police department remained a state agency, the City of Baltimore was almost entirely responsible for funding the operations of the police department. Question H made the Baltimore Police Department (BPD) a city agency; however, this action did not give the City Council legislative authority over BPD. Most major U.S. cities have authority or “local control” over their police forces. For the Baltimore City Council to have this authority over BPD, more actions are required from the Maryland General Assembly and Baltimore voters. Baltimore residents have sought oversight of BPD for decades: Baltimore’s Civilian Review Board was established in 1999, long before many other municipalities in Maryland established similar, yet less authoritative, police accountability boards through statewide legislation in 2021.

More recently, New Jersey took control over the Paterson Police Department in 2023. The New Jersey Attorney General appointed a police official from the New York Police Department to replace Paterson’s police chief, who had been appointed by the city’s mayor. State lawmakers also passed legislation that allowed the state-appointed police chief to take control of

\[\text{ii This language is used in the plaintiffs’ complaint filed in a federal lawsuit challenging HB 1020, in which they argue that the law violates Jackson residents’ Fourteenth Amendment rights.}\]
the agency without having satisfied the previously established training requirements of the role.103

**Elected prosecutors**

In 2022 and 2023, Florida Governor Ron DeSantis issued executive orders to suspend two local elected prosecutors in the Orlando area and Tampa area because he disagreed with decisions they had made when exercising their prosecutorial discretion.104 Governor DeSantis then appointed new prosecutors to replace the elected prosecutors he suspended.105

**Elected judges**

Mississippi’s HB 1020, discussed above, is one example of a law that restricts the authority of locally elected judges. The law created a new court system in Jackson, a city that is eighty-two percent Black, with judges and prosecutors appointed by two white state officials.106 This move limits the power of locally elected judges to hear cases over which they may have previously held authority. Additionally, the law mandates that the state appoint four new judges to the Hinds County Circuit Court to hear cases alongside the elected judges, again restricting the authority of the locally elected circuit court judges. As explained above, this provision was found to be unconstitutional because the Mississippi Constitution states that circuit court judges “shall be elected by the people.”107

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Even though these takeovers of local criminal legal roles and functions occurred within different political contexts and were driven by different factors, in each instance the takeover resulted in a jurisdiction with a large Black and/or Latinx population having less of a voice in their local criminal legal system. As with state takeovers of school districts and financially distressed cities, state officials provide race-neutral justifications for taking over the local criminal legal system by alleging that they are addressing entrenched problems in the city—in this case, problems with public safety. For example, Mississippi Governor Reeves said in an April 2023 statement announcing he signed HB 1020 and SB 2343:108

“This legislation won’t solve the entire problem, but if we can stop one shooting, if we can respond to one more 911 call—then we’re one step closer to a better Jackson. I refuse to accept the status quo. As long as I’m Governor, the state will keep fighting for safer streets for every Mississippian no matter their politics, race, creed, or religion—regardless of how we’re portrayed by liberal activists or in the national media.”

And much like state takeovers in other domains, the state appointment of police chiefs, local prosecutors, and judges is an approach that fails to confront the foundational drivers of public safety issues and undermines political participation by introducing state-appointed officials who are not accountable to local voters. Residents of Jackson and other urban centers want to live in safe, prosperous cities, and many cities face real challenges with public safety.109 Jackson has consistently asked for state support to invest in crime prevention, but the state has denied these requests.110 Jackson Mayor Lumumba said in a May 2022 statement:111
“I said very clearly that there are several avenues we have pursued and are pursuing to tackle the surge in violent crime. ... We have requested funding from the state for several public safety-related measures, including for the police department. We did not get that funding.”

Unlike state takeovers of school districts and financially distressed cities, takeovers of local criminal legal roles and functions like policing, elected prosecutors, and elected judges have not been comprehensively tracked and evaluated. As a result, there is limited systematic data on how often and where such takeovers have occurred and what the impacts have been.

Even so, it is clear that this tactic of usurping local criminal legal control is growing. In particular, there is a recent nationwide movement of states attempting to gain control over progressive, locally elected prosecutors. Between 2017 and 2022, at least twenty-eight bills were introduced in sixteen states that would allow state officials to undermine the power of locally elected prosecutors.112 These bills target prosecutors’ abilities to enact measures to reduce mass incarceration, such as exercising discretion in refusing to prosecute certain offenses or limiting the use of cash bail.113 Given that mass incarceration disproportionately impacts the health and well-being of Black communities, demonstrated through stark racialized disparities in arrest and incarceration rates, conservative state officials are targeting initiatives that would disproportionately benefit Black communities.114 These efforts share similarities with attempts by Congress to interfere with local criminal legal functions in D.C., where the U.S. House of Representatives recently moved to strike down a police accountability measure that was supported by D.C. residents and passed by the D.C. Council.115

Like state takeovers in other domains, takeovers of the criminal legal system undermine the political power of locally elected officials and thereby undermine the political will of residents. State takeovers of local criminal legal systems and actors are typically justified through inflammatory rhetoric about threats to public safety,116 despite a lack of evidence that state-appointed criminal legal officials are more effective at producing public safety. Indeed, because state officials are more removed from the impacts of local public safety issues, they are often less familiar with the root causes or the best solutions. Furthermore, any contention that reform-minded prosecutors are associated with increased crime is patently false: There is no consistent empirical evidence to support this claim.117 Available evidence suggests that declining to prosecute low-level offenses is actually associated with a reduction in subsequent criminal complaints and recidivism.118 State intervention to replace reform-minded, locally elected leaders and implement “tough-on-crime” approaches to public safety risks exacerbating the negative consequences of policing and mass incarceration, which disproportionately place Black lives at risk.119
VOTING: TAKEOVERS OF LOCAL ELECTION ADMINISTRATION

FULTON COUNTY, GEORGIA

In March 2021, Georgia passed SB 202, a state law that includes provisions allowing the State Election Board (chaired by a state appointee) to assume control over county election boards that it deems underperforming. The law also restricts absentee voting and distributing food and water to voters waiting in line. In response to the law, a local civil rights leader said, “There is a direct attack on Black voters. All of these things combined really underscore the severity and the urgency of the attacks on our democracy.” In August 2021, just months after the law passed, the State Election Board initiated an investigation into the Fulton County election board in response to alleged mismanagement and incompetence in election administration. Fulton County, where Atlanta is located, is the state’s most populous county and the county with the largest number of Black Georgians—about half of Fulton County residents are Black. After an investigation that lasted nearly two years, the State Election Board ultimately found no violations of state election rules across the nine elections it monitored, and it voted unanimously against a state takeover.

Election administration in the United States is highly decentralized, giving local election officials who are sometimes appointed and sometimes elected (e.g., county clerks and county election boards) significant authority over establishing polling place locations, determining early voting options, and appointing local precinct officials. These local election officials are typically overseen by officials in the executive branch of state government (e.g., secretaries of state or state election boards). However, the 2020 election and the emergence of the “Big Lie,” in which the results of the presidential election were contested and the losing party attempted to override the will of the voters, sparked a shift. Since then, a new wave of state laws has been proposed that would consolidate election administration powers at the state level and allow state legislatures to usurp election administration authority from local officials and the state executive branch.

Because this trend of enabling state legislatures to take control over election administration is recent, there is little empirical research available on the consequences of these takeovers and how they have impacted Black localities specifically. It is clear, however, that state takeovers of election administration pose a growing threat to local political power and election integrity. Nationwide between January 1 and May 3, 2023, three bills were introduced that would give state officials direct control over election outcomes (such as granting them the power to order a new election in a county under certain circumstances), and another thirty-one bills were introduced that would take election administration powers away from local, non-partisan election officials and grant them to partisan state legislators. These legislative efforts to enable state takeovers of local election administration are part of a larger attempt to facilitate election
subversioniii following the 2020 presidential election. During that same four-month period in 2023, another 202 bills were introduced that would enable election subversion through other means of limiting or interfering with local election administration authority, such as requiring partisan election “audits” and imposing criminal penalties for election officials. Figure 2 displays a map of states in which bills have been introduced and/or enacted that allow state legislatures to politicize, criminalize, or interfere with elections.

**Figure 2. Bills that allow state legislatures to politicize, criminalize, or interfere with elections**

January 1-May 3, 2023

Texas has received national attention as state legislators have recently introduced about a dozen bills that target local election administration in Harris County, where Houston is located (and where the local school district was also taken over by the state in 2023). Two of these bills were enacted, and took effect on September 1, 2023: SB 1933 and SB 1750. SB 1933 enables the Texas Secretary of State to intervene in local election administration, but only in counties with more than four million people—Harris County is the only county in the state with a

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ii Election subversion refers to efforts to undermine the results of an election by preventing the true elected winner from taking office. Recent election subversion efforts include the attempt to overturn the results of the 2020 presidential election. In contrast with voter suppression, which involves interference with voters’ ability to cast their ballots, election subversion occurs after ballots have been cast and often entails corruption of the vote counting, canvassing, or certification processes.
population this large.\textsuperscript{135} SB 1750 abolishes the local election administrator position, but only in counties with 3.5 million people or more—which, again, only affects Harris County.\textsuperscript{136}

Early evidence also suggests that Black local election officials are being targeted by state interference in county election boards. Since 2021, Georgia state officials have restructured several county election boards following the passage of SB 202, which enabled increased state interference in local election boards.\textsuperscript{137} While comprehensive data on these restructurings are not available, news outlets have reported a trend in which the state removed Black members from multiple county election boards and replaced them with white members, changing the racial composition of the boards.\textsuperscript{138}

The removal of Black county election board members has downstream implications for ballot access for Black voters, and all voters broadly. Black county election board members who were removed by Georgia state officials reported that they were targeted because they were outspoken about fighting for increased access to the ballot.\textsuperscript{139} In Spalding County, after state officials removed three Black women from the county election board and the Black elections supervisor, the new election board eliminated early voting on Sundays.\textsuperscript{140} Sunday voting is of particular importance to Black communities thanks to decades-long traditions like “souls to the polls,” a faith-based movement encouraging voter registration and early voting among Black churchgoers on Sundays.\textsuperscript{141} In previous elections, Sunday voting had played an instrumental role in increasing Black voter turnout.\textsuperscript{142} The elimination of Sunday voting is therefore a precise tactic likely to decrease Black voter turnout. Given these early examples from Georgia, the recent trend of facilitating states’ ability to take over local election administration appears to be directly tied to voter suppression and election subversion efforts, which undermine democracy and disproportionately impact Black voters.\textsuperscript{143}

State takeovers of local elections can be compounded by local efforts to attack Black political power—such as in Newbern, Alabama, a small majority-Black town west of Montgomery, where local officials and the former mayor are denying the will of voters by failing to properly hold municipal elections and preventing the town’s first Black mayor from appointing a majority-Black town council.\textsuperscript{144} Together, these efforts perpetuate the false narrative that Black people are not fit to be stewards of their own communities.

**CONCLUSION**

State takeovers of local government operations are a long-established practice in the education and economic domains and constitute a growing trend in the criminal legal and voting domains. Available evidence concerning takeovers of financially distressed cities and local school districts clearly demonstrates that state takeovers disproportionately target cities and school districts with larger Black populations.\textsuperscript{145} The distribution and effects of takeovers of criminal legal systems and election administration have not been systematically studied. Still, new state laws are being introduced across the country to facilitate state intervention in these domains, and early evidence from Mississippi, Georgia, and Texas suggests that cities with large Black and Latinx populations are experiencing new threats to political participation and representation.
because of takeovers. These recent cases fit within a larger history of state takeovers undermining Black political power.146

Existing evidence from takeovers of financially distressed cities and local school districts also illustrates how Black communities are targeted for takeovers without appropriate justification. Researchers found that school districts serving predominately Black students were taken over at a higher rate even after controlling for academic performance, and the size of the Black population was an independent predictor of a takeover of financially distressed cities in Michigan even after controlling for fiscal score.147 Therefore, takeovers have been employed by state officials even when they were not responsive to a real, established problem in the city.

Still, there are cases in which cities experiencing a state takeover are facing tangible problems that require remedies. For example, Flint, Michigan, had been struggling to fund city operational expenses, and Fulton County, Georgia, had experienced challenges with election administration like extremely long lines at the polls.148 However, takeovers are often a response to the symptoms of a problem, not the cause.149 This is likely why studies of state takeovers find that they generally do not improve the problems that the laws seek to address.150 And in the process, state takeovers usurp local Black political power and undermine the will of Black voters.

Due to decades of government-sponsored racial segregation practices, deindustrialization, and declining state and federal funding, many majority-Black cities lack the material resources necessary to adequately fund city programs and services.151 States have historically neglected majority-Black cities and then initiated takeovers, often hostile, under the guise of addressing these long-ignored problems.152 State governments can and should play an active role in providing oversight and support in collaboration with municipalities, rather than through hostile takeovers.

Given what is known about state takeovers to date, all Americans should be wary of them as part of a broad, anti-democratic trend that often targets local Black political power and promotes the dangerous narrative that Black communities cannot effectively govern themselves.
REFERENCES


9. Id.

10. Id.


14. Kodras, supra note 2; Massey, supra note 2; Lichter et al., supra note 2.


16. Id. at 76.

17. Id.


23. *Id.*

24. *Id.*


28. Compl. For Declaratory Relief, *supra* note 27.


44. Morrel, supra note 15, at 158; Schueler & Bleiberg, supra note 31.
45. Morrel, supra note 15, at 158.
46. Schueler & Bleiberg, supra note 31.
47. Morrel, supra note 15, at 92.
48. Id. at 62.
49. Id. at 62.
50. Id. at 62–66. This finding differs from the relationship between takeovers and Latinx political representation, where takeovers increased Latinx representation on school boards. Dr. Morel
hypothesizes that the effect of a school district takeover depends on the level of political empowerment communities have prior to the takeover.


53. Harris & Larsen (2018), supra note 52; Harris & Larsen (2016), supra note 52.

54. Schueler & Bleiberg, supra note 31.

55. Harris & Larsen (2016), supra note 52.

56. Nelson, supra note 51.

57. Id.; Reclaim Our Schools, supra note 51.

58. Nelson, supra note 51; Reclaim Our Schools, supra note 51; Schueler & Bleiberg, supra note 31.


60. Id.


62. Id.


64. Fasenfest, supra note 61.


67. Op. & Order Granting Final Approval of A Partial Settlement, Granting Certification of A Settlement Class, Granting Appointment of Settlement Class Counsel; Denying Objections; &


69. Id.


72. Breznau & Kirkpatrick, supra note 32.

73. Kodras, supra note 2; Massey, supra note 2; Lichter et al., supra note 2.

74. Breznau & Kirkpatrick, supra note 32.

75. Breznau & Kirkpatrick, supra note 32.

76. Hughes, Dick & Kopec, supra note 32.


78. Id.


80. Fasenfest, supra note 61.

81. Id.; Jacobson et al., supra note 63.

82. See Hughes, Dick & Kopec, supra note 32.

83. Id.

84. Id.


86. Id.


88. H.B. 1020, supra note 33; Ganeva, supra note 33.


90. H.B. 1020, supra note 33; Jimenez & Sayers, supra note 89.


94. Ganeva, supra note 33.


98. Nilson, supra note 97.


111. Emery, supra note 110.


113. Id.

114. Id.


119. Ganeva, supra note 33.


121. Id.


125. Amy, supra note 123.


130. Id.
131. Id.
132. Id.
139. Oliphant & Layne, supra note 137.
140. Id.
142. Oliphant & Layne, supra note 137.
145. Morel, supra note 15; Schueler & Bleiberg, supra note 31; Erickson, supra note 70; Breznau & Kirkpatrick, supra note 32.
147. Schueler & Bleiberg, supra note 31; Erickson, supra note 70; Breznau & Kirkpatrick, supra note 32.
149. Jacobson et al., supra note 63.

151. Kodras, supra note 2; Massey, supra note 2; Lichter et al, supra note 2.

152. Ganeva, supra note 22.