

# Green Rush: The Rise of Medical Marijuana in the United States

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Harrisburg



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# Thesis



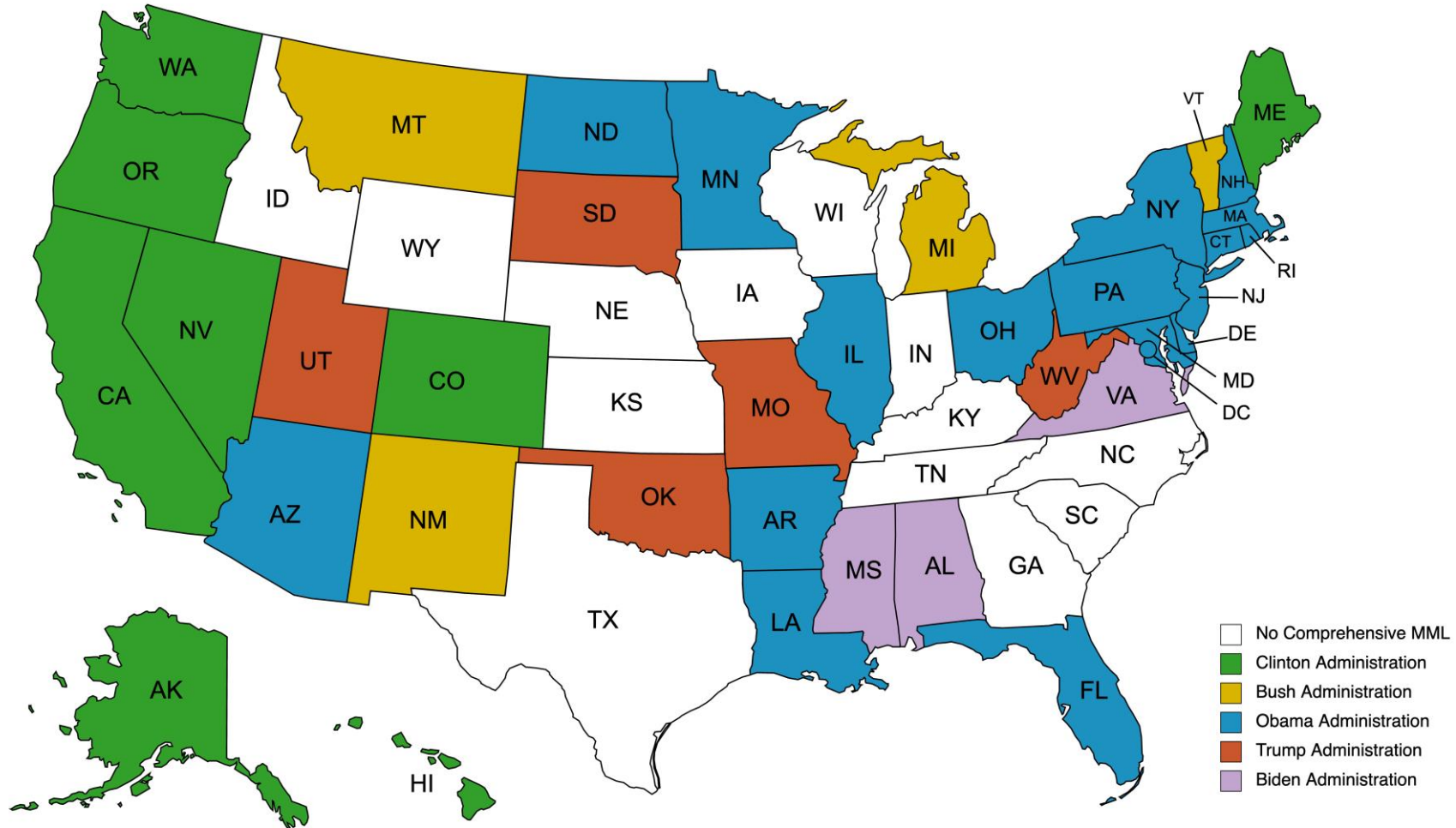
Getty Images

**To understand the expansion of marijuana access and policies in the United States, you must start with the role of the states.**

# Types of Marijuana Reforms: A Snapshot

- Partial Decriminalization
  - Under partial decriminalization policies, minor marijuana offenses may remain classified as misdemeanor offenses. However, violators are issued a summons in lieu of a criminal arrest.
  - **In effect**: 4 states
- Full Decriminalization
  - Minor offenses are defined by statute as either non-criminal violations or infractions. Violators are not subject to arrest. Instead, they are cited and mandated to pay a small fine.
  - **In effect**: Over 50 localities (often preempting state laws) and 9 states
- Comprehensive Medical Marijuana Program
  - Decriminalization for specific medical conditions
  - State-regulated supply of marijuana
  - **In effect**: 38 states and D.C.
- Recreational Marijuana Program
  - Decriminalization for any use over 21
  - State-regulated supply of marijuana
  - **In effect**: 24 states and D.C.

## U.S. States with Comprehensive Medical Marijuana Laws



# States as Laboratories of Democracy

- To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the nation. **It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.** This Court has the power to prevent an experiment. We may strike down the statute which embodies it on the ground that, in our opinion, the measure is arbitrary, capricious, or unreasonable. We have power to do this, because the due process clause has been held by the Court applicable to matters of substantive law as well as to matters of procedure. But, in the exercise of this high power, we must be ever on our guard lest we erect our prejudices into legal principles. If we would guide by the light of reason, we must let our minds be bold.

- Justice Louis Brandeis
- *New State Ice Co. v. Liebmann*, 285 U.S. 262 (1932)



# Federal Approach to Marijuana: A Snapshot

- Between 1914 and 1937, at least 30 states passed anti-marijuana laws
  - *Reefer Madness*
- Marihuana Tax Act (1937)
- Controlled Substances Act (1970)
  - Marijuana classified as a Schedule I Drug

Table 1.

Schedules of controlled substances<sup>1</sup>

| Schedule     | Definitions  | Examples   |
|--------------|--|--|
| Schedule I   | High abuse potential with no accepted medical use; medications within this schedule may not be prescribed, dispensed, or administered  | Heroin, marijuana, ecstasy, gamma hydroxybutyric acid (GHB)  |
| Schedule II  | High abuse potential with severe psychological or physical dependence; however, these medications have an accepted medical use and may be prescribed, dispensed, or administered | Morphine, codeine, hydrocodone, hydromorphone, methadone, oxycodone, fentanyl, methylphenidate, pentobarbital  |
| Schedule III | Intermediate abuse potential (ie, less than Schedule II but more than Schedule IV medications)   | Hydrocodone/acetaminophen 5 mg/500 mg or 10 mg/650 mg; codeine in combination with acetaminophen, aspirin, or ibuprofen; anabolic steroids; ketamine |
| Schedule IV  | Abuse potential less than Schedule II but more than Schedule V medications   | Propoxyphene, butorphanol, pentazocine, alprazolam, clonazepam, diazepam, midazolam, phenobarbital, pemoline, sibutramine                            |
| Schedule V   | Medications with the least potential for abuse among the controlled substances   | <i>Robitussin AC</i> , <i>Phenergan</i> with codeine   |

Source: Gabay M. (2013). The federal controlled substances act: schedules and pharmacy registration. *Hospital pharmacy*, 48(6), 473–474. doi:10.1310/hpj4806-473

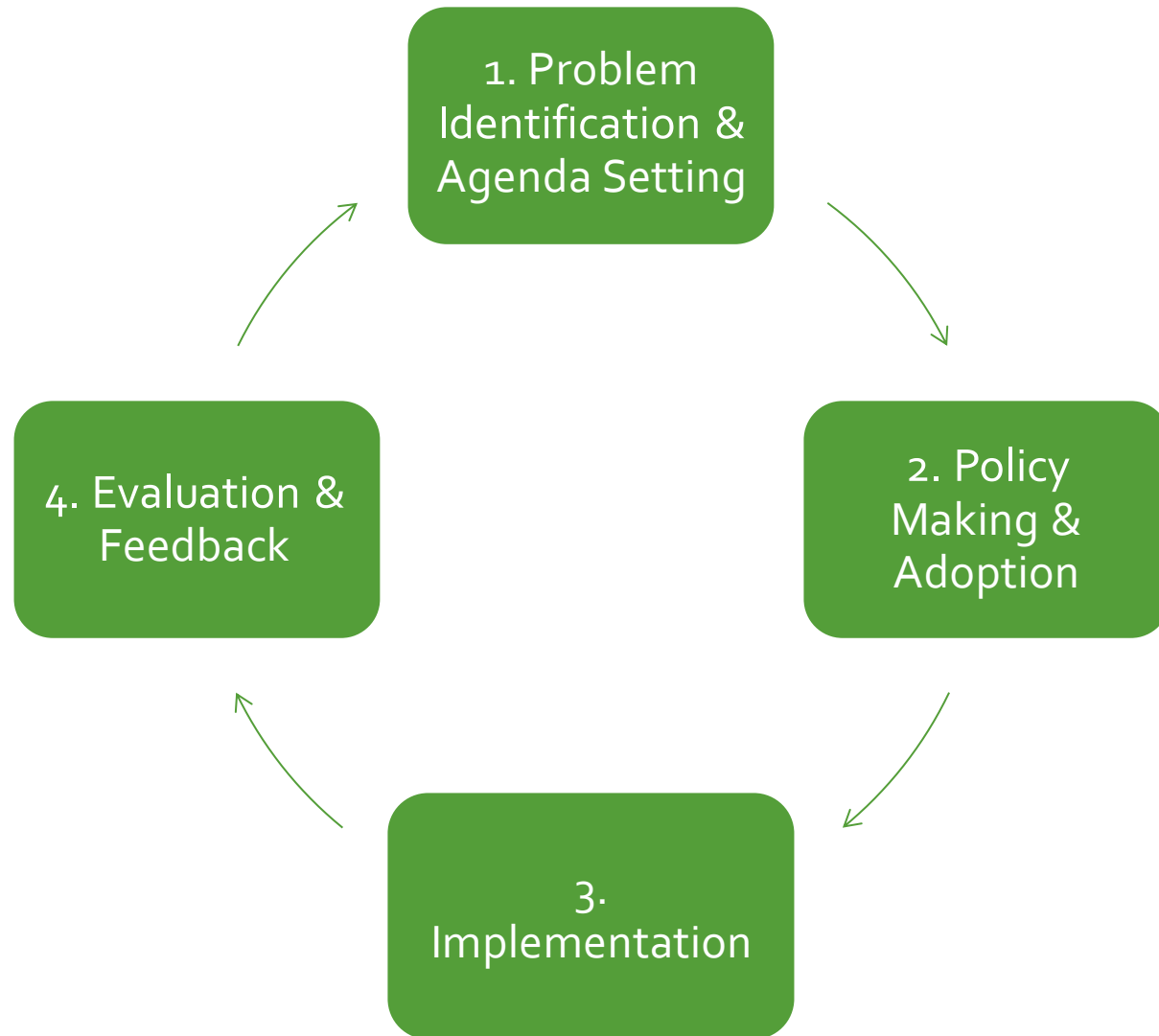
## Federalism & Laboratories of Democracy

“Look, I am now very much in lame-duck status. And I will have the opportunity as a private citizen to describe where I think we need to go. But in light of these referenda passing, including in California, I’ve already said, and as I think I mentioned ... that it is untenable over the long term for the Justice Department or the DEA to be enforcing a patchwork of laws, where something that’s legal in one state could get you a 20-year prison sentence in another. So this is a debate that is now ripe, much in the same way that we ended up making progress on same-sex marriage. **There’s something to this whole states-being-laboratories-of-democracy and an evolutionary approach.** You now have about a fifth of the country where this is legal.”

- President Barack Obama, November 29, 2016

# Policy Process Model

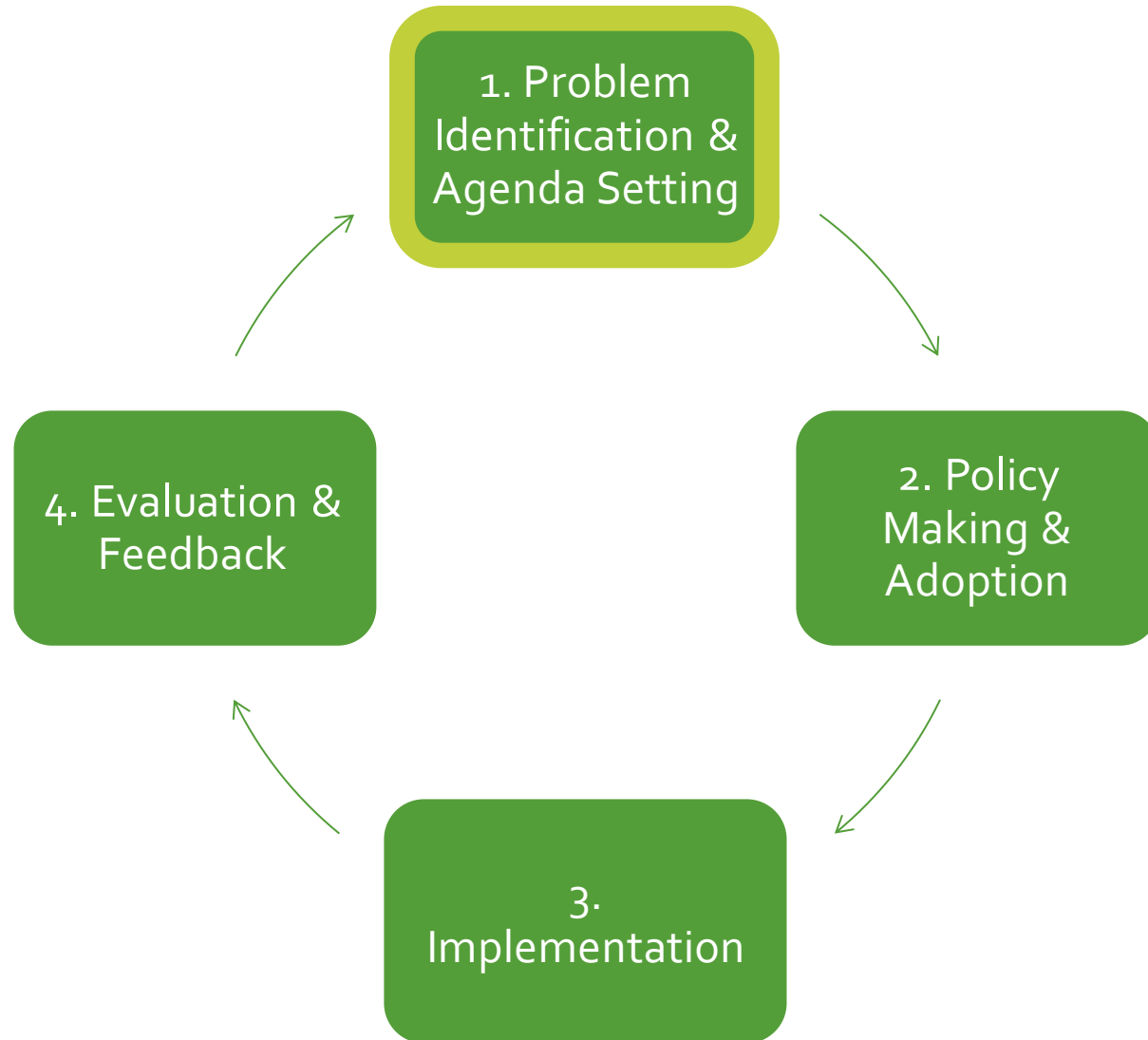
## Four-Stage Policy Process Model





# 1.

## Problem Identification & Agenda Setting



# Theory

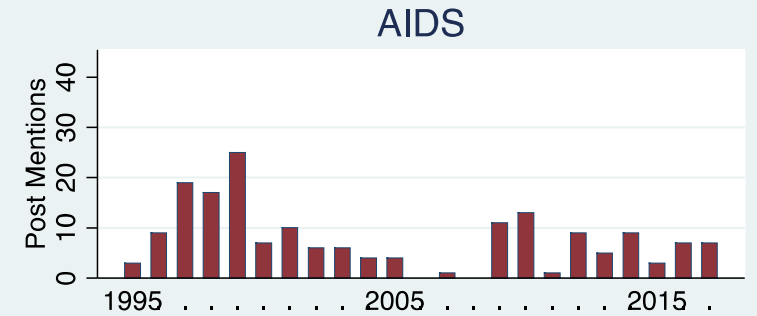
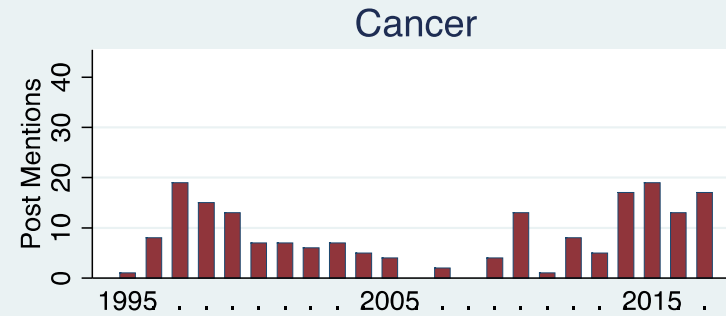
- How do you get state legislatures or voters to consider legalizing medical marijuana?
  - **Agenda Setting:** States have a myriad of issues to deal with – advocates for a number of issues are not only fighting for legislators to be on their side, but fighting for legislators to *prioritize* their issue.
    - One of the biggest challenges is just getting the issue on the legislative agenda (a bill sponsor, a committee hearing, a floor vote, a ballot initiative, etc.)
  - **Problem Identification:** Legislators/voters must be convinced that there is a problem and that policies should be made to address it.
  - **Framing:** The issue must be presented in a way that maximizes appeal and minimizes controversy.

Problem  
Identification  
& Framing

**What problem does medical  
marijuana policy *solve*?**

***Who* benefits?**

Changing Narrative:  
National News  
Coverage: Mentions  
of Medical Marijuana  
in the *Washington  
Post* as paired with  
specific public health  
issues (1996-2017)



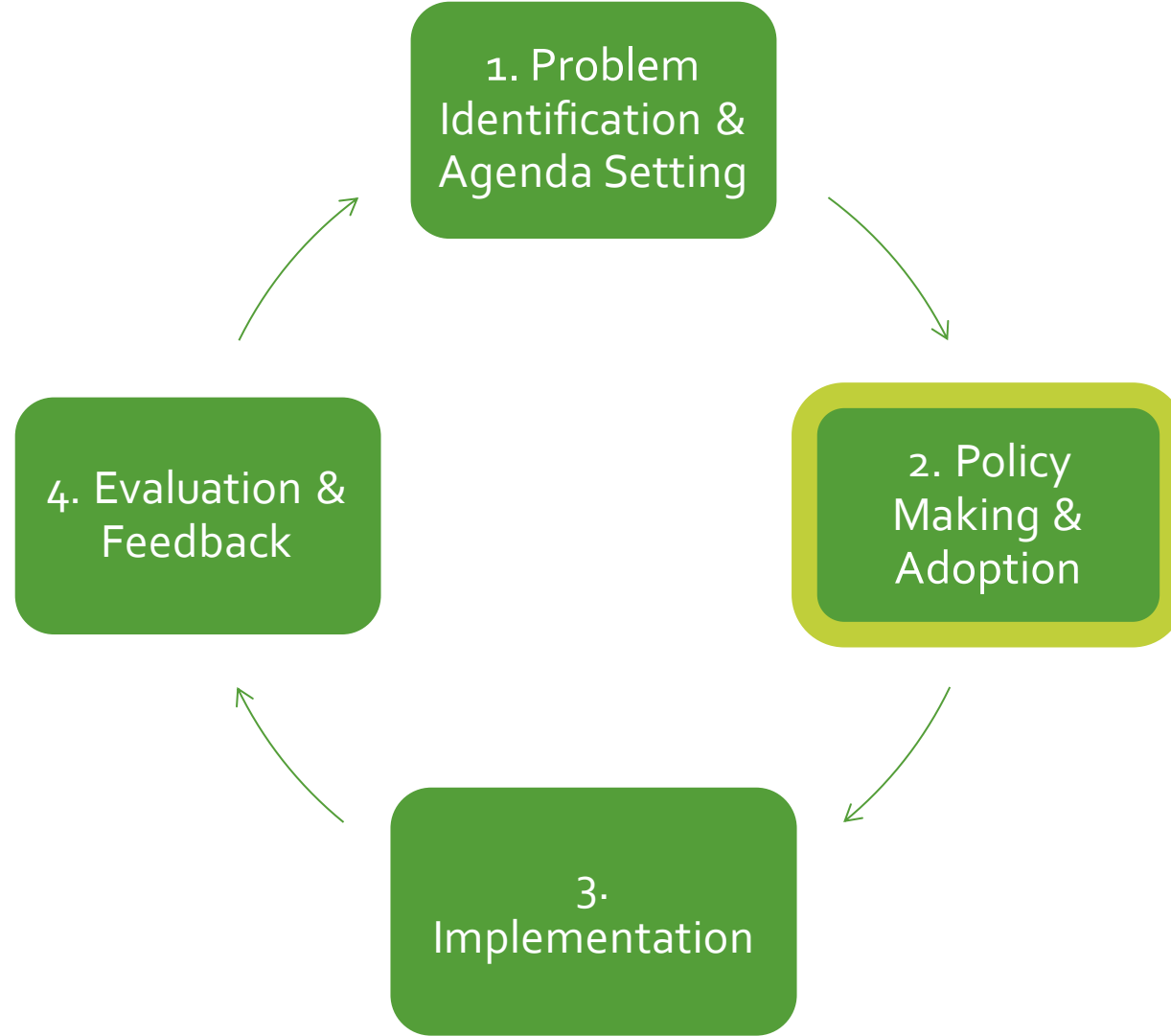






# 2.

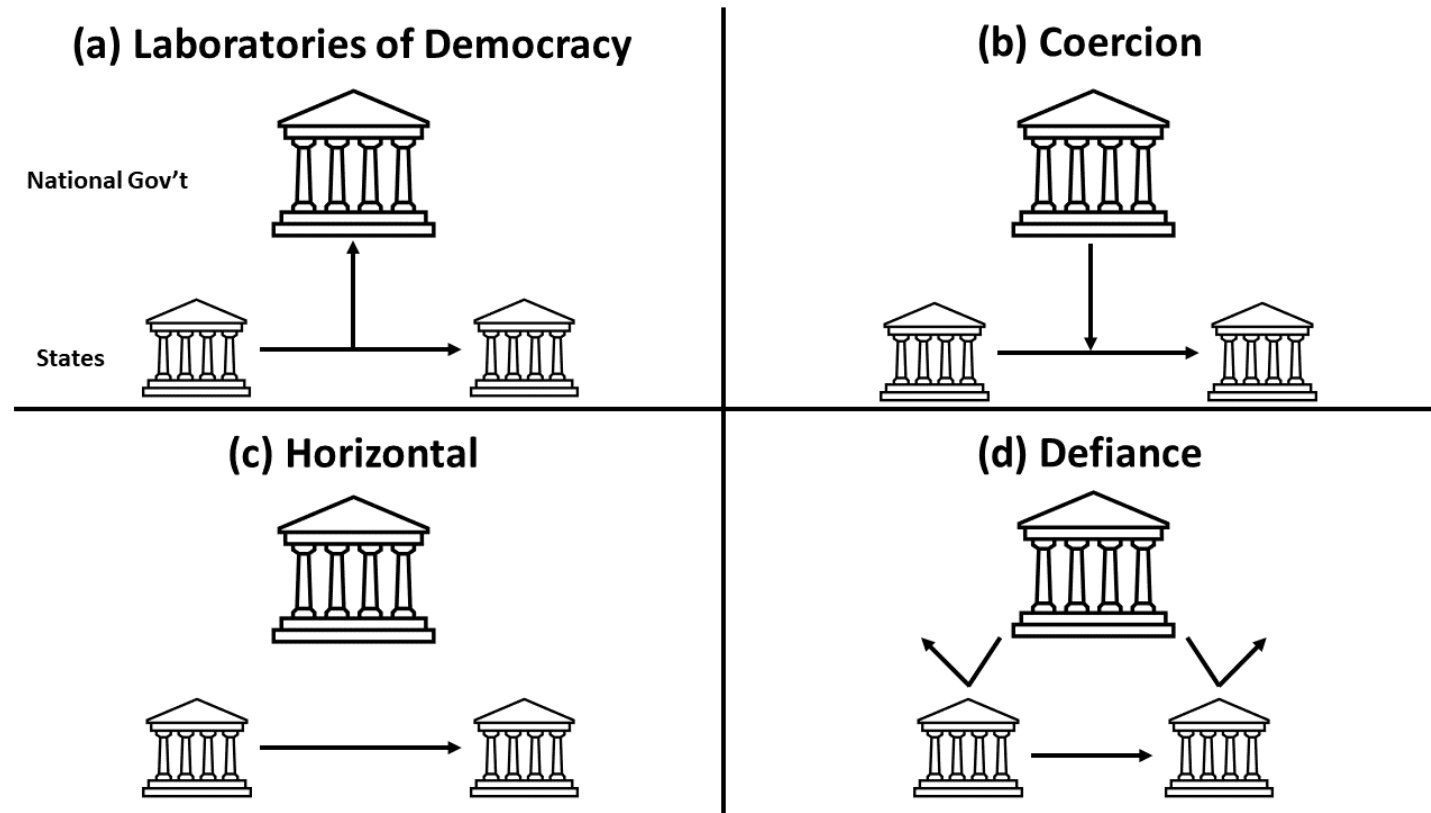
## Policy Making & Adoption





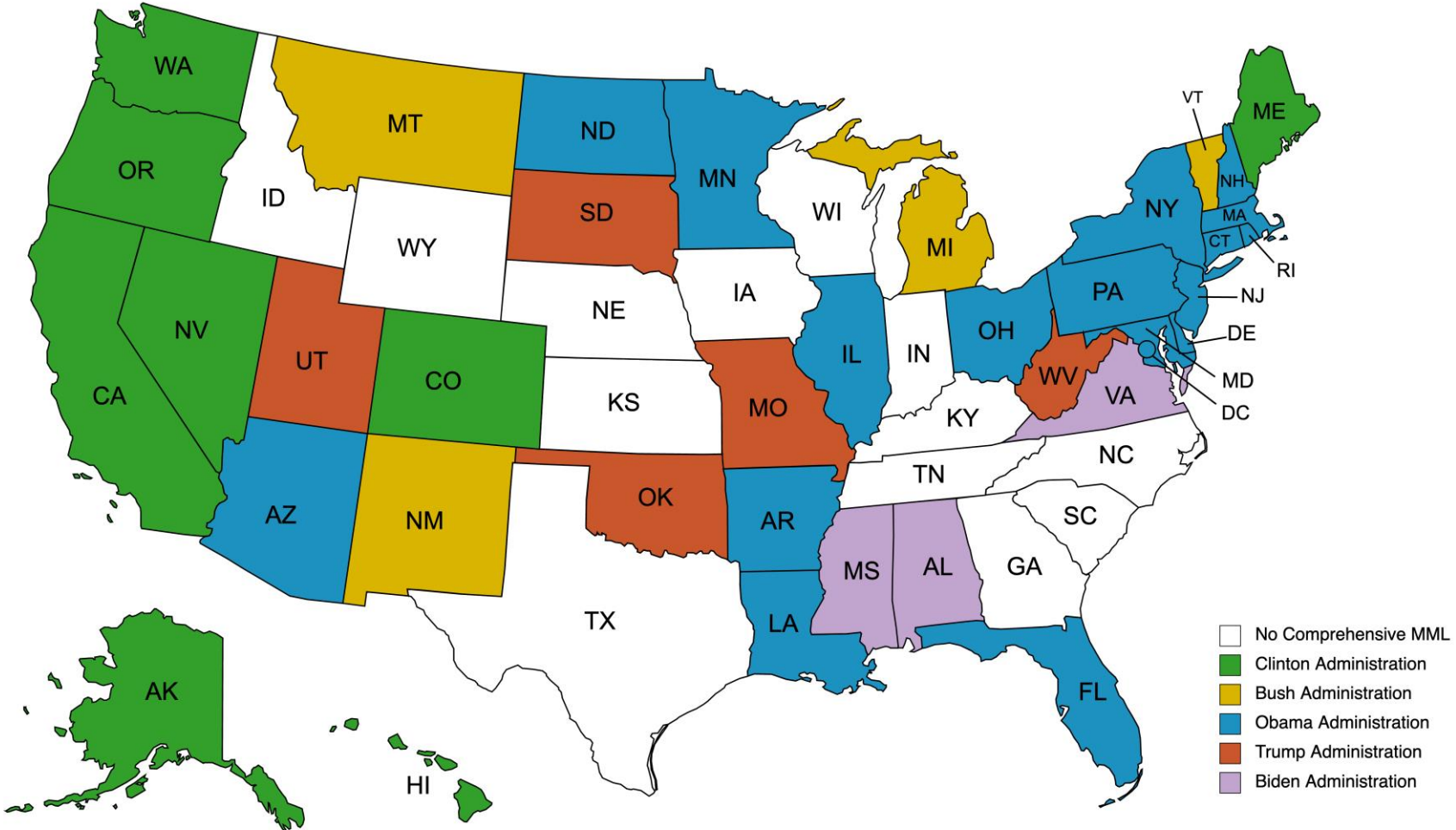
# Theory

- *Defiant* Innovation
- Usually the federal government **(a)** encourages experimentation, **(b)** coerces states in order to achieve a goal (e.g., No Child Left Behind, immigration policy, etc.), or **(c)** allows states to work out specific issues in their purview (e.g., regional issues, criminal justice/education issues, etc.).



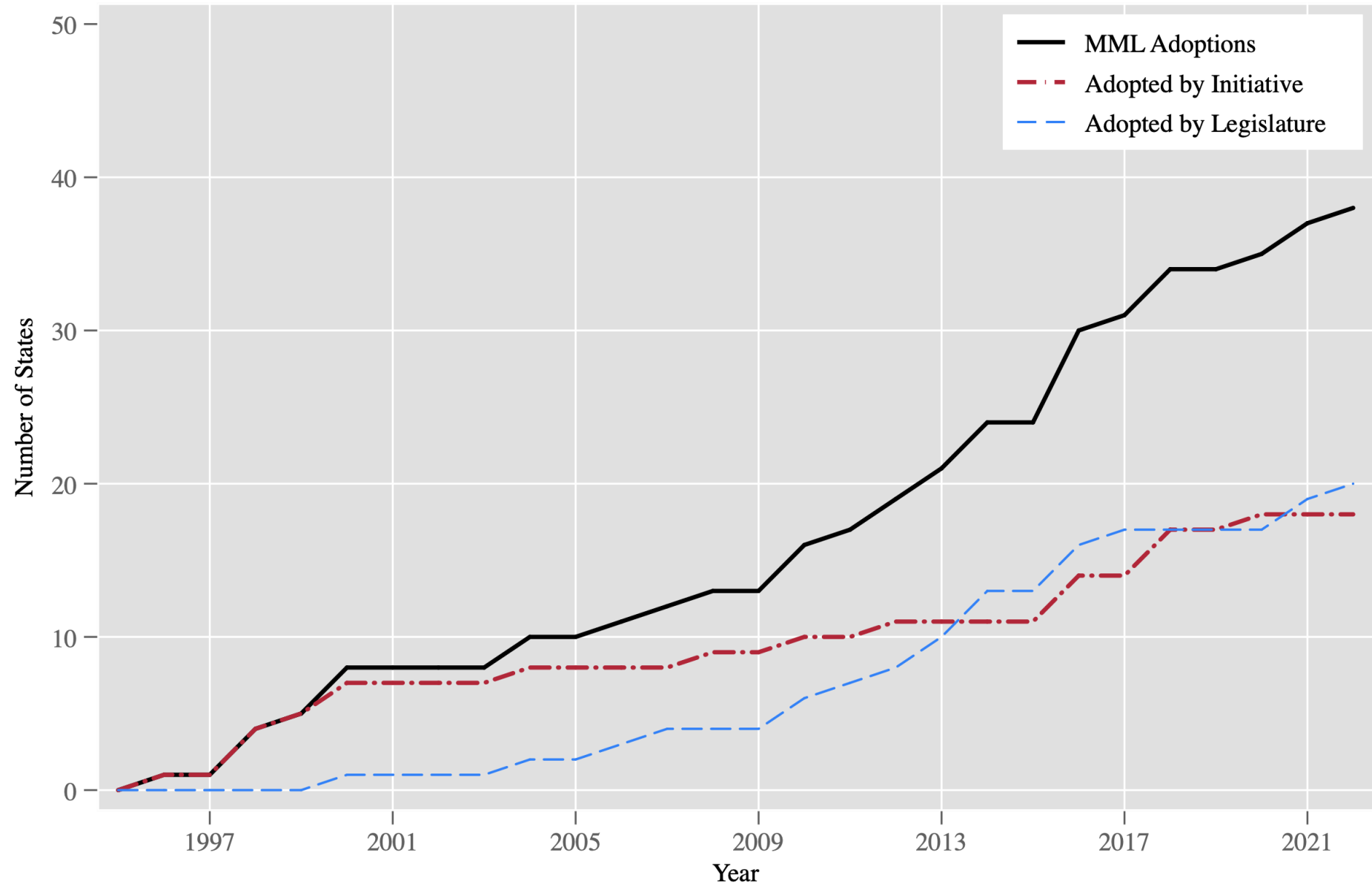
## U.S. States with Comprehensive Medical Marijuana Laws

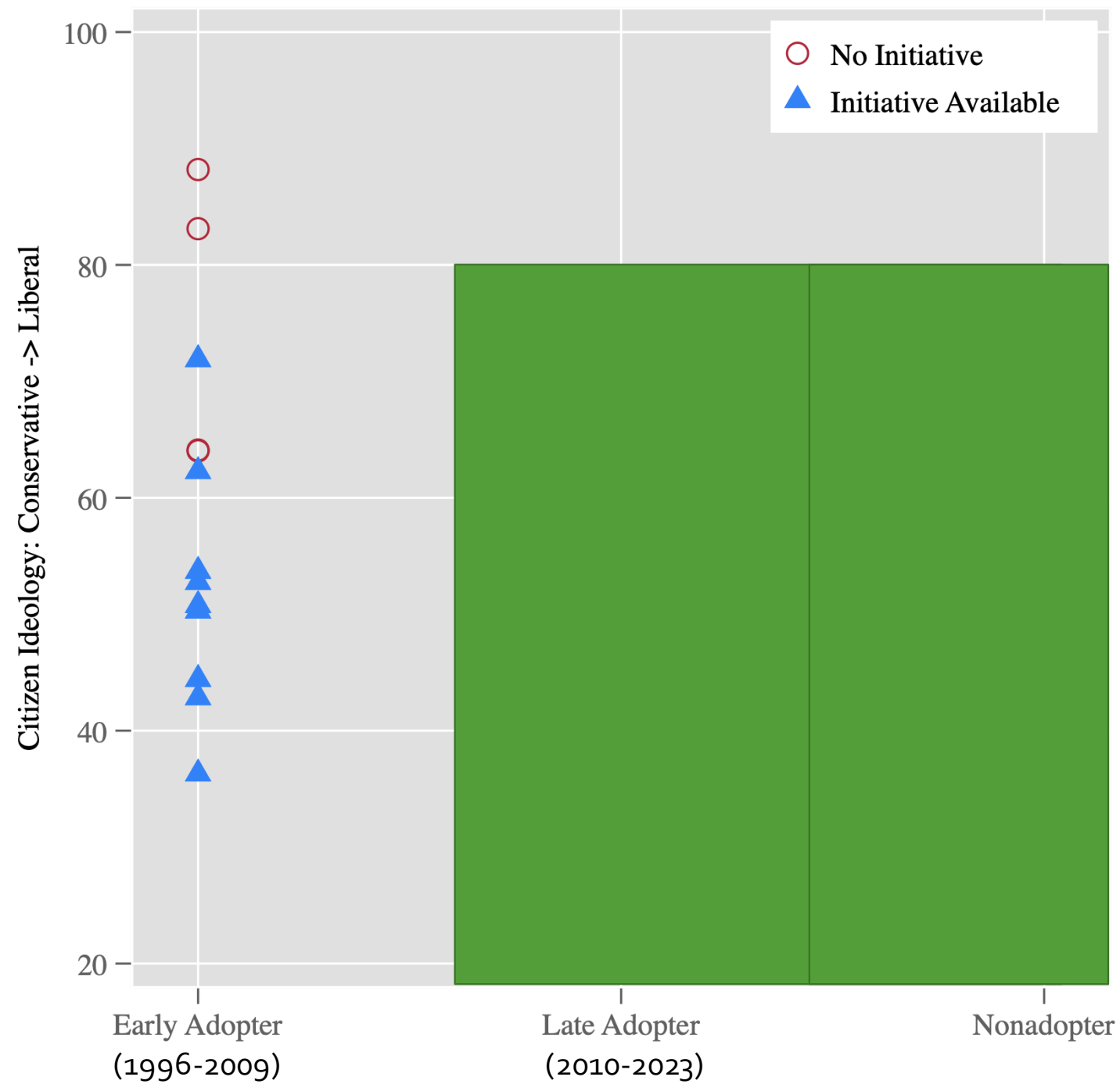
# Defiant Innovations



# The Adoption of Medical Marijuana Laws Over Time

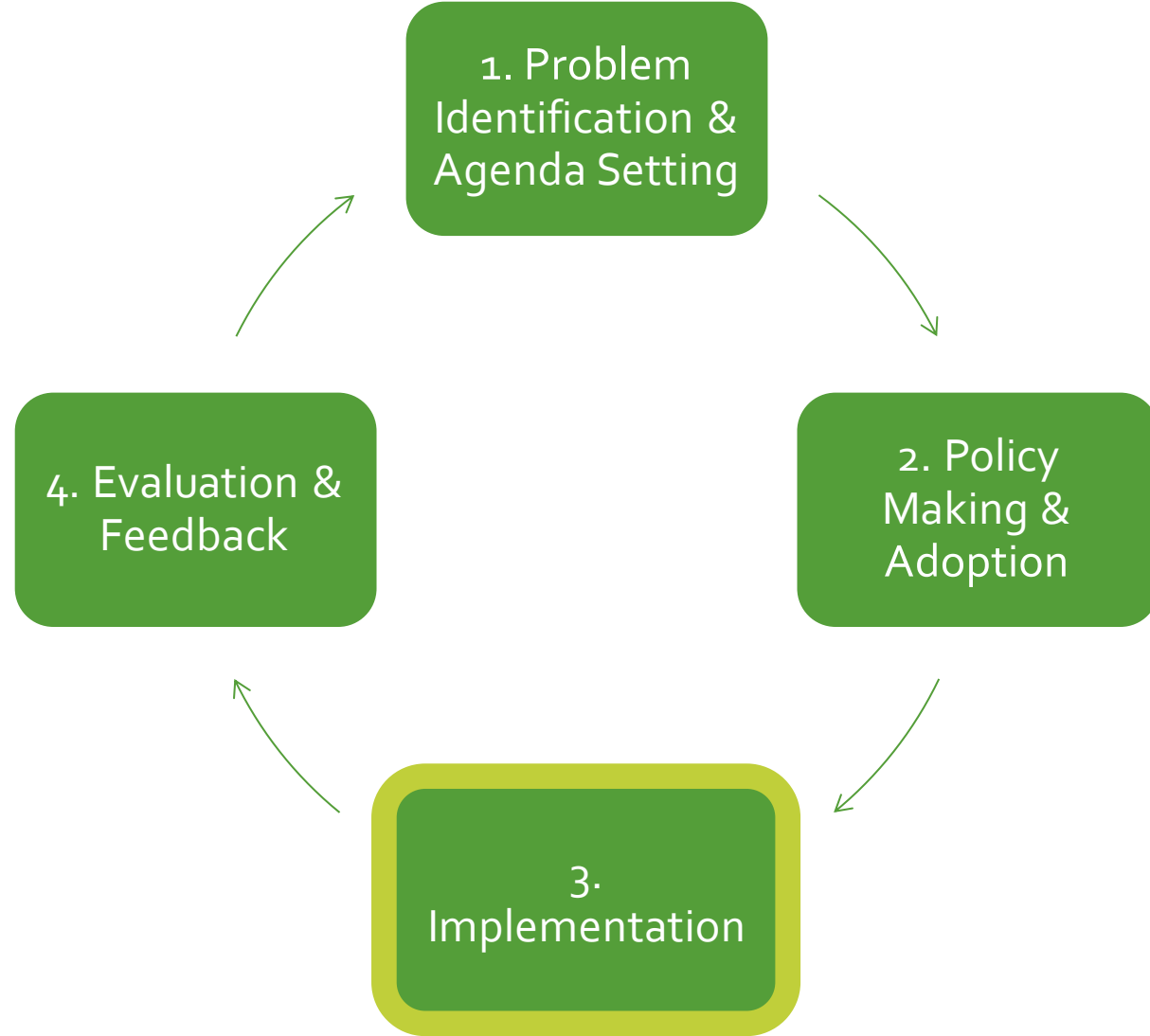
Adoption of Medical Marijuana Laws (1996-2022)





# 3.

## Implementation: From Statehouse to Dispensary

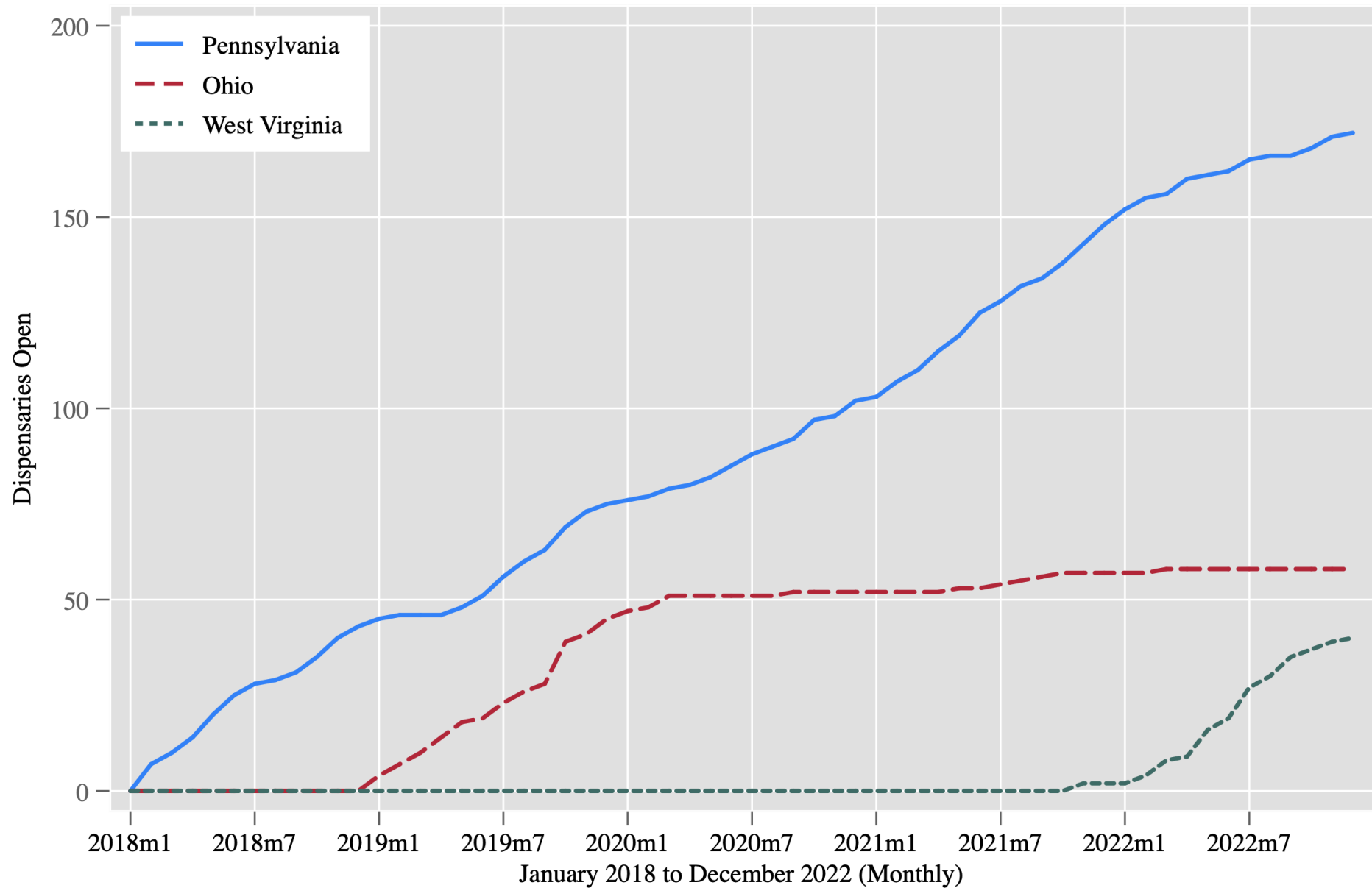


# Theory

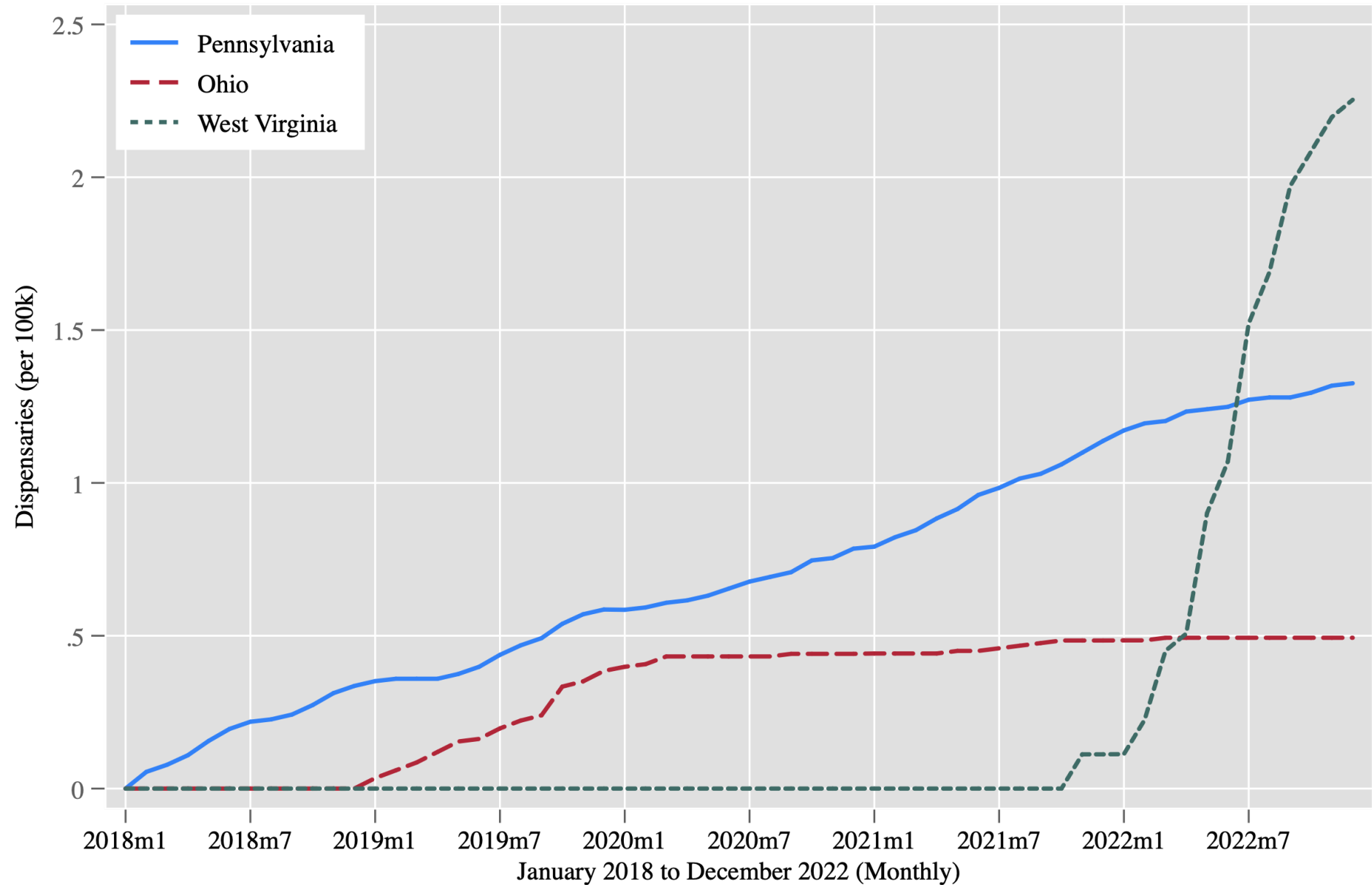
- Implementation behavior varies across time, policies, and units of government
- Driven by key state political actors and bureaucrats
  - Elections and new leaders can accelerate or hinder implementation
- Some states defer to local control while others centralize regulation



# Access: Number of Open Dispensaries



# Access: Dispensaries per capita



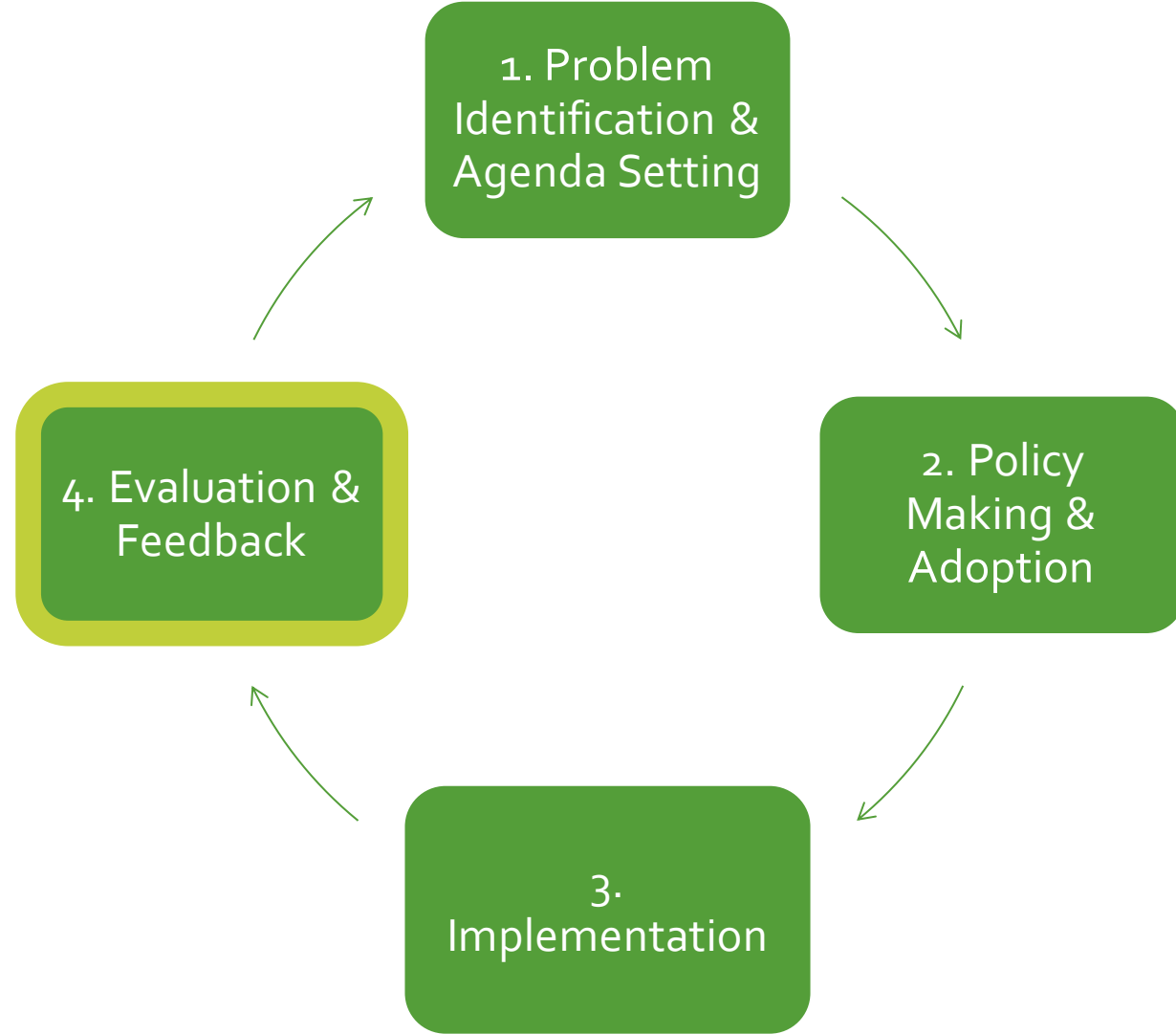
# Questions & Challenges

- What is successful implementation?
  - Accessible prices?
  - Large patient registry?
  - Fewer negative health and safety outcomes?
  - Profitable industry?
- Friction with the federal government
  - Access to banking
  - Access to federal tax breaks
  - Limited medical research



# 4.

## Evaluation & Feedback



# Theory

- Policies create direct (expected) effects, but also create feedback effects.
- Feedback can reshape political debates
  - New problems and issues emerge
  - Research can show positive and negative externalities of a policy
- Power can shift from some groups to others
  - Once nascent, a powerful new industry is created that creates jobs and tax revenue.
  - Patients should expect some long-term stability in access.
  - Push to expand from medical to recreational policies.

Jun 13, 2022 - Business

## Medical marijuana access in Ohio expanding



Alissa Widman Neese



Medical mari...

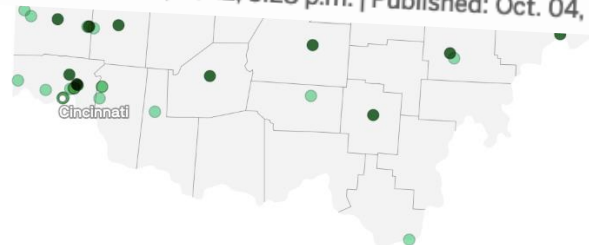
A...

**Struggle between large, small growers takes center stage in marijuana reform measure**

NICK EVANS - DECEMBER 1, 2021 1:00 AM

**Ohio medical marijuana patients still unhappy with prices, though Michigan's cannabis market may influence their expectations**

Updated: Oct. 04, 2022, 3:28 p.m. | Published: Oct. 04, 2022, 3:25 p.m.



Data: Ohio Medical Marijuana Control Program; Map: Sara Wise/Axios

70 more medical marijuana dispensaries OK'd

Ven and Auglaize SEO Natural Enter- C plans a dispensary in Wapakoneta. All of northwest Ohio's districts were eligible for just one additional dispensary while the bulk of additional

Feedback:  
Expanding  
Access



# Feedback: When Policy Creates Politics



**Billy Ray Cyrus** ✓  
@billyraycyrus

Follow

Yes! Like I said yesterday @TishCyrus.... my  
how the times they are a changing  
#CrAzYMaMa

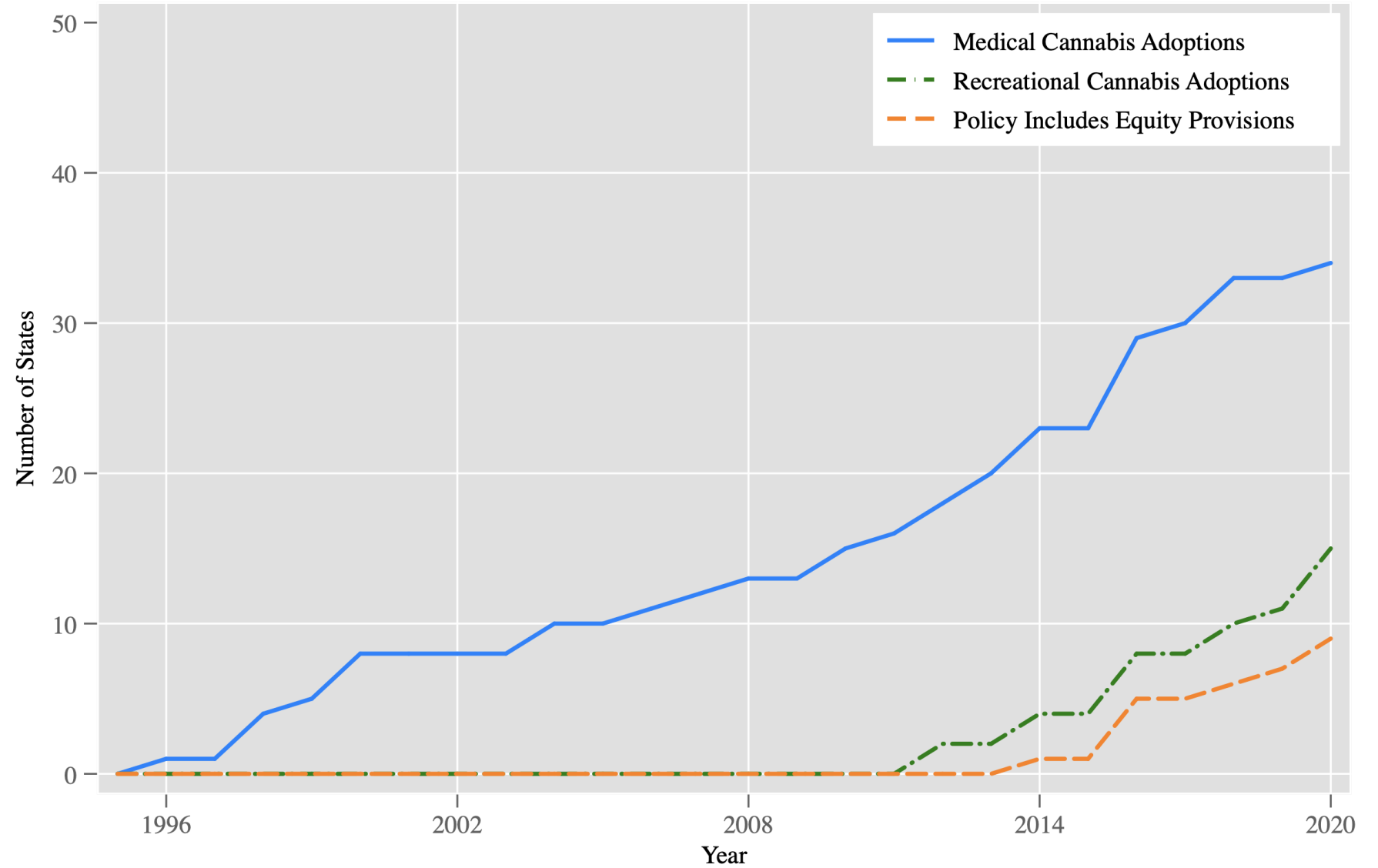


**Soledad O'Brien** ✓  
@soledadobrien

...

Think of all the people incarcerated right now on marijuana charges. And  
you wonder why so many people understand that criminal justice is  
often neither fair nor just. [twitter.com/billyraycyrus/...](https://twitter.com/billyraycyrus/)

# States Adopting Social Equity Provisions



Source: Hannah, A. L., Mallinson, D. J., & Azevedo, L. (2023). Maximizing social equity as a pillar of public administration: An examination of cannabis dispensary licensing in Pennsylvania. *Public Administration Review*, 83(1), 144-162.

# Feedback: Sustainability

POLITICO

CANNABIS

## An inconvenient truth (about weed)

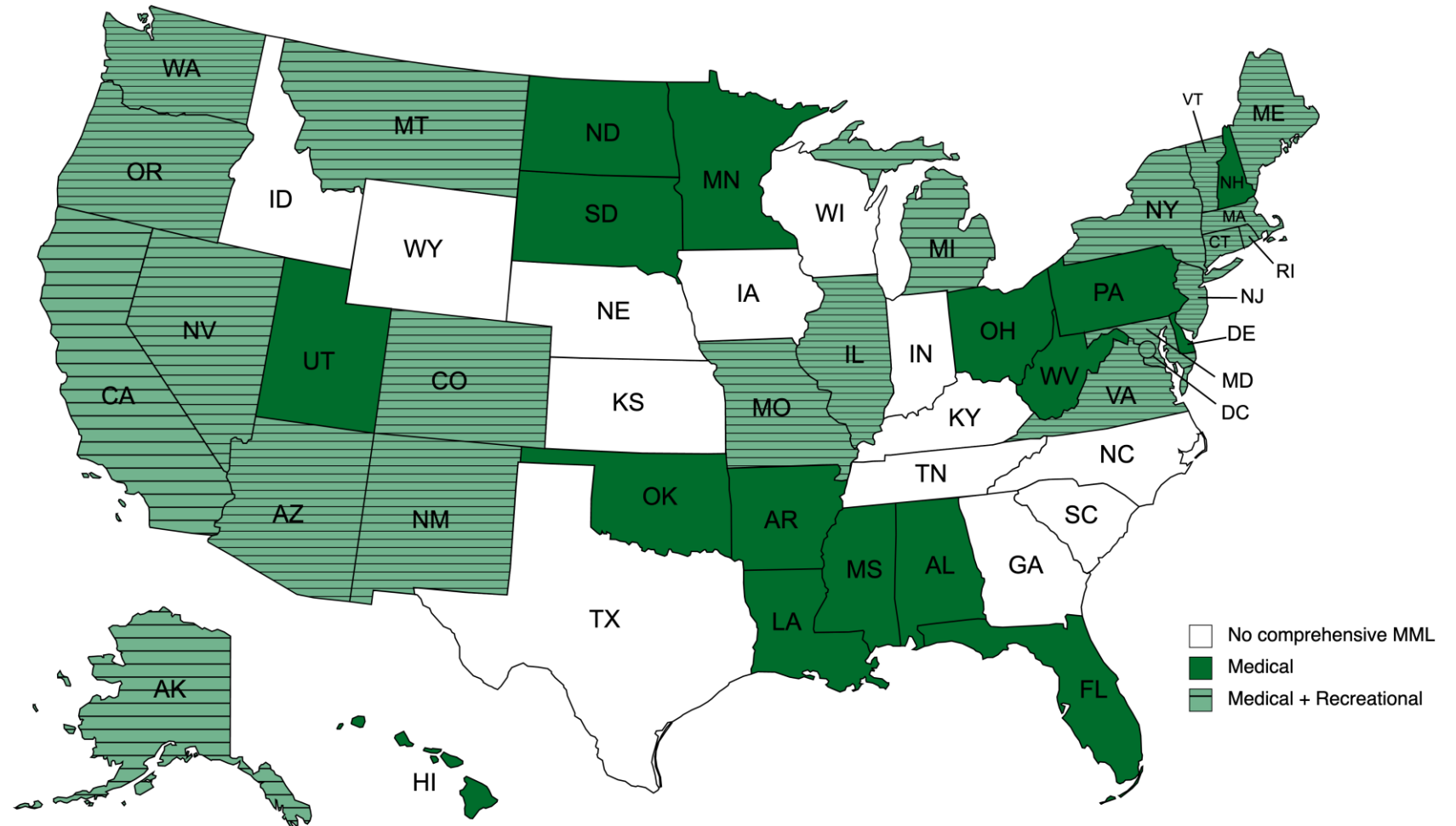
Federal laws bar cannabis from crossing state lines, driving up the cost — and the emissions — of an industry using indoor grow operations.

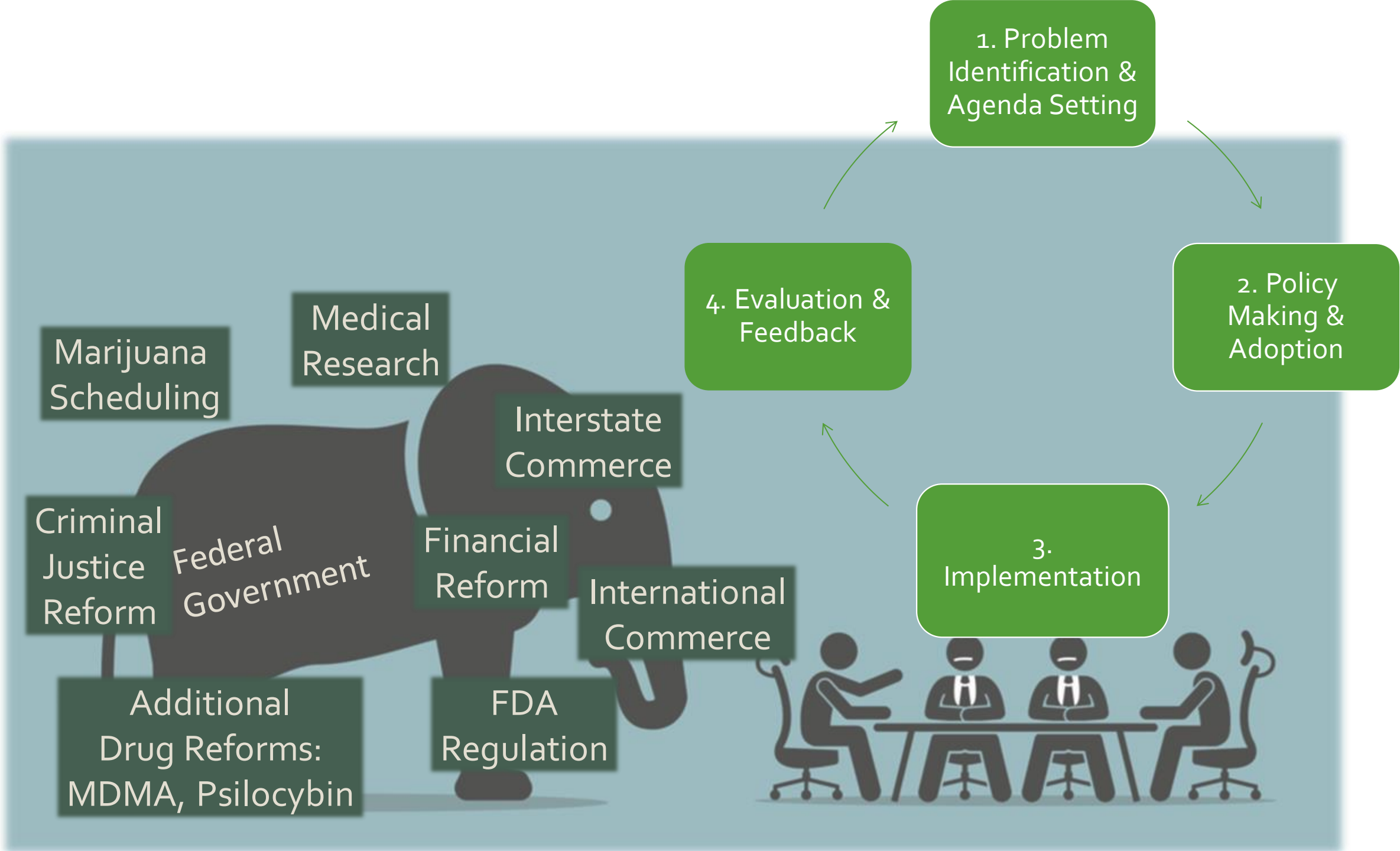


Nationally, 80 percent of cannabis is cultivated indoors. | Ethan Miller/Getty Images

Source: Fertig, Natalie and Gavin Bade. (2021 August 8). "An inconvenient truth (about weed)." *Politico*.

# Feedback: Medical Marijuana as a Gateway Policy





# Conclusions

- The states have been the primary engine in medical marijuana reform
  - Framed and debated the issue with little engagement from federal government
  - Adoption a function of state's ideology and institutions (e.g., the ballot initiative)
  - Implementation contingent on state politics – success is subjective and a moving target
  - Feedback reanimates political debates within and across state boundaries
- Federal action can reshape everything
- Slow federal action increases the stakes and consequences of any action