IADC COMMITTEE NEWSLETTER

CIVIL JUSTICE RESPONSE

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IN THIS ISSUE

This paper reviews key civil justice issues and changes in 2025. First, the article briefly discusses legal reform trends. Next, the article discusses actions by Congress and the Executive Branch touching on civil justice issues in 2025. It also discusses changes to the Federal Rules of Civil Procedure that took effect on December 1 as well as key amendments to federal court rules that are under consideration. In addition, the article then summarizes key developments regarding American Law Institute Restatement projects. The article then summarizes liability law changes at the state level in 2025. Finally, it highlights 2025 cases that addressed the constitutionality of state civil justice laws.

2025 Civil Justice Update

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ABOUT THE COMMITTEE

The **Civil Justice Response Committee** works to establish a nationwide information network that promotes the rapid dissemination of information about legislation, rulemaking, judicial selection, and key elections likely to affect civil litigation and liability laws, in order to give IADC members and their clients timely opportunities to participate in these processes armed with information that can affect the outcome of the debate or controversy. Learn more about the Committee at www.iadclaw.org. To contribute a newsletter article, contact:

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Legal Reform Trends in 2025

Corporate defendants are increasingly focused on "supersized jury verdicts against companies" becoming more frequent and severe.[1] Some states addressed skyrocketing tort awards in 2025, including Georgia, Oklahoma, and Arkansas.

Arizona, Colorado, Georgia, Kansas, Montana, and Oklahoma enacted laws regulating commercial third-party litigation funding, joining Indiana, Louisiana, West Virginia, and Wisconsin.[2] New York regulated consumer lawsuit lending.

North Dakota and Georgia passed laws generally providing that pesticides which carry an EPA-approved label are sufficient to satisfy any state-law duty to warn or label.

Ohio became the eighth state to address "over-naming" in asbestos cases (i.e., the naming of defendants without proof of exposure).[3] Often, over-named defendants are dismissed without payment, but not before incurring legal costs that can add up for frequently over-named defendants.[4]

The plaintiffs' bar is working to repeal or weaken civil justice reforms enacted in the past. For example, Montana enacted legislation in 2025 doubling the state's cap on noneconomic damages in medical liability cases by the end of the decade.[5] Constitutional challenges to civil justice laws are also common. Two Ohio appellate courts declared a statutory limit on noneconomic damages in medical liability cases to be unconstitutional as applied to plaintiffs in those cases. The correctness of those decisions may be decided by the Ohio Supreme Court in 2026.

Additionally, the plaintiffs' bar is pushing to increase wrongful death awards. Since 2023, a number of states have considered legislation to allow a broader range of people to sue for a wrongful death, expand recoverable damages for emotional harm,

[1] MARATHON STRATEGIES, CORPORATE VERDICTS GO THERMONUCLEAR, at 2 (2025), https://marathonstrategies.com/wp-content/uploads/2025/05/Nuclear-Verdicts-Report-2025.pdf.; *see also* Martin Boerlin, *Verdicts on Trial: The Behavioral Science Behind America's Skyrocketing Legal Payouts* (Swiss Re Sept. 24, 2025), https://www.swissre.com/reinsurance/insights/verdicts-on-trial.html.; U.S. CHAMBER OF COMMERCE INST. OF LEGAL REFORM, NUCLEAR VERDICTS: AN UPDATE ON TRENDS, CAUSES, AND SOLUTIONS (May 30, 2024), https://instituteforlegalreform.com/research/nuclear-verdicts-an-update-on-trends-causes-and-solutions/.

[2] For a summary of state laws regulating third-party litigation funding, see Mark Behrens & Chris Appel, *A Survey of State Laws Regulating Third-Party Litigation Funding*, 21-8 MEALEY'S PERS. INJ. REP. 20 (Aug. 2025).

[3] For a discussion, see Mark Behrens & Christopher Appel, *Over-Naming of Asbestos Defendants: A Pervasive Problem in Need of Reform*, 36-4 MEALEY'S LITIG. REP. ASB. 16 (2021).

[4] James Lowery, *The Scourge of Over-Naming in Asbestos Litigation: The Costs to Litigants and the Impact on Justice*, 32-24 MEALEY'S LITIG. REP. ASB. 22 (2018).

[5] H.B. 195, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/HB195/2025.

raise or eliminate damage caps, authorize punitive damages, or lengthen the statute of limitations for such claims.[6] In 2025, Louisiana extended the prescriptive period (statute of limitations) for wrongful death and survival actions, but other pro-plaintiff legislation stalled in two major states. Florida Governor Ron DeSantis vetoed legislation that would have expanded the scope of damages available under Florida's Wrongful Death Act. For a fourth time, New York Governor Kathy Hochul vetoed legislation that would have "significantly alter[ed] the legal framework for wrongful death actions in New York by expanding the types of damages that may be recovered, expanding the class of persons who may seek such damages, and extending the statute of limitations."[7]

Oklahoma joined the growing list of states that have updated rules governing expert testimony to align with 2023 amendments to Federal Rule of Evidence (FRE) 702.[8] Previously, Arizona, Kentucky, Michigan, and Ohio updated their state law companions to FRE 702 by court rule and Louisiana did so through bipartisan legislation. The Delaware Supreme Court embraced the 2023 amendments to FRE 702 in a 2025 decision. Unopposed legislation advanced in Wisconsin.

2025 Civil Justice—Federal: Congress, Executive Branch, and the Judiciary (Rules Amendments)

Congress

The United States Senate unanimously passed the Countering Threats and Attacks on Our Judges Act to create a research center to track threats against state court judges, develop standardized reporting procedures for threats, and coordinate with local and federal law enforcement to protect judges.[9]

A House committee advanced legislation to regulate certain commercial third-party litigation funding activity.[10]

[6] Cary Silverman, *Nuclear Verdict Risk Grows as States Expand Wrongful Death Liability*, WASH. LEGAL FOUND. (Dec. 1, 2023), https://www.wlf.org/wp-content/uploads/2023/11/120123Silverman_LOL.pdf.

[7] N.Y. Gov. Kathy Hochul, Veto No. 87, S.4423, Dec. 5, 2025.

[8] For a discussion of the 2023 amendments to the federal rule, see Mark A. Behrens & Andrew J. Trask, *Federal Rule of Evidence 702: A History and Guide to the 2023 Amendments Governing Expert Evidence*, 12 TEX. A&M L. REV. 43 (2024).

[9] S. 2379, Countering Threats and Attacks on Our Judges Act, 119th Cong., 1st Sess (2025), https://www.congress.gov/bill/119th-congress/senate-bill/2379.

[10] H.R. 2675, Protecting Our Courts from Foreign Manipulation Act, 119th Cong., 1st Sess (2025), https://www.congress.gov/bill/119th-congress/house-bill/2675; *see also* H.R. 1109, Litigation Transparency Act, 119th Cong., 1st Sess (2025), https://www.congress.gov/bill/119th-congress/house-bill/1109; H.R. 3512, Tackling Predatory Litigation Funding Act, 119th Cong., 1st Sess (2025), https://www.congress.gov/bill/119th-congress/house-bill/3512; S. 1821, Tackling Predatory Litigation Funding Act, 119th Cong., 1st

Executive Branch

In May, President Trump issued Executive Order 14303, "Restoring Gold Standard Science."[11] According to the Executive Order, the Trump Administration "is committed to restoring a gold standard for science to ensure that federally funded research is transparent, rigorous, and impactful, and that Federal decisions are informed by the most credible, reliable, and impartial scientific evidence available."[12] The Executive Order seeks to "strengthen scientific inquiry, rebuild public trust, and ensure the United States continues as the global leader in rigorous, evidence-based science."[13]

Also in May, President Trump's Make America Healthy Again (MAHA) Commission released its assessment identifying key drivers of childhood chronic disease, including poor diet, aggregation of environmental chemicals, and lack of physical activity and chronic stress.[14] The report recommended various research initiatives. The President of the American Tort Reform Association said that while "improving children's health is crucial," the MAHA report "reads more like a litigation guide for lawyers eager to target food manufacturers, pharmaceutical companies and other companies under the guise of public health."[15] Plaintiffs' lawyers disagree.[16] In September, the MAHA Commission released its "Make Our Children

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Sess (2025), https://www.congress.gov/bill/119th-congress/senate-bill/1821; Evan Greenberg & John Doyle, *End the Tax Break for Litigation Funders*, WALL ST. J., July 7, 2025, https://www.wsj.com/opinion/end-the-tax-break-for-litigation-funders-policy-law-dec9b610?msockid=0cef504b2d076870229646cb2c826916.

[11] President Donald J. Trump, Executive Order 14303, *Restoring Gold Standard Science* (May 23, 2025), https://www.whitehouse.gov/presidential-actions/2025/05/restoring-gold-standard-science/.

[12] *Id*.

[13] Memorandum from Michael J. Kratsios, Assistant to the President for Science and Technology and Director of the Office of Science and Technology Policy, for the Heads of Executive Departments and Agencies, "Agency Guidance for Implementing Gold Standard Science in the Conduct & Management of Scientific Activities" (June 23, 2025), https://www.whitehouse.gov/wp-content/uploads/2025/03/OSTP-Guidance-for-GSS-June-2025.pdf

[14] MAKE AMERICA HEALTHY AGAIN COMMISSION, THE MAHA REPORT (2025), https://www.whitehouse.gov/wp-content/uploads/2025/05/WH-The-MAHA-Report-Assessment.pdf.

[15] Tiger Joyce, Commentary, *Make America Healthy Again Report, A New Frontier for Lawsuit Abuse*, JACKSONVILLE J.-COURIER, July 29, 2025, https://www.myjournalcourier.com/opinion/article/a-new-frontier-lawsuit-abuse-tiger-joyce-20776135.php.

[16] Amanda Bronstad, '*Not Popping the Champagne Cork': MAHA Report Not 'Ammo' for Plaintiffs' Bar, Lawyers Say*, LAW.COM (June 12, 2025), https://www.law.com/2025/06/12/not-popping-the-champagne-cork-maha-report-not-ammo-for-plaintiffs-bar-lawyers-say/?slreturn=20250613-43643.

Healthy Again Strategy,"[17] a sweeping plan "to advance gold-standard science, realign incentives, increase public awareness, and strengthen private-sector collaboration."[18]

The Food and Drug Administration (FDA) hosted advisory panels "featuring two products at the center of thousands of lawsuits"[19]— a May roundtable on talcum powder[20] and a June discussion on infant formula.[21] FDA's May 2025 talc expert panel included several scientists whose work supports plaintiff claims in talc lawsuits.[22]

In September, the FDA announced plans to update the labeling for acetaminophen (Tylenol and similar products) to warn of what the agency calls a "possible association" with autism when the medication is taken during pregnancy.[23] FDA notes, however, "that while an association between acetaminophen and neurological conditions has been described in many studies, a causal relationship has not been established and there are contrary studies in the scientific literature."[24] Following the FDA's announcement, Texas filed a lawsuit

[17] MAKE AMERICA HEALTHY AGAIN COMMISSION, MAKE OUR CHILDREN *HEALTHY* AGAIN: STRATEGY REPORT (2025), https://www.whitehouse.gov/wp-content/uploads/2025/09/The-MAHA-Strategy-WH.pdf.

[18] U.S. Dept. of Agriculture, Food & Nutrition Serv., Press Release, *MAHA Commission Unveils Sweeping Strategy to Make Our Children Healthy Again* (Sept. 9, 2025), https://www.fns.usda.gov/newsroom/usda-0213.25.

[19] Amanda Bronstad, **'***Not Popping the Champagne Cork': MAHA Report Not 'Ammo' for Plaintiffs' Bar, Lawyers Say*, LAW.COM (June 12, 2025), https://www.law.com/2025/06/12/not-popping-the-champagne-cork-maha-report-not-ammo-for-plaintiffs-bar-lawyers-say/?slreturn=20250613-43643.

[20] Monique Richards, U.S. Food & Drug Admin., *Independent Panel Evaluates Safety of Talc in Everyday Products to Protect Public Health* (2025), https://www.fda.gov/about-fda/regulatory-news-stories-and-features/independent-panel-evaluates-safety-talc-everyday-products-protect-public-health#:~:text=Are%20there%20Safer%20Alternatives%20to,product%20that%20they%20regularly%20use.

[21] REAGAN-UDALL FOUND, INFANT FORMULA ROUNDTABLE SERIES (Oct. 2025), https://reaganudall.org/sites/default/files/2025-10/Infant_Formula_Roundtable_Series_Report.pdf.

Amanda Bronstad, **'***Not Popping the Champagne Cork': MAHA Report Not 'Ammo' for Plaintiffs' Bar, Lawyers Say*, LAW.COM (June 12, 2025), https://www.law.com/2025/06/12/not-popping-the-champagne-cork-maha-report-not-ammo-for-plaintiffs-bar-lawyers-say/?slreturn=20250613-43643.

[22] *The Wall Street Journal* Editorial Board characterized the panel as a "rushed hearing" touting "dubious evidence" and "helping plaintiff attorneys broaden their attacks against food and drug makers." Editorial, *The FDA Takes a Trial-Lawyer Turn*, WALL ST. J., May 21, 2025, https://www.wsj.com/opinion/marty-makary-fda-hearing-talc-study-johnson-and-johnson-rfk-jr-d680944d.

[23] U.S. Food & Drug Admin., Press Release, *FDA Responds to Evidence of Possible Association Between Autism and Acetaminophen Use During Pregnancy,* Sept. 22, 2025, https://www.fda.gov/news-events/press-announcements/fda-responds-evidence-possible-association-between-autism-and-acetaminophen-use-during-pregnancy.

[24] *Id*.

alleging that "taking the painkiller while pregnant can cause autism, despite unsettled scientific evidence."[25]

In December, it was reported that the FDA may require its most serious warning on COVID-19 vaccines.[26] Critics of this potential move, such as the co-editor-in-chief of the journal *Vaccine*, argue that requiring a "black box" warning on COVID-19 vaccines "doesn't make sense from an evidence-based perspective, at least based on any of the data that anybody's seen."[27]

The Judiciary

FRCP Amendments Effective December 1, 2025

The federal judiciary approved the first proposed rule for multidistrict litigation and amendments to privilege log rules. The new rules took effect on December 1, 2025.[28] Federal Rule of Civil Procedure 16.1 provides a framework for the initial management of MDLs.

Rule 16.1(a) states that transferee courts "should schedule an initial management conference to develop an initial plan for orderly pretrial activity in the MDL proceedings."[29]

Under Rule 16.1(b)(1), the transferee court "should order the parties to meet and to submit a report to the court before the conference."[30] The Committee Notes explain that "[t]his should be a single report, but it may reflect the parties' divergent views on [matters addressed in the rule]."[31]

Rule 16.1(b)(2) states that the parties' report "must address any matter the court designates" and, "unless the court orders otherwise," the report shall include the parties' views on "whether leadership counsel should be appointed," any previous orders "that should be vacated or modified," and "how to manage the direct filing of new actions in the MDL proceedings."[32]

Rule 16.1(b)(3) states that the report must also address the parties' initial views on "how and when the parties will exchange information about the factual bases for their

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[25] Daniel Gilbert, *Texas Sues Tylenol, Taking Cues From Trump and RFK Jr.*, Oct. 28, 2025, https://www.washingtonpost.com/health/2025/10/28/paxton-tylenol-autism/. A federal multidistrict litigation judge excluded plaintiffs' causation experts asserting similar claims as unreliable. *In re* Acetaminophen – ASD-ADHD Prods. Liab. Litig., 707 F. Supp. 3d 309 (S.D.N.Y. 2023), *appeal filed* (2d Cir. Apr. 10, 2024).

[26] Ben Tinker et al. *FDA Intends to Put its Most Serious Warning on Covid Vaccines, Sources Say*, CNN.COM (Dec. 12, 2025), https://www.cnn.com/2025/12/12/health/fda-black-box-warning-covid-vaccine.

[27] *Id*. (quoting Dr. Angela Rasmussen, a virologist at the University of Saskatchewan and co-editor-in-chief of the journal *Vaccine*).

[28] FED. R. CIV. P. 16.1, https://www.law.cornell.edu/rules/frcp/rule_16.1.

[29] FED. R. CIV. P. 16.1(a).

[30] FED. R. CIV. P. 16.1(b)(1).

[31] FED. R. CIV. P. 16.1(b)(1) (Committee Notes).

[32] FED. R. CIV. P. 16.1(b)(2).

claims and defenses,"[33] "discovery" and "likely pretrial motions," "whether the court should consider any measures to facilitate resolving some or all actions before the court," "whether any matters should be referred to a magistrate judge or a master," and "the principal factual and legal issues likely to be presented."[34] In addition, the report may include "any other matter that the parties wish to bring to the court's attention," according to Rule 16.1(b)(4).[35]

Rule 16.1(c) states that, after the initial MDL management conference, "the court should enter an initial management order addressing the matters in Rule 16.1(b) and, in the court's discretion, any other matters."[36] The order will control "the course of the proceedings unless the court modifies it."[37]

Amended Rule 26(f)(3)(D) requires parties' discovery plans to address "the timing and method for complying with Rule 26(b)(5)(A)."[38] Amended Rule 16(b) provides that the court may address "the timing and method" of such compliance in its scheduling order.[39]

Amendments Approved by the Judicial Conference

The Judicial Conference approved amendments to Federal Rule of Appellate Procedure 29 and Federal Rule of Evidence 801, paving the way for their eventual adoption.[40] The proposed amendments were transmitted to the United States Supreme Court in October. Once approved, the proposed amendments will be transmitted to Congress. The new rules are on schedule to go into effect on December 1, 2026.

Amended Federal Rule of Appellate Procedure 29 seeks to provide the courts and the public with more information about amici. Amended Rule 29(a)(2) adds a statement regarding the purpose of an amicus brief: to bring "to the court's attention relevant matter not already brought to its attention by the parties."[41] An

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[33] *See* Editorial, *A Welcome Restraint on Mass Torts*, WALL ST. J., Dec. 9, 2025, https://www.wsj.com/opinion/a-welcome-restraint-on-mass-torts-8695a57f?gaa_at=eafs&gaa_n=AWEtsqd6Pwlv6UM9_xfOmRCov7odHh76hSk_-MlD2idX1WpF10AeW1CmmzcT&gaa_ts=6939f08f&gaa_sig=bdjrEMxZ-1_VlbyCuOobB6NAcAStz5bKx2uu3MzreSNY_BsX5QFA8Wzz0Fh9_vXO8SokFy43sihjB5iItKlTdw%3D%3D.

[34] FED. R. CIV. P. 16.1(b)(3). The Committee Notes make clear that "the question whether parties reach a settlement is just that—a decision to be made by the parties." FED. R. CIV. P. 16.1(b)(3)(E) (Committee Notes).

[35] FED. R. CIV. P. 16.1(b)(4).

[36] FED. R. CIV. P. 16.1(c).

[37] FED. R. CIV. P. 16.1(c).

[38] FED. R. CIV. P. 26(f)(3)(D).

[39] FED. R. CIV. P. 16(b)(3)(B)(iv).

[40] Memorandum from Hon. James C. Dever III, Chair, Committee on Rules of Practice and Procedure to Hon. Scott S. Harris, Clerk, Supreme Court of the United States, "Summary of Proposed Amendments to the Federal Rules of Practice and Procedure" (Oct. 16, 2025), https://www.uscourts.gov/sites/default/files/document/2025_supreme_court_package_final.pdf.

[41] *Id*. at 26 (proposed FED. R. APP. P. 29).

brief that "does not serve this purpose burdens the court, and its filing is disfavored."[42] An amendment to Rule 29(a)(4) requires "a concise description of the identity, history, experience, and interests of the amicus, together with an explanation of how the brief and the perspective of the amicus will help the court."[43] The amendment also requires an amicus that "has existed for less than 12 months to state the date of its creation, helping identify amici that may have been created for the purpose of this litigation."[44] Amended Rule 29(a)(5) imposes a 6,500 word limit on amicus briefs, replacing a provision that limits amicus briefs to a fraction of the length limits for parties.[45]

Amended Rule 29(b) "carries forward existing requirements that authorship of an amicus brief by a party or its counsel must be disclosed" and that money contributed (or pledged to be contributed) by a party or party's counsel to fund the brief must be disclosed.[46] The amendment "explicitly refers to 'preparing, drafting, or submitting the brief,' thereby making clear that [the funding disclosure] applies to every stage of the process."[47] In addition, the amendment requires "disclosure of whether a party, its counsel, or any combination of parties or counsel either has a majority ownership interest in or majority control of an amicus."[48]

A new subdivision (d) provides that "[i]f the amicus fails to make a required disclosure, and the party or counsel knows it, the party or counsel must make the disclosure."[49]

Other amendments to Rule 29 focus on the relationship between the amicus and a nonparty. An "amicus brief must disclose whether any person contributed or pledged to contribute more than $100 intended to pay for preparing, drafting, or submitting the brief and, if so, must identify each such person."[50] This disclosure is not required if the person is the amicus, its counsel, or a member of the amicus who first became a member at least 12 months earlier. "As a result," the Committee Note explains, "earmarked contributions made by new members must be disclosed, but earmarked contributions by other members do not have to be disclosed."[51] An amicus that has existed for less than 12 months need not disclose contributing members, but must disclose the date of its creation. This may "reveal an amicus that may have been created for purposes of particular litigation or is less established and broadly-based than its name might suggest."[52] "Unless adequately explained, a court and the public might choose to discount the views of such

[42] *Id*. (proposed FED. R. APP. P. 29).
[43] *Id*. at 29 (proposed FED. R. APP. P. 29).
[44] *Id*. at 38 (proposed FED. R. APP. P. 29 Committee Note).
[45] *Id*. at 31.
[46] *Id*. at 39 (proposed FED. R. APP. P. 29 Committee Note).
[47] *Id*. (proposed FED. R. APP. P. 29 Committee Note).
[48] *Id*. (proposed FED. R. APP. P. 29 Committee Note).
[49] *Id*. (proposed FED. R. APP. P. 29 Committee Note).
[50] *Id*. at 33 (proposed FED. R. APP. P. 29).
[51] *Id*. at 41 (proposed FED. R. APP. P. 29 Committee Note).
[52] *Id*. (proposed FED. R. APP. P. 29 Committee Note).

an amicus," the Committee Note accompanying the proposed amendment explains.[53]

The Advisory Committee for Appellate Rules backed off a controversial proposal that would have required an amicus to obtain leave of court. Today, amicus briefs in the federal circuit courts are typically filed with the parties' consent. The advisory committee also chose not to require an amicus to disclose whether parties or their lawyers contributed 25% or more of the group's revenue in the prior fiscal year.[54]

Amended Federal Rule of Evidence 801 "provides that a prior inconsistent statement by a witness subject to cross-examination is admissible over a hearsay exception, even where the prior statement was not given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition."[55]

Proposed Amendments Approved for Public Comment by Standing Committee

The federal judiciary invited public comments on proposed changes to the Federal Rules of Appellate Procedure, Bankruptcy, Civil, and Criminal Procedure, and the Federal Rules of Evidence.[56] Written comments must be submitted no later than February 16, 2026. The advisory committees on civil rules and evidence will conduct virtual public hearings on the proposals as follows:

- Civil Rules on January 27, 2026; and
- Evidence Rules on January 15, 2026, and January 29, 2026.

Below is a summary of key proposed rule changes:

Corporate disclosures: Federal Rule of Civil Procedure 7.1 would refer to "business organization" rather than "corporation" and require disclosure of any business organization that owns 10% or more of a party directly or indirectly, whether or not that ownership interest is in the form of stock.[57]

Voluntary dismissal: An amendment to Federal Rule of Civil Procedure 41(a) would resolve a circuit split by clarifying that a party may voluntarily dismiss "one or more of its claims" in a multi-claim case without a court order. The amendment would also clarify

[53] *Id*. (proposed FED. R. APP. P. 29 Committee Note).
[54] Jeff Overley, *'Zero Support In The Bar': Judiciary Downsizes Amicus Project*, LAW360, Apr. 2, 2025, https://www.law360.com/articles/2318325; Jacqueline Thomsen, *Amicus Disclosure Rule Gets Judiciary Panel's Final Approval,* BLOOMBERG L., June 10, 2025, https://news.bloomberglaw.com/us-law-week/amicus-disclosure-rule-gets-judiciary-panels-final-approval.
[55] Memorandum from Hon. James C. Dever III, "Summary of Proposed Amendments to the Federal Rules of Practice and Procedure," *supra*, at 65 (proposed FED. R. EVID. 801 Committee Note).
[56] Comm. on Rules of Prac. and Proc., Request for Comments on Amendments to: Appellate Rule 15, Bankruptcy Rule 2002, Official Forms 101 and 106C, Civil Rules 7.1, 26, 41, 45, and 81, Criminal Rule 17, and Evidence Rules 609 and 707, Aug. 2025, https://www.uscourts.gov/sites/default/files/document/preliminary-draft-of-proposed-amendments-to-federal-rules_august2025.pdf.
[57] *Id.* at 45-46 (proposed FED. R. APP. P. 7.1).

that a stipulation of dismissal need be signed only by all parties who have appeared and remain in the action.[58]

Remote testimony: An amendment would clarify that a court's subpoena power extends nationwide by changing Federal Rule of Civil Procedure 45(c) to define the "place of attendance for remote testimony" as "the location where the person is commanded to appear in person."[59] An amendment to Rule 26(a)(3)(A)(i) clarifies that disclosure of witnesses a party "expects to present" applies whether a witness will testify in person or remotely, alerting the parties and the court that a party proposes to present a witness remotely.[60]

Methods of service of subpoenas: An amendment to Federal Rule of Civil Procedure 45(b)(1) would clarify that "delivering" a subpoena is not limited to hand delivery and includes other specified methods of service, including by U.S. mail or commercial carrier and, when good cause is shown, additional methods "reasonably calculated to give notice."[61] The proposal would also require that the person served be given at least 14 days' notice if the subpoena commands attendance at a trial, hearing, or deposition.

Machine-generated evidence: Proposed Federal Rule of Evidence 707 addresses the admissibility of evidence created or significantly modified by computer systems, particularly those involving AI. The new rule seeks to address concerns about the reliability of such evidence when introduced without an expert witness, such as a business record. The proposed rule provides that, when machine-generated evidence is offered without an expert and would otherwise be subject to Federal Rule of Evidence 702 if testified to by a witness, the court may admit the evidence only if it satisfies the requirements of Rule 702(a)-(d).[62]

Proposed Revisions to JPML Rules of Procedure and Rules for Multicircuit Petitions for Review

The United States Judicial Panel on Multidistrict Litigation is seeking public comments on proposed revisions to the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation and the Rules for Multicircuit Petitions for Review.[63] Comments will be received until February 2, 2026.

[58] *Id.* at 51-52 (proposed FED. R. APP. P. 41(a)).
[59] *Id.* at 60-61 (proposed FED. R. APP. P. 45(c)).
[60] *Id.* at 49 (proposed FED. R. APP. P. 26(a)(3)(A)(i)).
[61] *Id.* at 55-56 (proposed FED. R. APP. P. 45(b)(1)).
[62] *Id.* at 109 (proposed FED. R. EVID. 707).
[63] Judicial Panel on Multidistrict Litigation, Invitation for Comment on Revisions to the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation and the Rules for Multicircuit Petitions for Review, Dec. 19, 2025, https://www.jpml.uscourts.gov/public-notice-proposed-rules-revisions.

Federal Civil Rules Advisory Committee Study Issues – Class Actions and TPLF

In October, the Advisory Committee on Civil Rules "agree[d] to forge ahead with research and development" of "new and far-reaching rules involving two sets of highly contentious topics: long-simmering demands for greater transparency in third-party litigation funding and calls for closer scrutiny of class action issues, including payouts to class counsel, certification standards and financial perks for plaintiffs."[64]

American Law Institute (ALI)

The ALI membership approved several Restatements of the Law, or significant parts of Restatement projects, at the organization's annual meeting in May 2025.

Restatement of Torts, Third: Miscellaneous Provisions

The ALI completed the Restatement of Torts, Third: Miscellaneous Provisions, which is a "catch all" of issues not covered elsewhere in the Restatement of Torts, Third. This Restatement, initiated in 2019 and originally titled "Concluding Provisions," is one of the final parts of the Restatement of Torts, Third. It is one of the most controversial modern restatements because several provisions endorse novel expansions of tort law.[65] For example, at the 2025 Annual Meeting, the membership approved a novel "Special Rule on Vicarious Liability for Sexual Assault" that endorses a new strict liability tort claim against employers for certain sexual assaults committed by employees against third parties.[66] The Restatement acknowledges that "no single jurisdiction has adopted a [similar] rule on all fours" and that the rule "breaks with traditional tort doctrine" by

[64] Jeff Overley, *Judiciary Panel Eyes Rules For Class Cert., Litigation Funding*, LAW360, Oct. 25, 2025, https://www.law360.com/articles/2401475/judiciary-panel-eyes-rules-for-class-cert-litigation-funding.

[65] For instance, at the ALI's 2024 Annual Meeting, the membership approved allowing certain claimants with no present physical injury to recover medical monitoring expenses as well as a novel theory of negligent misrepresentation that opens the door to "innovator liability" claims against branded drug companies. Victor E. Schwartz & Christopher E. Appel, *The Restatement (Third) of Torts Proposes Abandoning Tort Law's Present Injury Requirement to Allow Medical Monitoring Claims: Should Courts Follow?*, 52 SW. U. L. REV. 512 (2024); Mark A. Behrens & Christopher E. Appel, *Why Courts Should Continue to Reject Innovator Liability Theories That Seek to Hold Branded Drug Manufacturers Liable for Generic Drug Injuries*, 52 SW. U. L. REV. 580 (2024).

[66] RESTATEMENT OF TORTS, THIRD: MISCELLANEOUS PROVISIONS § 11 (AM. L. INST. Tent. Draft No. 4, Apr. 2025). The proposed rule states that an employer is subject to vicarious liability for its employee's sexual assault of a person if "(1) the nature or conditions of the employee's employment creates a reasonably foreseeable risk of sexual assault; (2) the person is particularly vulnerable, by reason of age, mental capacity, disability, incarceration, detention, confinement, medical need, or other similar circumstance; (3) the employer facilitates the sexual assault by providing the employee with substantial power, authority, or influence over the person; [and] (4) the sexual assault occurs when the employee is performing work assigned by the employer or engaging in a course of conduct subject to the employer's control." Memorandum from Nora Freeman Engstrom & Michael D. Green to ALI Membership Regarding Section 11 Revision, May 13, 2025.

permitting the imposition of vicarious liability where an employee commits a sexual assault with no motive to serve the employer's interest.[67] Earlier drafts stated that the proposed rule "reflects society's dawning recognition that sexual assault inflicts unique and devastating harm," invoking the "#MeToo movement" as support for the rule.[68]

Restatement of Torts, Third: Remedies

The Restatement on tort remedies, initiated in 2019, is another final part of the Restatement of Torts, Third. The project is anticipated to be completed at the 2026 Annual Meeting. The draft approved at the 2025 Annual Meeting addressed topics such as preliminary injunctions and temporary restraining orders.[69] Previously approved drafts restated rules for various types of torts damages, including lost earnings, medical expenses, loss of consortium, pain and suffering, emotional distress, and punitive damages, among others.

Restatement of the Law, Copyright

The ALI completed the Restatement of the Law, Copyright, which "restates" case law interpretations of the federal Copyright Act. Initiated in 2015, this first-of-its-kind Restatement of a federal statute includes numerous copyright law provisions. Many of the project's appointed advisers and liaisons resigned from the project in protest just before the project's final approval, because of concerns the final work is unbalanced and "strays from both the statutory framework established by the U.S. Copyright Act and established judicial interpretations."[70]

2025 Civil Justice Reforms—States

Alabama

The Alabama Supreme Court updated Rules of Professional Conduct governing false and misleading attorney advertising.[71]

Arizona

Arizona enacted third-party litigation funding reform legislation.[72] Litigation financiers are prohibited from directing or

[67] RESTATEMENT OF TORTS, THIRD: MISCELLANEOUS PROVISIONS § 11 cmts. b, d (AM. L. INST. Tent. Draft No. 4, Apr. 2025).

[68] RESTATEMENT OF TORTS, THIRD: MISCELLANEOUS PROVISIONS § 5A cmt. b (AM. L. INST. Prelim. Draft No. 5, Aug. 2024).

[69] RESTATEMENT OF TORTS, THIRD: REMEDIES (AM. L. INST. Tent. Draft No. 4, Apr. 2025).

[70] Copyright Restatement Transparency Project, "Resignations From the Copyright Restatement Project Encompassed Several Prominent Groups Within the Copyright Legal Community" (2025), https://copyrightrestatement.org/#:~:text=Resignations:,what%20a%20Restatement%20should%20accomplish.%E2%80%9D.

[71] Alabama Supreme Court, Order on Alabama Rules of Professional Conduct and Rules of Disciplinary Procedure, May 13, 2025, https://judicial.alabama.gov/docs/library/rules/Order_on_Alabama_Rules_of_Professional_Conduct_and_Rules_of_Disciplinary_Procedure.pdf.

[72] S. 1215, 2025 Reg. Sess. (Ariz. 2025), https://legiscan.com/AZ/bill/SB1215/2025.

making litigation decisions, including decisions regarding legal strategy, selection of counsel, choice or use of experts, or settlement. A litigation financier also may not pay a commission to a lawyer, law firm, or licensed health care provider for referring a person to the litigation financier without prior written disclosure and acceptance by the potential borrower, including the amount of the fee to be paid for the referral. In addition, a litigation financier may not provide funding that is sourced from an entity that is controlled by or affiliated with a foreign organization that has been placed on the federal Office of Foreign Assets Control Specially Designated Nationals and Blocked Persons List or is a "foreign terrorist organization." Litigation funding agreements that violate these provisions are voidable. A litigation financier who knowingly violates the requirements commits an unlawful practice under Arizona's consumer fraud statute. The state's attorney general and parties to related litigation may challenge noncompliant litigation financing agreements as unlawful. In class actions and multidistrict litigations, if there has been a prior disclosure of the existence of litigation financing, the court shall consider the existence of litigation financing and any related conflicts of interest when determining whether a class representative or class counsel would adequately and fairly represent the interests of the class or when approving or appointing counsel to leadership positions.

Another new law provides that a landlord is not liable for injuries caused by an assistance or service animal that is allowed as a reasonable accommodation or a reasonable modification on the landlord's property or within property controlled by the landlord.[73]

The Arizona Supreme Court amended Arizona Rule of Civil Procedure 8 regarding commercial third-party litigation funding agreements.[74] A party whose litigation is subject to a third-party litigation funding agreement, whether in a single case or as part of a portfolio, must file a certificate with its initial pleading identifying the name and address of any funders and their place of formation, the nature of the funder's financial interest in the litigation, whether any funder's approval is necessary for litigation or settlement decisions (and, if so, the nature of the terms and conditions relating to that approval), and whether the funding is applicable to a portfolio of cases or specific to the particular case. The certificate must be signed by the party or counsel acting on the party's behalf. If funding is secured after the initial pleading is filed, the certificate must be filed within seven days and served on all parties. For good cause shown, the court may order additional disclosures, including submission of the litigation funding agreement to the

[73] H.B. 2068, 2025 Reg. Sess. (Ariz. 2025), https://legiscan.com/AZ/bill/HB2068/2025.

[74] In the Matter of Rule 8, Rules of Civil Procedure, No. R-25-0003 (Ariz. Aug. 28, 2025) (effective Jan. 1, 2026), https://www.azcourts.gov/Portals/0/20/2025%20Rules/R-25-0003%20FinalRulesOrder.PDF?ver=LMqhxtC4uFvknf_TpWAgRg%3d%3d

court for *in camera* review. After its *in camera* review, the court may order a party or its counsel to provide the funding agreement to another party "if the court determines the disclosure will not run afoul of the work-product rule, the party seeking the agreement shows a substantial need, and then only if no less intrusive option is feasible." Any documents the court orders to be disclosed must be maintained as confidential by the receiving party.

Arkansas

Arkansas limited damages for a plaintiff's past medical care to "costs actually paid by or on behalf of the plaintiff or that remain unpaid and for which the plaintiff or any third party is legally responsible."[75]

Another new law regulates chiropractors' use of procurers.[76] A chiropractor or procurer shall not solicit an individual for treatment following "an accident, disaster, or other event" unless the chiropractor solicits the individual more than 14 days "after the date of the motor accident."[77] Solicitation by a procurer may not be deceptive or misleading, and chiropractors are liable for representations made by a procurer soliciting services on their behalf. Direct solicitation of a person who is under the age of 18 is prohibited. A person who suffers pecuniary loss because of a chiropractor's violation of the statute may bring a civil action to recover pecuniary damages, court costs, reasonable attorneys' fees, and the greater of $500 or twice the amount of pecuniary loss.

Arkansas limited the liability of hosts of certain shooting sports events for harm to a participant resulting from the inherent risk of such an event.[78]

A Good Neighbor Act generally provides civil liability protection for individuals or organizations who donate food to nonprofit groups, and for nonprofit groups that distribute donated food.[79]

In a law benefitting plaintiffs, Arkansas authorized victims of childhood sexual abuse to file civil actions under certain conditions until December 31, 2026.[80] Arkansas also chose to award treble damages to individuals whose domesticated animals are injured or killed by a dog.[81]

Another new law requires warning labels for hair relaxers that contain certain chemicals.[82]

California

[75] H.B. 1204, 95th Leg., Reg. Sess. (Ark 2025), https://legiscan.com/AR/bill/HB1204/2025.
[76] H.B. 1405, 95th Leg., 2025 Reg. Sess. (Ark. 2025), https://legiscan.com/AR/bill/HB1405/2025.
[77] *Id*.
[78] H.B. 1007, 95th Leg., 2025 Reg. Sess. (Ark. 2025), https://legiscan.com/AR/text/HB1007/2025.
[79] H.B. 1682, 95th Leg., 2025 Reg. Sess. (Ark. 2025), https://legiscan.com/AR/bill/HB1682/2025.
[80] S. 13, 95th Leg., 2025 Reg. Sess. (Ark. 2025), https://legiscan.com/AR/bill/SB13/2025.
[81] S. 342, 95th Leg., 2025 Reg. Sess. (Ark. 2025), https://legiscan.com/AR/bill/SB342/2025.
[82] S. 632, 95th Leg., 2025 Reg. Sess. (Ark. 2025), https://legiscan.com/AR/text/SB632/2025.

California banned attorneys licensed in the state and firms employing an attorney licensed in the state from sharing contingency fees with "an out-of-state alternative business structure," or law firms owned by non-lawyers.[83] Violators are subject to statutory damages of $10,000 per violation or three times the actual damages incurred by the consumer, whichever is greater, plus attorney's costs and fees, and discipline by the State Bar of California. A separate section of the law regulates consumer legal funding arrangements.

California's Seizure Safe Schools Act was amended to provide that a person who acts in good faith and provides anti-seizure medication to a person having a seizure may not be subject to professional review, civil liability, or criminal prosecution for administering the medication.[84]

Governor Gavin Newsom vetoed a No Robo Bosses Act that would have imposed notification requirements on employers using automated decision systems to make employment-related decisions and barred employers from relying solely on an automated system to make certain employment decisions, such as disciplining or terminating an employee.[85]

The California Supreme Court held that California Civil Code section 1668 prohibits contractual limitation of liability provisions that exculpate or limit a party's liability for intentional torts.[86]

Beginning in 2026, California will require each licensed attorney to take an annual Civility Oath to "confirm their commitment to courtesy, fairness, and respect when they pay their yearly dues."[87] The Civility Oath reaffirms principles already found in California's admission oath but "adds weight through its annual renewal."[88] The California Supreme Court denied proposed amendments to the California Rules of Professional Conduct that would have added incivility as a basis for discipline.

In November, the Los Angeles County Board of Supervisors voted to explore the feasibility of banning predatory solicitation around County buildings, particularly Department of Public Social Services (DPSS) offices. The proposal follows "an LA Times investigation that found the Downtown LA Law Group targeted vulnerable people in

[83] A.B. 931, 2025 Reg. Sess. (Cal. 2025), https://legiscan.com/CA/bill/AB931/2025.
[84] A.B. 369, 2025 Reg. Sess. (Cal. 2025), https://legiscan.com/CA/bill/AB369/2025.
[85] S. 7, 2025 Reg. Sess. (Cal. 2025), https://legiscan.com/CA/bill/SB7/2025; *see also* Letter from Governor Gavin Newsom to The Members of the California State Senate, SB 7 Veto, Oct. 13, 2025, https://www.gov.ca.gov/wp-content/uploads/2025/10/SB-7-Veto.pdf.
[86] *New England Country Foods, LLC v. VanLaw Food Prods., Inc.*, 567 P.3d 63 (Cal. 2025).
[87] Editor, *New Civility Oath for California Lawyers*, JD J., Dec. 3, 2025, https://www.jdjournal.com/2025/12/03/new-civility-oath-for-california-lawyers/.
[88] *Id*.

line for county benefits and paid them to file fraudulent lawsuits against the County."[89]

Colorado

Colorado enacted legislation to regulate commercial third-party litigation funding by foreign entities that are owned, controlled, or based on a "foreign country of concern."[90] Such funders must disclose to the attorney general the name, address, and citizenship or country of incorporation or registration of the foreign entity that has a financial stake in the outcome of the civil action (or portfolio that includes the civil action), and provide a copy of the litigation financing agreement to the attorney general. The disclosures must be made upon the filing of a civil action or, if a civil action is filed prior to the execution of the litigation financing agreement, within 35 days after the agreement's execution. Further, the declarant shall make the disclosure "under penalty of perjury based on actual knowledge of the declarant formed after reasonable inquiry." A covered foreign third-party litigation funder must supplement or correct any incomplete or inaccurate disclosures within 35 days.

Third-party litigation funders owned, controlled by, or based in a "foreign country of concern" are prohibited from directing attorneys with respect to the conduct of a civil action or settlement, and cannot be assigned rights to profits other than the right to receive a share of the proceeds from the civil action as outlined in a litigation financing agreement. Covered funders are also prohibited from sharing proprietary information and information affecting national security interests with anyone who is not a party or a party's attorney.

A litigation financing agreement that violates these terms is void. The attorney general may institute a legal action to enforce compliance, impose fines, prohibit a foreign third-party litigation funder from operating within the state, and impose any other sanction the attorney general deems appropriate for a violation of the statute.

In all civil cases, the "existence of a litigation financing agreement is subject to discovery pursuant to the Colorado Rules of Civil Procedure and Colorado Rules of Evidence…."

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[89] County of Los Angeles Supervisor Janice Hahn, Press Release, *Supervisors Vote to Explore Ban on Predatory Solicitation Around County Buildings*, Nov. 4, 2025, https://hahn.lacounty.gov/supervisors-vote-to-explore-ban-on-predatory-solicitation-around-county-buildings/; *see also* Rebecca Ellis, *New Fraud Claims in L.A. County's $4-billion Sex Settlement Leave Victims Outraged*, L.A. TIMES, Oct. 16, 2025, https://www.latimes.com/california/story/2025-10-16/sex-abuse-fraud-claims-la-county-victims; Rebecca Ellis, *L.A. County Moves to Ban 'Predatory Solicitation' Amid Questions About Sex Abuse Lawsuits*, L.A. TIMES, Nov. 5, 2025, https://www.latimes.com/california/story/2025-11-05/la-county-predatory-solicitation-social-services-offices; Rebecca Ellis, *How Private Investors Stand to Profit From Billions in L.A. County Sex Abuse Settlements,* L.A. TIMES, Dec. 22, 2025, https://www.latimes.com/california/story/2025-12-22/california-sex-abuse-lawsuits-investors.

[90] H.B. 1329, 2025 Reg. Sess. (Colo. 2025), https://legiscan.com/CO/bill/HB1329/2025.

Colorado shielded landowners from liability if they allow emergency services to access their property in connection with an ongoing emergency.[91] The immunity does not apply to acts or omissions that are grossly negligent or willful and wanton.

The Colorado American Dream Act reforms construction litigation to reduce excessive costs associated with entry-level home development while prohibiting insurers from canceling, denying, or reducing liability coverage for construction professionals solely for offering to repair or settle a construction defect claim.[92]

Connecticut

Connecticut significantly revised its consumer data privacy law.[93] The changes lower thresholds for the law to apply, update exemptions, create new categories of sensitive data, expand consumer rights, and address minors' privacy, among other provisions.

Delaware

Delaware immunized healthcare providers from liability or professional discipline for honoring a request from a terminally ill adult to self-administer medication to end that person's life in a humane and dignified manner.[94] Delaware also acted to protect medical providers from out-of-state lawsuits and investigations that threaten the practice of medicine in Delaware.[95]

The Delaware Supreme Court confirmed that "Delaware's evidentiary rules governing expert testimony are consistent with federal law," fully embracing the 2023 amendments to Federal Rule of Evidence 702.[96]
Delaware Supreme Court Rule 28, which governs amicus briefs, was amended to require disclosure of participation or financial support by persons other than the amicus, its members, or its counsel, similar to disclosures that are required by the United States Supreme Court and other federal appellate courts.[97] The amendments also seek to clarify the types of arguments included in amicus briefs that are helpful to the court, discouraging briefs that merely echo arguments made by the parties.

Florida

The Contracts Honoring Opportunity, Investment, Confidentiality, and Economic

[91] H.B. 1053, 2025 Reg. Sess. (Colo. 2025), https://legiscan.com/CO/bill/HB1053/2025.
[92] H.B. 1053, 2025 Reg. Sess. (Colo. 2025), https://legiscan.com/CO/bill/HB1272/2025.
[93] S. 1295, 2025 Reg. Sess. (Conn. 2025), https://legiscan.com/CT/bill/SB01295/2025.
[94] H.B. 140, 2025 Reg. Sess. (Del. 2025), https://legiscan.com/DE/bill/HB140/2025.
[95] H.B. 205, 2025 Reg. Sess. (Del. 2025), https://legiscan.com/DE/bill/HB140/2025.
[96] *In re Zantac (Ranitidine) Litig.*, 342 A.3d 1131, 1134-35 (Del. 2025); *see also* Mark Behrens & Cary Silverman, *Delaware Supreme Court Embraces Federal Rule 702 Amendments, Emphasizes Trial Courts' Evidence-Gatekeeping Role*, WASH. LEGAL FOUND (Aug. 4, 2025).
[97] Order Amending Rules 9 and 28 of the Rules of the Supreme Court of Delaware (Del. Jan. 27, 2025), https://courts.delaware.gov/forms/download.aspx?id=278248#:~:text=(2)%20Supreme%20Court%20Rule%2028,the%20request%20of%20the%20Court.

Growth (CHOICE) Act, strengthens the enforcement of non-compete and "garden leave" clauses in employment contracts.[98] For the first time since he took office in 2019, Governor Ron DeSantis allowed the CHOICE Act and two unrelated bills to become law without his signature.

The Pam Rock Act requires owners of dogs that have attacked humans, severely injured or killed pets, or menacingly chased people to carry liability insurance of at least $100,000.[99]

Governor DeSantis vetoed legislation that would have expanded the scope of damages available under Florida's Wrongful Death Act by removing provisions that barred recovery of noneconomic damages in medical negligence cases by a decedent's adult children and parents of a deceased adult child.[100]

Amendments adopted in 2024 by the Florida Supreme Court to Florida Rules of Civil Procedure 1.090 (Time), 1.200 (Case Management; Pretrial Procedure), 1.201 (Complex Litigation), 1.310 (Depositions on Oral Examination), 1.340 (Interrogatories to Parties), 1.350 (Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes), 1.370 (Requests for Admission), 1.380 (Failure to Make Discovery; Sanctions), 1.410 (Subpoena), 1.440 (Setting Action for Trial), and 1.460 (Motions to Continue Trial) took effect on January 1, 2025, and apply to cases pending on that date.[101] Amendments to Rule 1.280(a) (Initial Discovery Disclosures) do not apply to actions commenced before January 1, 2025. Case management orders in effect on January 1, 2025, continue to govern pending actions; however, extensions of deadlines specified in those orders are governed by amended Rules 1.200 or 1.201. For actions filed before January 1, 2025, that did not have a case management order in place by that date, a case management order had to be issued by April 4, 2025.

Georgia

Georgia passed the most comprehensive civil justice legislation in the country in 2025.[102] Juries determining damages for medical expenses may consider "amounts charged" and amounts "actually necessary to satisfy such charges." If a plaintiff obtains medical care through a Letter of Protection, the agreement, an itemized list of the medical services provided with specific charges and billing codes, the name and dollar amount of any portion of the account

[98] H.B. 1219, 2025 Reg. Sess. (Fla. 2025), https://legiscan.com/FL/bill/H1219/2025.

[99] H.B. 593, 2025 Reg. Sess. (Fla. 2025), https://legiscan.com/FL/bill/H0593/2025.

[100] H.B. 6017, 2025 Reg. Sess. (Fla. 2025), https://legiscan.com/FL/bill/H6017/2025.

[101] *In re Amends. to Fla. Rules of Civ. Proc.*, 386 So. 3d 497 (Fla.), *subsequent determination*, 402 So.3d 925 (Mem) (Fla. 2024), *reh'g denied*, 401 So.3d 330 (Mem) (Fla. 2025).

[102] S. 68, 2025 Reg. Sess. (Ga. 2025), https://legiscan.com/GA/bill/SB68/2025; *see also* Chart Riggall, *Tort Reform Fight Dominated 2025 For Ga. Lawmakers*, LAW360, Dec. 12, 2025, https://www.law360.com/articles/2418363/tort-reform-fight-dominated-2025-for-ga-lawmakers.

receivable sold to a third party, and the identity of any individual who referred the plaintiff to the treating medical provider is "relevant and discoverable." Georgia also amended a statute that authorizes lawyers to argue the monetary value of pain and suffering to a jury, prohibiting "reference[s] to objects or values having no rational connection to the facts proved by the evidence."

The new law also includes procedural reforms, such as allowing a defendant to file a motion to dismiss in lieu of an answer (and stay discovery until the court rules), permitting a party to bifurcate trials into liability and damage phases, and eliminating the ability of a plaintiff to voluntarily dismiss a case any time before the first witness is sworn at trial. Instead, a plaintiff's voluntary dismissal must occur within 60 days of a defendant filing its answer. In addition, a factfinder may consider a plaintiff's seatbelt nonuse when evaluating issues such as comparative negligence, causation, assumption of risk, or apportionment of fault. A court can exclude seatbelt non-use evidence if its probative value is outweighed by the danger of unfair prejudice to the plaintiff.

Georgia also established requirements for negligent security claims, such as defining when conduct by third parties is "reasonably foreseeable." Juries shall allocate fault among an owner or occupier, the third party whose wrongful conduct caused the injury, and any other responsible person. A trial court must set aside a verdict that fails to apportion a reasonable degree of fault to the perpetrator of the crime and grant a new trial. There is a rebuttable presumption that an apportionment of fault is unreasonable if the total percentage of fault apportioned to all perpetrators is less than the total percentage of fault assigned to the persons who did not engage in wrongful conduct.

Georgia separately enacted the Georgia Courts Access and Consumer Protection Act to address third party litigation funding.[103] The Act applies to both consumer and commercial lawsuit lending arrangements. All "litigation financiers," as broadly defined, must register with the Department of Banking and Finance. No person that is affiliated with a federally-designated foreign adversary or any "foreign person, foreign principal, or sovereign wealth fund thereof" may register as a litigation financier or engage in litigation financing.

Litigation financiers are prohibited from directing or making litigation decisions, including with respect to appointing or changing counsel, choice or use of experts, litigation strategy, or settlement. A litigation financier may not pay or offer to pay a commission in exchange for referring a consumer or that person's lawyer to a litigation financier. A litigation financier cannot contract for or recover an amount that is greater than the proceeds collectively recovered by the claimants in a civil action or

[103] S. 69, 2025 Reg. Sess. (Ga. 2025), https://legiscan.com/GA/bill/SB69/2025.

legal claim after the payment of any attorney's fees and costs owed in connection with the action or claim. A litigation financier that provides $25,000 or more in funding relating to a claim is jointly liable for any award of sanctions or costs against the plaintiff or the plaintiff's legal representative. The Act also contains detailed disclosures specifically applicable to consumer lawsuit lending agreements.

A willful violation of the Georgia Courts Access and Consumer Protection Act constitutes a felony carrying a penalty of one to five years in prison, a fine up to $10,000, or both. Further, a violation of the Act by a litigation financier renders the funding agreement void and unenforceable by the litigation financier or any successor-in-interest to the litigation financing agreement.

A separate section of the Act amended the Georgia Civil Practice Act's companion to Federal Rule of Civil Procedure 26 to allow a party to "obtain discovery of the existence and terms of any litigation funding agreement" that involves $25,000 or more in funding.

Beginning on January 1, 2026, any pesticide that is registered with the Georgia Commissioner of Agriculture or the U.S. Environmental Protection Agency (EPA) and displays a label that has been approved by the EPA or is consistent with the EPA's most recent human health risk assessment for the pesticide shall be deemed to satisfy any state law duty to warn or label.[104] The protection does not apply if the EPA determines that a manufacturer knowingly withheld, misrepresented, or destroyed material information regarding the human health risks of its pesticide in order to obtain or maintain approval of the label.

Hawaii

Hawaii enacted legislation to solidify the global settlement for claims relating to the August 2023 Maui wildfires.[105] Hawaii also granted the Public Utilities Commission the sole discretion to determine an aggregate limit for liability for economic damages from a covered catastrophic wildfire.[106]

Idaho

Idaho declared uncontrolled forest or range fires a public nuisance subject to a 10-year statute of limitations.[107] The state may intervene in fighting such fires and recover firefighting costs. Idaho also created a rebuttable presumption that an electric public utility acted without negligence if it filed and implemented a wildfire mitigation plan with the state's public utilities commission.[108]

[104] S. 144, 2025 Reg. Sess. (Ga. 2025), https://legiscan.com/GA/text/SB144/2025.
[105] H.B. 1001, 2025 Reg. Sess. (Haw. 2025), https://legiscan.com/HI/bill/HB1001/2025.
[106] S. 897, 2025 Reg. Sess. (Haw. 2025), https://legiscan.com/HI/bill/SB897/2025.
[107] H.B. 389, 2025 Reg. Sess. (Idaho 2025), https://legiscan.com/ID/bill/H0389/2025.
[108] S. 1183, 2025 Reg. Sess. (Idaho 2025), https://legiscan.com/ID/bill/S1183/2025.

In addition, Idaho limited the liability of recreation clubs and club members for the injury or death of individuals who participate in recreational activities, except in cases of gross negligence, intentional harm, or when defective equipment is provided.[109] Written waivers of a recreational participant's prospective negligence claims against a recreation club and club members are enforceable.

The Fetal Heartbeat Preborn Child Protection Act, which establishes a civil action against medical professionals who knowingly attempt or perform an abortion, was amended to allow defendants to file a special motion for expedited dismissal within 60 days of being served with a lawsuit.[110]

A new Medical Ethics Defense Act immunizes health care providers from liability for refusing to participate in or pay for a medical procedure, treatment, or service that conflicts with their personal beliefs.[111] There are whistleblower protections and a private right of action for healthcare providers to seek civil remedies for violations of the Act.

Illinois

Illinois enacted a consent-to-jurisdiction-by-registration law that subjects nonresident corporations to the general jurisdiction of Illinois courts if (1) the company obtains or continues to maintain the right to transact business in Illinois, registers to do business in the state, or previously registered to do business in the state; (2) the action alleges injury or illness resulting from exposure to a substance defined as "toxic" under the Uniform Hazardous Substances Act of Illinois, whether the cause of action arises within or outside of Illinois; and (3) jurisdiction is proper as to one or more named co-defendants.[112] The Uniform Hazardous Substances Act of Illinois broadly defines a "toxic" substance as "any substance (other than a radioactive substance) which has the capacity to produce bodily injury or illness … through ingestion, inhalation, or absorption through any body surface."[113] Consent to general jurisdiction only ends upon formal withdrawal from the state.

Kansas

Kansas amended its Code of Civil Procedure to address commercial third-party litigation funding.[114] A party shall provide to the court, for *in camera* review, any third-party

[109] H.B. 81, 2025 Reg. Sess. (Idaho 2025), https://legiscan.com/ID/bill/H0081/2025.
[110] H.B. 1171, 2025 Reg. Sess. (Idaho 2025), https://legiscan.com/ID/bill/S1171/2025.
[111] H.B. 59, 2025 Reg. Sess. (Idaho 2025), https://legiscan.com/ID/bill/H0059/2025.
[112] H.B. 325, 2025 Reg. Sess. (Ill. 2025), https://legiscan.com/IL/bill/SB0328/2025.
[113] 430 ILCS 35/2-5.), https://www.ilga.gov/legislation/ilcs/documents/043000350K2-5.htm.
[114] S. 54, 2025 Reg. Sess. (Kan. 2025), https://legiscan.com/KS/bill/SB54/2025.

litigation funding agreement within 30 days after commencement of a legal action or 30 days after the execution of a litigation funding agreement, whichever is later. In addition, a party that has entered into a litigation funding agreement must provide all other parties with a sworn statement disclosing: (1) the identity of all contracting parties to the funding agreement; (2) whether the agreement grants a third-party funder control or approval rights with respect to litigation or settlement decisions or otherwise has the potential to create conflicts of interest between the funder and the funded party and, if the agreement does grant such control or approval rights, the nature of the terms and conditions relating to those rights; (3) whether the agreement grants a funder the right to receive materials designated as confidential pursuant to a protective or confidentiality agreement or order in the action; (4) the existence of any known relationship between a third-party funder and the adverse party, the adverse party's counsel, or the court; (5) a description of the nature of the third-party funder's financial interest, including whether such interest is, in whole or in part, recourse or non-recourse; and (6) whether any foreign person from a "foreign country of concern" is providing funding, directly or indirectly, for the third-party litigation funding agreement and, if so, the name, address and country of incorporation or registration of the foreign person. The sworn statement must be produced within 30 days after commencement of an action or 30 days after the execution of the litigation funding agreement, whichever is later.

Kansas also enacted legislation to require a civil action against an electric public utility for a wildfire to be brought within two years, or, if the injury is not reasonably ascertainable until after the initial act, no later than 10 years.[115] Punitive damages in a fire claim against an electric public utility are capped at $5 million.

Governor Laura Kelly vetoed legislation that aimed to establish requirements for local governments entering into contingency fee agreements for legal services.[116]

Louisiana

Louisiana's pure comparative fault system was replaced with a modified comparative fault approach that bars plaintiffs from any recovery if they are at least 51% at fault for their own injuries.[117] Juries shall be instructed on the effect of the new law in cases where the issue of comparative fault is submitted to the jury.

Louisiana amended its law relating to damages for medical expenses to allow juries to hear evidence of both billed and

[115] H.B. 2107, 2025 Reg. Sess. (Kan. 2025), https://legiscan.com/KS/bill/HB2107/2025.

[116] H.B. 2228, 2025 Reg. Sess. (Kan. 2025), https://legiscan.com/KS/bill/HB2228/2025; Kan. Office of the Gov., Press Release, *Governor Kelly Vetoes Seven Bills, Allows Three to Become Law Without Signature*, Apr. 9, 2025, https://www.governor.ks.gov/Home/Components/News/News/616/55.

[117] H.B. 431, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/HB431/2025.

paid amounts at trial and to repeal a provision that previously allowed a claimant to recover 40% of the difference between billed amounts and what was actually paid.[118] The changes do not apply to benefits received by a party through an automobile liability insurance policy that provides for medical payments coverage.

Louisiana also amended a law providing that uninsured drivers involved in accidents shall obtain no recovery for the first $15,000 of bodily injury or the first $25,000 of property damage to, instead, provide that such persons shall not recover the first $100,000 of bodily injury or the first $100,000 of property damage.[119] If the uninsured driver is awarded less than $100,000, the driver is liable for all court costs incurred by all parties to the action. No insurer shall lose subrogation rights for a claim paid under a policy for the recovery of any sum in excess of the first $100,000 of bodily injury and the first $100,000 of property damages. In claims where no suit is filed, the claimant's insurer shall have all rights to recover any amount paid on behalf of the insured for the recovery of any sum in excess of the first $100,000 of bodily injury and the first $100,000 of property damages.

Awards of general damages and past and future wages to "unauthorized alien" plaintiffs in actions arising from automobile accidents are barred.[120] The provision does not apply to a claim made against an uninsured or underinsured motorist policy which names the unauthorized alien as an insured.

Another new law overrules a 1991 Louisiana Supreme Court case, *Housley v. Cerise*,[121] which set forth a presumption aiding personal injury plaintiffs.[122]. Now, in any personal injury case that is not raised pursuant to the Louisiana Workers' Compensation Law, the lack of a prior history of an illness, injury, or condition shall not create a presumption that an illness, injury, or condition was caused by the act that is the subject of the claim.[123]

Louisiana also addressed "legacy lawsuits" against oil and gas companies over alleged environmental damage.[124]

Some two dozen dyes, artificial sweeteners and other ingredients are banned from school meals and, beginning on January 1, 2028, foods containing any of nearly four

[118] S. 231, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/SB231/2025.

[119] H.B. 434, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/HB434/2025.

[120] H.B. 436, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/HB436/2025.

[121] 579 So. 2d 973 (La. 1991).

[122] *Id*. at 980 ("[A] claimant's disability is presumed to have resulted from an accident, if before the accident the injured person was in good health, but commencing with the accident the symptoms of the disabling condition appear and continuously manifest themselves afterwards, providing that the medical evidence shows there to be a reasonable possibility of causal connection between the accident and the disabling condition.") (quoting *Lukas v. Ins. Co. of N. Am.,* 342 So. 2d 591, 596 (La.1977)).

[123] H.B. 450, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/HB450/2025.

[124] S. 244, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/SB244/2025.

dozen specified food additives must include a quick response (QR) code with a statement adjacent to the code to inform consumers that additional ingredient information can be accessed by scanning the code.[125] The web page must contain the following disclaimer: "NOTICE: This product contains [insert ingredient here]. For more information about this ingredient, including FDA approvals, click HERE."

The prescriptive period (statute of limitations) for wrongful death and survival actions was extended from one year from the death of the deceased to one year from the death of the deceased or two years from the day that injury or damage is sustained, whichever is longer.[126] The prescriptive period for medical malpractice survival actions is governed by R.S. 9:5628. Wrongful death actions stemming from medical malpractice must be brought within one year from the death of the deceased.

Another new law establishes online protections for minors, such as prohibiting app stores from enforcing contracts with minors without parental consent.[127] The attorney general may bring a civil action to enforce any violations and may recover a civil fine of up to $10,000 per violation, subject to providing notice of the violation to the covered app store or developer and giving the person at least 45 days to cure the violation.

Maryland

The 2023 Child Victims Act was amended to reduce damage caps applicable to time-barred childhood sexual abuse claims.[128] The cap on total damages in revived claims against public entities was lowered from $890,000 to $400,000 per claim and the cap on noneconomic damages in revived claims against private entities was lowered from $1.5 million to $700,000 per claim. Attorneys' fees in revived claims are limited to 20% of a settlement and 25% of a judgment.

The state or a local government are authorized to bring a public nuisance action against a common carrier for damaging certain public infrastructure that necessitates its closure.[129]

Michigan

Michigan clarified that a vehicle owner's liability for damages or injury does not apply to a vehicle owner or a peer-to-peer car sharing program during a car sharing period.[130] Michigan also authorized civil

[125] S. 14, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/SB14/2025.
[126] H.B. 291, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/HB291/2025.
[127] H.B. 570, 2025 Reg. Sess. (La. 2025), https://legiscan.com/LA/bill/HB570/2025.
[128] H.B. 1378, 2025 Reg. Sess. (Md. 2025), https://legiscan.com/MD/bill/HB1378/2025.
[129] H.B. 860, 2025 Reg. Sess. (Md. 2025), https://legiscan.com/MD/bill/HB860/2025.
[130] H.B. 5951, 102d Leg., 2025 Reg. Sess. (Mich. 2025), https://legiscan.com/MI/bill/HB5951/2023.

actions against landlords who discriminate based on the source of a tenant's income.[131]

Missouri

Missouri updated its class action rule to align with Federal Rule of Civil Procedure 23.[132]

The Legislature amended a ballot measure approved by voters in 2024 known as Proposition A,[133] the Minimum Wage and Earned Paid Sick Time Initiative.[134] Proposition A raised the minimum wage, required paid sick and domestic violence leave, and allowed lawsuits against an employer that "refuses to allow the employee to use the paid leave provided for in the proposal or otherwise control the excessive use of such leave OR if the employer takes action against an employee that has used the paid leave."[135] The 2025 law removes Proposition A's paid sick leave mandate while maintaining a $15 minimum wage that is no longer adjusted annually for inflation.

Montana

Montana enacted first-of-its-kind legislation to codify the state's public nuisance and private nuisance law.[136] A public nuisance may be either: (1) "a condition arising out of the use of real property that unlawfully interferes with a public right by endangering communal safety, being indecent to the community, or being offensive to the community"; or (2) a condition that unlawfully interferes with the public right to free passage or use of a navigable waterway, park, square, street, road, or highway. A nonexclusive list of actions or conditions is established for actions that do not constitute a public nuisance, including any "action or condition that is lawful" and any action or condition that is authorized, licensed, or required by law, or otherwise approved by a government entity. The design, manufacturing, distributing, selling, labeling, or marketing of a product, including firearm accessories or ammunition, shall not be considered a public nuisance. Additionally, the aggregation of individual injuries or private rights, including private nuisances, or the impairment of any spiritual, cultural, or emotional significance of a navigable

[131] H.B. 4062, 102d Leg., 2025 Reg. Sess. (Mich. 2025), https://legiscan.com/MI/bill/HB4062/2023.

[132] S. 47, 103d Leg., 2025 Reg. Sess. (Mo. 2025), https://legiscan.com/MO/bill/SB47/2025.

[133] Missouri Proposition A, Minimum Wage and Earned Paid Sick Time Initiative, https://www.sos.mo.gov/CMSImages/Elections/Petitions/2024-038.pdf.

[134] H.B. 567, 546, 758 & 958, 103d Leg., 2025 Reg. Sess. (Mo. 2025), https://legiscan.com/MO/bill/HB567/2025.

[135] Ray McCarty, *Next Steps to Fight Prop A: Measure Allows Lawsuits Against Employers for Enforcing Sick Leave Policies*, ASS'D INDUS. OF MO., Nov. 6, 2024.

[136] H.B. 795, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/HB791/2025; *see also* Cary Silverman & Jacob A. Bennett, *Montana Enacts First-of-Its-Kind Law to Stem Expansions of Public Nuisance Liability*, WASH. LEGAL FOUND. (June 2, 2025), Montana Enacts First-of-Its-Kind Law to Stem Expansions of Public Nuisance Liability | Washington Legal Foundation.

waterway or public park, square, street, road or highway, is not a public nuisance. Also, a person may only be subject to liability for a public nuisance if that person proximately caused or controlled the public nuisance at the time it was created, or if a successive property owner neglects to abate a continuing public nuisance.

A private nuisance action is defined as a condition arising out of the use of real property that "(a) is injurious to health or safety, indecent or offensive to the senses of an individual on an adjacent or neighboring property, or (b) obstructs the free use of an adjacent of neighboring property so as to interfere with the comfortable enjoyment of life or property." Certain actions or conditions may not be the basis for a private nuisance action, namely (1) any action or condition that is authorized, licensed, or required by law, or otherwise approved by a government entity, (2) noises from shooting range activities during established hours of operation, or (3) normal operations of an agricultural or farming operation. Montana common law regarding a public or private nuisance that is inconsistent with the Act is expressly abrogated.

Montana's 2023 Litigation Financing Transparency and Consumer Protection Act[137] was updated.[138] The 2025 law clarifies that the Act applies to both consumer and commercial lawsuit lending arrangements, including Montana's requirement that third-party litigation funding agreements must be disclosed to the parties without awaiting a discovery request. Litigation financiers are prohibited from making or influencing litigation decisions. In addition, a party or an attorney or law firm representing a party may not share information with a litigation financer that is subject to a court's protective or sealing order, and a party may not share proprietary information with a litigation financer that is received in the course of a legal claim. A nonprofit entity is only exempt from the Act's requirements when the entity does not recover more than its attorney fees and litigation costs in consideration for receiving litigation financing.

A new Foreign Investment in Litigation Financing Act prohibits federally-designated foreign adversaries and foreign persons of concern from engaging in litigation financing. Other foreign persons may engage in litigation financing after disclosing certain information about their activities and providing a copy of any financing contract to the Secretary of State. A party to a civil action may not share proprietary information received in conjunction with or in pursuit of a legal claim with a foreign person, foreign adversary, or a foreign person of concern.

Montana reduced the time allowed to file lawsuits on contracts, covenants, obligations, or liabilities based on written

[137] S. 269, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/SB269/2023.

[138] S. 511, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/SB511/2025.

instruments from eight years to six years.[139] A 10-year statute of repose for lawsuits related improvements to real property was reduced to six years, with a one-year window for injuries occurring in the sixth year.

The Montana Consumer Protection Act (MCPA) was amended to establish clear limitation periods for certain consumer residential construction disputes and claims alleging false, misleading, or otherwise unfair and deceptive consumer reviews and testimonials.[140] Only certain individuals claiming damages may assert a MCPA claim against a commercial entity for allegedly knowingly and intentionally publishing or distributing material harmful to minors on the Internet without reasonable age verification methods.

In medical malpractice actions, the foreseeability of a risk, or a specific risk, does not change or heighten a medical provider's duty beyond the applicable reasonable standard of care.[141]

Montana's 2023 Consumer Data Privacy Act[142] was amended to apply to companies that control or process the personal data of at least of at least 25,000 consumers (down from 50,000) or control or process the personal data of at least 15,000 consumers (down from 25,000) if the company makes more than 25% of its revenue from selling personal data.[143] The new law adds exemptions for banks, insurers, and insurance producers, and limits the previous exemption for nonprofits to nonprofits that detect and prevent insurance fraud. Certain sensitive information such as social security numbers may not be disclosed by controllers, and consumers must be informed that such data has been collected. Other changes were made to the law's opt-out and privacy notice provisions. The state's attorney general continues to have sole authority to enforce violations. A 60-day right to cure that was set to expire on April 1, 2026, was eliminated.

Detailed requirements were established for requesting attorney fees in cases involving awards against the state.[144]

A new Firearms Liability Clarification Act prevents firearms manufacturers and sellers from being "unfairly held liable for the criminal misuse of their products," clarifies and narrows the "the predicate exception to prevent its misuse and maintain the intended protections in the [federal] Protection of Lawful Commerce in Arms Act," and establishes clear conditions for

[139] S. 143, 69th Mont. Leg., Reg. Sess. (2025), https://legiscan.com/MT/bill/SB143/2025.
[140] S. 488, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/SB488/2025.
[141] H.B. 342, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/HB342/2025.
[142] S. 384, 68th Leg., 2023 Reg. Sess. (Mont. 2023), https://legiscan.com/MT/text/SB384/2023.
[143] S. 297, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/SB297/2025.
[144] S. 39, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/SB39/2025.

pursuing negligent marketing claims related to firearms sales and marketing.[145]

In a law benefitting plaintiffs, Montana raised its $250,000 limit on noneconomic damages in medical liability cases to $300,000 in 2025, $350,000 in 2026, $400,000 in 2027, $450,000 in 2028, $500,000 in 2029, and by 2% each year thereafter.[146]

Montana also amended its law limiting liability for equine activities and professionals to require any waiver or release to state known inherent risks of equine activities and include the following statement in bold typeface: "By signing this document, you may be waiving your legal right to a jury trial to hold the provider legally responsible for any injuries or damages resulting from risks inherent in equine activities or for any injuries or damages you may suffer due to the provider's ordinary negligence that are the result of the provider's failure to exercise reasonable care."[147]

Nevada

Nevada enacted consumer data privacy legislation that creates requirements for entities that process the personal data of children.[148]

The Nevada Supreme Court nixed a proposed 2026 ballot initiative to cap attorney fees in civil cases at 20%, holding that the description of effect for the initiative was legally insufficient.[149]

New Hampshire

In a product liability action involving a firearm, the manufacturer of the firearm and any federal firearms licensee who sold or transferred the firearm shall not be liable for the "absence or presence" of four specific safety features.[150]

New Jersey

Limitations on recovery against public entities under the New Jersey Tort Claims Act were removed for certain sexual offenses.[151]

New York

A new Consumer Litigation Funding Act regulates consumer lawsuit lending, setting forth disclosure and licensing requirements, funding company and attorney responsibilities and limitations, and

[145] H.B. 801, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/HB801/2025.

[146] H.B. 195, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/bill/HB195/2025.

[147] H.B. 768, 69th Leg., 2025 Reg. Sess. (Mont. 2025), https://legiscan.com/MT/text/HB768/2025.

[148] S. 63, 2025 Reg. Sess. (Nev. 2025), https://legiscan.com/NV/bill/SB63/2025.

[149] *Uber Sexual Assault Survivors for Legal Accountability v. Uber Techs., Inc.*, 562 P.3d 519 (Nev. 2025).

[150] H.B. 551, 2025 Reg. Sess. (N.H. 2025), https://legiscan.com/NH/bill/HB551/2025.

[151] A.B. 4684, 221st Leg., 2025 Reg. Sess. (N.J. 2025), https://legiscan.com/NJ/text/A4684/2024.

penalties for violations of the Act.[152] All consumer litigation funding contracts are required to be written in plain, easy-to-read language translated into the consumer's primary language. Further, such contracts have to describe the fee structure, disclose the maximum amount that may be owed to the funder, and include a clear statement that the funds do not need to be repaid unless the plaintiff obtains a recovery for a related claim. The Act also prohibits consumer legal funding companies from engaging in certain practices such as offering referral fees and kickbacks to law firms and medical providers. Funders are prohibited from having any role in litigation decisions such as settlement. Consumer litigation funders shall not charge more than 25% per annum or its equivalent rate for a longer or shorter period. All consumer legal funding companies must register with the Secretary of State. Any consumer litigation funding company that willfully violates the Act waives its right to recover the funded amount and all charges in a particular case, and is liable for a civil penalty of not more than $5,000 for each violation in a civil action brought by the attorney general.

The Fostering Affordability and Integrity Through Reasonable (FAIR) Business Practices Act expands New York's consumer protection law beyond "deceptive" acts to include "unfair" and "abusive" practices.[153] An "unfair" practice is broadly defined as conduct that "causes or is likely to cause substantial injury which is not reasonably avoidable and is not outweighed by countervailing benefits to consumers or to competition." An "abusive" practice is broadly defined to include any act that "materially interferes with the ability of a person to understand a term or condition of a product or service" or "takes unreasonable advantage" of a person's lack of understanding of risks, costs, or conditions of a product or service, reasonable reliance on others, or inability to protect themselves in selecting or using a product or service. In addition, the Act abolishes a judicial doctrine developed over the past five decades that limits state attorney general enforcement to deceptive acts that are "consumer-oriented" or impact the public at large. Instead, the attorney general has a broad responsibility "to create a fair marketplace for all" that includes protection against unfair, deceptive, or abusive acts or practices involving private transactions with public consequences.

New York also enacted a law requiring warning labels for hair relaxers that contain certain chemicals.[154]

For the fourth time, Governor Kathy Hochul vetoed legislation that sought to authorize larger awards in wrongful death cases by

[152] S. 1104 / A. 804, Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/A804/amendment/A.

[153] S. 8416 / A. 8427A, Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/A8427.

[154] S. 6723 / A. 1797, Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/S6723.

expanding recoverable damages to include noneconomic damages.[155] Today, surviving family members may recover pecuniary losses resulting from a loved one's wrongful death, such as medical and funeral costs related to the death, wages the decedent would have earned, and the value of lost services provided by the decedent such as childcare. The Grieving Families Act would have permitted uncapped recoveries for "grief or anguish" and "loss of nurture, guidance, counsel, advice, training, companionship and education resulting from the decedent's death." Further, the bill would have allowed wrongful death claims to be filed by a decedent's spouse or domestic partner, decedent's distributees, and any person standing in loco parentis to the decedent or any person whom the decedent stood in a position of in loco parentis. The current two-year statute of limitations for wrongful death cases would have been extended to three years. The legislation would have applied retroactively to causes of action that accrued on or after January 1, 2022.

Governor Hochul first vetoed the Grieving Families Act in early 2023, expressing concern that it "would increase already-high insurance burdens on families and small businesses and further strain already-distressed healthcare workers and institutions."[156] In her second veto, in late 2023, Governor Hochul said that the legislation "represented a foundational shift in New York's wrongful death jurisprudence and would have likely resulted in significant unintended consequences."[157] In her third veto, Governor Hochul said that "'New Yorkers are already facing higher costs of living due to inflation and other factors,' while she reaffirmed her opposition to the bill due to its potential negative impact on businesses and consumers."[158] Governor Hochul's December 2025 veto memorandum said the bill "would likely have resulted in higher costs to patients and

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[155] N.Y. Gov. Kathy Hochul, Veto No. 87, S.4423, Dec. 5, 2025; S. 4423 / A. 6063, Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/S4423.

[156] N.Y. Gov. Kathy Hochul, Veto No. 192, S.74A, Jan. 30, 2023. The Governor indicated a willingness to sign a narrower law to benefit parents of children killed in accidents unrelated to medical malpractice, but this was rejected by the bill's sponsors. N.Y. Gov. Kathy Hochul, *Hochul to Legislature: Let's Agree on Helping Grieving Families Before Tuesday's Midnight Deadline*, N.Y. DAILY NEWS, Jan. 30, 2023, https://www.nydailynews.com/opinion/ny-oped-lets-agree-on-helping-grieving-families-today-before-midnight-deadline-20230130-jim7ltxwofdm3nwurnidmi6mvi-story.html; Sen. Brad Hoylman-Sigal, Press Release, *Assembly Member Weinstein And Senator Hoylman-Sigal Respond To Governor Hochul's Op-Ed On The Grieving Families Act*, Jan. 30, 2023, https://www.nysenate.gov/newsroom/press-releases/2023/brad-hoylman-sigal/assembly-member-weinstein-and-senator-hoylman-sigal.

[157] N.Y. Gov. Kathy Hochul, Veto No. 151, A.6698, Dec. 29, 2023.

[158] David Robinson, *Gov. Hochul Vetoed Grieving Families Act a Third Time. What to Know*, LOHUD.COM, Jan. 2, 2025, https://www.lohud.com/story/news/2025/01/02/gov-hochul-vetoed-grieving-families-act-a-third-time-what-to-know/76923275007/.

consumers as well as other unintended consequences."[159]

Governor Hochul also vetoed legislation that would have provided that registration by a foreign corporation to do business in the state constitutes consent to the jurisdiction of New York courts in any action brought by or on behalf of (1) a New York resident; (2) a domestic corporation, unincorporated association, partnership, individually owned business, limited liability company, limited partnership or limited liability partnership; or (3) a foreign corporation, limited liability company, limited partnership or limited liability partnership authorized to do business in the state.[160] Governor Hochul vetoed other jurisdiction-by-registration legislation on two prior occasions.[161]

In addition, Governor Hochul vetoed legislation that would have allowed plaintiffs to recover against a third-party defendant in certain cases.[162] The bill provided that where a plaintiff has entered a judgment against a defendant that remains unsatisfied 30 days after it has been served on the defendant-judgment debtor, and where judgment has been entered in favor of the defendant-judgment debtor against a co-defendant or third-party defendant on a cause of action for contribution or indemnification, the plaintiff-judgment creditor may collect any unsatisfied amount of the plaintiff's judgment against the defendant from the co-defendant or third-party defendant up to the amount awarded on the cause of action for contribution or indemnification. In addition, where the plaintiff's judgment remains unsatisfied 30 days after it has been served on the defendant-judgment debtor, and where the defendant-judgment debtor has a cause of action for contribution or indemnification which has not been reduced to judgment, the plaintiff-judgment creditor could attach, or take an assignment from the defendant-judgment debtor of, the cause of action for contribution or indemnification, and prosecute the cause of action in the plaintiff's name or in the name of the defendant-judgment debtor, and recover a judgment for the same amount of contribution or indemnification as would be awarded to the defendant-judgment debtor if the defendant-judgment debtor had satisfied plaintiff's original judgment in full.

Another bill vetoed by Governor Hochul would have prohibited companies from negotiating releases with personal injury or wrongful death claimants within 30 days after an allegedly tortious act.[163]

[159] N.Y. Gov. Kathy Hochul, Veto No. 87, S.4423, Dec. 5, 2025.

[160] S. 8166 / A. 8303, Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/S8186.

[161] N.Y. Governor Kathy Hochul, Veto No. 147, S.7476 (Dec. 22, 2023); *see also* N.Y. Gov. Kathy Hochul, Veto No. 76, A.7729 (Dec. 31, 2021).

[162] S. 5170 / A. 3351, Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/A3351.

[163] S. 8185 / A. 8706, Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/A8706.

The New York Court of Appeals announced a first-of-its-kind rule that amicus briefs in cases about legislative intent and statutes "shall not present the views of individual lawmaker(s) outside of the publicly available contemporaneous legislative history to address legislative intent."[164]

North Dakota

A pesticide that is registered with the North Dakota Department of Agriculture or the U.S. Environmental Protection Agency (EPA) with a label that is (1) approved by the EPA, (2) consistent with the EPA's most recent human health risk assessment for the pesticide, or (3) consistent with the EPA's carcinogenicity classification for the pesticide, is sufficient to satisfy any state law duty to warn or label regarding health or safety.[165]

North Dakota altered the level of culpability necessary to support a punitive damages award from "fraud, oppression, or actual malice" by striking "actual" before malice and defining "malice" as "a direct intention to injure another" or "a reckless disregard of the rights of another and any consequences."[166]

Ohio

Ohio addressed over-naming in asbestos cases.[167] Within 60 days of filing an asbestos action, a plaintiff must provide the parties with a sworn statement specifying the basis for each claim against each defendant, including detailed exposure history information and the names of each person who is knowledgeable about the plaintiff's exposures to asbestos, along with supporting documentation. On motion by a defendant, the court shall dismiss the plaintiff's asbestos claim without prejudice if the defendant's asbestos-containing product or site is not identified in the required disclosures or if the plaintiff fails to provide the required information. Dismissal may be avoided "upon a showing of good cause by the plaintiff."

Oklahoma

The Oklahoma Expedited Actions Act creates an expedited actions process for claimants seeking $250,000 or less in total damages, attorney fees, and costs.[168] There is a 180-day discovery period, modified trial and alternative dispute resolution procedures, and presumptive limits on discovery methods, including 20 total oral deposition hours, 15 written interrogatories, 15

[164] New York Court of Appeals, Notice to the Bar: Amendment to Rules of Practice, Amicus Curiae (Nov. 24, 2025) (effective Dec. 10, 2025), https://assets.alm.com/c6/40/67b783814ebfaa35bf17fa660754/notice-to-the-bar-amicus.pdf.

[165] H.B. 1318, 69th Leg., 2025 Reg. Sess. (N.D. 2025), https://legiscan.com/ND/bill/HB1318/2025.

[166] S. 2290, 69th Leg., 2025 Reg. Sess. (N.D. 2025), https://legiscan.com/ND/text/SB2290/id/3186833.

[167] S. 63, 135th Gen. Assemb., 2024 Reg. Sess. (Ohio 2024) (signed by Gov. in 2025), https://legiscan.com/OH/text/SB63/id/2851510.

[168] S. 453, 2025 Reg. Sess. (Okla. 2025), https://legiscan.com/OK/bill/SB453/2025.

requests for production, and 15 requests for admission.

Oklahoma's evidentiary code provision governing expert testimony was amended to mirror the 2023 amendments to Federal Rule of Evidence 702.

To address rising tort awards, Oklahoma established a $500,000 cap on noneconomic damages in personal injury cases, and a $1 million cap in cases involving a permanent mental injury that severely impairs the plaintiff's ability to be employed or enjoy a reasonable standard of living. The cap does not apply if the plaintiff sustained permanent or severe physical injury, including a substantial physical abnormality or disfigurement such as a loss of use of a limb or major body organ or system, or if a trier of fact finds by clear and convincing evidence that the defendant's acts were in reckless disregard for the rights of others, grossly negligent, fraudulent, intentional, or with malice.

A new Foreign Litigation Funding Prevention Act requires a party to produce any commercial litigation funding agreement, upon request, and identify any foreign state or agency of a foreign state that is a source of any of the funds.[169] Curiously, a "commercial litigation funding agreement" is defined to exclude "an agreement entered into between an attorney or law firm and a commercial litigation funder or any other entity"—an exception that seems to swallow the rule. The disclosure requirement would apply to the unusual situation where a *party* (as opposed to the party's lawyer or law firm) enters into a commercial litigation funding agreement.

Oklahoma created business courts in Oklahoma City and Tulsa,[170] but the law was struck down by the Oklahoma Supreme Court, which held that adding a new court system requires a constitutional amendment.[171]

Oregon

Oregon amended its consumer data privacy statute to prohibit controllers from processing personal data for targeted advertising, or selling personal data that pertains to a consumer, if the controller has actual knowledge or disregards knowledge of whether a consumer is under 16 years of age or precise geolocation data is involved.[172]

Pennsylvania

Philadelphia's City Council approved a POWER (Protect Our Workers, Enforce Rights) Act, which the City Council described as offering "sweeping protections for all workers in Philadelphia and is the first legislation of its kind in the nation."[173] The

[169] H.B. 2619, 2025 Reg. Sess. (Okla. 2025), https://legiscan.com/OK/bill/HB2619/2025.
[170] S. 632, 2025 Reg. Sess. (Okla. 2025), https://legiscan.com/OK/bill/SB632/2025.
[171] *White v. Stitt*, 579 P.3d 636 (Okla. 2025).
[172] H.B. 2008, 2025 Reg. Sess. (Ore. 2025), https://legiscan.com/OR/bill/HB2008/2025.
[173] City Council of Philadelphia, Press Release, *POWER Act Signed Into Law*, May 28, 2025, https://phlcouncil.com/power-act-signed-into-law/.

Act "prevents retaliation against workers who assert their rights, establishing stronger legal safeguards for workers and steeper financial penalties for employers who break the law" and "allows workers to receive direct financial support when employers violate their rights; previously all financial penalties went solely to the City."[174]

South Carolina

South Carolina amended its modified joint liability law to generally allow fault to be apportioned to non-named tortfeasors.[175] In order for the trier of fact to allocate fault to a nondefendant tortfeasor, a defendant must disclose the tortfeasor within 180 days of the commencement of the action or at a later time for good cause shown, and the plaintiff may add the tortfeasor as a party defendant with the amended pleading relating back to the commencement of the action. The defendant bears the burden of proving that the added tortfeasor's breach of duty was a proximate cause of the plaintiff's injuries unless the plaintiff amends his or her pleadings to add the tortfeasor as a party. If the plaintiff does not add the tortfeasor in a direct action, the plaintiff may challenge the addition of the tortfeasor pursuant to South Carolina Rules of Civil Procedure Rules 50 and 56. If those motions are denied, then the tortfeasor appears on the verdict form. Notwithstanding the time requirement for a defendant to disclose any nondefendant tortfeasors for possible allocation of fault, a settling tortfeasor, whether or not a party, shall be added to the verdict form.

A nondefendant tortfeasor shall not be added to the verdict form if: (1) the nondefendant tortfeasor is immune from liability or prohibited from suit (not including settled or released tortfeasors who were or could have been parties); (2) the nondefendant tortfeasor's conduct is willful, wanton, reckless, or intentional; (3) the defendant's liability is imputed to or based upon fault of the tortfeasor; (4) the cause of action involves strict liability; (5) the cause of action involves asbestos; or (6) the action is commenced by the state or other governmental entity or political subdivision seeking to recover damages from acts or omissions of third parties that result in harm to public health, safety, infrastructure, or the environment (other than claims involving per- and polyfluoroalkyl (PFAS) substances).

Setoffs may be used in lieu of adding a nonparty to the verdict form. Joint liability continues to apply to any defendant whose conduct is determined to be "wilful, wanton, reckless, or intentional" or involves illicit drugs.

In dram shop cases, a tortfeasor charged with DUI shall appear on the verdict form upon motion of the defendant, provided the motion is made within 180 days of the commencement of the action or at a later time for good cause shown. If a verdict is rendered against both the driver and

[174] *Id*.

[175] H.B. 3430, 2025 Reg. Sess. (S.C. 2025), https://legiscan.com/SC/text/H3430/2025.

licensee, the licensee is jointly liable for 50% of the plaintiff's actual damages. Notwithstanding the time requirement for a defendant to add a tortfeasor charged with DUI to the verdict form, a settling tortfeasor, whether or not a party, shall be added to the verdict form.

Tennessee

Tennessee broadened the qualified immunity provided to entities involved in the manufacture or sale of firearms or ammunition.[176] The law amends definitions of covered entities and products, removes the ability to file a negligence per se claim against the seller of a qualified product, modifies the standards for a negligent entrustment claim, requires clear and convincing evidence to demonstrate a civil liability action is not statutorily barred, and codifies state public policy against allowing certain liability theories such as public nuisance and market share liability.

The statute of limitations for civil actions related to childhood sexual abuse occurring on or after July 1, 2025, was extended to allow such actions to be brought within the later of 30 years after the victim turns 18, or three years from the date the abuse is discovered if the abuse was not known at the time it occurred.[177]

There are new fee limits for a party requesting a patient's medical record from a provider or the provider's third-party release of information provider.[178]

Liability may be imposed against charitable organizations that knowingly provide long-term housing to individuals who are unlawfully present in the United States and commit a criminal offense while receiving housing, if the charitable organization's is negligent in providing housing.[179]

The list of cancers presumed to be work-related for firefighters was expanded to include prostate cancer, breast cancer, and pancreatic cancer.[180]

The diagnosis of a law enforcement officer or emergency medical responder with post-traumatic stress disorder is presumed to be work-related for purposes of workers' compensation coverage.[181]

The Tennessee Supreme Court is soliciting comments until March 16, 2026, on the following questions related to regulation of the legal profession:

> (1) Whether the Court should modify, reduce, or eliminate its reliance on ABA accreditation in setting minimum educational requirements for applicants to the Tennessee Bar;

[176] H.B. 873, 2025 Reg. Sess. (Tenn. 2025), https://legiscan.com/TN/bill/HB0873/2025.
[177] H.B. 973, 2025 Reg. Sess. (Tenn. 2025), https://legiscan.com/TN/bill/HB0973/2025.
[178] H.B. 495, 2025 Reg. Sess. (Tenn. 2025), https://legiscan.com/TN/bill/HB0495/2025.
[179] S. 227, 2025 Reg. Sess. (Tenn. 2025), https://legiscan.com/TN/bill/SB0227/2025.
[180] S. 288, 2025 Reg. Sess. (Tenn. 2025), https://legiscan.com/TN/bill/SB0288/2025.
[181] H.B. 310, 2025 Reg. Sess. (Tenn. 2025), https://legiscan.com/TN/bill/HB0310/2025.

(2) Whether there are any practicable alternatives to ABA accreditation that the Court should consider;
(3) Whether there are less costly alternatives to the traditional three-year law school curriculum that would adequately prepare individuals for the practice of law;
(4) Whether the Court should consider adopting alternative pathways for admission to the Tennessee Bar—for example, by allowing applicants to satisfy the minimum educational requirements and/or examination requirement in part by completing an apprenticeship or serving with a legal aid organization;
(5) Whether the Court should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility;
(6) Whether any legal services currently provided by lawyers could be competently provided by paraprofessionals and, if so, what qualifications, limitations, or subject matter restrictions the Court should consider imposing; and
(7) Whether the Court should modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers.[182]

Texas

The liability of water parks, including commercial swimming pools and lazy rivers, for injuries to nonemployees is limited if the entity posts a sign at or near the entrance to its property informing guests of its limitation of liability by statute.[183] The immunity does not apply to cases of intentional acts, negligence with regard to the safety of the water park or a water park activity or a water park participant, known dangerous conditions, or improper staff training.

A new App Store Accountability Act establishes consumer protection requirements for app store providers, prohibits app stores from enforcing contracts with minors without parental consent, and classifies violations as deceptive trade practices.[184]

A manufacturer is liable if a vaccine advertised in Texas causes harm.[185] Successful plaintiffs shall recover court costs and reasonable attorney's fees in addition to actual damages. A three-year statute of limitations applies rather than the two-year statute of limitations in Texas for personal injury actions.

Food product labels "developed or copyrighted on or after January 1, 2027," must disclose whether the food product has

[182] *In re* Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Tenn. Sept. 16, 2025), 2865459.pdf.
[183] S. 1119, 2025 Reg. Sess. (Tex. 2025), https://legiscan.com/TX/bill/SB1119/2025.
[184] S. 2420, 2025 Reg. Sess. (Tex. 2025), https://legiscan.com/TX/bill/SB2420/2025.
[185] H.B. 3441, 2025 Reg. Sess. (Tex. 2025), https://legiscan.com/TX/bill/HB3441/2025.

any one of nearly four dozen specified food ingredients, if the U.S. FDA "requires the ingredient to be named on a food label" and the product is "intended for human consumption."[186] Foods containing any of the specified artificial colors, additives and other ingredients shall include a prominent label stating, "WARNING: This product contains an ingredient that is not recommended for human consumption by the appropriate authority in Australia, Canada, the European Union, or the United Kingdom." Foods served in restaurants or retail establishments are excluded. The state's attorney general has exclusive enforcement authority to police violations of the statute. The attorney general may seek to enjoin a manufacturer from violating the labeling requirements and request that the court impose a civil fine of up to $50,000 per day for each distinct food product that is noncompliant. A court also may order the food manufacturer to reimburse the state for the reasonable value of investigating and bringing the enforcement action.

The new food product warning label requirement "has no effect" if a federal law or a regulation issued by the U.S. FDA or USDA on or after September 1, 2025, for any of the nearly four dozen food ingredients specified in the Texas law either "prohibits the use of the ingredient," "imposes conditions on the use of the ingredient, including a condition requiring a warning or disclosure statement," or "determines that an ingredient or class of ingredients is safe for human consumption." Texas's warning label requirement also will be deemed preempted if a federal law or a regulation issued by the U.S. FDA or USDA on or after September 1, 2025, requires "a labeling statement relating to ultra-processed or processed foods."

Utah

Utah adopted medical liability legislation.[187] In a trial, evidence of a claimant's alleged losses for past medical expenses may not be considered before liability has been established and any noneconomic damages award has been fully adjudicated or entered. The court may add economic damages based on amounts the claimant or a third-party insurer actually paid for medical care resulting from the loss or, if the claimant is uninsured, the amount the claimant actually paid or owes for medical care resulting from the loss. The court may not calculate an award of economic damages based solely on amounts indicated on a medical bill or invoice. Further, a claimant may not pursue or collect a judgment against a health care provider's personal assets unless the court finds the provider's conduct was "willful and malicious or intentionally fraudulent" or the provider failed to maintain at least $1 million in insurance. Claimants are prohibited from making allegations the court finds are irrelevant to the adjudication of the claims at issue, made primarily to coerce or induce settlement with an individual defendant

[186] S. 25, 2025 Reg. Sess. (Tex. 2025), https://legiscan.com/TX/bill/SB25/2025.

[187] H.B. 503, 2025 Reg. Sess. (Utah 2025), https://legiscan.com/UT/bill/HB0503/2025.

provider, or that pertain to a provider's personal income or assets.

A court may award attorney fees and costs to a defendant provider if a prelitigation review panel finds a claim to be meritless, the claimant fails to reasonably cooperate in the scheduling of the prelitigation panel review, or the claimant proceeds to litigate the action without obtaining an affidavit of merit and the court finds that the claimant did not substantially prevail. Claimants may pursue litigation regardless of whether (1) they have obtained an affidavit of merit, (2) a review panel deemed the claim to have merit, or (3) the claimant participated in the review panel.

A new App Store Accountability Act establishes new consumer protection requirements for app store providers, prohibits app stores from enforcing contracts with minors without parental consent, and classifies violations as deceptive trade practices.[188] A minor, or parent of that minor, who has been harmed by a violation may bring a civil action against an app store provider or developer and recover the greater of actual damages or $1,000 for each violation plus reasonable attorney fees and litigation costs, subject to a safe harbor provision.

The Utah Supreme Court held that the amount paid by a plaintiff for medical expenses reflects the plaintiff's actual loss incurred and is the measure of special damages.[189] The collateral source rule prohibits evidence that a plaintiff's medical costs were paid by his insurance, but "it does not allow [a plaintiff] to recover special damages for costs he has not and never will incur."[190]

Virginia

Virginia codified a cause of action to subject employers to vicarious liability for an employee's tortious conduct that results in personal injury or death to a "vulnerable victim."[191] A "vulnerable victim" is defined as any person who is at a substantial disadvantage relative to an employee, such as due to diminished physical or mental condition, and includes as a matter of law patients, disabled persons, assisted living facility residents, passengers of a common carrier other than certain transit service providers, passengers of a nonemergency medical transportation carrier, and invitees of an esthetics spa or business offering massage therapy. Vicarious liability may be imposed if: (1) the employee's tortious conduct occurred while the employee was reasonably likely to be in contact with the vulnerable victim and the conduct proximately caused personal injury or death; (2) the employer failed to exercise reasonable care to prevent the employee's intentional harm or control the employee;

[188] S. 142, 2025 Reg. Sess. (Utah 2025), https://legiscan.com/UT/bill/SB0142/2025.

[189] *Garnder v. Norman*, 2025 WL 3030153 (Utah Oct. 30, 2025).

[190] *Id*. at * 8.

[191] H.B. 1730, 2025 Reg. Sess. (Va. 2025), https://legiscan.com/VA/bill/HB1730/2025.

(3) the employer knew or should have known of the ability to control the employee; and (4) the employer knew or should have known of the necessity and opportunity for exercising such control over the employee.

Virginia also expanded civil immunity for individuals who participate in professional programs related to career fatigue and wellness for health care professionals to include those who participate in programs for any health care professional licensed, registered, or certified by the Department of Health Professions or students enrolled in programs that are prerequisites for such professions.[192]

A prohibition of noncompete agreements for "low-wage employees" was expanded to cover all employees who are eligible for overtime pay under the Fair Labor Standards Act.[193]

The statute of limitations for wrongful death claims was amended to allow tolling of claims during the pendency of any criminal prosecution that arises out of the same facts as the wrongful death claim, and to provide that after the tolling period ends a claimant has the longer of the remaining statutory limitations period or one year to pursue the wrongful death claim.[194]

Governor Glenn Youngkin vetoed legislation that would have raised the Commonwealth's appeal bond cap from $25 million to $200 million.[195] According to Governor Youngkin, "The right to appeal is meaningless if a party faces an artificially high barrier blocking important judicial review of judgments from trial court juries."[196]

Washington

Washington provided immunity to persons who forcibly enter a motor vehicle to rescue a vulnerable person or domestic animal.[197]

The Washington State Bar began accepting applications for an Entity Regulation Pilot Project launched in December 2024 to allow approved nonlawyer entities to deliver legal and law-related services.[198] The project will conclude when the Washington State Bar Association and the Washington Supreme Court's Practice of Law Board "have sufficient data and information to determine how to proceed with respect to studying

[192] H.B. 1636, 2025 Reg. Sess. (Va. 2025), https://legiscan.com/VA/bill/HB1636/2025.
[193] S. 1218, 2025 Reg. Sess. (Va. 2025), https://legiscan.com/VA/bill/SB1218/2025.
[194] H.B. 2387, 2025 Reg. Sess. (Va. 2025), https://legiscan.com/VA/bill/HB2387/2025.
[195] H.B. 2351, 2025 Reg. Sess. (Va. 2025), https://legiscan.com/VA/text/HB2351/2025.
[196] Letter from Gov. Glenn Youngkin to House of Delegates re House Bill 2351, May 2, 2025, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/upload/Vetoes-COMBINED-DOC---FINAL.pdf.
[197] H.B. 1046, 69th Leg., 2025 Reg. Sess. (Wash. 2025), https://legiscan.com/WA/bill/HB1046/2025.
[198] In the Matter of the Adoption of a Pilot Project to Test Entity Regulation Using the Practice of Law Board's Framework for Legal Regulatory Reform, No. 25700-B-721 (Wash. Dec. 5. 2024), https://assets.law360news.com/2270000/2270448/dec.%205%20order.pdf.

entity regulation and other regulatory innovations. In any event, the pilot project shall end 10 years after the date that the first entity is granted authority by the Court to participate in the pilot project, unless extended by the Court."[199]

West Virginia

West Virginia codified a limited cause of action against a licensee or person acting on a licensee's behalf who knowingly serves alcohol to a person who is visibly intoxicated or not of lawful drinking age for harm caused by the impaired or intoxicated person.[200] With respect to claims involving underage drinking, there is a rebuttable presumption that a person does not knowingly furnish alcoholic beverages if the seller or server demonstrates it has (1) installed a point of sale transaction scan device on its licensed premises, (2) developed a written age verification policy that has been communicated to each employee, servant, or agent, and (3) monitors compliance with the policy. The legislation also precludes a private cause of action against a licensee, person acting on the licensee's behalf, or owner or lessor of any building of a licensee for injury to a person voluntarily riding in a motor vehicle operated by an intoxicated driver of lawful drinking age. The legislation additionally bars any private action against an owner or lessor who rents a building or premises to a licensee subject to the Act's limited cause of action unless the owner and licensee are the same person or clear and convincing evidence demonstrates that the owner or lessor acted willfully, wantonly, or with gross negligence. Further, where a licensee maintains liquor liability insurance of at least $1 million per occurrence and $2 million in the aggregate, damage awards for past medical expenses are capped at $1 million and punitive damages are capped at two times compensatory damages.

Wisconsin

The Wisconsin Senate unanimously voted to align the state's expert evidence rule with Federal Rule of Evidence 702.[201] Senate passage swiftly followed unanimous adoption in the Senate Committee on Judiciary and Public Safety. A House committee had a positive hearing on identical legislation.[202]

Wyoming

Licensed physicians and operators of ambulances or rescue vehicles who provide mental health crisis assistance without compensation were given immunity for civil liability.[203] The immunity does not apply to acts or omissions constituting gross negligence or willful or wanton misconduct.

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[199] *Id*.

[200] H.B. 3513, 2025 Reg. Sess. (W. Va. 2025), https://legiscan.com/WV/bill/HB3513/2025.

[201] S.B. 459, 2025 Reg. Sess. (Wis. 2025), https://legiscan.com/WI/bill/SB459/2025.

[202] A.B. 458, 2025 Reg. Sess. (Wis. 2025), https://legiscan.com/WI/bill/AB458/2025.

[203] S.F. 130, 68th Leg., 2025 Reg. Sess. (Wyo. 2025), https://legiscan.com/WY/bill/SF0130/2025.

Key Court Decisions

Decisions Upholding Civil Liability Laws

The Louisiana Supreme Court upheld a provision in the Louisiana Health Emergency Powers Act establishing a gross negligence standard with respect to the civil liability of health care providers during a declared public health emergency.[204] The court concluded that the immunity provision was rationally related to the state's interest in ensuring access to medical care during a public health emergency, such as the COVID-19 pandemic.

The Pennsylvania Supreme Court held that the federal Protection of Lawful Commerce in Arms Act, which provides qualified immunity to firearm industry members, does not violate the Commerce Clause, Tenth Amendment, or principles of federalism.[205]

The Michigan Supreme Court declined to answer a question certified by the United States District Court for the Eastern District of Michigan regarding the constitutionality of the state's noneconomic damages caps applicable to medical malpractice cases, leaving the caps undisturbed.[206]

The Indiana Court of Appeals upheld a retroactive law that blocks political subdivisions from bringing or maintaining a public nuisance action against a firearms manufacturer or seller and bars recovery of damages resulting from the criminal or unlawful misuse of a firearm or ammunition by a third party. [207]

The North Carolina Court of Appeals held that the state's inflation-adjusted $500,000 statutory cap on noneconomic damages in medical liability cases does not violate the right to a jury trial.[208] According to the court, "the Legislature has the power to 'define the circumstances under which a remedy is legally cognizable' without impairing the right to a jury trial."[209]

Courts also upheld civil justice laws benefiting plaintiffs. The Illinois Supreme Court upheld a 2019 amendment to the state's Workers' Occupational Diseases Act to allow employees whose claims are time-barred under the Act to seek compensation through a civil action.[210] The Maryland[211]

[204] *Welch v. United Med. Healthwest-New Orleans L.L.C.*, 403 So. 3d 554 (La. 2025).

[205] *Gustafson v. Springfield, Inc.,* 333 A.3d 651 (Pa. 2025).

[206] *In re Certified Question from United States Dist. Ct. for E. Dist. of Mich.*, 21 N.W.3d 918 (Mem) (Mich. 2025).

[207] *Smith & Wesson Corp. v. City of Gary*, 2025 WL 3750775 (Ind. Ct. App. Dec. 29, 2025).

[208] *Mohebali v. Hayes*, 920 S.E.2d 904 (N.C. Ct. App. 2025).

[209] *Id*. at *7 (citation omitted).

[210] *Martin v. Goodrich Corp*., 268 N.E.3d 170 (Ill. 2025).

[211] *Roman Catholic Archbishop of Wash. v. Doe*, 330 A.3d 1069 (Md. 2025).

and North Carolina[212] Supreme Courts upheld laws retroactively reviving time-barred childhood sexual abuse claims.

Decisions Striking Down Civil Liability Laws

The Maine and New Hampshire Supreme Courts struck down laws that retroactively abolished time restrictions on child sexual abuse claims.[213]

The Arizona Supreme Court held that a law shielding health care providers from ordinary negligence claims relating to their provision of pandemic-related medical treatment violated the Anti-Abrogation Clause of the Arizona Constitution.[214]

Two Ohio Courts of Appeals held that Ohio's statutory limit on noneconomic damages in medical liability cases was unconstitutional as applied to plaintiffs in those cases. In one case, presently under review by the Ohio Supreme Court, a Cleveland area appellate court held that the cap violated the due course of law clause in the Ohio Constitution as applied to the plaintiff.[215] In the other case, the cap survived a facial challenge in a Columbus area appellate court but the court held that the cap violated the due process and equal process protections in the Ohio Constitution as applied to the plaintiff.[216]

A Florida appellate court held that legislation exempting sport shooting ranges from liability related to noise and prohibiting nuisance actions against such ranges violated the Florida Constitution's access to courts provision as applied to landowners who claimed loss of enjoyment of their land after a private shooting range opened for business on adjoining land.[217]

Conclusion

Corporate defendants are increasingly focused on curbing "nuclear verdicts" and regulating third-party litigation funding. Sweeping civil justice legislation was enacted in Georgia and Oklahoma with the strong support of Governors Kemp and Stitt, respectively. The plaintiffs' bar is working to repeal or weaken existing "tort reform" laws, while continuing to push for larger awards in wrongful death cases. A growing list of states have updated their rules of evidence governing expert testimony to mirror or more closely align with 2023 amendments to Federal Rule of Evidence 702. The federal judiciary approved the first

[212] *McKinney v. Goins*, 911 S.E.2d 1 (N.C. 2025); *see also Cohane v. Home Missioners of Am*., 911 S.E.2d 43 (N.C. 2025) (companion case holding that SAFE Child Act "resuscitates claims against direct abusers as well as those who allegedly enabled the abuse").

[213] *Dupuis v. Roman Catholic Bishop of Portland*, 331 A.3d 294 (Me. 2025); *Ball v. Roman Catholic Bishop of Manchester*, 2025 N.H. 45 (2025).

[214] *Roebuck v. Mayo Clinic*, 575 P.3d 375 (Okla. 2025).

[215] *Paganini v. Cataract Eye Ctr. of Cleveland, Inc*., 262 N.E.3d 1161, 1180 (Ohio Ct. App.), *rev. granted*, 259 N.E.3d 563 (Table) (Ohio), *motion to dismiss appeal denied*, 180 Ohio St.3d 1438 (2025).

[216] *Lyon v. Riverside Methodist Hosp*., 2025 WL 2416862 (Ohio Ct. App. Aug. 21, 2025).

[217] *Gartman v. S. Tactical Range, LLC*, 417 So. 3d 449 (Fla. 1st Dist. Ct. App. 2025).

proposed rule for multidistrict litigation and amendments to privilege log rules. The new rules took effect on December 1, 2025.

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