IADC COMMITTEE NEWSLETTER

CIVIL JUSTICE RESPONSE

November 2026

IN THIS ISSUE

This paper reviews key civil justice issues and changes in 2026. 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 2026. 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 summarizes key developments regarding American Law Institute Restatement projects. The article then summarizes liability law changes at the state level in 2026. Finally, it highlights 2026 cases that addressed the constitutionality of state civil justice laws.

2026 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 Highlights in 2026

Wisconsin, Kansas, and South Dakota joined the growing list of states that have updated rules governing expert testimony to align with the 2023 amendments to Federal Rule of Evidence (FRE) 702.[1] Previously, Arizona, Kentucky, Michigan, and Ohio updated their state law companions to FRE 702 by court rule and Louisiana and Oklahoma did so through bipartisan legislation. The Delaware Supreme Court embraced the federal approach in a 2025 decision.

New York enacted significant legal reforms as part of Governor Kathy Hochul's push to reduce auto insurance rates and combat fraud. Progress was also made in California to address inflated medical damages in cases involving rideshare companies.

States continue to enact laws or adopt court rules regulating consumer and commercial litigation funding. North Carolina became the first state to make it unlawful for a person to engage in commercial litigation funding or to furnish commercial litigation financing to a party or counsel of record in a civil proceeding in the state. Tennessee enacted one of the more robust laws in the country to regulate commercial litigation funding. Delaware Superior Court Rule 26(b) was amended to permit limited discovery into the existence of litigation funding in a case, the parties to the litigation funding agreement, and the funder's contractual right to control aspects of the litigation, such as the right to approve any settlement.

Five states enacted laws that generally shield energy companies from climate change lawsuits based on greenhouse gas emissions.

The highest courts of Tennessee and the District of Columbia rejected proposals to relax prohibitions on nonlawyer ownership of law firms. California, Colorado, and Illinois enacted pioneering laws to regulate law firm management services organizations and restrict their influence on lawyers' professional decisions. The South Carolina Supreme Court solicited comments on whether to amend Rule 5.4 of the Rules of Professional Conduct to prohibit private equity investment in the practice of law.

Colorado banned lead generation legal marketing.

Democrat governors in Colorado and Virginia bucked their party and vetoed certain pro-lawsuit measures.

Notwithstanding these important developments, the business and civil justice community faces strong headwinds. Nuclear verdicts continue to increase in size and

[1] For a discussion of the 2023 amendments to Rule 702, 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); Lee Mickus, Mark Behrens & Christopher Appel, *The Early Returns Are In: A Review of the First Two Years of Amended Federal Rule of Evidence 702*, 94 U. Cin. L. Rev. 915 (2026).

frequency.[2] According to Marathon Strategies, "Corporate defendants faced a record-breaking surge in nuclear verdicts in 2025, with nearly 200 jury awards of $10 million or more totaling over $25.6 billion—a 40.7% increase from 2024 and the highest annual total Marathon has recorded since 2009."[3]

In addition, the personal injury bar is aggressively pushing measures in red and blue states to repeal or soften existing legal reforms. These efforts are seeing a boost from an evolving political alignment where populist members of the GOP increasingly find common ground with trial lawyers.[4] The November election results will further boost the trial bar's political efforts in many states. Businesses will need to repel trial bar attempts to chip away at past successes in places such as Florida and Utah (phantom damages), and try to hold the line against aggressive efforts by the trial bar to expand liability in places such as Virginia.

2026 Civil Justice — Federal: Congress, Executive Branch, and the Judiciary (Rules Amendments)

Congress

Several bills were introduced in Congress to regulate commercial third-party litigation funding.[5] One of the bills advanced out of a House committee but did not reach the floor.[6]

By a party-line vote, the Senate Committee on Agriculture, Nutrition & Forestry rejected an amendment to a broader farm bill that

[2] Marathon Strategies, *Corporate Verdicts Go Thermonuclear* (2026 ed.), https://marathonstrategies.com/report/thermocorporate-verdicts-go-thermonuclear-2026-edition/.

[3] *Id.* (emphasis in original).

[4] Eleanor Klibanoff, *Trial lawyers, Once a Force for Democrats, Reclaim Political Clout in Texas GOP's MAGA Wing,* TEX. TRIB., Aug. 12, 2026, https://www.texastribune.org/2026/08/12/texas-trial-lawyers-gop-texans-for-lawsuit-reform-tort-civil-justice/; Lawrence Mower, *Once Foes, Florida Republicans, Trial Lawyers Find Conservative Agenda is Common Ground*, MIAMI HERALD, Mar. 2, 2022, https://www.miamiherald.com/news/politics-government/state-politics/article258978843.html#storylink=cpy.; *see also* Amanda Chu, *RFK Jr. is Bringing The GOP and The Trial Bar Together,* POLITICO, Jan. 1, 2026, https://www.politico.com/news/2026/01/19/rfk-lawyers-plaintiffs-tort-trial-bar-00735148.

[5] S.3826, Litigation Funding Transparency Act of 2026, 119th Cong., 2d Sess. (2026), https://www.congress.gov/bill/119th-congress/senate-bill/3826/text; 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; 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 Sess. (2025), https://www.congress.gov/bill/119th-congress/senate-bill/1821.

[6] 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.

would have allowed failure to warn lawsuits against pesticide manufacturers that are currently preempted by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),[7] according to a 2026 U.S. Supreme Court decision.[8]

Executive Branch

In February, President Trump issued an Executive Order identifying "United States-based production of glyphosate-based herbicides [a]s central to American economic and national security."[9] The executive order explained,

> [G]lyphosate-based herbicides … play a critical role in maintaining America's agricultural advantage by enabling farmers to efficiently and cost-effectively produce food and livestock feed. As the most widely used crop protection tools in United States agriculture, glyphosate-based herbicides are a cornerstone of this Nation's agricultural productivity and rural economy, allowing United States farmers and ranchers to maintain high yields and low production costs while ensuring that healthy, affordable food options remain within reach for all American families…. Lack of access to glyphosate-based herbicides would critically jeopardize agricultural productivity, adding pressure to the domestic food system, and may result in a transition of cropland to other uses due to low productivity.[10]

In March, it was reported that the U.S. National Institutes of Health (NIH) "is cutting ties with the International Agency for Research on Cancer (IARC)," the World Health Organization's cancer research arm.[11] The move appears to be a consequence of the country's formal exit from WHO in January 2026.[12]

In June, the Department of State and Department of Health and Human Services

[7] Rachel Frazin, *Republicans Vote Down Farm Bill Amendment Enabling Lawsuits Against Pesticide Companies, A Blow to MAHA*, THE HILL, Aug. 6, 2026, https://thehill.com/policy/energy-environment/6014744-pesticide-farm-bill-maha-booker/.

[8] *Durnell v. Monsanto Co.*,146 S. Ct.2001 (2026).

[9] President Donald J. Trump, Executive Order 14387, Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorous and Glyphosate-Based Herbicides (Feb. 18, 2026), https://www.federalregister.gov/documents/2026/02/23/2026-03628/promoting-the-national-defense-by-ensuring-an-adequate-supply-of-elemental-phosphorus-and.

[10] *Id.*

[11] Jocelyn Kaiser, *United States is Cutting Ties with Influential Global Cancer Agency*, SCI., Mar. 13, 2026, https://www.science.org/content/article/united-states-cutting-ties-influential-global-cancer-agency.

[12] U.S. Dep't of State & Dep't of Health & Human Servs., *Joint Statement by Secretary of State Rubio and Secretary of Health and Human Services Kennedy on the Termination of U.S. Membership in the World Health Organization (WHO)*, Jan. 22, 2026, https://www.hhs.gov/press-room/joint-statement-by-secretary-of-state-rubio-and-secretary-of-health-and-human-services-kennedy-on-the-termination-of-us-membership-in-the-world-health-organization-who.html.

issued a "Joint Statement on the Preeminence of the U.S. Government Regulating Health Risks for Americans."[13] The joint statement explains, "International organizations can play a constructive role in advancing scientific discussion, but their conclusions should not automatically be treated as definitive in the United States."[14] The joint statement cited certain international cancer hazard assessments by IARC as especially problematic.[15]

U.S. Department of Health and Human Services Secretary Robert F. Kennedy, Jr. signed determinations terminating the COVID-19 Emergency Use Authorization declarations for drugs and biological products and for medical devices.[16]

The U.S. Consumer Product Safety Commission announced a significant restructuring of the National Electronic Injury Surveillance System (NEISS), the nation's principal system for tracking consumer product-related injuries, beginning in 2027.[17]

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration determined that the Federal Hazardous Material Transportation Act preempts certain New Jersey common law tort claims concerning the marking, employee training, loading and unloading, and hazardous material classification for gasoline transported by cargo tank motor vehicle (CTMV).[18] The preemption determination originated from common law tort claims brought against an energy producer by a former driver whose duties included driving a CTMV and filling it with gasoline at the company's facility in New

[13] U.S. Dep't of State & Dep't of Health & Human Servs., *Joint Statement on the Preeminence of the U.S. Government Regulating Health Risks for Americans*, June 8, 2026, https://www.state.gov/releases/office-of-the-spokesperson/2026/06/joint-statement-on-the-preeminence-of-the-u-s-government-regulating-health-risks-for-americans/.

[14] *Id*.

[15] *See generally* Nathan A. Schachtman, *IARC's Precautionary Science: How the WHO Cancer Research Agency Misinforms Regulation and Litigation*, Wash. Legal Found., May 18, 2026, https://www.wlf.org/2026/05/18/publishing/iarcs-precautionary-science-how-the-who-cancer-research-agency-misinforms-regulation-and-litigation/; Glenn G. Lammi, *Two Federal Agencies Raise Questions about IARC's Role in U.S. Law and Policy*, WLF LEGAL PULSE, June 9, 2026, https://www.wlf.org/2026/06/09/wlf-legal-pulse/two-federal-agencies-raise-questions-about-iarcs-role-in-u-s-law-and-policy/.

[16] U.S. Dep't of Health & Human Servs., Press Release, *HHS Secretary Kennedy Signs COVID-19 Emergency Use Authorization Declaration Terminations*, June 30, 2026, https://www.hhs.gov/press-room/hhs-ends-covid-19-emergency-use-authorizations.html.

[17] U.S. Consumer Product Safety Comm'n, Press Release, *CPSC Modernizes Decades-Old Injury Surveillance System to Protect More Americans, Faster*, July 22, 2026, https://www.cpsc.gov/Newsroom/News-Releases/2026/CPSC-Modernizes-Decades-Old-Injury-Surveillance-System-to-Protect-More-Americans-Faster.

[18] U.S. Dept. of Transp., Pipeline & Hazardous Materials Safety Admin., *Hazardous Materials: Notice of Administrative Determination of Preemption for Common Law Tort Claims Concerning the Transportation of Gasoline*, 91 FED. REG. 57439 (Sept. 9, 2026), https://www.govinfo.gov/content/pkg/FR-2026-09-09/pdf/2026-18382.pdf.

Jersey. The driver asserted that benzene in gasoline causes an unreasonably high risk of cancer for hazardous materials employees who transport it.

The Judiciary

U.S. Court of International Trade

The U.S. Court of International Trade updated its corporate disclosure form to require disclosure of the identity of "each third-party litigation funder" for any party "that has obtained third-party litigation funding."[19]

Federal Rules Amendments Taking Effect on December 1, 2026

The federal judiciary and Congress approved amendments to various federal court rules effective December 1, 2026.[20] Among the new changes, amended Federal Rule of Evidence 801 provides that "that a prior inconsistent statement by a witness subject to cross-examination is admissible over a hearsay objection, even where the prior statement was not given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition."[21]

Amendments Approved by Civil Rules Advisory Committee

Proposed amendments to the Federal Rules of Civil Procedure and Federal Rules of Appellate Procedure were approved by the appropriate advisory committees, the Committee on Rules of Practice and Procedure (known as the Standing Committee), and the Judicial Conference of the United States.[22] If adopted by the United States Supreme Court and transmitted to Congress by May 1, 2027, absent congressional action, the proposed amendments will take effect on December 1, 2027. Below is a summary of key proposed rule changes:

Corporate disclosures: An amendment to Federal Rule of Civil Procedure 7.1(a)(1) would require "any party or would-be intervenor that is a private business organization to disclose any publicly held business organization that 'directly or indirectly' owns 10 percent or more of the party or intervenor."[23] The term "business

[19] U.S. Ct. of Int'l Trade, Disclosure of Corporate Affiliations and Financial Interest – Form 13 (eff. Jan. 5, 2026), https://www.cit.uscourts.gov/sites/cit/files/Form%2013.pdf.

[20] Letters from Hon. John Roberts, Jr., Chief Justice, U.S. Supreme Court, to Hon. Mike Johnson, Speaker of the U.S. House of Representatives, and Hon. James D. Vance, President of the U.S. Senate, submitting amendments to Appellate Form 4; Bankruptcy Rules 1007, 3018, 5009, 9006, 9014, 9017, and new Rule 7043; and Evidence Rule 801 to Congress, Apr. 8, 2026, https://www.uscourts.gov/sites/default/files/document/2026_congressional_package_final.pdf.

[21] *Id*. (proposed FED. R. EVID. 801 Comm. Note).

[22] Memorandum from Scott S. Harris, Clerk, Supreme Court of the United States, to Hon. James C. Dever III, Chair, Comm. on Rules of Prac. & Proc., Summary of Proposed Amendments to the Fed. Rules of Prac. & Proc, Oct. 20, 2026, https://www.uscourts.gov/sites/default/files/document/2026-scotus-package.pdf.

[23] *Id.* at 2-3.

organization" in the rule will be substituted for the word "corporation" to clarify that the disclosure requirement applies to different forms of business entities.

Voluntary dismissal: An amendment to Federal Rule of Civil Procedure 41(a) will resolve a circuit split by clarifying that a party "may obtain a voluntary dismissal of one or more claims raised in a complaint without dismissing the entire action."[24] The amendment also provides that a stipulation of dismissal "need be signed only by the parties who remain in the action at the time of the dismissal."[25]

Methods of service of subpoenas: A proposed amendment to Federal Rule of Civil Procedure 45(b) "clarifies how a subpoena for testimony may be served and whether the witness fee must be tendered simultaneously."[26] Under the proposed amendment, methods for serving a subpoena will include hand delivery; leaving a copy at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there; sending a copy to the person's last known address by U.S. mail or commercial carrier (e.g., FedEx and UPS) if confirmation of actual receipt can be provided; or other means of service approved by the court for good cause.[27] The proposed amendment also "relax[es] the current requirement that witness fees be tendered at the time of service" and provides "a 14-day notice period (subject to shortening by the court for good cause) when the subpoena requires attendance at a trial, hearing, or deposition."[28]

Remote testimony: A proposed amendment to Federal Rule of Civil Procedure 45(c) addresses subpoenas for remote testimony. Proposed new subsection (c)(2) clarifies that "the place of attendance for remote testimony is the location where the person is commanded to appear in person."[29] Under the new rule, "the court's subpoena power for in-court remote testimony extends nationwide so long as the subpoena does not command the witness to travel farther than the distance authorized under Rule 45(c)(1)."[30] An proposed ancillary amendment to Rule 26(a) "relating to pretrial disclosures requires disclosure of a party's expectation as to whether each of its witnesses' testimony will be in person or remote."[31]

Amicus briefs: Proposed amendments to Federal Rule of Appellate Procedure 29 "expand the disclosure obligations in amicus briefs filed at the initial stage of an appeal, including disclosure of whether the amicus is newly created, whether a party or its counsel has a majority ownership interest in or majority control of an amicus, and other information relating to its relationship to parties and nonparties (such as certain earmarked contributions by nonmembers of

[24] *Id.* at 3.
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*

the amicus of more than $100)."[32] In addition, the proposed amendments include "broader disclosures concerning the background of the amicus—including its identity, history, experience, and interest."[33] Except with the court's permission, amicus briefs filed during a court's initial consideration of a case on the merits will be limited to 6,500 words.

Federal Civil Rules Advisory Committee Study Issue – TPLF

A Third-Party Litigation Funding (TPLF) Subcommittee of the Advisory Committee on Civil Rules continues to study whether and how to amend the Federal Rules of Civil Procedure to require TPLF disclosure.[34]

In September, a coalition of 214 companies sent a joint letter to the Advisory Committee urging it "to require disclosure of nonparty litigation funders who, under the current rules, participate in litigation and court judgments on a clandestine basis—that is, without disclosing their involvement and the nature of their interests to the court, to other parties, or to the general public."[35]

In October, Senator Charles Grassley (R-IA), chair of the U.S. Senate Judiciary Committee, submitted a letter to the Advisory Committee encouraging an amendment that would "increase public disclosure of third-party funding in litigation."[36]

Federal Evidence Rules Advisory Committee Study Issue – AI

In October, the Advisory Committee of Evidence Rules convened a half-day mini-conference to consider potential evidence rules to govern allegations of "deepfakes" and the admissibility of AI-generated

[32] *Id.* at 2.
[33] *Id.*
[34] *See* Advisory Comm. on Civil Rules, Agenda Book, Oct. 21, 2026, at 139-151, https://www.uscourts.gov/sites/default/files/document/2026-10_civil_rules_committee_agenda_book_9-28_final.pdf; Lawyers for Civil Justice & U.S. Chamber Inst. for Legal Reform, Rules Suggestion to the Advisory Comm. on Civil Rules and its TPLF Subcomm. (Mar. 10, 2026) (proposal to amend Rule 26(a)(1)(A) to guide courts and parties on TPLF disclosure while preserving judicial discretion and protecting parties' assertions of privilege), https://instituteforlegalreform.com/letters-comments-petitions/proposal-on-tplf-disclosure-to-federal-advisory-committee/; Jeff Overley, *Judicial Panel Backs Legal Finance Project, Subpoena Rules*, LAW360, Apr. 14, 2026 (quoting TPLF subcommittee chair U.S. District Judge David Proctor as stating, "We're concerned about people outside the courtroom arguably controlling what's going on in the courtroom"), https://www.law360.com/articles/2462649/print?section=access-to-justice.
[35] Letter from 214 companies to Carolyn A. Dubay, Secretary, Comm. on Rules of Prac. & Proc., Disclosure of Nonparty Participation in Litigation, Sept. 14, 2026, https://askabouttplf.com/wp-content/uploads/2026/09/214-company-letter-urging-TPLF-disclosure-rule-September-14-2026-Final.pdf.
[36] Letter from U.S. Sen. Charles Grassley, Chair, Comm. on the Judiciary, to Carolyn A. Dubay, Secretary, Comm. on Rules of Prac. & Proc., Oct. 21, 2026, https://www.insurancejournal.com/app/uploads/2026/10/FINAL-CEG-Letter-to-OA-261021.pdf.

opinions.[37] The Advisory Committee plans to form a subcommittee to take a deeper look at the issues and is expected to continue working on draft rules.

American Law Institute (ALI)

Restatement of Torts, Third: Remedies

The ALI membership gave final approval to the Restatement of the Law Third, Torts: Remedies at the ALI's Spring meeting. Launched in 2019, the Torts: Remedies Restatement "provides guidance on the recovery and measurement of damages, restitution of a wrongdoer's profits, injunctions against threatened or continuing torts, and other forms of specific relief."[38] Topics covered by the Restatement "include general rules for measuring compensatory, nominal, and punitive damages, and compensation for specific harms such as lost wages or lost profits, medical expenses, pain and suffering, emotional distress, and damage to property."[39]

Among other developments, the Torts: Remedies Restatement recommends that courts "eliminate reliance on race- and sex-based assumptions in calculating personal injury damages such as future lost earnings and medical expenses."[40] The Restatement "also proposes a rule to explain and rationalize the longstanding judicial practice of compensating dignitary harm whether or not there is any more direct evidence of damages."[41]

Other ALI Projects

The ALI is working on projects focusing on civil liability for artificial intelligence, including tort liability for conduct in relation to artificial-intelligence models or systems; constitutional torts; property; conflict of laws; governance of biometrics; and high-volume civil adjudication.

2026 Civil Justice Reforms — States

Alabama

A new Alabama Personal Data Protection Act regulates data controllers and processors that conduct business in Alabama or produce a product or service that is targeted to Alabama residents and that either (1) control or process the personal data of at least 25,000 consumers or (2) derive more than 25% of gross revenue from the sale of personal data.[42] The Attorney General has exclusive authority to enforce the provisions of the Act after a 45-day cure period.

[37] *See* Advisory Comm. on Evid. Rules, Agenda Book, Oct. 15, 2026, at 133-182, https://www.uscourts.gov/sites/default/files/document/2026-10-evidence-rules-agenda-book.pdf.
[38] Am. L. Inst. Press Release, *Restatement of the Law Third, Torts: Remedies Is Approved,* May 18, 2026, https://www.ali.org/news/articles/restatement-law-third-torts-remedies-approved.
[39] *Id*.
[40] *Id*.
[41] *Id*.
[42] H.B. 351, 2026 Reg. Sess. (Ala. 2026), https://legiscan.com/AL/bill/HB351/2026.

Arizona

Arizona Governor Katie Hobbs vetoed legislation that would have subjected the Attorney General to civil liability for meritless public nuisance or consumer fraud actions if the Attorney General knew or should have known that the action lacked sufficient legal or factual basis or if the Attorney General publicized the filing of the action.[43]

Arkansas

The Arkansas Supreme Court amended the Arkansas Rules of Civil Procedure to require discovery to be "proportional to the needs of the case," among other changes.[44] The court also adopted a new evidence rule to effectuate the General Assembly's 2025 adoption of phantom damages reform legislation.[45]

California

California enacted first-in-the-nation legislation establishing ethical requirements for attorneys and arbitrators using generative artificial intelligence.[46] Attorneys are prohibited from delegating the practice of law to generative artificial intelligence. Attorneys who use generative artificial intelligence to assist in the practice of law shall not enter confidential, personal identifying, and other nonpublic information into a generative artificial intelligence system. Further, attorneys must take reasonable steps to verify the accuracy of generative artificial intelligence outputs, including case and statutory citations, and correct any erroneous or hallucinated output in any material used by the attorney. Attorneys also must disclose the use of generative artificial intelligence to the court for all documents submitted to the court and consider whether to disclose the use of generative artificial intelligence if it is used to create content provided to the public. No brief, pleading, motion, or other paper filed in court shall contain any citations that the attorney responsible for submitting the pleading has not personally verified, including any citation provided by generative artificial intelligence. Arbitrators shall not delegate any part of their decision-making process to a generative artificial intelligence tool and shall not rely on information generated by generative artificial intelligence outside the record without making appropriate disclosures to the parties beforehand.

California also moved to ban corporate investors from interfering with an attorney's

[43] H.B. 2167, 2026 Reg. Sess. (Ariz. 2026), https://legiscan.com/AZ/bill/HB2167/2026.
[44] *In re* Arkansas Supreme Court Comm. on Civil Practice – Recommendations to Adopt Rule 11(d); to Amend Rule 26(b), 26(c)(1) and (2), 26(f)(1) and (2), and to Adopt Rule 26(g)(1), (2), and (3) of the Arkansas Rules of Civil Procedure, 2026 Ark. 106 (2026), https://opinions.arcourts.gov/ark/supremecourt/en/item/524501/index.do.
[45] *In re* Creation of Rule 412 of the Arkansas Rules of Evidence, 2026 Ark. 108 (2026), https://opinions.arcourts.gov/ark/supremecourt/en/item/524503/index.do.
[46] S.B. 574, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/SB574/2025.

professional judgment regarding substantive legal decisions, providing that such activities constitute the unauthorized practice of law.[47] The new law targets management services organizations used by private equity firms and hedge funds to invest in law firms. In addition, a contract between a litigation practice and corporate legal funder shall not restrict an attorney or client from withdrawing from representation in the event of a nonlawyer engaging in the unauthorized practice of law or impose financial penalties for reporting or resisting a nonlawyer engaging in the unauthorized practice of law. A violation of the statute by an attorney shall be grounds for the imposition of discipline by the State Bar and shall subject an attorney and corporate legal funder to statutory or actual damages, attorney's fees and costs, and other relief.

In addition, California bolstered an existing law that makes it unlawful for a person to act as a runner or capper for an attorney or to solicit any business for an attorney.[48] The new law imposes a $25,000 penalty for each violation and requires the State Bar of California to seek disbarment of offenders. The legislation was introduced "after allegations surfaced that the Downtown LA Law Group, a plaintiffs law firm, used intermediaries to solicit people to submit false claims under a $4 billion sexual abuse settlement with Los Angeles County."[49]

An attorney entering into a loan or financial assistance arrangement with a client must have a separate written contract that contains the total amount financed, repayment terms and contingencies, and all fees, costs, and charges.[50] Attorneys are prohibited from charging the client interest on any loan or funds. Violations of these requirements are subject to a civil penalty of $15,000 per offense or injunctive relief, and subject to discipline by the State Bar.

A temporary 4-year pilot window that allowed estates to recover a decedent's pre-death pain and suffering in survival actions expired on January 1, 2026.[51]

Effective January 1, 2026, the minimum uninsured/underinsured motorist insurance coverage required by rideshare companies was reduced from $1 million per incident to $300,000 per incident (or $60,000 per individual).[52] Another new law adjusted how medical damages and lien-based treatments are calculated in personal injury claims involving rideshare companies.[53]

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[47] A.B. 2305, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/AB2305/2025.
[48] A.B. 2039, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/AB2039/2025.
[49] Amanda Robert, *California Toughens Penalties for Lawyers Who Pay People to Recruit Clients*, ABA J., Sept. 29, 2026, https://www.abajournal.com/news/article/california-toughens-penalties-for-lawyers-who-pay-people-to-recruit-their-clients.
[50] A.B. 2039, *supra*.
[51] S.B. 447, 2022 Reg. Sess. (Cal. 2022), https://legiscan.com/CA/bill/SB447/2021.
[52] S.B. 371, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/SB371/2025.
[53] S.B. 623, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/SB623/2025.

Another new law, the Compete Act, expands California's Cartwright Act to allow the state to pursue monopoly and monopsony claims against a solo company, instead of requiring multicompany coordinated conduct.[54] The Act also requires courts to "liberally interpret California's antitrust laws to best promote free and fair competition."[55]

California narrowed the wave of litigation challenging website tracking tools under California's Invasion of Privacy Act.[56] The new law bars private pen-register and trap-and-trace claims arising from activity on websites and online or mobile applications and retroactively extinguishes such claims in actions filed on or after January 1, 2025.

The Eureka State also enacted laws, including a Smoke Damage Recovery Act, to address smoke damage after wildfires.[57]

Governor Gavin Newsom vetoed two other bills that would have given policyholders more information about how insurers calculate wildfire claim payments, required insurers to pay claims within certain timeframes, and could have punished companies for delays.[58] In a message that accompanied the vetoes, Governor Newsome said the bills would "codify portions of unrelated, existing regulations that are unnecessary at this time."[59]

The California Supreme Court directed the state bar to solicit public comments on a proposed community justice worker program that would allow nonlawyers to provide limited legal assistance under the supervision of qualified legal aid organizations.[60]

Cal/OSHA is moving to implement an emergency regulation to ban quartz countertops with more than 1% crystalline silica.[61] Fabrication shops would be required to notify workers in English and Spanish that engineered stone with crystalline silica is dangerous and prohibited. Cal/OSHA inspectors could halt operations at businesses that work on this material after a

[54] A.B. 1776, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/AB1776/2025.
[55] *Id*.
[56] S.B. 690, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/SB690/2025.
[57] A.B. 1795, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/AB1795/2025; A.B. 1642, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/drafts/AB1642/2025; *see also* Nicole Nixon & Noah Haggerty, *California Sets First-in-the-Nation Standards for Wildfire Smoke Damage*, GOVERNING.COM, Sept. 16, 2026, https://www.governing.com/policy/california-sets-first-in-the-nation-standards-for-wildfire-smoke-damage.
[58] S.B. 877, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/SB877/2025; S.B. 878, 2026 Reg. Sess. (Cal. 2026), https://legiscan.com/CA/bill/SB878/2025.
[59] Gov. Gavin Newsome, Veto Message on S.B. 877 & S.B. 878, Sept. 27, 2026, https://www.gov.ca.gov/wp-content/uploads/2026/09/VETO-msg-SB-878.pdf.
[60] Cal. Sup. Ct., Admin. Order 2026-06-17-01 (S294332*)* (June 18, 2026), https://newsroom.courts.ca.gov/sites/default/files/newsroom/2026-06/ADMIN%20ORDER%202026-06-17-01%20S294332%20CRC%209.45.1_FINAL.pdf.
[61] Farida Jhabvala Romero, *California Regulators Unveil Plan to Ban New Quartz Countertops Amid Rising Worker Deaths,* KQED, Sept 18, 2026, https://www.kqed.org/news/12100477/california-regulators-unveil-plan-to-ban-new-quartz-countertops-amid-rising-worker-deaths.

two-month grace period. Employers would have 180 days to phase out existing inventory.

Colorado

The Colorado Legal Practice Integrity and Fee-sharing Prohibition Act[62] reinforces Colorado Rule of Professional Conduct 5.4[63] and prohibits lawyers and law firms from sharing fees or revenues with alternative business structures (ABS) or nonlawyers, entering into referral or co-counsel relationships with ABS providing legal services, and practicing with or in the form of a professional company if a nonlawyer owns an interest in the professional company and has the right to direct or control the professional judgment of a lawyer. The Act also provides that a lawyer or law firm shall not engage a managed services organization (MSO) unless the compensation paid to the MSO is not contingent upon or calculated as a percentage of the firm's revenue and is not determined by reference to recoveries or case outcomes.

A private right of action is created to allow clients to recover legal fees paid in violation of the statute. Competing law firms doing substantial business in Colorado may seek injunctive and declaratory relief and disgorgement after notice of alleged violations to the attorney general. Courts must order disgorgement of funds received or paid in violation of the statute, with disgorged amounts paid to the state treasurer for deposit into the judicial stabilization cash fund to supplement the state judiciary's budget. Contracts that violate the Act are deemed void. The Act sunsets on September 1, 2029.

Colorado also enacted legislation to make lead generation legal marketing a deceptive trade practice, including the buying and selling of leads or cases on a per lead or per case basis.[64] The law does not apply to Colorado practitioners or nonprofits, and does not change traditional legal marketing. Any Colorado lawyer, law firm, or consumer may bring a private right or action to enforce the law and obtain damages in the amount of $10,000 per violation, plus reasonable attorney fees and costs. The attorney general and district attorneys may enforce the law through criminal actions.

Governor Jared Polis vetoed three liability expansion bills.

One of the vetoed bills would have repealed Colorado's longstanding prohibition against punitive damages in arbitration.[65] Further, employers and businesses would have had to pay automatic double damages for arbitration awards not fully satisfied within

[62] H.B. 1421, 2026 Reg. Sess. (Colo. 2026), https://legiscan.com/CO/bill/HB1421/2026.
[63] Colo. R. Prof'l Cond. 5.4, https://www.cobar.org/Portals/COBAR/Repository/ethicsOpinions/324/Rule%205.4%20-%20Professional%20Independence%20of%20a%20Lawyer.pdf?ver=0psCYvlqxgIl5tLE1-knCQ%3d%3d
[64] S.B. 174, 2026 Reg. Sess. (Colo. 2026), https://legiscan.com/CO/bill/SB174/2026.
[65] H.B. 1236, 2026 Reg. Sess. (Colo. 2026), https://legiscan.com/CO/bill/HB1236/2026.

120 days. Arbitration agreements would have been prohibited from requiring a consumer or employee to pay fees that "substantially exceed" court filing costs. Arbitrators and arbitration organizations would have been disqualified if they have rules, policies, or procedure for resolving multiple similar claims or that have "the effect" of "preventing" certain parties or attorneys from bringing claims.

Governor Polis said that his "overarching concern" with the arbitration bill is that it would have "ma[d]e it more difficult for parties to use arbitration," pushing "more cases into litigation, raising costs, adding delays, and increasing uncertainty for Colorado consumers, workers, and businesses alike."[66]

Another vetoed bill would have made it a deceptive trade practice to use surveillance information to engage in individualized price or wage setting.[67] Governor Polis vetoed the surveillance price and wage setting bill because it was overly broad and "would punish differentially lower prices, not just higher prices."[68]

The vetoed Ruben Sims Jr. Act would have expanded the list of cancers presumed to be occupationally related to firefighters unless rebutted by clear and convincing medical evidence.[69]

Delaware

Delaware Superior Court Rule 26(b) was amended to authorize a party to obtain limited discovery into the existence of litigation funding in a case, the parties to the litigation funding agreement, and the funder's contractual right to control aspects of the litigation, such as the right to approve any settlement.[70]

District of Columbia

The District of Columbia courts created a Community Justice Workers program to allow trained nonlawyers to provide legal assistance to those who cannot afford a lawyer. The initiative allows trained nonlawyers to help with tasks such as explaining court procedures, giving legal advice, and completing forms. Community Justice Workers will operate under the supervision of licensed attorneys and approved legal service providers, creating a program that expands who can advise people facing evictions, child custody disputes and similar matters.[71]

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[66] Letter from Gov. Jared Polis to Honorable Members of the Colorado House of Representatives, June 2, 2026, https://drive.google.com/file/d/1Cz92GbSe31zuWeG3Qi0cOekPBh1L0Rxx/view.

[67] H.B. 1210, 2026 Reg. Sess. (Colo. 2026), https://legiscan.com/CO/bill/HB1210/2026.

[68] Letter from Gov. Jared Polis to Honorable Members of the Colorado House of Representatives, June 2, 2026, https://drive.google.com/file/d/1JER5O4KJpS4JvixecVKq24I-8Q7U2mf-/view.

[69] S.B. 184, 2026 Reg. Sess. (Colo. 2026), https://legiscan.com/CO/text/SB184/2026.

[70] *In re* Amendment to Superior Court Civil Rules to Amend Rule 26(b) (Del. Super. Ct. Sept. 30, 2026).

[71] H.B. 1210, 2026 Reg. Sess. (Colo. 2026), https://legiscan.com/CO/bill/HB1210/2026.

The District of Columbia's highest court rejected amendments proposed by the D.C. Bar to expand nonlawyer ownership of law firms.[72] The main feature of the proposed amendments would have been to "[p]ermit District of Columbia attorneys to cooperate and share fees with nonlawyers in a firm where its 'principal' rather the 'sole' purpose is the provision of legal services to clients, and where any other services provided by the firm are law-related services."[73] The court said it "was not persuaded that a strong case has been made for the need for the proposed changes."[74] The court also said it "was given pause by some of the concerns raised by the comments submitted in opposition to the proposed amendments" by "a number of organizations representing the interests of civil defendants."[75]

Florida

Florida barred courts from applying foreign or religious laws, such as Sharia law, when doing so would violate a person's constitutional rights.[76] In addition, a court may not enforce a foreign judgment or order that is the result of the application of a foreign law or religious law that is inconsistent with constitutional rights. A court also may not enforce a choice-of-law clause of a contract that will likely result in a violation of a person's constitutional rights.

Governor Ron DeSantis vetoed legislation that would have raised existing caps on lawsuit damages for government negligence from $200,000 per person and $300,000 per incident to $350,000 per person and $500,000 per incident.[77]

Rule 4-8.6 of the Rules Regulating the Florida Bar was amended effective February 16, 2026.[78] The amended rule expands authorized business entities to include certain nonprofit structures and reinforces that a nonlawyer may not serve as a partner, have certain titles, or perform policymaking functions in a law firm. Further, only a person legally qualified to render legal services in Florida may direct the legal

[72] D.C. Ct. App., Order Declining the Adoption of Proposed Amendments to D.C. Rules of Professional Responsibility 5.3, 5.4, & 5.7., No. M297-26 (Oct. 15, 2026), https://www.dccourts.gov/court-of-appeals/court-of-appeals-orders-and-notices?type=notices&year=all. The D.C. Bar's Innovation in Legal Practice Committee issued a report in April recommending expansion of the rule and proposing the amendments that were before the court. *See* D.C. Ct. App., Notice, No. M297-26 (May 12, 2026), https://www.dcbar.org/getmedia/d1747568-e1ce-420c-a052-5035776631a8/M297-26.

[73] *Id*. D.C. already has one of the most permissive approaches in the nation, allowing a nonlawyer, such as a lobbyist, to hold a financial interest in a law firm, provided the nonlawyer performs professional services which assist the organization in providing legal services to clients.

[74] D.C. Ct. App., Order Declining the Adoption of Proposed Amendments to D.C. Rules of Professional Responsibility 5.3, 5.4, & 5.7., *supra*.

[75] *Id*.

[76] H.B. 1471, 2026 Reg. Sess. (Fla. 2026), https://legiscan.com/FL/bill/H1471/2026.

[77] H.B. 145, 2026 Reg. Sess. (Fla. 2026), https://legiscan.com/FL/bill/H0145/2026.

[78] *In re* Amendments to Rules Regulating the Florida Bar – Rule 4-8.6, No. SC2025-1173 (Fla. Dec. 18, 2025), https://law.justia.com/cases/florida/supreme-court/2025/sc2025-1173.html.

services or professional judgment of a lawyer practicing in Florida.

Illinois

The Illinois Bivens Act authorizes civil actions against federal immigration agents (ICE officers) who knowingly engage in unconstitutional conduct.[79] If a plaintiff seeks punitive damages, certain factors listed in the Act shall be considered in determining the reprehensibility of the defendant's conduct, such as whether the defendant wore a facial covering while committing the violation. Upon motion, a court shall award attorney fees and costs, including expert witness fees and other litigation expenses, to a prevailing plaintiff.

Illinois amended its Attorney Act to restrict nonlawyer involvement in the delivery of legal services for firms operating in Illinois with annual global revenue less than $300 million and firms that regularly represent clients on a contingent fee basis.[80] Covered firms that enter into an agreement with a management services organization must disclose in all attorney-client contracts that the firm is a party to such an agreement and the materials terms of the agreement.

Entities with nonlawyer owners, including managed services organizations, are prohibited from interfering with attorneys' professional judgment, exercising control over law firm operations that relate to client records, attorney-client communications and hiring decisions, setting productivity or proficiency parameters for attorneys or allied legal staff, or charging fees that are tied to the fees, revenues, or profits of the attorney or law firm. Entities with nonlawyer owners, including managed services organizations, are also prohibited from limiting attorneys or legal staff members from competing with that law firm in the event of termination or resignation, or disparaging or commenting on that law firm as to any issues involving the delivery of services.

An Illinois attorney may not share fees with an out-of-state ABS unless the attorney is also licensed in the state where the ABS is authorized, the fees are for services provided in that state, and the law of that state governs the arrangement.

The statute authorizes a $10,000 fine per violation or treble actual damages, whichever is greater; injunctive or declaratory relief; recovery of attorneys' fees and costs; and potential Illinois State Bar discipline.

The Illinois Receivership Act took effect on January 1, 2026, establishing a framework for the appointment of a receiver under Illinois law.[81]

[79] H.B. 1312, 2026 Reg. Sess. (Ill. 2026), https://legiscan.com/IL/bill/HB1312/2025.
[80] H.B. 5487, 2026 Reg. Sess. (Ill. 2026), https://legiscan.com/IL/bill/HB5487/2025.
[81] H.B. 28, 2025 Reg. Sess. (Ill. 2025), https://legiscan.com/IL/bill/HB0028/2025.

Iowa

Iowa restricted civil and criminal liability for any actual or potential effect on climate caused wholly or partly by a greenhouse gas emission, unless the plaintiff specifies each greenhouse gas emitted by the defendant that gives rise to the action and shows by clear and convincing evidence that unavoidable and identifiable harm resulted or will result as "a direct cause of the defendant's violation of an enforceable statutory limitation or restriction or a valid, enforceable operating, air, or other permit issued to the defendant by a regulatory authority."[82]

Kansas

Kansas aligned its expert evidence rule with the 2023 amendments to Federal Rule of Evidence 702.[83]

A new Transparency in Consumer Legal Funding Act regulates consumer lawsuit lending, setting forth disclosure and registration requirements, funding company and attorney responsibilities and limitations, and penalties for violations of the Act.[84] All consumer litigation funding contracts must be written in a clear and plain manner translated into the consumer's primary language at the consumer's request. The contracts must 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. Consumer legal funding companies are prohibited from engaging in certain practices such as offering referral fees and kickbacks to law firms and medical providers. Funders are also prohibited from having any role in litigation decisions and may not accept any funds from a foreign adversary. Within 30 days after receipt of a written request, a consumer or the consumer's attorney shall disclose to any requesting party to a legal claim and each insurer that has a duty to defend if the consumer has entered into a consumer legal funding contract. 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 or any charges under the contract and is liable for a civil penalty of not more than $10,000 per violation in a civil action brought by the attorney general.

The legislature voted to override vetoes by Governor Laura Kelly on two bills.

One of the new laws provides that a plaintiff may not maintain a negligence action or collect damages for negligent conduct if the defendant proves that the plaintiff was engaging in or attempting to engage in wrongful conduct.[85]

[82] H.F. 2527, 2026 Reg. Sess. (Iowa 2026), https://legiscan.com/IA/bill/HF2527/2025.
[83] S.B. 398, 2026 Reg. Sess. (Kan. 2026), https://legiscan.com/KS/bill/SB398/2025.
[84] H.B. 2518, 2026 Reg. Sess. (Kan. 2026), https://legiscan.com/KS/bill/HB2518/2025.
[85] S.B. 462, 2026 Reg. Sess. (Kan. 2026), https://legiscan.com/KS/bill/SB462/2025.

The law also provides that the manufacture and sale of lawful products may not form the basis for a public nuisance action. Localities are only permitted to bring public nuisance actions for public nuisances that exist wholly within their jurisdictions. If an alleged public nuisance is not wholly contained within a political subdivision of the state, the attorney general is the only governmental official authorized to file the claim unless the attorney general authorizes one or more political subdivisions of the state to do so. A public nuisance claim may be brought by a private person only if the person has sustained a special injury. A private person shall not bring a class action for an alleged public nuisance.

Another new law requires political subdivisions to hold a public meeting to approve any contingency fee legal services contract and requires such contracts to be approved by the attorney general.[86] Each year, the attorney general must submit a report to the governor and the legislature detailing each contingent fee contract the attorney general refused to approve, the political subdivision that requested approval of the contract, and a detailed explanation as to why the contract was not approved.

Voters rejected a constitutional amendment that would have provided for popular election of supreme court justices and abolished the supreme court nominating commission.[87]

Kentucky

Kentucky's legislature voted to override a veto by Governor Andy Beshear and enacted pesticide liability reform legislation.[88] Under the new law, a pesticide that is registered with the Kentucky Department of Agriculture or the U.S. Environmental Protection Agency (EPA) with a label that is approved by the EPA or is consistent with the EPA's most recent human health risk assessment for the pesticide is sufficient to satisfy any state law duty to warn or label. The law only applies pesticides for which the EPA has approved a master label that includes an Agricultural Use Requirements label in accordance 16 with 40 C.F.R. pt. 156. The protection does not apply if the EPA has determined that the manufacturer obtained or maintained approval of the pesticide by fraud.

Other legislation relating to liability reform for highway and road contractors became law without the Governor's signature.[89]

Louisiana

The 2026 Louisiana Energy Protection Act generally shields energy companies from climate change damages based on

[86] H.B. 2593, 2026 Reg. Sess. (Kan. 2026), https://legiscan.com/KS/bill/HB2593/2025.
[87] Kate Zernike, *Kansas Rejects Measure to Elect Its State Supreme Court Justices,* N.Y. TIMES, Aug. 4, 2026, https://www.nytimes.com/2026/08/04/us/elections/kansas-judicial-referendum-supreme-court.html.
[88] S.B. 199, 2026 Reg. Sess. (Ky. 2026), https://legiscan.com/KY/bill/SB199/2026.
[89] S.B. 195, 2026 Reg. Sess. (Ky. 2026), https://legiscan.com/KY/bill/SB195/2026.

greenhouse gas emissions.[90] The protection does not apply to companies that violate federal or state statutory limitations on greenhouse gas emissions, violate the express terms of a permit issued by a federal or state regulatory agency with jurisdiction over greenhouse gas emissions, or violate an enforceable standard expressly established under the federal Occupational Safety and Health Act where the violation directly and proximately causes the specific injury alleged.

Massachusetts

A new Massachusetts Superior Court Standing Order provides that certain hearings in civil cases are presumptively held remotely including medical malpractice tribunals, initial case management conferences, discovery disputes, scheduling conferences, and motions to dismiss.[91]

Michigan

In the midterm election, Democrats retained a 6-1 majority on the Michigan Supreme Court when Democratic-nominated incumbent Chief Justice Megan Cavanagh and Justice Noah Hood won reelection.[92]

Mississippi

The Mississippi Transparency in Consumer Legal Funding Act regulates consumer lawsuit lending, setting forth disclosure and registration requirements, funding company and attorney responsibilities and limitations, and penalties for violations of the Act.[93]

All consumer litigation funding contracts must be written in plain, easy-to-read language. Further, the contracts must 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.

Consumer legal funding companies are prohibited from engaging in certain practices such as offering referral fees to law firms and medical providers. In addition, consumer legal funding companies are prohibited from having any role in litigation decisions such as settlement.

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

[90] H.B. 804, 2026 Reg. Sess. (Okla. 2026), https://legiscan.com/LA/text/HB804/2026.
[91] Mass. Super. Ct. Standing Order 1-26: Remote Hearings (effective June 1, 2026) (supersedes Mass. Super. Ct. Standing Order 1-22)), https://www.mass.gov/superior-court-rules/superior-court-standing-order-1-26-remote-hearings.
[92] Katherine Dailey, *Cavanagh, Hood Victories Preserve 6-1 Democratic Majority on Michigan Supreme Court*, MICH. ADVANCE (Nov. 4, 2026), https://michiganadvance.com/2026/11/04/cavanagh-hood-victories-preserve-6-1-democratic-majority-on-michigan-supreme-court/.
[93] S.B. 2747, 2026 Reg. Sess. (Miss. 2026), https://legiscan.com/MS/bill/SB2747/2026.

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.

Missouri

A new Act Against Abusive Website or Web Content Access Litigation curbs litigation alleging a violation of website or web content accessibility requirements in the federal Americans with Disabilities Act or under state law.[94]

Another new law, the No Foreign Laws Act, provides that the World Health Organization, United Nations, World Economic Forum, and any other international organization, shall have no jurisdiction or power within Missouri.[95] Further, no rule, regulation, fee, tax, policy, or mandate of any international organization shall be enforced or implemented by Missouri or any agency or political subdivision of the state.

The Missouri Department of Commerce and Insurance issued a report on the impact of lawsuit abuse on the state's insurance market and economy.[96] The report discusses drivers of lawsuit abuse (e.g., third-party litigation funding and trial tactics of plaintiffs' lawyers, provides case studies on reforms in Florida and Georgia, and concludes with suggestions for potential reforms "such as shortening statutes of limitations, eliminating joint and several liability, reducing caps on punitive damages, bifurcating trials, and strengthening requirements for time-limited demands."

New Hampshire

The New Hampshire Third-Party Litigation Funding Transparency Act prohibits commercial litigation funding agreements that are funded directly, in whole or in part, by a foreign entity of concern or a foreign country or person of concern.[97]

New Jersey

New Jersey adopted new legislation governing data brokers to be enforced by the state.[98]

The New Jersey Supreme Court adopted a new Official Court Comment on New Jersey Rule of Evidence 702, replacing the "1991 Supreme Court Committee Comment."[99]

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[94] S.B. 907, 1154 & 1272, 2026 Reg. Sess. (Mo. 2026), https://legiscan.com/MO/bill/SB907/2026.
[95] S.B. 977, 2026 Reg. Sess. (Mo. 2026), https://legiscan.com/MO/bill/SB977/2026.
[96] Mo. Dep't of Com. & Ins., *Lawsuit Abuse, An Insurance Case Study: Part One* (Dec. 2025), https://insurance.mo.gov/sites/insurance/files/2026-03/DCI%20Tort%20Reform%20Report%20-%20Lawsuit%20Abuse.pdf.
[97] H.B. 1384, 2026 Reg. Sess. (N.H. 2026), https://legiscan.com/NH/bill/HB1384/2026.
[98] A.B. 5328, 2026 Reg. Sess. (N.J. 2026), https://legiscan.com/NJ/text/A5328/id/3455473.
[99] N.J. Sup. Ct., 2026 Official Court Comment (July 23, 2026) on N.J.R.E. 702, https://www.njcourts.gov/notices/nj-rules-of-evidence-new-official-court-comment-njre-702-testimony-experts.

New Mexico

New Mexico enacted medical malpractice reform legislation that had been one of Governor Michelle Lujan Grisham's top priorities.[100] According to the Governor's Office, "New Mexico is the only state in the nation to have lost physicians over the past five years, a crisis that many health professionals attribute to the exorbitant cost of medical malpractice insurance in the state."[101] The new law establishes tiered caps on punitive damages based on the size of the medical practice or facility: approximately $1 million for independent providers and clinics, $6 million for locally owned hospitals, and $15 million for larger hospital systems. The caps adjust annually for inflation. The burden of proof standard for punitive damages was raised to "clear and convincing" evidence. Punitive damages cannot be pled in an initial complaint but "[a] claim for punitive damages may be asserted by amendment to the pleadings only after the plaintiff has presented sufficient evidence to the court that it is more likely than not that the claim has a triable issue after substantial completion of discovery."

New York

As part of Governor Kathy Hochul's push to make living in the state more affordable, the FY 2026-27 budget included provisions intended to address the cost of auto insurance and fraudulent claims. While Governor Hochul had proposed a broad package of reforms, ultimately, the state enacted more limited changes. First, and most significantly, New York moved from pure comparative fault to modified comparative fault in motor vehicle accident claims.[102] A plaintiff cannot recover if his or her fault is greater than the fault of all defendants. The pure comparative fault system remains in place in other contexts. Second, the state amended the Insurance Law's threshold for a "serious injury" by eliminating the inclusion of non-permanent injuries that prevent an individual from completing usual and customary daily activities for 90 out of 180 days following an injury.[103] This will subject motor vehicle accident cases involving minor, subjective injuries to the state's no-fault system and make them ineligible for noneconomic damage awards. Third, motor vehicle accident claimants can recover no more than $100,000 in noneconomic damages if they are injured while operating an uninsured

[100] H.B. 99, 2026 Reg. Sess. (N.M. 2026), https://legiscan.com/NM/bill/HB99/2026.
[101] Office of Gov. Michelle Lujan Grisham, House Passes Medical Malpractice Reform – HB 99 Would Improve Health Care Access Across the State, Feb. 14, 2026, https://www.governor.state.nm.us/2026/02/14/house-passes-medical-malpractice-reform/.
[102] S. 9008-C / A. 10008-C, Part EE, § 3, N.Y. 2025-26 Leg. Sess. (amending N.Y. C.P.L.R. § 1411), https://www.nysenate.gov/legislation/bills/2025/S9008/amendment/C.
[103] *Id*., Part EE, § 1 (amending N.Y. Ins. Law § 5102(d)).

vehicle, driving while impaired, or engaged in or fleeing the commission of a felony.[104]

A separate budget bill enactment addressed fraudulent claims. It provides that a person who "hires, requests, encourages, orchestrates, or invites another individual to stage a motor vehicle accident or invited the other to stage a motor vehicle accident" commits a "fraudulent insurance act" and deems that person to have "wrongfully taken . . . the full amount of loss to the victim or victims of the fraudulent insurance act."[105] This provision is intended to help prosecute individuals involved in staged auto accident schemes beyond the driver. In addition, the bill establishes dedicated workers' compensation fraud units within New York state district attorneys' offices,[106] and establishes an "exclusion list" of healthcare providers who are not eligible to provide care or perform independent medical examinations for workers' compensation claims because of a previous finding of misconduct.[107]

New York repealed and replaced a 2025 Consumer Litigation Funding Act[108] that regulates consumer lawsuit lending, sets forth disclosure and licensing requirements, funding company and attorney responsibilities and limitations, and penalties for violations of the Act.[109] The new law bans any false or misleading advertising by funders, whereas the 2025 law banned "intentionally" false and misleading advertising by funders. Also, the 2025 law allowed funders to charge consumers up to 25% of the gross proceeds from a claim; the 2026 law allows funders to charge up to 25% of the gross proceeds from the applicable legal claim "plus the funded amount."

New York's Office of Court Administration repealed and replaced the state's Rules of Professional Conduct governing attorney advertising and solicitation, deleting a ban on soliciting clients less than 30 days after an incident.[110]

The Avoiding Vexatious Overuse of Impleading to Delay (AVOID) Act, passed at the end of 2025, took effect in April, significantly changing third-party practice in New York.[111]

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[104] *Id*., Part EE, § 2 (amending N.Y. Ins. Law § 5104).
[105] S. 9005-C / A. 10005-C, Part F, § 1 N.Y. 2025-26 Leg. Sess. (amending N.Y Penal Law § 176.05), https://www.nysenate.gov/legislation/bills/2025/S9005/amendment/C.
[106] *Id*., Part W, § 2.
[107] *Id*., Part X (amending various provisions of Section 13 of the N.Y. Workers' Comp. L.).
[108] S. 1104 / A. 804, 2025 Reg. Sess. (N.Y. 2025), https://www.nysenate.gov/legislation/bills/2025/A804/amendment/A.
[109] S. 8808 / A. 9442, 2026 Reg. Sess. (N.Y. 2026), https://legiscan.com/NY/bill/A09442/2025.
[110] Emily Sawicki, *NY Rule Rewrite Drops 30-Day Pause For Atty Soliciting*, LAW360, June 23, 2026 (attaching Court Notices, NYS Register, June 17, 2026) (notice of amendments to N.Y. R. Prof. Conduct 1.0, 7.1, 7.3, and 7.4), https://www.law360.com/articles/2492419/attachments/0.
[111] S. 8071 / A. 8728, 2025 Reg. Sess. (N.Y. 2025), https://legiscan.com/NY/bill/S08071/2025.

North Carolina

The Prohibit Litigation Investments Act makes it unlawful for a person to engage in commercial litigation funding in North Carolina or to furnish commercial litigation financing to a party or counsel of record in a civil proceeding in the state.[112] A contract that violates the Act is void. The attorney general may bring an action to enjoin violations of the Act. In this action, the court may also impose a civil penalty of up to $50,000 for each violation. A person injured by a violation of the Act may bring an action and elect at judgment between common law damages or treble the amount of the full potential litigation investment contemplated by the investor, plus reasonable attorneys' fees and court costs. A person that engages in the business of litigation investment or furnishes litigation investment in violation of the Act is deemed to have purposefully availed itself of the privileges of conducting business in North Carolina and is subject to suit in the state.

Separate provisions of the Act increase workers' compensation benefits payable to injured workers. The minimum weekly benefit a worker may receive for total disability increased from $30 to $50. The maximum compensation for serious facial or head disfigurement, or for loss of or permanent injury to an important organ or part of the body, doubled from $20,000 to $40,000. The maximum compensation payable for serious bodily disfigurement not compensable under any other provision of the workers' compensation law increased from $10,000 to $20,000.

Ohio

Ohio enacted legislation to regulate consumer and commercial litigation financing agreements.[113] Consumer and commercial litigation financers must register with the attorney general prior to commencing any business activity in the state. Further, no consumer or commercial litigation funding company shall enter into a funding agreement with a person or entity that is not domiciled in the United States or respecting a legal claim that is financed directly or indirectly by a person or entity not domiciled in the United States. No consumer or entity shall enter into a consumer legal financing agreement or a commercial litigation financing agreement with a person or entity that is not domiciled in the United States**.**

All consumer legal funding agreements must be completely fill-in when presented to a consumer for signature. The contracts must describe the fee structure, disclose the maximum amount that may be owed to the funder, allow the consumer to cancel the agreement upon repayment of the disbursed funds within 10 days after the funding date, and state that the funds do not need to be repaid unless the plaintiff obtains a recovery for a related claim.

[112] H.B. 315, 2026 Reg. Sess. (N.C. 2026), https://legiscan.com/NC/bill/H315/2025.

[113] H.B. 105, 2026 Reg. Sess. (Ohio 2026), https://legiscan.com/OH/bill/HB105/2025.

Consumer legal funding companies are prohibited from engaging in certain practices such as offering referral fees to law firms and medical providers. Consumer legal funders are also prohibited from having any role in litigation decisions and shall not collude with or knowingly assist a lawyer or law firm that is enticing a consumer to bring a claim that the funder knows or has reason to know is fabricated or otherwise not brought in good faith. Further, an attorney retained by a consumer shall not disclose confidential or privileged information to a consumer legal funding company without first obtaining the consumer's consent and ensuring that the disclosure is not prohibited by court rules or a court order. Violations of these provisions constitute unfair and deceptive acts or practices; a willful violation of the provisions renders a consumer legal funding agreement unenforceable.

Claimants and their lawyers and law firms are prohibited from disclosing documents or information with a commercial litigation funder that are subject to a protective order from a court. Commercial litigation funders are also prohibited from having any role in litigation decisions.

After a claim that was filed in court has been resolved, the attorney or law firm representing a party that entered into a commercial litigation financing agreement shall disclose the agreement to the attorney general within 14 days. The attorney general shall promptly publish the contents of the funding agreement on the attorney general's publicly accessible website, except for any information that could identify the plaintiff.

Any provision of a commercial litigation funding agreement that prohibits or limits discovery of the agreement or the parties to the agreement is void and unenforceable.

The attorney general may file a complaint seeking any equitable relief, including barring a consumer or commercial litigation funder from doing business in Ohio, if a court finds that the funder violated the provisions in the legislation.

In the midterm election, Democrats won two seats on the Ohio Supreme Court, picking up one seat and swinging the court's ratio 5-2 in favor of Republicans.[114]

Oklahoma

Oklahoma enacted data privacy legislation applicable to controllers and processors that conduct business in Oklahoma or produce a product or service that is targeted to Oklahoma residents and that either (1) control or process the personal data of at least 100,000 consumers or (2) control or process the personal data of at least 25,000 consumers and derive over 50% of their gross revenue from the sale of personal

[114] Daniel Griffin, et al., *Ohio Election Results: Democrats Take Most Statewide Offices, Both Supreme Court Races*, NBC4 WCMH-TV (Nov. 3, 2026), https://www.nbc4i.com/news/your-local-election-hq/ohio-election-results-statewide-offices-supreme-court-races/.

data.[115] The attorney general has exclusive authority to enforce the provisions of the new law after a 30-day cure period.

A new Energy Security and Independence Act generally shields energy companies from climate change lawsuits based on greenhouse gas emissions.[116] Companies that violate federal or state laws or regulations establishing a standard or operational practice governing the emission, discharge, or storage of a covered product or that violate federal or state worker protection laws are excluded from the Act's protections.

Oregon

An operator may require a participant in a sport, fitness or recreational activity to release the operator from claims for ordinary negligence if the participant signs a release disclosing risks associated with the activity and waives the operator's liability for injuries resulting from those risks.[117] Certain claims cannot be released such as gross negligence, claims relating to poorly maintained safety equipment or safety-related training of employees, abuse, and claims relating to the operation and use of a vehicle for transportation to or from the activity.

Pennsylvania

The Pennsylvania Supreme Court's Civil Procedural Rules Committee is considering proposing to the court an amendment to Pennsylvania Rule of Civil Procedure 4003.2 to allow a party to "obtain discovery of the existence and terms of any agreement under which any person agrees to fund fees, costs, expenses, or any other sums incurred in the action or incurred by the plaintiff during the pendency of the action, in exchange for a right to influence litigation or settlement decisions with respect to the action."[118]

Rhode Island

Rhode Island amended the statute of limitations for claims of sexual abuse of a child and created a two-year window for plaintiffs to bring otherwise time-barred claims against institutions and supervisors accused of enabling or covering up sexual abuse.[119]

South Carolina

The South Carolina Bar's Ethics Advisory Committee issued an ethics advisory opinion concluding that South Carolina lawyers may not serve as local co-counsel with an alternative business structure (ABS) that has nonlawyer owners or partners and may not

[115] S.B. 546, 2026 Reg. Sess. (Okla. 2026), https://legiscan.com/OK/bill/SB546/2026.
[116] S.B. 1439, 2026 Reg. Sess. (Okla. 2026), https://legiscan.com/OK/bill/SB1439/2026.
[117] S.B. 1517, 2026 Reg. Sess. (Or. 2026), https://legiscan.com/OR/bill/SB1517/2026.
[118] Pa. S. Ct. Civ. P. Rules Comm., Proposed Amendment of Pa. R. Civ. P. 4003.2 (Feb. 11, 2026), https://www.pacourts.us/Storage/media/pdfs/20260210/140354-proposaltoamendpa.r.civ.p.4003.2-publication.pdf.
[119] S.B. 2616, 2026 Reg. Sess. (R.I. 2026), https://legiscan.com/RI/bill/S2616/2026.

own an interest in an ABS that has nonlawyer partners or pays referral fees.[120]

The South Carolina Supreme Court received comments concerning potential amendments to Rule 5.4 of the Rules of Professional Conduct to address private equity investment in the practice of law.[121] The court explained, "Private equity firms—groups of investors that, among other activities, pool money and acquire ownership interests in business entities—have been expanding into the practice of law in many jurisdictions."[122] The court is "considering whether an amendment to Rule 5.4 is needed to protect the public from interference into the attorney-client relationship and to clarify and more explicitly restrict lawyers and law firms from entering into arrangements that attempt to evade Rule 5.4's prohibitions and requirements, as these arrangements threaten a lawyer's professional responsibilities, including but not limited to exercising independent professional judgment and maintaining client confidentiality."[123]

South Dakota

South Dakota's expert evidence rule was amended to align with the 2023 amendments to Federal Rule of Evidence 702.[124]

Tennessee

The Tennessee Litigation Financing Consumer Protection Act of 2014[125] was amended to add additional requirements for consumer litigation funders and to regulate commercial litigation financing for the first time in the Volunteer State.[126] Existing registration and surety bond requirements for consumer litigation funders were extended to commercial litigation funders. Consumer and commercial litigation funders are banned from engaging in litigation funding that is directly or indirectly affiliated with a foreign adversary. Commercial litigation financiers shall not make litigation decisions, including settlement decisions, and shall not contract to receive an amount greater than the parties to the action after the payment of any attorney fees and costs owed in connection with the claim. A party

[120] S.C. Bar Ethics Advisory Comm., Ethics Advisory Op. 25-02, https://legiscan.com/KS/bill/SB398/2025.
[121] S.C. Sup. Ct., Request for Written Comments, Potential Amendments to Rule 5.4 of the Rules of Professional Conduct to Address Private Equity Investment in the Practice of Law (Sept. 10, 2026), https://www.sccourts.org/media/erfp0fst/public-notice-request-for-written-comments-on-rule-54-rpc-rule-407-scacr.pdf.
[122] *Id*.
[123] *Id*.
[124] In the Matter of the Amendment to SDCL 19-19-702 (S.D. 2026), https://ujs.sd.gov/media/5vbbqzrw/rule2604.pdf; see also In the Matter of the Amendment to SDCL 19-19-702, Notice of Rules Hearing, No. 158 - Feb. 11, 2026 (S.D. Jan. 7, 2026), https://ujs.sd.gov/media/0yylb3sj/notice-with-attachments-158.pdf.
[125] Tenn. Code Ann. § 47-16-101 *et seq*., https://le.utah.gov/xcode/Title13/Chapter57/13-57-S101.html.
[126] H.B. 2108, 2026 Reg. Sess. (Tenn. 2026), https://legiscan.com/TN/bill/HB2108/2025.

or a party's legal representative must provide a copy of any commercial litigation financing agreement to the court and the other parties within 14 days after the party files its initial pleading or within 14 days after the contract is executed or modified after the filing of the initial pleading. Prior to filing, the party or the party's legal representative may request a protective order to prevent further disclosure of the document. Commercial litigation financiers are jointly and severally liable for any sanctions imposed against the funded party and must indemnify the funded party and the party's counsel against any adverse costs, attorney fees, damages or sanctions awarded against them in the action. A commercial litigation financier shall not charge an annual fee of more than 10% of the original amount of money provided pursuant to a commercial litigation financing transaction.

The Tennessee Energy Freedom Act generally shields energy companies from climate change damages based on greenhouse gas emissions.[127] The protection does not apply to companies that violate the federal Clean Air Act or another federal environmental law. Further, except where required by federal law, no covered government or private party may bring an action in any forum, or otherwise to impose or seek to impose any liability in connection with, covered emissions from covered activities, unless the liability is calculated and based solely on in-jurisdiction products.

The Tennessee Supreme Court issued a landmark order to advance several potential legal regulatory reforms[128] following a September 2025 request for comments in which the court expressed an interest "in reassessing its approach to regulation of the legal profession to ensure that all Tennesseans have access to affordable quality legal services."[129] The court received over 400 comments.

Significantly, the court decided not to modify, reduce, or eliminate regulations prohibiting nonlawyer ownership of law firms or fee sharing with nonlawyers.[130] The October 2026 order explains, "At this time, the Court has not identified sufficient need or support for reforms related to non-lawyer ownership of law firms or fee-sharing with non-lawyers. The Court may revisit this topic in the future as additional data regarding the success of these reforms becomes available."[131]

[127] S.B. 2560, 2026 Reg. Sess. (Tenn. 2026), https://legiscan.com/TN/text/SB2560/id/3425576.
[128] *In re* Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Tenn. Oct 2, 2026), https://www.tncourts.gov/sites/default/files/ProposedRulesPdf/Regulatory Reform Order.pdf.
[129] *In re* Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Tenn. Sept. 16, 2025), https://www.tncourts.gov/sites/default/files/ProposedRulesPdf/ORDER SOLICITING PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION_0.pdf.
[130] *In re* Regulatory Reforms to Increase Access to Quality Legal Representation, *supra.*
[131] *Id.*

The Tennessee Supreme Court will establish task forces to give serious consideration to some other reforms: (1) alternative pathways to licensure, including "post-graduation apprenticeship-based pathways and other supervised legal practice models, especially in partnership with legal aid organizations, government agencies, and other providers of free or low-cost legal services, that are restricted to candidates who have narrowly missed Tennessee's passing score for admission by examination";[132] (2) interstate practice and mobility; and (3) expanding the role of paraprofessionals "to allow qualified nonlawyers to provide limited legal services and assistance to self-represented individuals."[133]

In addition, the Tennessee Supreme Court is amending Tennessee Supreme Court Rule 7 to further reduce reliance on ABA accreditation "to instead require graduation from a law school 'accredited by an Approved Accreditor,' with the term 'Approved Accreditor' defined to mean an entity approved by the Tennessee Supreme Court to accredit or approve law schools."[134] The court noted that the Tennessee Board of Bar Examiners has approved the Nashville School of Law pursuant to this authority since 2001. The court said it "recognizes and appreciates the Nashville School of Law for its ongoing efforts to provide high-quality legal education to non-traditional students at an affordable tuition rate."[135]

Texas

In the November election, Democrats won all four seats up for election on the nine-member Texas Supreme Court, leaving the GOP with a 5-4 advantage on the Supreme Court.[136]

Utah

The 2020 Maintenance Funding Practice Act[137] was amended to impose additional regulations on consumer lawsuit lending arrangements and to adopt new regulations for some commercial litigation funding.[138]

Consumer litigation funders may not offer funding to a consumer who has retained, or been referred by, an attorney or law firm that has a financial interest in the consumer litigation funder. Consumer litigation funders also may not enter into a funding agreement directly or indirectly with a foreign entity of concern or a foreign country or person of concern.

Consumer litigation funding agreements "must be written in a clear and coherent manner using words with common,

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[132] *Id.*
[133] *Id.*
[134] *Id.*
[135] *Id.*
[136] Alex Nguyen, *Texas Democrats Break Republican Hold on Statewide Courts*, TEX. TRIB. (Nov. 4, 2026), https://www.texastribune.org/2026/11/04/texas-supreme-court-criminal-appeals-results-elections-2026/.
[137] Utah Code § 13-57-101 *et seq*., https://le.utah.gov/xcode/Title13/Chapter57/13-57-S101.html.
[138] H.B. 280, 2026 Reg. Sess. (Utah 2026), https://legiscan.com/UT/bill/HB0280/2026.

everyday meanings so that the average consumer, who makes a reasonable effort under ordinary circumstances, can read and understand the terms … without requiring the assistance of a professional."[139] The contract must be complete before the consumer signs the agreement.

If the consumer seeks more than one consumer litigation funding agreement from the same company, the agreement must disclose the cumulative amount due from the consumer for all transactions, if repayment is made any time after the agreements are executed.

A consumer litigation funding agreement must include a written certification signed by the consumer stating that the consumer has reviewed the mandatory disclosures required by the Act with his or her attorney. Consumer lawsuit funders may not charge or collect a prepayment penalty or fee.

Commercial litigation funders are barred from entering into funding agreements "directly or indirectly with a foreign entity of concern or a foreign country or person of concern."[140] In addition, a commercial litigation funder "may not receive, access, or use any documents or information subject to a court order to seal or protect that the court issues in the course of the civil proceeding" unless a court order specifically allows the funder to have access to such information.[141]

Commercial litigation funders also "may not direct, or have a contractual right to control, the party or the party's attorney with respect to the conduct of the underlying legal claim or a settlement or resolution of the legal claim."[142] Those rights remain "solely with the party and the party's attorney in the civil proceeding."[143]

The new requirements for commercial litigation funders only apply to the unusual situation where the funder enters into a commercial litigation funding agreement "with a party" (as opposed to the party's lawyer or law firm). Thus, the restrictions will have limited application.

Utah also restricted civil and criminal liability for any actual or potential effect on climate caused wholly or partly by greenhouse gas emissions, unless a court finds by clear and convincing evidence that the person has violated an enforceable statutory limitation or restriction against emissions of a specific greenhouse gas originating within Utah or violated the express terms of a valid, enforceable operating, air, or other permit issued by a state or federal regulatory agency that has jurisdiction over the person's greenhouse gas emission.[144]

In addition, Utah enacted a new affirmative defense for conduct, an omission, or a condition that was authorized or required by a statute, ordinance, administrative rule,

[139] *Id*.
[140] *Id*.
[141] *Id*.
[142] *Id*.
[143] *Id*.
[144] H.B. 222, 2026 Reg. Sess. (Mont. 2026), https://legiscan.com/UT/bill/HB0222/2026.

permit, license, order, or other written instrument that has the force of law and is issued by a governmental entity.[145] The affirmative defense does not apply to product liability actions or if the governmental entity that issued the authorization or requirement has determined that (1) the defendant materially failed to comply with the terms or conditions of the authorization or requirement, (2) the defendant's conduct exceeded the scope of the authorization or requirement, or (3) the authorization or requirement was procured by fraud. The law also does not abrogate, eliminate, or reduce any common law or statutory duty to exercise reasonable care under the circumstances.

Virginia

The Commonwealth's appeal bond cap was doubled from $25 million to $50 million.[146] In addition, beginning on April 1, 2031, the cap will be adjusted every five years for inflation based on the U.S. Department of Labor's Consumer Price Index for All Urban Consumers (CPI-U). The dollar amount representing the change will be rounded to the nearest $1,000.

In addition, Virginia limited the enforceability of covenants not to compete against terminated employees.[147] An employer cannot enforce a covenant not to compete unless "severance benefits or other monetary payment" are provided to the employee. Moreover, the employer must notify an employee of the benefit or payment when the covenant not to compete is executed.

Virginia also enacted legislation to extend the time for filing a child sexual abuse lawsuit until corroborative evidence is discovered or by the exercise of due diligence reasonably should have been discovered.[148] Actions brought against an entity under this amendment shall only be for causes of action that accrue after July 1, 2026.

Virginia also enacted medical malpractice insurance disclosure legislation.[149] As initially introduced, the legislation was a modest change to allow plaintiffs to collect prejudgment interest in addition to the amount of Virginia's longstanding cap on medical malpractice awards. The Senate passed the bill unanimously in that form, but the House substantially amended it in ways that would "radically transform the Commonwealth's medical liability climate, drive insurers from the state, and make health care less accessible for all Virginians,"[150] such as by doubling the

[145] H.B. 330, 2026 Reg. Sess. (Utah 2026), https://legiscan.com/UT/bill/HB0330/2026.
[146] H.B. 1111, 2026 Reg. Sess. (Va. 2026), https://legiscan.com/VA/bill/HB1111/2026.
[147] S.B. 170, 2026 Reg. Sess. (Va. 2026), https://legiscan.com/VA/bill/SB170/2026.
[148] S.B. 37, 2026 Reg. Sess. (Va. 2026), https://legiscan.com/VA/bill/SB37/2026.
[149] S.B. 536, 2026 Reg. Sess. (Va. 2026), https://legiscan.com/VA/bill/SB536/2026.
[150] Am. Tort Reform Ass'n, *Medical Liability Crisis Brewing in Virginia* (Mar. 6, 2026),

medical malpractice cap to $6M by 2027. After fierce opposition, the legislation was changed in conference "to focus on mandatory data reporting regarding claim payouts, though this signals imminent future legislative action to increase the cap."[151] The enacted law requires insurers and self-insured medical care facilities and providers to disclose, for the preceding calendar year, information regarding claims activity, litigation costs, premium amounts, and the insurers' financial condition. In addition, the entities must provide a list of verdicts exceeding the existing statutory limit. The information is submitted in the aggregate without information identifying a specific physician, hospital, insurer, patient, or claim. The reporting obligation continues until the legislature adopts a new limit on medical malpractice recoveries.

When the bill was initially presented to Governor Abigail Spanberger, she returned it with a request that the legislature adopt an amendment in the nature of a substitute. The legislature approved the amended bill, which the Governor signed into law. Pursuant to the Governor's amendment, the required disclosures shall be submitted to the State Corporation Commission's Bureau of Insurance (rather than directly to the legislature, as set forth in the bill initially approved by the General Assembly) with an instruction that the Bureau prepare a report and submit its findings to the legislature. In addition, confidential proprietary information submitted by the required entities shall be "shall be excluded from, and the State Corporation Commission shall not be subject to, subpoena or public inspection with respect to such information if the entity required to disclose (i) invokes such exclusion, in writing, upon submission of the data or other materials for which protection from disclosure is sought; (ii) identified the data or other material for which protection is sought; and (iii) states the reason why protection is necessary." Lastly, the Governor's substitute relieved self-insured medical care facilities and providers from having to disclose "the total malpractice liability expenditures for the reporting year expressed as a percentage of the hospital's total patient service revenue" (as required in the bill initially approved by the General Assembly).

Governor Abigail Spanberger vetoed legislation that would have authorized class actions in Virginia for the first time.[152] In her veto message, Governor Spanberger said she "support[s] the General Assembly's goal of providing a class action mechanism that can be used by plaintiffs in Virginia courts," but rejected elements of the bill that she believed overreached.[153]

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https://atra.org/medical-liability-crisis-brewing-in-virginia/.

[151] Dean Mirshahi, *Medical Malpractice in Virginia Was Nearly Overhauled. What Happened?* VPN NEWS (Mar. 20, 2026), https://www.vpm.org/generalassembly/2026-03-20/medical-malpractice-bill-damages-cap-obenshain-hope-walker-vhha.

[152] H.B. 449, 2026 Reg. Sess. (Va. 2026), https://legiscan.com/VA/bill/HB449/2026.

[153] Governor of Virginia Abigail D. Spanberger, *Spanberger Issues Vetoes* (May 19, 2026),

In addition to permitting Rule 23-like class actions, the legislation would have allowed courts to consider "the practical ability of individual class members to pursue their claims without certification" when determining whether a "class action is superior to other available methods for fairly and efficiently adjudicating the controversy." This language is not part of Federal Rule of Civil Procedure 23(b)(3). The bill also would have relieved class members asserting Virginia Consumer Protection Act (VCPA) violations from having to prove reliance upon a prohibited practice.

When the class action bill was initially presented to Governor Spanberger, she returned it with a request that the General Assembly adopt an amendment in the nature of a substitute. Her proposal removed the most extreme elements of the legislation and limited damages in class actions to "actual damages" (as opposed to allowing consumers to collect statutory damages under the VCPA). The General Assembly rejected the Governor's request and returned the bill to her without changes, leading to her veto.

West Virginia

Manufacturers of underground mining equipment are not subject to liability in asbestos or silica lawsuits when the exclusive use of asbestos in the equipment was as a result of specific requirements under 30 CFR Part 18 or, as to the use of silica, the design was as specified in 30 CFR Part 33 when the equipment was originally manufactured, except in asbestos or silica actions brought within 12 years from the date of first sale, lease, or delivery of possession by the manufacturer or 10 years from the date of first sale, lease, or delivery of possession to the initial user, consumer, or other non-seller, whichever is earlier, unless the manufacturer expressly warranted the product for a longer period and the action is brought within that period.[154] The new law does not apply to the use of brakes or brake material.

Wisconsin

Wisconsin updated its expert evidence rule to align with the 2023 amendments to Federal Rule of Evidence 702.[155]

The Wisconsin Judicial Council is proposing a comprehensive update to the Wisconsin Rules of Evidence.[156] The amendments emphasize "plain language" drafting,

https://www.governor.virginia.gov/newsroom/news-releases/2026/may-releases/name-1118109-en.html.

[154] S.B. 1008, 2026 Reg. Sess. (W. Va. 2026), https://legiscan.com/WV/bill/SB1008/2026.

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

[156] Wis. Judicial Council, Evidence & Civil Procedure Comm., Proposed Comprehensive Revision of the Wisconsin Rules of Evidence (Oct. 1, 2026) (public comment period Oct. 1–Dec. 1, 2026), https://judicialcouncil.wi.gov/Documents/Evidence Revision Project/WJCrevisionproject2026.pdf.

codification of caselaw, and adoption of comparable federal rules. The Council intends to submit a rule petition to the Wisconsin Supreme Court in 2026, proposing updates to the rules in early 2027.

Key Court Decisions

United States Supreme Court

The United States Supreme Court held that the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) expressly preempted a state law failure to warn claim asserting that Roundup, a glyphosate-based herbicide designed to control weeds, should have included a cancer warning.[157] The Court stated, "The EPA has repeatedly evaluated glyphosate and repeatedly concluded that glyphosate is not likely to cause cancer…. In accordance with EPA's view that glyphosate is not likely to cause cancer in humans, EPA has not required labels on glyphosate-based pesticides like Roundup to include a cancer warning." The Court held that a cancer warning would impose a requirement "in addition to" and "different from" the label required by EPA under FIFRA.

The Court also held that federal law does not preempt negligent hiring or negligent selection lawsuits against freight brokers for accidents caused by a trucking company they hire.[158]

Decisions Upholding Civil Liability Laws

The Wisconsin Supreme Court held that a statute granting broad immunity to health care providers for certain actions taken during the COVID-19 public health emergency did not violate the right to a jury trial in the Wisconsin Constitution.[159]

The Oregon Court of Appeals held that the state's cap on noneconomic damages in wrongful death actions does not violate the remedy clause in the Oregon Constitution.[160]

The Pennsylvania Supreme Court held that the Sovereign Immunity Act's $250,000 limit on recovery against Commonwealth parties, including the Southeastern Pennsylvania Transportation Authority (SEPTA), did not violate the right to a jury trial or right to a remedy in the Pennsylvania Constitution as applied to the facts of the case.[161] Chief Justice Todd, who wrote the majority opinion, also wrote a concurring opinion calling upon the General Assembly "to increase the statutory damages cap to an amount commensurate with a reasonable recovery for all of our citizens injured by the Commonwealth."[162] Justice Dougherty issued a concurring opinion warning the

[157] *Durnell v. Monsanto Co.*, 609 U.S. 371 (2026).

[158] *Montgomery v. Caribe Transp. II, LLC*, 608 U.S. 209 (2026).

[159] *Wren v. Columbia St. Mary's Hosp. Milwaukee, Inc.*, 33 N.W.3d 487 (Wis. 2026).

[160] *Estate of Ritchie by and through Ritchie v. Helbig*, 586 P.3d 428 (Or. App. 2026).

[161] *Freilich v. Southeastern Pa. Transp. Auth.*, 2026 WL 2949453 (Pa. Oct. 1, 2026).

[162] *Id*. at *20 (Todd, C.J., concurring).

General Assembly that failure to raise the cap "may well result in a change in the law through judicial means in a case where the issue is properly joined."[163] Justice Donohue wrote a dissenting opinion arguing that the Sovereign Immunity Act's cap on damages is unconstitutional and severable from the rest of the statute.[164]

Decisions Striking Down Civil Liability Laws

The Oregon Supreme Court struck down a provision of the Oregon Tort Claims Act which eliminated the ability of individuals covered by workers' compensation to recover damages for injuries by negligent public employees.[165]

The Georgia Supreme Court reaffirmed *Atlanta Oculoplastic Surgery, P.C. v. Nestlehutt*[166] and its holding that the application of Georgia's statutory cap on noneconomic damages in medical malpractice actions violates the Georgia Constitution's right to trial by jury.[167] The court further concluded that the cap is not capable of being applied in a case where the jury's verdict "includes noneconomic damages for a cause of action to which the right to trial by jury applies (the estate's medical malpractice claim for pre-death pain and suffering) — even if that verdict also includes damages for a cause of action to which the right allegedly does not attach" (i.e., a wrongful death claim).[168]

In decisions benefitting businesses, New York federal district courts held that New York's 2024 Climate Change Superfund Act is preempted by the federal Clean Air Act and that any cost recovery demand against a foreign producer would be preempted by the foreign affairs doctrine.[169] The Act established a climate change adaptation cost recovery program requiring companies that have allegedly contributed significantly to the buildup of climate-warming greenhouse gases in the atmosphere to bear a share of the costs of infrastructure investments to adapt to climate change.[170]

Conclusion

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.

[163] *Id*. at *21 (Dougherty, J., concurring).

[164] *Id*. at *47 (Donohue, J., dissenting).

[165] *Crandall v. State*, 584 P.3d 1197 (Or. 2026).

[166] 691 S.E.2d 218 (Ga. 2010).

[167] *Clark v. Leigh*, 932 S.E.2d 74 (Ga. 2026).

[168] *Id*. at 99.

[169] *State of West Virginia v. James*, 2026 WL 2568355 (N.D.N.Y. Aug. 31, 2026); *United States of America v. State of New York*, 2026 WL 2859471 (S.D.N.Y. Sept. 23, 2026).

[170] N.Y. S.2129/A.3351, 2024 Reg. Sess. (N.Y. 2024), (2024), *available at* https://www.nysenate.gov/legislation/bills/2023/S2129/amendment/A.

Corporate defendants are focused on curbing "nuclear verdicts" and regulating third-party litigation funding. The plaintiffs' bar is working to repeal or weaken existing "tort reform" laws.

Looking ahead to 2027, the trial bar will benefit from the midyear election results in many states and willingness of populist members of the GOP to align with the plaintiffs' bar.

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