



American Tort Reform Association

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2025 State Tort Reform Enactments

Arkansas

Phantom Damages Reform – H.B. 1204

Provides that recoverable past medical expenses includes only those costs that were actually paid by or on behalf of the plaintiff, plus any charges that remain unpaid and for which the plaintiff or any third party is legally responsible.

Georgia

Comprehensive Tort Reform – S.B. 68

Phantom Damages & Letters of Protection

Allows a jury to consider not only “amounts charged” but also amounts “actually necessary to satisfy such charges” under public or private health insurance that covers the plaintiff, including workers’ compensation.

Provides that certain information is “relevant and discoverable,” including the letters or protection agreement, an itemized list of the medical services provided with specific charges and billing codes, the name and dollar amount of any portion of the account receivable sold to a third party, and the identity of any individual who referred the plaintiff to the provider for treatment.

Jury Anchoring Reform

Amends a Georgia statute that broadly authorizes lawyers to argue the monetary value of pain and suffering to the jury. Permits such arguments when “rationally related to the evidence of noneconomic damages” and prohibits “reference[s] to objects or values having no rational connection to the facts proved by the evidence.” This change is intended to bar “anchoring” tactics in which attorneys, for example, refer to how much a professional sports player is paid, or the value of art or some other object, to set a baseline for an extraordinary noneconomic damage award. Requires an attorney who suggests a value for noneconomic damages in a closing argument to have done so in the opening argument in the same amount.

Seatbelt Non-Use Admissibility

Eliminates a statutory “gag rule” and permits a factfinder to consider seatbelt nonuse when evaluating issues such as negligence, comparative negligence, causation, assumption of risk, or apportionment of fault, or for any other purpose. However, a court has discretion to exclude seatbelt non-use evidence if its probative value is outweighed by the danger of unfair prejudice.

Trial Procedure Reform

Permits a defendant to file a motion to dismiss in lieu of an answer. Discovery is stayed until the court rules on the motion (except that if the court has not ruled within 90 days, a party can move the court, for good cause, to modify or end the stay). If the court denies the motion to dismiss or indicates that it will not rule until trial, the defendant must file an answer within 15 days.

Permits a party to elect to have the court conduct a trial in two phases. In the first phase, a jury will determine liability and allocation of fault. If the jury finds liability, in the second phase, the same jury will decide the plaintiff’s compensatory damages. If necessary, the court would conduct a third phase to consider punitive damages. During each phase, admissible evidence would be limited to the issues before the court. A court can reject an election to bifurcate in cases in which the amount in controversy is less than \$150,000 and in cases alleging injuries from sexual offenses.

Limits a plaintiff's ability to dismiss an action without order or permission of the court, without prejudice, to within 60 days of a defendant filing its answer. If a plaintiff previously dismissed an action based on the same claim, dismissal operates as an adjudication upon the merits.

Premises Liability

Provides that wrongful conduct by a third party is "reasonably foreseeable" only when a premises owner had "particularized warning of imminent wrongful conduct by a third person" or reasonably should have known that this wrongful conduct would occur based on actual knowledge of prior occurrences of substantially similar wrongful conduct on the premise, the adjacent premises, or within 500 yards of the premises, or by a third party who the defendant knew or should have known would be on the premises.

Provides that a premises owner can be held liable only if the wrongful conduct by a third person was a reasonably foreseeable consequence of that person exploiting a specific physical condition of the premises known to the owner or occupier, which created a reasonably foreseeable risk of wrongful conduct on the premises that was substantially greater than the general risk of wrongful conduct in the surrounding area. In addition, the injury must be a proximate cause of a premises owner's failure to exercise ordinary care to remedy or mitigate a specific, known physical condition of the premises and otherwise keep the premises safe from such wrongful conduct.

Provides for liability to licensees in more limited circumstances than invitees (as above). Precludes liability for negligent security to a trespasser, a person who was not injured on the owner's property, a tenant or guest of a tenant who was subject to eviction proceedings, a person that came on the property for the purpose of committing certain crimes, a person injured in a single-family residence, or when the premises owner made a reasonable effort to alert law enforcement to a particular warning of imminent wrongful conduct.

Requires a jury to apportion fault in a negligent security action among the (1) owner or occupier; (2) any third person whose wrongful conduct caused the injury (the perpetrators of the crime); and (3) any other responsible person. The trial court must set aside a verdict that fails to apportion a reasonable degree of fault to the perpetrator of the crime and grant a new trial. Provides a rebuttable presumption that an apportionment of fault is unreasonable if the total percentage of fault apportioned to all perpetrators is less than the total percentage of fault assigned to all owners or occupiers, security contractors, and other persons who did not engage in the wrongful conduct.

Third Party Litigation Financing Reform – S.B. 69

- Applies to any arrangement in which a person or business provides financing to a consumer or entity, or its counsel, in exchange for a right to receive repayment that is contingent on the outcome of litigation. This covers funding provided to law firms and attorneys for litigation expenses, as well as to cash advances provided directly to plaintiffs/consumers as they await a settlement or judgment.
- Subjects the existence, terms and conditions of litigation financing agreements to discovery. This provision does not apply to nonparties unless the agreement is for \$25,000 or more in funding.
- Requires all litigation financiers to register with the Department of Banking and Finance.
- With respect to litigation financing by foreign entities:
 - o Requires the registration statement to identify any foreign person, foreign principal or sovereign wealth fund affiliated with the person seeking to register as a litigation financier in any capacity directly or indirectly related to such person's litigation financing business.
 - o Prohibits a litigation financier from engaging in funding that is directly or indirectly affiliated with a foreign government, person or entity that is a federally-designated foreign adversary.
- Prohibits litigation financiers from engaging in practices that raise ethical issues and conflicts of interest, such as directing the litigation or settlement, choosing counsel or expert witnesses,

offering legal advice, or participating in referral arrangements with law firms or others providing goods or services (such as medical clinics).

- Prohibits litigation financiers from receiving a share of the recovery that is more than the amount collectively recovered by plaintiffs after the plaintiffs pay attorney's fees and costs.
- Requires certain contract disclosures to consumers in litigation financing agreements.
- Prohibits any person who provides goods or services related to the litigation to a consumer from having a financial interest in litigation financing provided to the consumer.
- Subjects litigation financiers that provide \$25,000 or more in funding to joint and several liability for an award of sanctions or costs against a consumer, entity, or its legal representative.

Kansas

Third Party Litigation Financing Reform – S.B. 54

- Requires disclosure of TPLF agreement to the court for in camera review and a party to deliver a sworn statement disclosing certain facts within 30 days of commencement of the action or the TPLF agreement, whichever is earlier.
- Facts that must be disclosed include: identity of all parties to the agreement, whether a funder has control or approval with respect to the subject litigation, whether the funder can receive confidential materials related to the litigation, existence between the funder and any adverse party to the litigation, description of the financial interest, and whether any foreign entities are involved.
- Places limitations on discovery. Disclosed information concerning a TPLF agreement is not admissible as evidence solely because it was disclosed. Nonprofits would not be required to disclose donors or members. Nothing in the bill modifies the Kansas Rules of Civil Procedure.

Louisiana

Comparative Fault Reform – H.B. 431

Provides that if a person suffers injury, death, or loss partly as the result of his own negligence and partly as a result of the fault of another person, then the following shall apply:

- If the degree or percentage of negligence attributable to the person suffering injury, death, or loss is equal to or greater than 51%, then the person shall not be entitled to recover damages.
- If the degree or percentage of negligence attributable to the person suffering injury, death, or loss is less than 51%, then the amount of damages the person can recover is reduced in proportion to the degree or percentage of negligence attributable to the person suffering the injury, death, or loss.
- Adds that where the issue of comparative fault is submitted to the jury, the jury shall be instructed on the effect of the new law.

Auto Insurance & Limitations of Recovery – H.B. 434

Creates a limitation on recovery of certain damages if a driver does not have automobile insurance.

- Provides that there shall be no recovery for the first \$100,000 of bodily injury.
- Provides that there shall be no recovery for the first \$100,000 of property damage.
- Provides that if an owner is awarded an amount equal to or less than \$100,000 of bodily injury, the owner or operator shall be assessed and held liable for all costs.
- Provides the recovery shall not be in excess of the first \$100,000 of bodily injury and property damages.

Eliminating *Housely* Presumption – H.B. 450

Eliminates a presumption of causation of injuries in certain circumstances. Intended to legislatively overrule *Housley v. Cerise*, 579 So. 2d 973 (La. 1991).

Phantom Damages – S.B. 231

Allows juries to hear evidence of both billed and paid amounts at trial, and repeals a provision in current law that allows recovery of 40% of the difference between billed amounts and what was actually paid.

Missouri

Class Action Reform – S.B. 47

Amends Missouri Supreme Court Rule 52.08 relating to class actions. With certain exceptions, the bill makes changes to mirror the Federal Rules of Civil Procedure. Further provides that an order certifying a class action shall define the class and the class claims, issues, or defenses and shall appoint class counsel. An order that grants or denies class certification may be altered or amended before final judgment or may be combined with orders for actions taken at the case management conference.

Montana

Third Party Litigation Financing Reform – S.B. 511

Furtheres the reforms of the 2023 Litigation Financing Transparency and Consumer Protection Act by creating the Foreign Investment in Litigation Financing Act, which establishes new definitions and regulations regarding litigation financing. Prohibits funding from certain foreign entities identified as foreign adversaries or foreign persons of concern. Clarifies terms such as "consumer," "legal claim," and "litigation financier," while also introducing requirements for transparency and registration of foreign persons involved in litigation financing. Outlines specific consumer protections, including restrictions on litigation financiers' actions and the obligation to disclose financing contracts to relevant parties.

Public Nuisance Reform – H.B. 791

Revises Montana's nuisance laws by updating the definitions and liabilities associated with public and private nuisances. Introduces a new definition of "public nuisance," which includes conditions that unlawfully interfere with public rights or communal safety. Specifies actions that cannot be considered public nuisances, such as lawful activities authorized by government entities and certain noises from shooting ranges. Additionally, it establishes that agricultural operations are not deemed nuisances due to changes in surrounding residential or commercial conditions. Amends existing sections of the Montana Code Annotated (MCA) and repeals several outdated provisions related to nuisance laws.

Outlines the procedures for public nuisance actions by government entities and private individuals, including the criteria for establishing standing in such cases. Clarifies that remedies for public nuisance actions are limited to injunctive relief and compensatory damages for special injuries, while also allowing for emergency abatement of private nuisances by affected individuals. Preempts common law regarding nuisances to the extent that it conflicts with the new provisions. Effective for causes of action accruing on or after October 1, 2025, while preserving the applicability of prior laws for actions that arose before this date.

Oklahoma

Comprehensive Tort Reform – S.B. 453

Limits on Noneconomic Damages

Establishes a limit on noneconomic damages of \$350,000 for bodily injury claims and a \$1 million limit for a permanent mental injury that prevents plaintiffs from being employed or enjoying a reasonable standard of living. The limits do not apply in cases of permanent and severe personal bodily injuries.

Expedited Actions

Specifies that the expedited process provided for in the bill shall apply to a suit in which all claimants affirmatively plead they seek only monetary relief aggregating \$250,000 or less, excluding interest or other punitive damages. Directs the court to remove a suit from the expedited actions process on a motion and a showing of good cause by any party or upon the filing of a pleading or an amended or supplemental pleading that seeks any relief other than the monetary relief. Specifies that discovery shall not exceed 180 days for expedited processes and specifies that parties shall have up to 20 hours total to examine and cross-examine witnesses. Limits requests for interrogatories, productions, and admissions to 15 written requests respectively. Upon request, the court shall set the case for a trial date that is within 90 days after the discovery period ends. The court may only continue the case twice, not to exceed 60 days. Establishes a limit of 8 hours per side to complete jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing arguments. The limit may be extended by 12 hours with a motion and a showing of good cause by either party. The court can refer expedited cases to an alternative dispute resolution process once.

Expert Witnesses

Adopts the federal *Daubert* standard for expert witnesses.

Third Party Litigation Financing Reform – H.B. 2619

Subjects commercial TPLF agreements to discovery upon request. Information related to the agreement is not admissible as evidence at trial. Disclosure must include a certification denoting whether a foreign entity is a source of funding. Consumer TPLF agreements are exempt from the provisions of the bill.

South Carolina

Joint and Several Liability Reform – H. 3430

Joint and Several Liability

A defendant that is less than 50% at fault for a plaintiff's damages, when factoring in the fault of other defendants and tortfeasors, and of the plaintiff, is not subject to joint liability. Full joint liability continues to apply to a defendant whose conduct was willful, wanton reckless, or intentional, or involved the illicit use, sale, or possession of drugs. Gross negligence, however, no longer subjects a defendant to joint and several liability. Conduct involving the use, sale, or possession of alcohol was also eliminated as an exception to the 50% rule. A special rule applies in dram shop actions in which a defendant has been charged with the drunk driving offense and that defendant is found greater than 50% at fault. In those cases, the charged driver appears on the verdict form upon motion of the defendant (the licensee/alcohol seller) and, if both are found liable, the licensee is jointly liable for 50% of the plaintiff's actual damages.

Allocation of Fault

A jury can allocate fault among all defendants, nondefendant tortfeasors, and the plaintiff. In order to seek allocation of fault to a nondefendant, a defendant must disclose the tortfeasor within 180 days of filing the lawsuit or later if there is good cause. The defendant has the burden of proof to show the nonparty's breach of duty proximately caused the plaintiff's injury. A plaintiff has the option of adding the tortfeasor as a defendant or it can challenge the nonparty's inclusion on the verdict form through filing motion that meets the standard for summary judgment or a directed verdict. A settling tortfeasor, whether or not a party, must be included on the verdict form unless excluded per below.

Certain nonparties cannot be included on the verdict form including: (1) a nonparty that is immune from liability or prohibited from suit; (2) a nonparty whose conduct was willful, wanton, reckless, or intentional; (3) nonparty/tortfeasor vicarious liability relationships; (4) strict liability actions; (5) asbestos claims; (6) or in actions brought by government entities involving health, safety, infrastructure, or the environment, other than PFAS. A setoff remains available for a payment by a settling party that is not placed on the verdict form. Requires licensees of alcoholic

beverages to provide employees with training, and includes various regulatory and insurance requirements.