

State Laws Chart I: Liability Reforms

State	Damage Caps	Joint Liability Reform	Collateral Source Reform	Attorney Fees Limited	Periodic Payments Permitted
Alabama	None	No. Each defendant is jointly and severally liable.	Yes	No	Yes for awards of future damages in excess of \$150,000.
Alaska	\$400,000 cap on noneconomic damages, or \$8000 multiplied by the injured party's life expectancy, whichever is greater. For severe medical impairment/ disfigurement, limits are the greater of \$1 million or life expectancy multiplied by \$25,000.	Yes. Defendants are responsible only for their proportionate share of negligence.	Yes, after the fact-finder has rendered an award, and not including evidence of benefits received from a federal program that must subrogate, or death benefits paid under a life insurance policy.	No	Yes.
Arizona	None - Constitution prohibits limiting recoverable damages	Yes. Defendants are responsible only for their proportionate share of negligence, except where co-defendants act in concert or a person is an agent or servant of a party.	Yes, discretionary. Defendant may submit evidence of collateral sources of payment and claimant may submit evidence of amount paid to secure benefits.	No, but at the request of any party the court shall review the reasonableness of each party's attorney's fees.	Yes. Any party may elect, and judge must order. Found unconstitutional <i>Smith v. Myers</i>, 191 Ariz. 11, 887 P.2d 541 (1994)
Arkansas	None	No. Each defendant is jointly and severally liable.	No	No	Yes, discretionary for future damages in excess of \$100,000
California	\$250,000 cap on noneconomic damages	Yes. Defendants are proportionately liable for non-economic damages. However, they are jointly and severally liable for economic damages.	Yes. Defendant may introduce evidence of collateral sources of payment, claimant may introduce evidence of amount paid to secure benefits.	Yes, limited to 40% of the first \$50,000; 33 1/3% of the next \$50,000; 25% of the next \$500,000; and 15% of any amount exceeding \$600,000.	Yes. Any party may elect in cases where damages exceed \$50,000.

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Colorado	\$250,000 cap on noneconomic damages. Courts may increase the non-economic damages to \$500,000 for future medical expenses and future earnings upon clear justification for doing so. \$1,000,000 cap on total damages. Separate \$250,000 limit on derivative noneconomic damages (nonpecuniary harm to person other than person suffering from direct injury or loss). Caps on damages are adjusted annually for inflation since 1998.	Yes. Defendants are responsible only for their proportionate share of negligence unless persons have consciously conspired and deliberately pursued a common plan or design to commit a tortious act.	Yes, benefits from collateral sources must be disclosed and used to reduce recoverable economic damages, minus any amount paid by the claimant to secure the benefit.	No	Yes. Mandatory for awards of future damages greater than \$150,000. Discretionary for damage awards \$150,000 or less.
Connecticut	None	Yes. Defendants are responsible only for their proportionate share of negligence. However, if within one year after the final judgment the court determines that all or part of a defendant's proportionate share is uncollectible, it shall reallocate the uncollectible noneconomic damages among other defendants according to their percentages of negligence. The court may not reallocate to any such defendant an amount greater than that defendant's percentage of negligence multiplied by such uncollectible amount.	Yes, benefits from collateral sources must be disclosed and used to reduce recoverable economic damages, minus any amount paid by the claimant to secure the benefit.	Yes, limited to 33 1/3% of the first \$300,000; 25% of the next \$300,000, 20% of the next \$300,000, and 10% of amounts exceeding \$1.2 million.	For damages exceeding \$200,000, the court shall give the parties 60 days to negotiate an agreement on method of payment, either in lump sum, periodic payments, or a combination thereof. If they cannot agree, the judge must order payment in a lump sum.

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Delaware	None	No. Each defendant is jointly and severally liable.	Yes, the defendant may offer evidence of certain public collateral sources. These sources may not include life insurance or private collateral sources.	Yes, fees are limited to 35% of the first \$100,000, 25% of the next \$100,000, and 10% of any remaining award.	Yes, courts may order periodic payment.
D.C.	None	No. Each defendant is jointly and severally liable.	No	No	Yes, but courts are not required to award payments periodically.
Florida	None, if neither party requests arbitration or the defendant refuses to arbitrate. If the plaintiff refuses, economic and noneconomic damages are capped at \$350,000. If the parties arbitrate, noneconomic damages are capped at \$250,000.	Joint and several liability does not apply to non-economic damages. Joint and several liability applies to part of the economic damages awarded, based on the claimant's percentage of fault and the particular defendant's percentage of fault.	Yes, and the court must reduce damages by the amounts paid to the claimant from collateral sources. If a right of subrogation exists, there is no reduction in damages. Benefits received by the government sources are not considered collateral benefits.	Yes. Levels vary based on how far the proceedings go before payment is received (settled, litigated, etc.)	Yes, for future economic awards exceeding \$250,000, the court must order periodic payments at the request of any party unless the court determines that manifest injustice would result to any party.
Georgia	\$250,000 cap on punitive damages	Defendants can be held jointly and severally liable for non-economic and economic damages if the claimant is without fault. If the plaintiff is to some degree responsible for the injury or damages claimed, the trier of fact may apportion damages among the persons who are liable and whose degree of fault is greater than the claimants, based on the degree of fault of each person. In this case, the parties shall not be held jointly liable.	No	No	No

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Hawaii	\$375,000 cap on noneconomic damages, with exceptions for certain types of damages, ie. mental anguish	Yes. Defendants are responsible only for their proportionate share of negligence, with the following exceptions: recovery of economic damages in actions involving injury or death, and noneconomic damages in such actions, where a tortfeasor's negligence is 25% or more; intentional torts; strict liability torts; and product liability torts.	No	In all tort actions, fees shall be limited to a reasonable amount as approved by the court.	No
Idaho	\$250,000 cap on noneconomic damages per claimant in all personal injury and wrongful death actions. Cap will be adjusted annually beginning on July 1, 2004 based on the average state wage increase. Cap does not apply to willful or reckless conduct or felonious acts.	Yes. Defendants are responsible only for their proportionate share of negligence, except where co-defendants were acting in concert or a person is an agent or servant of a party.	Yes, collateral sources may be submitted to the judge following the verdict. Judgments may be entered only for amounts that exceed recovery from collateral sources.	No	Yes, upon the request of either party, at the discretion of the court, and only in PI cases, where damages exceed \$100,000. May not be ordered for intentional torts, gross negligence or an extreme deviation from reasonable standard of conduct.
Illinois	None	No. Each defendant is jointly and severally liable.	Yes, applicable only to medical malpractice claims. A judgment will be offset by 50% of lost wages and 100% of medical benefits received, minus any amount paid by the claimant to secure such benefits. The total judgment may not be reduced more than 50%. Does not apply to benefits that are subject to subrogation.	Yes. Fees are limited to 33 1/3% of the first \$150,000; 25% of the next \$850,000; and 20% of amounts over \$1 million. Attorney may petition court for additional fees.	Party must elect periodic payment of damages at least 60 days prior to commencement of trial unless leave of court is obtained. Election is accepted if both parties agree or the other party does not make an objection to the election of periodic payments, or future damages will exceed \$250,000.

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Indiana	\$750,000 cap on total damages for any act of malpractice that occurs after 12/31/89 and before 7/1/99. \$1.25 million total cap for any act of malpractice that occurs after 6/30/99. Health care providers are not liable for more than \$250,000 for an occurrence of malpractice. Any amount awarded in excess of \$250,000 will be paid through the Patient Compensation Fund.	No. Each defendant is jointly and severally liable.	Yes, trier of fact shall consider collateral sources of payment when determining award and court shall consider when reviewing awards that are allegedly excessive. Evidence of life insurance or other death benefits; benefits paid by claimant or family; or payments made by state or U.S. prior to trial shall not be considered collateral sources of payment.	Yes. Attorney may collect only 15% of damages awarded under Patient Compensation Fund.	Yes. Law permits, but does not require.
Iowa	None	Yes. Defendants are responsible only for their proportionate share of negligence where a defendant is found to bear less than 50% of the total fault. If a defendant is 50% or more liable, he is jointly and severally liable for economic damages only.	Yes, and damages must be reduced by the amount received from collateral sources.	No, but courts determine reasonableness of fee arrangements.	Yes. Any party may request periodic/structured payment. Court determines the reasonableness.
Kansas	\$250,000 cap on noneconomic damages	Yes. Defendants are responsible only for their proportionate share of negligence.	No.	No	Not mandated
Kentucky	None	Jury may either apportion damages among defendants or hold defendants jointly and severally liable.	No	No	Not mandated
Louisiana	\$500,000 cap on total damages, excluding damages recoverable for future medical care	Yes. Defendants are responsible only for their proportionate share of negligence.	No	No	Yes, for amounts paid by the state from the Patient Compensation Fund.

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Maine	\$400,000 cap on noneconomic damages in wrongful death actions	No. Each defendant is jointly and severally liable.	Yes. Evidence is admissible after a verdict has been rendered, and the judgment must be reduced by the amount received from collateral sources.	Yes. Fees are limited to 33 1/3% of the first \$100,000; 25% of the next \$100,000; and 20% of amounts over \$200,000.	Yes. If damages exceed \$250,000, either party may request periodic payment.
Maryland	\$500,000 cap on noneconomic damages on action for personal injury or wrongful death, increased by \$15,000 annually beginning 10/1/95. In wrongful death actions with two or more claimants or beneficiaries, an award of noneconomic damages may be up to 150% of the limit.	No. Each defendant is jointly and severally liable.	No	No	Yes. Courts and arbitrators may order periodic payment.
Massachusetts	\$500,000 cap on noneconomic damages, with exceptions for proof of substantial disfigurement or permanent loss or impairment, or other special circumstances which warrant a finding that imposition of such limitation would deprive the plaintiff of just compensation for the injuries sustained.	No. Each defendant is jointly and severally liable.	Yes, benefits from collateral sources must be disclosed and used to reduce recoverable economic damages, minus any amount paid by the claimant to secure the benefit.	Yes. Fees are limited to 40% of the first \$150,000; 33 1/3% of the next \$150,000 and 30% of the next \$200,000; and 25% of amounts exceeding \$500,000. An attorney may not take an amount that would leave the claimant with less than the amount of unpaid past and future medical expenses, with exceptions.	No

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Michigan	\$280,000 cap on noneconomic damages, adjusted annually for inflation, except in cases where the plaintiff is hemiplegic, paraplegic, or quadriplegic due to an injury to the brain or spinal cord, or where the plaintiff has permanently impaired cognitive capacity, or the plaintiff has had a permanent loss of or damage to a reproductive organ, then noneconomic damages shall not exceed \$500,000.	No. Each defendant is jointly and severally liable.	Yes, benefits from collateral sources must be disclosed and used to reduce recoverable economic damages, minus any amount paid by the claimant to secure the benefit.	Rules limit contingency fees to one third of total compensation.	No
Minnesota	None	No. Each defendant is jointly and severally liable, except a defendant whose fault is 15% or less is jointly liable for no more than 4 times his percentage of fault.	Yes, within 10 days of the verdict and upon motion of a party. In such cases, the court must reduce the award by the amount received from collateral sources. Such reduction shall be offset by any amount paid by the plaintiff to secure the award.	No	Yes. Court must hold hearing in cases where future damages exceed \$100,000 to allow the claimant to consider if damages should be paid periodically.
Mississippi	\$500,000 cap on noneconomic damages except in cases where the patient suffers disfigurement or if the judge determines punitive damages are warranted. Cap will be adjusted to \$750,000 for causes of action filed after 7/1/2011 and to \$1 million for causes of action filed after 7/1/2017.	Partially. For noneconomic damages, defendants are responsible only for their proportionate share of negligence. For economic damages, a joint tortfeasor who is less than 30% at fault is liable only for his proportionate share of damages, a joint tortfeasor who is more than 30% at fault can be held liable for up to 50% of the economic damages.	No	No	Yes, but they are not mandated.

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Missouri	\$350,000 cap on noneconomic damages, adjusted annually for inflation	No. Each defendant is jointly and severally liable, but a defendant is jointly liable only with defendants whose percentage of fault is equal to or less than his own.	No	No	Yes. In cases where payment for future damages exceeds \$100,000, court may order periodic payment upon request of either party. Court has upheld the constitutionality of this law.
Montana	\$250,000 cap on noneconomic damages	Any party whose negligence is 50% or less of the combined negligence of all persons is severally liable only. The remaining parties are jointly and severally liable for the total less the amount attributable to the claimant. A party may be jointly liable for all damages caused by the negligence of another if both acted in concert or if one party acted as an agent of the other.	Yes, in cases where damages exceed \$50,000. Total damages must be reduced by amount of prior payment from collateral sources that do not involve rights of subrogation.	No	Yes. Upon any party's request, the court must enter an order for periodic payment of future damages exceeding \$50,000.
Nebraska	\$1.25 million in total damages. Health care providers who qualify under the Hospital-Medical Liability Act (i.e. carry minimum levels of liability insurance and pay surcharge into excess coverage fund) shall not be liable for more than \$200,000 in total damages. Any excess damages shall be paid from the excess coverage fund.	Yes. Defendants are responsible only for their proportionate share of negligence, except where parties have acted in concert and caused harm as part of a common enterprise or plan.	Yes. The court shall determine in a separate hearing the amount of any credit against a claimant's damages based on any non-refundable insurance benefits reimbursed to the claimant. This information, however, is not admissible as evidence.	No, but upon motion of either party, the court must review and determine reasonableness of fees.	No

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Nevada	\$350,000 cap on noneconomic damages awarded to each plaintiff from each defendant except when: (1) the defendant's conduct constitutes gross malpractice, or (2) the court determines by clear and convincing evidence that a higher award is justified because of exceptional circumstances.	Yes. Defendants are responsible only for their proportionate share of negligence. Joint and several still applies to economic damages.	Yes. The judge must reduce the verdict by the amount of any collateral benefits, except where a right of subrogation exists.	No	Yes, if requested by the claimant.
New Hampshire	None	Yes	No. Supreme Court has held abolition of the rule unconstitutional.	The court must approve fees for actions resulting in settlement/judgment of \$200,000 or more. Specific limits for medical cases have been ruled unconstitutional.	Yes. The court has authority to order periodic payment. Specific requirements for medical cases have been ruled unconstitutional.
New Jersey	Punitive damages limited to the greater of \$350,000 or five times compensatory damages.	Yes. Defendants are responsible only for their proportionate share of negligence if they are found to be less than 60% at fault. Defendants found to be 60% at fault are subject to a modified rule.	Yes. Collateral source payments must be disclosed and deducted from claimant's damages	Yes. Fees may not exceed the following: 33 1/3% of the first \$500,000; 30% of the next \$500,000; 25% of the next \$500,000; 20% of the next \$500,000; and an amount the court deems reasonable for fees over \$2 million.	No

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New Mexico	\$600,000 cap on total damages, excluding punitive damages and past and future medical care. Health care providers personal liability shall not exceed \$200,000, including payments for future medical expenses. Any award in excess of this amount shall be paid by the patient compensation fund.	Yes. Defendants are responsible only for their proportionate share of negligence except in cases where defendant intended to inflict injury, strict liability, vicarious liability or situations “having a sound basis in public policy.”	No	No	Yes. Future medical expenses are paid as they are incurred by claimant.
New York	None	Yes for non-economic damages. Defendants are responsible only for their proportionate share of negligence if they are found to be 50% or less liable. Defendants can be held jointly and severally liable for economic damages.	Yes. Collateral sources of payment are admissible as evidence and must reduce the award by the amount recovered. Such reduction shall be offset by premiums paid by the claimant for the benefit for two years preceeding the action and projected future costs of maintaining benefits.	Yes. Fees are capped as follows: 30% of the first \$250,000; 25% of the next \$250,000; 20% of the next \$500,000; 15% of the next \$250,000; and 10% of fees of \$1.25 million or more.	Yes. Future damages over \$250,000 must be paid periodically.
North Carolina	None	No. Each defendant is jointly and severally liable.	No	No	No
North Dakota	\$500,000 cap on noneconomic damages. Economic damage awards in excess of \$250,000 are subject to judicial review for reasonableness.	Yes. Defendants are responsible only for their proportionate share of negligence except where defendants act in concert in committing, aiding and encouraging, or ratifying or adopting a tortious act.	Yes. Defendant may apply to the court for a reduction of economic damages based on collateral sources of payment.	No	Yes. In cases where future economic damages will be awarded for continuing institutional/custodial care lasting more than two years, a party may request periodic payments. Court has discretion to grant.

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Ohio	Cap on noneconomic damages of the greater of \$250,000 or three times economic damages up to a maximum of \$350,000 per plaintiff or 500,000 if there are multiple plaintiffs. For catastrophic injuries the maximum may increase to \$500,000 per plaintiff or \$1 million for multiple plaintiffs.	Yes. Defendants are responsible for their proportionate share of negligence for noneconomic damages. For economic damages, defendants who are 50% or less at fault are responsible for their proportionate share of negligence, but defendants who are held more than 50% at fault are jointly and severally liable.	Yes. Defendants may introduce evidence of collateral sources of payments made to plaintiffs. The plaintiff may submit evidence of any amount the plaintiff has paid or contributed to secure the benefits.	No, but their fees are subject to approval by the probate court if their fees exceed the non-economic damages awarded.	Yes. Court may award periodic payment of damages for awards that exceed \$50,000 if the plaintiff or defendant files a motion with the court.
Oklahoma	Punitive damages for cases where the defendant acted with reckless disregard are limited to the greater of \$100,000 or the amount of actual damages awarded. No limit on punitive damages for cases where the defendant acted intentionally and with malice.	No. Each party is jointly and severally liable. However, case law has held that several liability exists where a claimant is held partially responsible for a tortious act.	No	Yes. In contingency fee arrangements, attorney may not contract to receive more than 50% of the recovery.	No
Oregon	None – Constitution prohibits caps on noneconomic damages	Yes. Defendants are responsible only for their proportionate share of negligence, but if within one year after the final judgment the court determines that all or part of a defendant's proportionate share is uncollectible, it shall reallocate the uncollectible noneconomic damages among other defendants according to their percentages of negligence.	Yes, but no deduction can be made for life insurance, benefits for which the claimant has paid, retirement/disability, social security, or insurance benefits for which the person injured or deceased paid premiums.	Partially. Attorney fees recovered from an award for punitive damages are limited to 20% of the 40% paid to the prevailing party. No limit on attorney fees for economic or noneconomic damages.	No

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Pennsylvania	Constitution prohibits caps on non-economic damages. Punitive damages are capped at 2 times actual damages.	Yes. Liability for each defendant shall be he several only and not joint. Unless, the defendant's percentage of liability is 60% or greater then the defendant can be held jointly and severally liable.	Yes. Awards are reduced by the amount paid to the claimant from other sources.	No.	Yes for future economic damages that exceed \$100,000, unless the claimant objects.
Rhode Island	None	No. Each party is jointly and severally liable.	Yes. Collateral payment sources may be introduced and claimant may introduce evidence of any payments made to secure such benefit. Award must be reduced by the difference between the collateral payments received and payments made by the plaintiff to secure such benefits.	No	Not mandated, but parties must consider if damages exceed \$150,000.
South Carolina	None	No. Each party is jointly and severally liable.	No	No	No
South Dakota	\$500,000 cap on total general damages	No. Each party is jointly and severally liable, but parties who are allocated less than 50% of the total fault may only be jointly liable for more than 2xs the percentage of fault allocated to that party.	Yes, but no evidence of payments subject to subrogation and not purchased by the claimant or paid by the government.	No	Yes. If a party makes an effective election and both parties agree or a timely objection is not filed, or if a timely objection is filed but the claimant can prove future damages are in excess of \$200,000.
Tennessee	None	Yes. Courts have held joint and several liability obsolete.	Yes. Damages awarded will be reduced by collateral sources of payment. Such reduction shall be offset by the amount paid by the claimant to secure the benefit.	Yes. Attorney compensation shall be awarded by the court, but may not exceed 33 1/3% of total damages.	No

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Texas	\$500,000 cap on all damages for wrongful death, indexed for inflation since 1977. In 2002 the cap reached approximately \$1.4 million.	Yes. Defendants are responsible only for their proportionate share of negligence, unless the percentage of responsibility attributed to the defendant is greater than 50%.	No	No	No
Utah	\$250,000 cap on noneconomic damages, indexed for inflation. For causes of action arising on or after 7/1/2001 but before 7/1/02 limit increased to \$400,000. Limit adjusted annually for inflation thereafter.	Yes. Defendants are responsible only for their proportionate share of negligence.	Yes. Court must reduce damages by any collateral sources of payment received by the claimant, except for benefits from payors with subrogation rights. Reduction shall be offset by amount paid by claimant to secure such benefits.	Yes. Total compensation may not exceed 1/3 of total damages.	Yes. Any party may request periodic payments, and the court must order such payments if future damages exceed \$100,000.
Vermont	None	No. Each party is jointly and severally liable.	No	No	No
Virginia	\$1.5 million cap on total damages for acts occurring on or after Aug. 1, 1999. This cap is increased by \$50,000 annually until 2007. In 2007 and 2008, the cap is increased by \$75,000.	No. Each party is jointly and severally liable.	No	No	Yes, but no requirement exists for such payments in PI cases.
Washington	None	If the claimant is at fault, defendants are responsible only for their proportionate share of negligence, except where parties act in concert or where a person was acting as an agent or servant of the party. If the claimant is not at fault, defendants are jointly and severally liable.	Yes. Evidence may be presented, except that evidence of payments from insurance policies purchased with personal or family assets or by an employer on behalf of an employee may not be introduced.	Court shall determine the reasonableness of each party's attorneys' fees.	Yes. Any party may request periodic payments, and the court must order such payments if future economic damages exceed \$100,000.

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West Virginia	\$250,000 cap on noneconomic damages per occurrence. \$500,000 cap on noneconomic damages for cases involving (1) wrongful death, (2) permanent and substantial physical deformity, loss of use of limb or loss of a bodily organ system, or (3) permanent physical or mental functional injury that permanently prevents the injured person from being able to independently care for himself or herself and perform life sustaining activities. Adjusted annually for inflation, but the \$250,000 cap shall not exceed \$375,000 and the \$500,000 cap shall not exceed \$750,000.	Yes. Defendants are responsible only for their proportionate share of negligence.	Yes. The defendant may introduce evidence of collateral sources of payment into evidence and the plaintiff may introduce evidence of payments made to secure such benefits. The court must reduce the award by the amount the plaintiff recovered from collateral sources offset by any payments or contributions made to secure such benefits.	No	No
Wisconsin	\$350,000 cap on noneconomic damages for medical malpractice claims, adjusted annually for inflation. For wrongful death actions, \$350,000 cap on noneconomic damages for adults, and \$500,000 cap on noneconomic damages for minors.	Yes. Defendants are responsible only for their proportionate share of negligence if they are less than 51% at fault unless a defendant acted as part of a common scheme or plan.	Yes. The defendant may introduce evidence of payments received from collateral sources.	Yes, as follows: 33 1/3% of the first \$1 million, or 25% if certain procedural timeframes are met; 20% of amounts exceeding \$1 million. Court has discretion to increase fees.	Yes, if future medical expenses are expected to exceed \$100,000.

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Wyoming	None - Constitution prohibits caps	Yes. Defendants are responsible only for their proportionate share of negligence.	No	Yes, when recovery is \$1 million or less as follows: 33 1/3% if claim is settled prior to or within 60 after filing; 40% if claim is settled more than 60 days after filing or upon judgment. If recovery is more than \$1 million, 30% of recovery in excess of \$1 million is considered reasonable.	Not mandated