



American Tort Reform Association

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CIVIL JUSTICE REFORM *OUTLOOK*

January 2024

To: ATRA Members and Friends

From: Matt Fullenbaum, Vice President, Legislative Affairs and Strategic Alliances

Re: ATRA's Civil Justice Reform *Outlook*, 2024

2024 is an election year and lawmakers typically try to end session quickly to go home and campaign. Moreover, lawmakers tend to shy away from controversial issues during election season and legal reform is often a highly charged issue in state capitals. Not as many states meet in regular session this year and others are meeting in short or fiscal sessions. The confluence of these factors will likely result in fewer opportunities to advance substantial legal reform packages this year and those same constraints will equally impact the ability of personal injury lawyers to pursue their liability-expanding legislative ambitions.

This year there are several states that are well positioned to advance substantial reform legislation including Florida, which is carrying over momentum from the passage of historic legislation in 2023, Indiana, and West Virginia as well as potentially Georgia and South Carolina. Other states are poised to take a focused approach on important issues such as third party litigation financing, limits on noneconomic damages in commercial trucking cases, and jury anchoring, to name a few. We also assess that personal injury lawyers and their allies in state legislatures will continue to aggressively push their own affirmative, liability-expanding agenda on issues such as wrongful death, medical monitoring and environmental litigation, repeal of previously enacted legislation that limited noneconomic damages, increase in damage caps when full repeal is unsuccessful or not politically feasible, and establishment of private rights of action to enforce various state laws and regulations.

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While we try to be comprehensive with our *Outlook*, this document is by no means meant to be exhaustive. If you have supplemental information, please do not hesitate to share it with us.

ALABAMA

SESSION CALENDAR 02/06/24 – 05/20/24
HOUSE 28 D 76 R 1 V
SENATE 8 D 26 R

GOVERNOR: Kay Ivey (R)

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Republicans hold sizable majorities in both chambers of the Alabama Legislature, though personal injury lawyers are influential with lawmakers on both sides of the aisle. Allies in Montgomery advise that civil justice reform proponents may pursue legislation to deter judges from adopting new and novel liability-expanding theories recommended by the American Law Institute's Restatements of the Law. On the other hand, personal injury lawyers are not expected to be active in pursuing their own affirmative agenda.

ALASKA

SESSION CALENDAR 01/16/24 – 05/15/24
HOUSE 13 D 22 R 5 O
SENATE 9 D 11 R

GOVERNOR: Mike Dunleavy (R)

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No activity reported.

ARIZONA

SESSION CALENDAR 01/08/24 – 04/20/24
HOUSE 29 D 31 R
SENATE 14 D 16 R

GOVERNOR: Katie Hobbs (D)

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All members of the Arizona State Legislature are up for election this November, and Republicans hold a slim one seat majority in each chamber. Contacts in Phoenix do not expect a particularly active year on legal reform in 2024 except with respect to legislation related to third-party litigation financing.

ARKANSAS

SESSION CALENDAR 04/10/24 – 05/09/24
HOUSE 18 D 82 R
SENATE 6 D 29 R

GOVERNOR: Sarah Huckabee Sanders (R)

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2024 is a fiscal session in Little Rock and contacts at the capitol tell ATRA they do not expect any civil justice-related legislation to be considered this year.

CALIFORNIA

SESSION CALENDAR 01/03/24 – 08/31/24
HOUSE 62 D 18 R
SENATE 32 D 8 R

GOVERNOR: Gavin Newsom (D)

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California continues to be one of the most challenging states for civil justice reform advocates. Democrats supported by the Consumer Attorneys of California (CAOC) hold supermajorities in the House and Senate, and many of these lawmakers are not receptive to hearing the business community's perspective on the problems with California's civil justice system, let alone the drawbacks of liability-expanding legislation

pushed by personal injury lawyers. 2024 is shaping up to be another rough session. Contacts in Sacramento tell ATRA they expect CAOC to push an aggressive liability-expanding agenda, though it is unclear what specific issues they are likely to pursue. The business community will have a better handle on CAOC's agenda after the February 16th bill introduction deadline. Relative to affirmative legislation, it is always an uphill battle and legal reform advocates plan to spend most of their time, when not opposing liability-expanding legislation, educating key lawmakers about the need to improve the state's civil justice system.

COLORADO

SESSION CALENDAR 01/10/24 – 05/08/24

HOUSE 46 D 19 R

SENATE 23 D 12 R

GOVERNOR: Jared Polis (D)

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The political and legislative environment in Denver is as challenging as any for civil justice reform proponents. Democrats aligned with personal injury lawyers hold a super majority in the House and are one seat shy of a super majority in the Senate. Observers in the Centennial State advise that the Colorado Trial Lawyers Association is focused this year on a ballot measure to repeal the state's limit on noneconomic damages for wrongful death and catastrophic injury cases. In the legislature, Representative Mike Weissman (D), Chairman of the House Judiciary Committee, is expected to continue his push to open up the Colorado Consumer Code to more lawsuits by rendering meaningless the court's "significant public impact" test which distinguishes "deceptive trade practice" lawsuits from ordinary torts. Civil justice reform proponents assess there are two affirmative reform proposals that could generate bipartisan support. The first relates to providing greater protection to landowners whose private property provides access to hiking trails. The second relates to reform of construction liability statutes.

CONNECTICUT

SESSION CALENDAR 02/07/24 – 05/08/24
HOUSE 97 D 53 R 1 V
SENATE 24 D 12 R

GOVERNOR: Ned Lamont (D)

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Contacts in Hartford tell ATRA that personal injury lawyers and their allies in the General Assembly could pursue two types of liability-expanding bills during the 2024 session: (1) a ban on non-disclosure agreements; and (2) changes to the workers compensation system favorable to the trial lawyers. On the other side of the equation, the business community may pursue third party litigation financing legislation this year.

DELAWARE

SESSION CALENDAR 01/09/24 – 06/30/24
HOUSE 26 D 14 R 1 V
SENATE 15 D 6 R

GOVERNOR: John Carney (D)

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No activity reported.

FLORIDA

SESSION CALENDAR 01/09/24 – 03/08/24
HOUSE 36 D 84 R
SENATE 12 D 28 R

GOVERNOR: Ron DeSantis (R)

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Last year, Florida lawmakers and Governor DeSantis (R) worked together to enact historic comprehensive legal reform legislation, H.B. 837, that addressed many of the problems that plagued the Sunshine State from inflated medical damages and letters of protection to third party bad faith lawsuits. And although no one expects this year to top 2023, contacts in Tallahassee tell ATRA they do anticipate another active year on important issues such as third-party litigation financing, limits on noneconomic damages in medical liability cases, and asbestos trust fund transparency. The civil justice reform community is also keeping a close eye on legislation being pushed by the trial bar that would allow plaintiffs to access claims files of insurance companies.

GEORGIA

SESSION CALENDAR 01/08/24 – 03/28/24
HOUSE 78 D 102 R
SENATE 23 D 33 R

GOVERNOR: Brian Kemp (R)

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The business community had high hopes for a productive session heading into 2024. Last August Governor Kemp (R) publicly indicated his desire to pursue a robust legal reform package and allies and observers in Atlanta were bullish about the prospects for a substantial package. However, the balloon popped in early January when the Governor stated it would take multiple years to enact legal reform. The Peach State is currently ranked the number one Judicial Hellhole in America, and policymakers need to address many issues to improve the state's reputation. Such issues would include seat belt evidence admissibility, phantom damages and letters of protection, premises liability reform, direct action, and third-party litigation financing, to name a few. What, if any, of these issues will be

addressed in 2024 is an open question. The challenges to advance reform are great. Business-friendly Republicans hold majorities in the House and Senate, but trial lawyer Republicans, backed by the Georgia Trial Lawyers Association, wield a tremendous amount of influence and hold key committee chairs.

HAWAII

SESSION CALENDAR 01/17/24 – 05/03/24
HOUSE 45 D 6 R
SENATE 23 D 2 R

GOVERNOR: Josh Green (D)

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No activity reported.

IDAHO

SESSION CALENDAR 01/08/24 – 03/22/24
HOUSE 11 D 59 R
SENATE 7 D 28 R

GOVERNOR: Brad Little (R)

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Contacts in Boise tell ATRA they expect a relatively quiet year on civil justice issues. The legal reform community is not expected to pursue affirmative legislation during 2024, but they advise they are prepared to oppose any private rights of action legislation and statutory damages proposals that the opposition may pursue.

ILLINOIS

SESSION CALENDAR 01/16/24 – 05/24/24
HOUSE 78 D 40 R
SENATE 40 D 19 R

GOVERNOR: J.B. Pritzker (D)

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The Land of Lincoln is one of the most inhospitable environments for civil justice reform advocates and the business community. The Illinois Trial Lawyers Association is very influential in Springfield and their allies in the legislature almost every year pursue liability-expanding legislation. Contacts in the business community advise they will remain vigilant throughout session for such legislation, flag problematic developments for the national business community, and engage appropriately to oppose liability-expanding initiatives.

INDIANA

SESSION CALENDAR 01/08/24 – 03/14/24
HOUSE 30 D 70 R
SENATE 10 D 40 R

GOVERNOR: Eric Holcomb (R)

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Republicans hold supermajorities in the House and Senate, and Governor Holcomb (R) is generally viewed as friendly to business. Hoosier State policy makers have not enacted significant legal reform in quite a few years, and the business community and state business organizations have made legal reform a priority issue for the session. Issues to be considered may include seat belt evidence admissibility, jury anchoring, and third-party litigation reform. Personal injury lawyers and their allies in the legislature are very influential with both judiciary committees, and overcoming their opposition, while not impossible, will be a challenge.

IOWA

SESSION CALENDAR 01/08/24 – 04/16/24
HOUSE 36 D 64 R
SENATE 16 D 34 R

GOVERNOR: Kim Reynolds (R)

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Lawmakers in the Hawkeye State are coming off of a very successful 2023 session with the enactment of limits on noneconomic damages in medical liability cases as well as a separate bill related to liability of commercial trucking companies that included a limit on noneconomic damages. Pro-business Republicans continue to enjoy sizable majorities in both chambers of the Iowa Legislature, and contacts in Des Moines expect legal reform advocates to pursue additional affirmative legal reform legislation this year in areas such as products liability and future medical damages. This fall, half of the Iowa Senate will be up for reelection and all 100 members of the Iowa House. If legal reform legislation does not make it over the finish line in 2024, expect a big push in 2025.

KANSAS

SESSION CALENDAR 01/08/24 – 05/03/24
HOUSE 40 D 85 R
SENATE 11 D 29 R

GOVERNOR: Laura Kelly (D)

Mr. Eric Stafford
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Lawmakers in the Jayhawk State are expected to focus on third-party litigation financing. Contacts in Topeka do not anticipate an otherwise active session on civil justice issues.

KENTUCKY

SESSION CALENDAR 01/02/24 – 04/15/24
HOUSE 20 D 79 R 1 V
SENATE 7 D 31 R

GOVERNOR: Andy Beshear (D)

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Contacts in Frankfurt advise they expect a quiet 2024. Late last session the lawsuit lending industry pursued legislation to circumvent current banking and lending regulations which govern their business model. Allies in the state tell ATRA that though such legislation has yet to be filed, they will closely follow and flag any unwelcome legislation being pursued by the lending industry.

LOUISIANA

SESSION CALENDAR 03/11/24 – 06/03/24
HOUSE 32 D 73 R
SENATE 11 D 28 R

GOVERNOR: Jeff Landry (R)

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The civil justice reform community is hopeful that the election of Governor Jeff Landry (R) last fall will improve the prospects for affirmative legal reform proposals. Recall that Governor Landry's predecessor, John Bel Edwards (D), was aligned with personal injury lawyers which made it a challenge to enact significant legal reform legislation. Contacts in Baton Rouge advise that several issues could be considered during the 2024 session such as collateral source rule reform, third-party litigation financing, and issues related to insurance.

MAINE

SESSION CALENDAR 01/03/24 – 04/17/24
HOUSE 80 D 68 R 3 O/V
SENATE 22 D 13 R

GOVERNOR: Janet Mills (D)

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In 2023, the Democrat majorities in both chambers of the Maine Legislature advanced and passed legislation to expand wrongful death lawsuits. H.P. 581 / L.D. 934 increased the amount recoverable for loss of comfort, society and companionship, including emotional distress, from \$750,000 to \$1 million, which will automatically increase each year for inflation, and increased the law’s punitive damages maximum from \$250,000 to \$500,000. Allies in Augusta advise that the trial lawyers could follow up with legislation this year that focuses on increasing the statute of limitations in wrongful death cases. Legal reform advocates are not expected to pursue an affirmative agenda during the 2024 session.

MARYLAND

SESSION CALENDAR 01/10/24 – 04/08/24
HOUSE 102 D 39 R
SENATE 34 D 13 R

GOVERNOR: Wes Moore (D)

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The Maryland General Assembly is dominated by anti-business, pro-trial lawyer Democrats who hold supermajorities in both the House and Senate. It is not a stretch to say that Annapolis is one of the most hostile environments for both the business community in general and civil justice reform advocates in particular. Allies in the “Free State” tell ATRA that personal injury lawyers are likely to pursue legislation that would repeal the limit on noneconomic damages in personal injury cases. And the legal reform community is always on the lookout for attempts by the other side to repeal the contributory negligence doctrine and replace it with a pure comparative fault scheme, though we have received no indications this is likely to materialize in 2024. Finally, contacts tell ATRA the trial bar also is likely to pursue legislation to prohibit the use of liability waiver agreements by gyms and health clubs with their customers.

MASSACHUSETTS

SESSION CALENDAR 01/03/24 – 07/31/24
HOUSE 134 D 24 R 2 O/V
SENATE 36 D 4 R

GOVERNOR: Maura Healey (D)

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No activity reported.

MICHIGAN

SESSION CALENDAR 01/10/24 – 12/31/24
HOUSE 54 D 54 R 2 V
SENATE 20 D 18 R

GOVERNOR: Gretchen Whitmer (D)

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Democrats hold a trifecta for the first time in 40 years and personal injury lawyers are eager to generate a return on their support of the majority party. Contacts in Lansing tell ATRA that all bills from 2023 carryover and there are more than a few liability-expanding proposals they are closely monitoring, including: private right of action for paid leave; false claims act with a qui tam whistleblower provision; expansion of the Consumer Protection Act to cover regulated entities; an “insurance bill of rights”; statute of limitations revival for certain types of cases; and a “polluter pays” package that includes among other things allowing recovery of medical monitoring damages without requiring a present physical injury. Allies also expect legislation to be introduced in early 2024 that would allow parallel tracks of civil litigation to the workers compensation system. There is also concern that personal injury lawyers could purse changes to the state’s medical liability laws.

In November, all 110 members of the House are up for election and there is a possibility Republicans could garner a majority which could help to serve as a backstop against the types of liability-expanding proposals considered during the last two years.

MINNESOTA

SESSION CALENDAR 02/12/24 – 05/20/24
HOUSE 70 D 63 R 1 V
SENATE 34 D 33 R

GOVERNOR: Tim Walz (D)

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The DFL holds a trifecta in the Land of 10,000 Lakes and these legislators are aligned with personal injury lawyers. Last year, the DFL-led legislature passed bills to expand the state's consumer fraud statute, remove certain exclusions related to family members being able to sue each other in boating accidents, and expand certain types of workplace lawsuits. Governor Waltz (D) signed all three bills. Heading into 2024, contacts in St. Paul tell ATRA that they do not expect consideration of any affirmative legal reform legislation and advise that the Legislature could follow-up with additional liability-expanding bills on issues such as anti-trust and bad faith.

MISSISSIPPI

SESSION CALENDAR 01/02/24 – 05/05/24
HOUSE 41 D 79 R 2 O
SENATE 16 D 36 R

GOVERNOR: Tate Reeves (R)

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The primary focus of the civil justice reform community in the Magnolia State during 2024 will be the four seats on the Mississippi Supreme Court that are up for reelection. Two of those justices have enjoyed the support of the business community and the other two are supported by personal injury lawyers. All four justices are expected to run for reelection. There are also two justices on the Court of Appeals, both supported by the business community, who are up for reelection this year, and both are expected to run. Finally, contacts in Jackson tell ATRA they expect a quiet year in the Legislature and do not forecast either affirmative or liability-expanding legislation to be considered during session.

MISSOURI

SESSION CALENDAR 01/03/24 – 05/17/24

GOVERNOR: Mike Parson (R)

HOUSE 51 D 111 R 1 V
SENATE 10 D 24 R

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The legislative and political landscape in the Republican-dominated Missouri Legislature is as challenging as anywhere in the country for legal reform advocates. A combination of trial lawyer Republicans and populist Republicans, particularly in the Senate, are roadblocks to passage of affirmative legislation. Contacts in Jefferson City tell ATRA that civil justice reform proponents are likely to focus efforts during the 2024 session on educating lawmakers on several issues such as empty chair defense, collateral source clean up, innovator liability, jury anchoring, and overnaming, to name a few. From a civil justice reform perspective, the November elections could result in improvements to the mix of Republicans in the House and Senate which would increase the likelihood for successful passage of legal reform legislation in 2025 and beyond.

MONTANA

SESSION CALENDAR No Regular Session in 2024

GOVERNOR: Greg Gianforte (R)

HOUSE 32 D 68 R
SENATE 16 D 34 R

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No regular session in 2024

NEBRASKA

SESSION CALENDAR 01/03/24 – 04/18/24
SENATE 16 D 32 R 1 O

GOVERNOR: Jim Pillen (R)

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No activity reported.

NEVADA

SESSION CALENDAR No Regular Session in 2024
HOUSE 28 D 14 R
SENATE 13 D 8 R

GOVERNOR: Joe Lombardo (R)

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No regular session in 2024.

NEW HAMPSHIRE

SESSION CALENDAR 01/03/24 – 06/28/24
HOUSE 195 D 198 R 7O/V
SENATE 10 D 14 R

GOVERNOR: Chris Sununu (R)

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Lawmakers in Concord are poised to consider several liability-expanding proposals during the 2024 session such as establishing medical monitoring for PFAS exposure claims, expanding the statute of limitations for PFAS exposure cases, creating strict liability for PFAS contamination cases, and expanding the relationships eligible for potential loss of consortium damages. Contacts in the Granite State tell ATRA that liability-expanding legislation is challenging to stop in the House, but that Senate members are more receptive to hearing concerns from the business community.

NEW JERSEY

SESSION CALENDAR 01/09/24 – 12/31/24
HOUSE 46 D 34 R
SENATE 25 D 15 R

GOVERNOR: Phil Murphy (D)

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New Jersey's entire Legislature was just up for (re)election in November 2023. After Republicans unexpectedly gained several legislative seats and nearly took the governorship in New Jersey's 2021 elections, Democrats were hesitant to push controversial legislation during the 2022-2023 legislative session. Observers expected that Republicans would continue to gain seats in November 2023 due to inflation, the Governor's regulatory agenda, and social issues.

However, the exact opposite occurred: Democrats swept almost every legislative race and will possess near supermajorities in both Houses of the New Jersey Legislature during the new 2024-2025 legislative session. As a result, during the "lame duck" session that followed the recent election, several "pro-plaintiff" bills that were previously stalled began to quickly move again. We expect this trend to continue in the new session after all prior pending legislation is reintroduced.

Contacts in Trenton tell ATRA that New Jersey's current Senate President is a practicing plaintiffs' personal injury attorney whose legislative agenda has always been pro-plaintiff. The Senate President is resistant to compromise on civil justice reform initiatives. Accordingly, all affirmative civil justice reform legislation has little or no chance of movement out of the New Jersey Legislature. On the other hand, observers in the Garden State expect attempts by the plaintiffs' bar to expand available damages in tort cases and to add new grounds to pursue private lawsuits under the state's consumer protection and employment laws.

NEW MEXICO

SESSION CALENDAR 01/16/24 – 02/15/24
HOUSE 45 D 25 R
SENATE 27 D 15 R

GOVERNOR: Michelle Lujan Grisham (D)

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No activity reported.

NEW YORK

SESSION CALENDAR 01/03/24 – 06/06/24
ASSEMBLY 102 D 48 R
SENATE 42 D 21 R

GOVERNOR: Kathy Hochul (D)

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Albany is always an interesting and challenging venue for civil justice reform advocates. Last year, the Legislature passed for the second time legislation to greatly expand the state's wrongful death statute. Fortunately, Governor Hochul (D) followed up her veto of the first bill with a veto of the second bill. In addition, Governor Hochul also vetoed a problematic personal jurisdiction bill. Contacts in Albany tell ATRA they expect consideration of liability expanding proposals in 2024. Notably, Governor Hochul has included language in her proposed budget to raise the minimum statutory damages under the Unfair and Deceptive Trade Practices Act from \$50 per violation to \$1,000 per violation. Expect other liability-expanding proposals to be considered during session. On the other side of the ledger, there is a significant effort underway to address lawsuit lending and allies advise there could be an opportunity to pass legislation this year.

NORTH CAROLINA

SESSION CALENDAR 04/24/24 – 07/31/24
HOUSE 48 D 72 R
SENATE 20 D 30 R

GOVERNOR: Roy Cooper (D)

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Contacts in The Tar Heel State tell ATRA they anticipate that civil justice reform proponents are likely to pursue third-party litigation financing legislation during the 2024 session. Republicans hold supermajorities in the House and Senate and Democrat Governor Roy Cooper is serving his final year in office. All 170 seats of the General Assembly are up for election in November as are several statewide seats including Governor, Lieutenant Governor, and Attorney General. In addition, the sixth seat of the North Carolina Supreme Court is up for election as well.

NORTH DAKOTA

SESSION CALENDAR No Regular Session in 2024
HOUSE 12 D 82 R
SENATE 4 D 43 R

GOVERNOR: Doug Burgum (R)

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No regular session in 2024.

OHIO

SESSION CALENDAR 01/02/24 – 12/31/24
HOUSE 32 D 67 R
SENATE 7 D 26 R

GOVERNOR: Mike DeWine (R)

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Republicans hold supermajorities in both chambers of the Ohio General Assembly, but the dysfunction in the House continues. Recall that in 2023, Speaker Stephens (R) was elected with more Democrats than Republicans. This threw last year's session into chaos which made it difficult for anyone to gain traction on legislative priorities in the House, including the civil justice reform community. Contacts in Columbus tell ATRA two issues legal reform proponents are expected to pursue this year include third-party litigation financing and asbestos overnaming. Legislation to address jury anchoring may also be considered.

OKLAHOMA

SESSION CALENDAR 02/05/24 – 05/31/24
HOUSE 20 D 80 R 1 V
SENATE 8 D 40 R

GOVERNOR: Kevin Stitt (R)

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Civil justice reform allies in Oklahoma City advise that they do not expect a particularly active year on civil justice issues. Lawmakers may consider legislation related to third-party litigation financing as well as cyber security which observers will closely monitor for any private rights of action provisions. Republicans hold a trifecta in the Sooner State including lopsided majorities in both chambers of the legislature though as in many other states, trial lawyer Republicans and populist Republicans are an impediment to the advancement of legal reform legislation.

OREGON

SESSION CALENDAR 02/05/24 – 03/10/24
HOUSE 35 D 25 R
SENATE 17 D 12 R 1 O

GOVERNOR: Tina Kotek (D)

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All 60 members of the House and 15 of 30 Senators are up for election in 2024. This year's short, 35-day session of the Oregon Legislative Assembly starts next Monday, February 5, 2024. As a result of the short session coupled with the election year, legislative leadership has agreed to keep controversial topics off of the agenda and has prioritized housing and drug decriminalization reform for 2024. Contacts in Salem tell ATRA they have not heard of any liability-related legislation that is expected to be considered, however allies are on high alert to look for any bills that will increase liability.

PENNSYLVANIA

SESSION CALENDAR 01/02/24 – 11/30/24
HOUSE 101 D 101 R 1 V
SENATE 22 D 28 R

GOVERNOR: Josh Shapiro (D)

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Governor Shapiro (D) is friendly with the trial lawyers, Republicans hold a six seat margin in the Senate, and Democrats control the House with a one vote seat margin but technically are tied with Republicans due to a seat vacated by a Democratic member who was elected to the judiciary last fall; we expect that seat to be filled by a Democrat when a special election is held to fill the vacancy. Contacts in Harrisburg tell ATRA the trial bar is likely to pursue a liability-expanding agenda from bills that contain a private right of action to the False Claims Act. It is difficult for legal reform advocates to push reform legislation over the finish line in the current mixed political and legislative environment. Nevertheless, observers on the ground advise several affirmative reforms may be pursued on issues such as improvements to the fair share act, venue reform related to medical liability cases, and the personal jurisdiction consent statute which was at issue in the United States Supreme Court's *Mallory* decision.

RHODE ISLAND

SESSION CALENDAR 01/02/24 – 06/30/24
HOUSE 65 D 9 R 1 O
SENATE 33 D 5 R

GOVERNOR: Dan McKee (D)

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No activity reported.

SOUTH CAROLINA

SESSION CALENDAR 01/09/24 – 05/09/24
HOUSE 35 D 88 R 1 V
SENATE 15 D 30 R 1 O

GOVERNOR: Henry McMaster (R)

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On first impression, the prospects for civil justice reform look favorable in the Palmetto State. Governor McMaster (R) is friendly to and supportive of the business community and pro-business Republicans hold significant majorities in the House and Senate. However, a closer examination of the political and legislative environment shows that personal injury lawyers are very influential with lawmakers and these allies hold key committee chairs that have jurisdiction over legal reform legislation. In particular, Senate Judiciary Chairman Luke Rankin (R) is closely aligned with the organized trial bar and is a significant roadblock to advancing reform legislation out of his committee. The top priority of the civil justice reform community during 2024 is joint and several liability reform, an issue Chairman Rankin has blocked for years. Allies on the ground tell ATRA that civil justice reform proponents are working diligently on a strategy to overcome Rankin's opposition. Engagement by the state and national business communities will be critical to success.

SOUTH DAKOTA

SESSION CALENDAR 01/09/24 – 03/25/24
HOUSE 7 D 62 R 1V
SENATE 4 D 30 R 1V

GOVERNOR: Kristi Noem (R)

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No activity reported.

TENNESSEE

SESSION CALENDAR 01/09/24 – 04/25/24
HOUSE 24 D 75 R
SENATE 6 D 27 R

GOVERNOR: Bill Lee (R)

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No activity reported.

TEXAS

SESSION CALENDAR No Regular Session in 2024
HOUSE 64 D 86 R
SENATE 11 D 19 R 1 V

GOVERNOR: Greg Abbott (R)

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No regular session in 2024.

UTAH

SESSION CALENDAR 01/16/24 – 03/01/24
HOUSE 14 D 61 R
SENATE 6 D 23 R

GOVERNOR: Spencer Cox (R)

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No activity reported.

VERMONT

SESSION CALENDAR 01/03/24 – 05/09/24
HOUSE 106 D 37 R 7 O
SENATE 22 D 7 R 1 O

GOVERNOR: Phil Scott (R)

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No activity reported.

VIRGINIA

SESSION CALENDAR 01/10/24 – 03/09/24
HOUSE 51 D 49 R
SENATE 21 D 19 R

GOVERNOR: Glenn Youngkin (R)

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Governor Youngkin (R) staked a significant portion of his political capital last fall on an attempt to flip the Democratically-controlled Senate. Not only was he unsuccessful in that effort, but Democrats managed to take control of the House from Republicans to Democrats and now control both chambers of the Virginia General Assembly. What impact this will have on civil justice issues remains to be seen. Contacts in Richmond tell ATRA they do not expect an overly busy session on litigation and liability issues, though they are keeping a close eye on legislation that would allow class action lawsuits in the Commonwealth.

WASHINGTON

SESSION CALENDAR 01/08/24 – 03/07/24
HOUSE 58 D 40 R
SENATE 29 D 20 R

GOVERNOR: Jay Inslee (D)

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The political and legislative environment in Olympia is always challenging with pro-trial lawyer Democrats holding sizable majorities in the House and Senate. Contacts in the Evergreen State advise that trial lawyers and their allies in the legislature are expected to pursue legislation carried over from 2023, S.B. 5059, that would allow prejudgment interest to begin to accrue from the date of the injury instead of the date that the lawsuit is filed. There is also concern that personal injury lawyers may consider several other liability-expanding proposals such as private rights of action in a wide range of labor and employment regulations, not unlike California's PAGA law, as well as regulation of artificial intelligence that contains a private right of action.

WEST VIRGINIA

SESSION CALENDAR 01/10/24 – 03/09/24
HOUSE 11 D 89 R
SENATE 3 D 31 R

GOVERNOR: Jim Justice (R)

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Contacts in Charleston tell ATRA they expect lawmakers to consider several affirmative legal reforms on issues such as medical monitoring, jury anchoring, the American Law Institute, commercial trucking caps, and locality litigation, to name a few. Republicans hold supermajorities in the House and Senate, though there are several trial lawyer Republicans and populist Republicans, particularly in the House of Delegates, who consistently oppose the business community's legal reform agenda. Senate Judiciary Chairman Charlie Trump (R), a long-time ally and supporter of legal reform, is running this fall for a seat on the West Virginia Supreme Court of Appeals and House Judiciary Chairman Delegate Tom Fast (R) is serving his first session as chair. In addition, the November election will decide who will succeed Governor Jim Justice (R) as Governor. Among those running for the Republican gubernatorial nomination is Attorney General Patrick Morrissey (R) who has recently come under intense scrutiny and criticism for his use of outside counsel on a contingency fee basis that has resulted in the payout of exorbitant fees to personal injury lawyers, money which otherwise would have gone into the state's coffers.

WISCONSIN

SESSION CALENDAR 01/16/24 – 03/14/24
HOUSE 35 D 64 R
SENATE 11 D 22 R

GOVERNOR: Tony Evers (D)

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Divided government continues to rule the day in Madison. Republicans hold sizable majorities in the Assembly and Senate while progressive Democrat Tony Evers is in the second year of his second term as Governor. Allies in the Badger State tell ATRA they expect civil justice reform advocates to pursue several reforms this year including consumer lawsuit lending regulations and limits on noneconomic damages in commercial trucking cases.

Relative to the Wisconsin Legislature, readers should note that the current legislative maps are being challenged in a case before the Wisconsin Supreme Court. Contacts in Madison expect new maps in place for the upcoming 2024 elections in which all 99 members of the Assembly will be up for election. Regardless of how the maps are drawn, Republicans are likely to maintain control of the chamber. The situation is different in the Senate and depends on the outcome of the Supreme Court case. Either half or all 33 senators will be up for election this fall and depending on how new maps are drawn, observers advise Democrats could take control of the chamber in which case we should anticipate many liability-expanding bills to be filed in 2025 and beyond.

WYOMING

SESSION CALENDAR 02/12/24 – 03/08/24
HOUSE 5 D 57 R
SENATE 2 D 29 R

GOVERNOR: Mark Gordon (R)

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No activity reported.

Editor's Notes: This publication provides information about elections in various states as reported by our sources. The American Tort Reform Association (ATRA) does not endorse or oppose any candidate for elected office, including the Judiciary.

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