



U.S. CHAMBER

Institute for Legal Reform

2019 LAWSUIT CLIMATE SURVEY

Ranking the States

*A Survey of the Fairness and
Reasonableness of State Liability Systems*

.....
SEPTEMBER 2019



U.S. CHAMBER

Institute for Legal Reform

An Affiliate of the U.S. Chamber of Commerce

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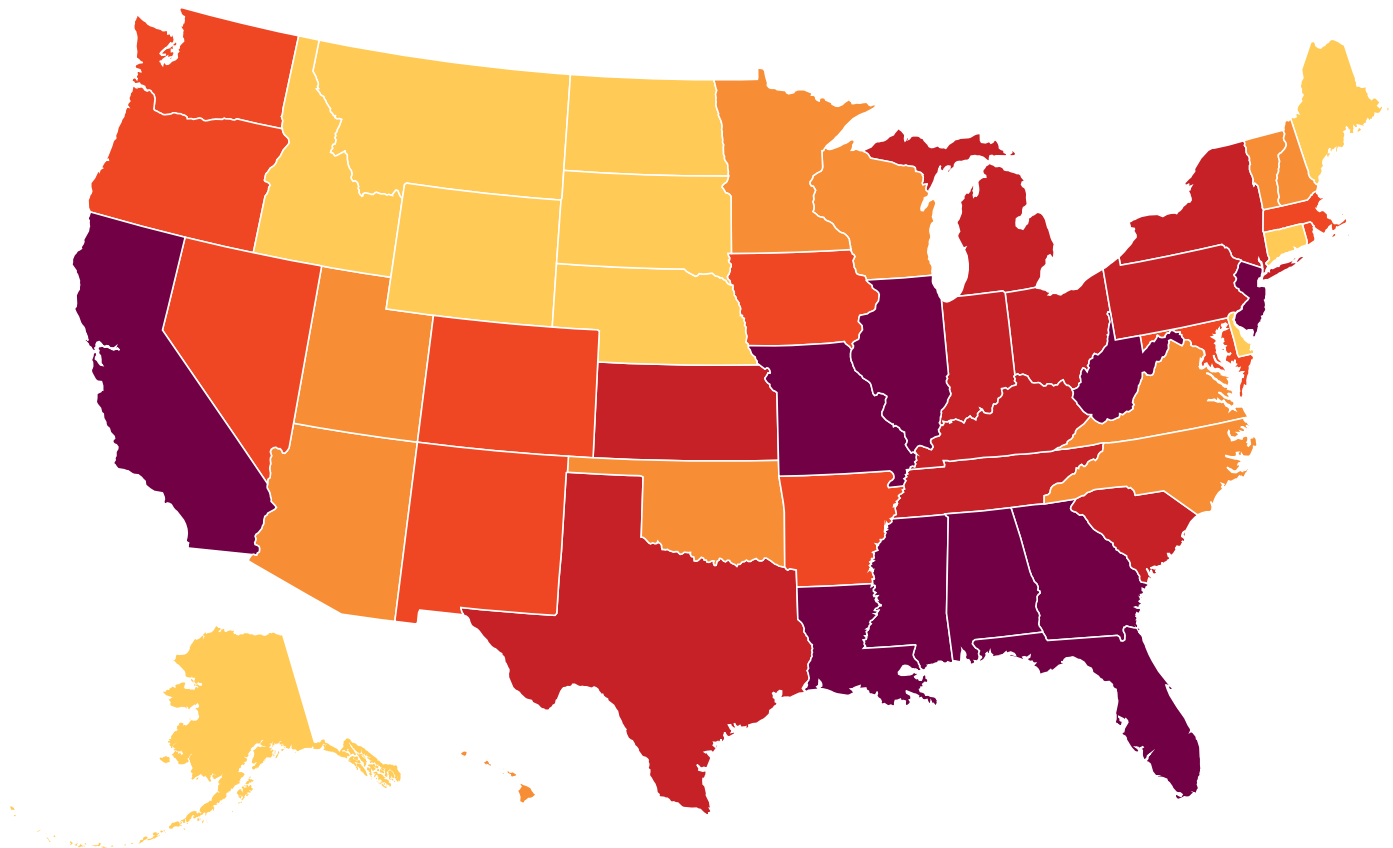
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Prepared for the U.S. Chamber Institute for Legal Reform by The Harris Poll



2019 Ranking of State Liability Systems



1—10

1. Delaware
2. Maine
3. Connecticut
4. Wyoming
5. Alaska
6. North Dakota
7. Montana
8. Nebraska
9. Idaho
10. South Dakota

11—20

11. Vermont
12. Virginia
13. Wisconsin
14. Oklahoma
15. Hawaii
16. North Carolina
17. Arizona
18. New Hampshire
19. Utah
20. Minnesota

21—30

21. Colorado
22. New Mexico
23. Iowa
24. Rhode Island
25. Oregon
26. Washington
27. Maryland
28. Massachusetts
29. Nevada
30. Arkansas

31—40

31. Indiana
32. Kansas
33. Michigan
34. Tennessee
35. Ohio
36. New York
37. South Carolina
38. Texas
39. Pennsylvania
40. Kentucky

41—50

41. Georgia
42. Alabama
43. New Jersey
44. Missouri
45. West Virginia
46. Florida
47. Mississippi
48. California
49. Louisiana
50. Illinois

Overall Rankings of State Liability Systems 2012–2019

STATE	RANK	SCORE	2017	2015	2012
Delaware	1	76.3	11	1	1
Maine	2	73.8	9	14	12
Connecticut	3	73.8	16	22	25
Wyoming	4	73.1	8	8	3
Alaska	5	73.1	6	12	13
North Dakota	6	72.6	17	15	8
Montana	7	72.5	27	34	45
Nebraska	8	72.3	7	3	2
Idaho	9	72.2	3	6	6
South Dakota	10	72.0	1	9	11
Vermont	11	71.7	2	2	16
Virginia	12	71.3	10	11	7
Wisconsin	13	71.2	20	20	15
Oklahoma	14	71.2	31	33	42
Hawaii	15	71.1	23	30	29
North Carolina	16	70.9	33	7	20
Arizona	17	70.8	25	25	17
New Hampshire	18	70.7	5	5	21
Utah	19	70.7	12	10	9
Minnesota	20	70.7	4	13	4
Colorado	21	70.7	35	16	23
New Mexico	22	70.6	32	45	44
Iowa	23	70.6	13	4	10
Rhode Island	24	70.5	24	26	31
Oregon	25	69.9	21	32	28
Washington	26	69.8	28	29	22
Maryland	27	69.7	19	28	33
Massachusetts	28	69.6	14	17	19
Nevada	29	69.5	37	35	37
Arkansas	30	69.5	36	41	35
Indiana	31	68.9	15	18	14
Kansas	32	68.8	18	19	5
Michigan	33	68.8	22	24	27
Tennessee	34	68.3	30	23	26
Ohio	35	67.7	26	27	30
New York	36	67.7	29	21	18
South Carolina	37	67.6	34	36	39
Texas	38	67.1	39	40	36
Pennsylvania	39	66.6	38	37	40
Kentucky	40	66.5	42	39	38
Georgia	41	66.1	40	31	24
Alabama	42	65.6	43	46	43
New Jersey	43	65.4	41	38	32
Missouri	44	64.4	49	42	34
West Virginia	45	63.3	45	50	50
Florida	46	62.3	46	44	41
Mississippi	47	61.9	44	43	48
California	48	60.2	47	47	47
Louisiana	49	60.0	50	49	49
Illinois	50	59.6	48	48	46

Scores presented in this table have been rounded to one decimal place, but rankings are based on the unrounded number.

Note that due to changes in overall ranking criteria in 2017, the rankings from 2019 do not provide an exact apples-to-apples comparison to years prior to 2017; however, prior scores are provided for historical reference.



Overview

The *2019 Lawsuit Climate Survey: Ranking the States* was conducted for the U.S. Chamber Institute for Legal Reform by The Harris Poll to explore how fair and reasonable the states' liability systems are perceived to be by U.S. businesses.

The *2019 Lawsuit Climate Survey* constitutes the twelfth fielding of the survey and builds upon previous studies, the first of which was initiated in 2002.¹ Prior to these rankings, information regarding the attitudes of the business community toward the legal systems in each of the states had been largely anecdotal. The *2019 Lawsuit Climate Survey* aims to quantify how corporate attorneys, as significant participants in state courts, view the state systems by measuring and synthesizing their perceptions of key elements of each state's liability system into a 1-50 ranking.

Participants in the survey were comprised of a national sample of 1,307 in-house general counsel, senior litigators or attorneys, and other senior executives at companies with at least \$100 million in annual revenue² who indicated they: (1) are knowledgeable about litigation matters; and (2) have firsthand, recent litigation experience within the last five years in each state they evaluate.

It is important to remember that while courts and localities within a state may vary a great deal in fairness and reasonableness, respondents were asked to evaluate the state as a whole, based on their personal experience with specific litigation at their company. To explore the nuances within each state would have required extensive questioning about each state and was beyond the scope and purpose of this study. It is possible that some states received low grades due to the negative reputation of one or more of their counties or jurisdictions.

The 2019 survey reveals that the overall average scores of the states are increasing, and senior attorneys and executives see the litigation environment improving generally.

Moreover, a state's litigation environment continues to be important to senior litigators, with most respondents (89%) reporting that it is likely to impact important business decisions at their companies, such as where to locate or do business. This number has increased over time, up from 85% in 2017 and 75% in 2015.

1. 2017, 2015, 2012, 2010, 2008, 2007, 2006, 2005, 2004, 2003, and 2002.

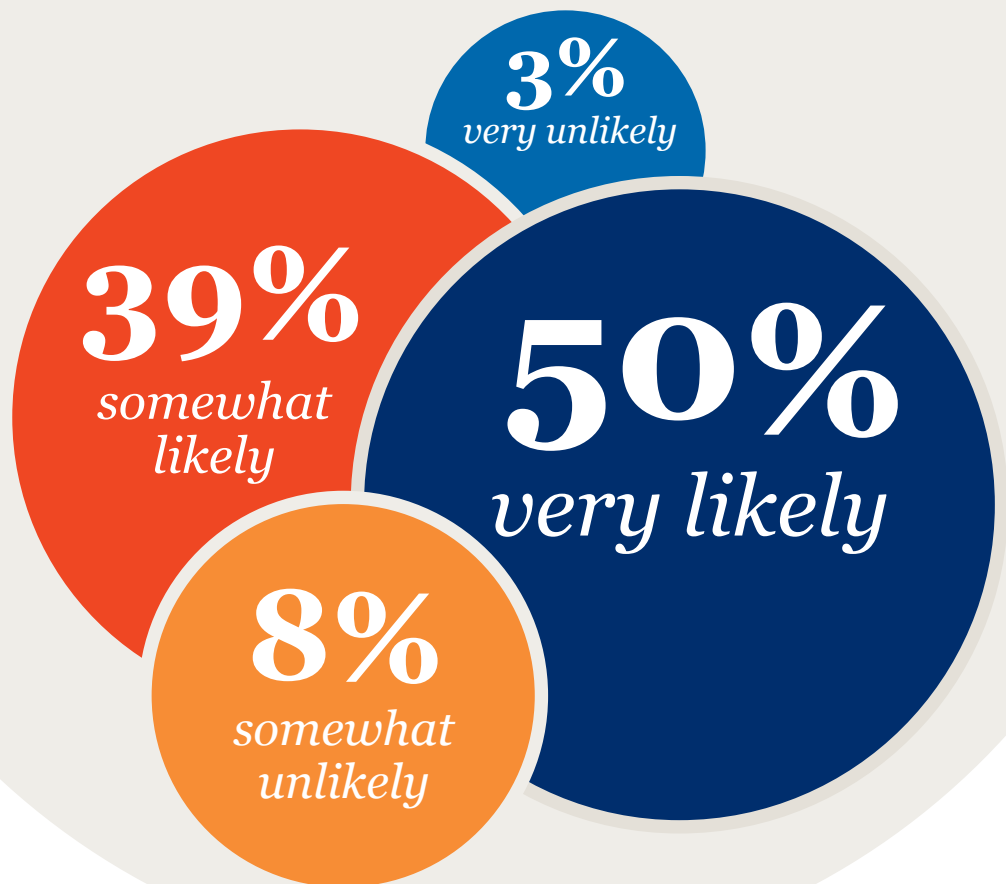
2. Smaller companies were not surveyed because they so infrequently have in-house law departments.

Impact of Litigation Environment on Important Business Decisions

How likely would you say it is that the litigation environment in a state could affect an important business decision at your company, such as where to locate or do business?

89%

of respondents reported that a state's litigation environment is likely to impact important business decisions.



Results are given for a base of 1,307 general counsel, senior litigators or attorneys, and senior executives.



Respondents were asked to give states a grade (A through F) in each of the following areas:

Enforcing meaningful venue requirements

Overall treatment of tort and contract litigation

Treatment of class action suits and mass consolidation suits

Damages

Proportional discovery

Scientific and technical evidence

Trial judges' impartiality

Trial judges' competence

Juries' fairness

Quality of appellate review

These key elements were then combined to create an overall ranking of state liability systems.

Taken as a whole, senior litigators and executives perceive state courts as doing better than average on the various elements. States received significantly more A's and B's (63%) than D's and F's (13%) when all of the elements were averaged together.

AVERAGE PERCENTAGE ACROSS ALL ELEMENTS AMONG 50 STATES

<i>Grade</i>	<i>Average Percentage*</i>
A	26%
B	37%
C	23%
D	9%
F	4%
Not Sure/ Decline to Answer	1%

Since the inception of the survey, there has been a general increase in the overall average score of state liability systems (expressed numerically on a scale of 1 to 100). In 2019, the average overall score among the 50 states is 68.3. Note that due to changes in overall ranking criteria in 2017, this score does not provide an exact apples-to-apples comparison to years prior to 2017; however, prior scores are provided for historical reference.

AVERAGE OVERALL SCORE AMONG 50 STATES

<i>Year</i>	<i>Average Overall Score</i>
2019	68.3
2017	67.5
2015	61.7
2012	60.9
2010	57.9
2008	59.4
2007	58.1
2006	55.3
2005	52.8
2004	53.2
2003	50.7
2002	52.7

* The percentages are rounded to the nearest whole number.

“The challenge for the states is to focus on those areas where they received the lowest scores and then make improvements where needed.”

Worst Local Jurisdictions

In order to identify specific cities or counties that might impact a state's ranking, respondents were provided a list of cities or counties with reputations for being problematic when it comes to litigation, and were then asked to select two that have the least fair and reasonable litigation environments. According to respondents, the five worst jurisdictions (with others very close behind) were Chicago or Cook County, Illinois (24%); Los Angeles, California (20%); San Francisco, California (19%); New York, New York (18%); and Jefferson County, Texas (14%).

Conclusion

Several organizations and academics³ have conducted and analyzed surveys of attitudes toward the state courts held by various constituencies. The objective of these studies has been to understand how the state courts are perceived and, in some instances, to evaluate them, overall or in part. Until the *Harris Lawsuit Climate Survey* was initiated in 2002, no data existed on how the state courts are perceived by the business community, which is a significant user of, and participant in, the court system. This, the twelfth such survey and state ranking, finds that the overall average scores of the states are increasing and senior lawyers and executives in large corporations tend to have positive perceptions about the fairness and reasonableness of state liability systems overall.

An examination of individual state evaluations, however, reveals wide disparity among those states that are doing the best job and those states that are doing the worst job, with the highest-performing state (Delaware) scoring 76 (when rounded) out of a possible 100, and the poorest-performing state (Illinois) scoring 60 (when rounded) out of 100.

Clearly, corporate counsel see specific areas needing improvement in the individual states, and the perceptions of senior lawyers and executives in large companies matter. As stated earlier, 89% of senior lawyers and executives feel that the litigation environment in a state is likely to impact important business decisions. Decisions such as where to locate or where to expand businesses could have economic consequences for the state. The challenge for the states is to focus on those areas where they received the lowest scores and then make improvements where needed.

3. *The State of State Courts: 2018 Poll*, National Center for State Courts, fielded November 13-17, 2018; *Perceptions of Justice*, The American Bar Association, November 6, 2018; Cann, Damon M. and Yates, Jeff, *These Estimable Courts: Understanding Public Perceptions of State Judicial Institutions and Legal Policy-Making*, Oxford University Press (2016); *Citizen Perceptions of Judicial Realism in the American State Courts*, Brigham Young University Center for the Study of Elections and Democracy (2014); *Public Trust and Confidence Survey*, State of Utah Administrative Office of the Courts (2012); *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys*, The Administrative Office of the Courts on Behalf of the Judicial Council of California (2005); *The Sources of Public Confidence in State Courts*, American Politics Research (2003).

Worst Local Jurisdictions

State policymakers and stakeholders inevitably want to know the reasons behind their state's ranking, particularly if the state fared poorly. Exactly what happens in the courts that businesses find unfair or unreasonable? Are the problems in an individual state's liability system statewide, or is the state's ranking skewed by one (or more) individual city or county court that is viewed as particularly unfair or unreasonable?

Respondents' answers with regard to worst local jurisdictions provide additional context to the state ranking itself. While they are not part of the actual calculation of the overall rankings of state liability systems, they do provide additional insight for policymakers to consider.

Thinking about the entire country, and based on anything you have seen, read, or heard, which of the following do you think are the worst city or county courts? That is, which city or county courts have the least fair and reasonable litigation environment for both defendants and plaintiffs?

*Cities or Counties With the Least Fair and Reasonable Litigation Environment**

Chicago or Cook County, Illinois	24%
Los Angeles, California	20%
San Francisco, California	19%
New York, New York	18%
Jefferson County, Texas	14%
Miami or Dade County, Florida	13%
Detroit, Michigan	13%
Washington, DC	12%
New Orleans or Orleans Parish, Louisiana	10%
St. Louis, Missouri	10%
Madison County, Illinois	9%
Philadelphia, Pennsylvania	9%
Not sure	6%
Other	2%
Decline to answer	<.05%

**Respondents were asked to respond to this closed-end list of city and county courts by selecting up to two responses. Other mentions volunteered by respondents are represented by "Other" in the list. The total number is greater than 100% due to the fact that this was a multiple-response question.*

Key Elements

Most state liability systems have elements that function well and others that do not. In evaluating how the states are perceived overall, this survey attempts to illuminate the observed strengths and weaknesses of specific aspects of state liability systems. It helps to pinpoint particular areas that may have lowered or raised the overall rankings.

This section of the report shows the state rankings by key element—the ten individual elements that respondents were asked to grade in each state. These key elements are the heart of the survey and are used to develop the (1–50) Overall Ranking of State Liability Systems, as described in the Methodology section.

Enforcing Meaningful Venue Requirements

Overall Treatment of Tort and Contract Litigation

Treatment of Class Action Suits and Mass Consolidation Suits

Damages

Proportional Discovery

Scientific and Technical Evidence

Trial Judges' Impartiality

Trial Judges' Competence

Juries' Fairness

Quality of Appellate Review

Summary of Top/Bottom 5 States by Key Elements

Enforcing Meaningful Venue Requirements

BEST

1. Delaware
2. Alaska
3. Maine
4. Wyoming
5. Arkansas

WORST

50. Illinois
49. Mississippi
48. Louisiana
47. West Virginia
46. California

Overall Treatment of Tort and Contract Litigation

BEST

1. Delaware
2. Connecticut
3. Alaska
4. Maine
5. North Dakota

WORST

50. Illinois
49. California
48. Louisiana
47. Mississippi
46. Florida

Treatment of Class Action Suits and Mass Consolidation Suits

**Virginia was not included in this element, so the ranking is among 49 states.*

BEST

1. Delaware
2. Wyoming
3. Maine
4. New Mexico
5. Connecticut

WORST*

49. California
48. Illinois
47. Florida
46. Louisiana
45. West Virginia

Damages

BEST

1. Delaware
2. Connecticut
3. Maine
4. Nebraska
5. Montana

WORST

50. California
49. Louisiana
48. Illinois
47. Mississippi
46. Florida

Proportional Discovery

BEST

1. Virginia
2. Montana
3. Delaware
4. Nebraska
5. North Dakota

WORST

50. Illinois
49. Louisiana
48. California
47. Florida
46. West Virginia

Scientific and Technical Evidence

BEST

1. Delaware
2. North Dakota
3. Montana
4. Nebraska
5. Massachusetts

WORST

50. Louisiana
49. Illinois
48. Mississippi
47. West Virginia
46. Kentucky

Trial Judges' Impartiality

BEST

1. Delaware
2. Connecticut
3. Alaska
4. Vermont
5. Wyoming

WORST

50. Louisiana
49. Illinois
48. California
47. Mississippi
46. Florida

Trial Judges' Competence

BEST

1. Delaware
2. Connecticut
3. Maine
4. Wyoming
5. Oregon

WORST

50. Illinois
49. Louisiana
48. California
47. Florida
46. Mississippi

Juries' Fairness

BEST

1. Oklahoma
2. Connecticut
3. North Dakota
4. Idaho
5. Washington

WORST

50. California
49. Mississippi
48. Illinois
47. Florida
46. Louisiana

Quality of Appellate Review

BEST

1. Delaware
2. Alaska
3. Maine
4. Idaho
5. Wyoming

WORST

50. Illinois
49. Louisiana
48. California
47. West Virginia
46. Mississippi

Enforcing Meaningful Venue Requirements

STATE	RANK	STATE	RANK
Delaware	1	South Carolina	26
Alaska	2	New York	27
Maine	3	Maryland	28
Wyoming	4	Nevada	29
Arkansas	5	Arizona	30
Idaho	6	Massachusetts	31
Montana	7	Georgia	32
New Mexico	8	Tennessee	33
South Dakota	9	Texas	34
Connecticut	10	Michigan	35
North Dakota	11	North Carolina	36
Washington	12	Ohio	37
Vermont	13	Kansas	38
Hawaii	14	Indiana	39
Utah	15	Oregon	40
Oklahoma	16	Pennsylvania	41
New Hampshire	17 (tied)	Missouri	42
Virginia	17 (tied)	Alabama	43
Wisconsin	17 (tied)	New Jersey	44
Rhode Island	20	Florida	45
Nebraska	21	California	46
Minnesota	22	West Virginia	47
Colorado	23	Louisiana	48
Kentucky	24	Mississippi	49
Iowa	25	Illinois	50

Overall Treatment of Tort and Contract Litigation

STATE	RANK	STATE	RANK
Delaware	1	Massachusetts	26
Connecticut	2	Arkansas	27
Alaska	3	North Carolina	28
Maine	4	Indiana	29
North Dakota	5	Texas	30
Wyoming	6	Michigan	31
Vermont	7	Maryland	32
South Dakota	8	Oregon	33
Montana	9	Minnesota	34
Oklahoma	10	Ohio	35
Idaho	11	Washington	36
Rhode Island	12	Georgia	37
New Hampshire	13	New York	38
Hawaii	14	Kentucky	39
Colorado	15	South Carolina	40 (tied)
Wisconsin	16	West Virginia	40 (tied)
Nevada	17	Pennsylvania	42
Virginia	18	New Jersey	43
Utah	19	Alabama	44
Iowa	20	Missouri	45
Nebraska	21	Florida	46
Tennessee	22	Mississippi	47
Arizona	23	Louisiana	48
Kansas	24	California	49
New Mexico	25	Illinois	50

Treatment of Class Action Suits and Mass Consolidation Suits

STATE	RANK	STATE	RANK
Delaware	1	Utah	26
Wyoming	2	Colorado	27
Maine	3	Tennessee	28
New Mexico	4	Rhode Island	29
Connecticut	5	Michigan	30
Idaho	6	Washington	31
Maryland	7	Massachusetts	32
North Dakota	8	Arizona	33
Alaska	9	Alabama	34
Wisconsin	10	Texas	35
Nebraska	11	Pennsylvania	36
Minnesota	12	Ohio	37
Montana	13	Kentucky	38
Vermont	14	Kansas	39
Iowa	15	New York	40
North Carolina	16	Mississippi	41
Oklahoma	17 (tied)	New Jersey	42
Oregon	17 (tied)	Georgia	43
Nevada	19	Missouri	44
South Dakota	20	West Virginia	45
Arkansas	21	Louisiana	46
New Hampshire	22	Florida	47
Hawaii	23	Illinois	48
South Carolina	24	California	49
Indiana	25	Virginia	*

* Virginia was excluded from this element.

Damages

STATE	RANK	STATE	RANK
Delaware	1	Indiana	26
Connecticut	2	Maryland	27
Maine	3	Tennessee	28
Nebraska	4	Oregon	29
Montana	5	North Dakota	30
Minnesota	6	South Carolina	31
South Dakota	7	Washington	32
Alaska	8	Utah	33
Arizona	9	Kansas	34
Oklahoma	10	Ohio	35
Michigan	11	Texas	36
Wisconsin	12	Kentucky	37
Wyoming	13	New Mexico	38
North Carolina	14	Pennsylvania	39
Iowa	15	New York	40
Hawaii	16	Alabama	41
Rhode Island	17	Missouri	42
Virginia	18	New Jersey	43
Nevada	19	Georgia	44
Arkansas	20	West Virginia	45
Vermont	21	Florida	46
New Hampshire	22	Mississippi	47
Colorado	23	Illinois	48
Massachusetts	24	Louisiana	49
Idaho	25	California	50

Proportional Discovery

STATE	RANK	STATE	RANK
Virginia	1	Washington	26
Montana	2	Massachusetts	27
Delaware	3	Kansas	28
Nebraska	4	Colorado	29
North Dakota	5	Minnesota	30
South Dakota	6 (tied)	Maryland	31
Wyoming	6 (tied)	South Carolina	32
Idaho	8	Arkansas	33
Connecticut	9	New York	34
Vermont	10	Ohio	35
Maine	11	Kentucky	36
Wisconsin	12	Michigan	37
Oklahoma	13	Georgia	38
Rhode Island	14	Pennsylvania	39
Iowa	15	Alabama	40
Oregon	16	Texas	41
Alaska	17	Tennessee	42
Hawaii	18	Mississippi	43
Nevada	19 (tied)	New Jersey	44
Utah	19 (tied)	Missouri	45
Indiana	21	West Virginia	46
Arizona	22	Florida	47
New Mexico	23	California	48
North Carolina	24	Louisiana	49
New Hampshire	25	Illinois	50

Scientific and Technical Evidence

STATE	RANK
Delaware	1
North Dakota	2
Montana	3
Nebraska	4
Massachusetts	5
Maine	6
Connecticut	7
Virginia	8
South Dakota	9
Hawaii	10
Colorado	11
Idaho	12
New Hampshire	13
Utah	14
Wyoming	15
New York	16
Alaska	17
Arizona	18
Minnesota	19
Vermont	20
Maryland	21
Oregon	22
Washington	23
Iowa	24
Oklahoma	25

STATE	RANK
North Carolina	26
Wisconsin	27
Rhode Island	28
New Mexico	29
Kansas	30
Nevada	31
Arkansas	32
Tennessee	33
Michigan	34
Texas	35
Indiana	36
Ohio	37
South Carolina	38
Georgia	39
New Jersey	40
Pennsylvania	41
Missouri	42
Alabama	43
California	44
Florida	45
Kentucky	46
West Virginia	47
Mississippi	48
Illinois	49
Louisiana	50

Trial Judges' Impartiality

STATE	RANK	STATE	RANK
Delaware	1	Washington	26
Connecticut	2	Massachusetts	27
Alaska	3	Indiana	28
Vermont	4	Michigan	29
Wyoming	5	Tennessee	30
North Carolina	6	Maryland	31
Maine	7	Ohio	32
Utah	8	Kansas	33
Colorado	9	Nevada	34
Nebraska	10	New York	35
Arizona	11	Pennsylvania	36
Rhode Island	12	New Jersey	37
New Mexico	13	Arkansas	38
North Dakota	14	Kentucky	39
Minnesota	15	Georgia	40
New Hampshire	16	Alabama	41
Iowa	17	West Virginia	42
South Dakota	18	South Carolina	43
Wisconsin	19	Texas	44
Montana	20	Missouri	45
Idaho	21	Florida	46
Virginia	22	Mississippi	47
Oklahoma	23	California	48
Hawaii	24	Illinois	49
Oregon	25	Louisiana	50

Trial Judges' Competence

STATE	RANK
Delaware	1
Connecticut	2
Maine	3
Wyoming	4
Oregon	5
Minnesota	6
New Hampshire	7
Alaska	8
Hawaii	9
Montana	10
Vermont	11
Arizona	12
Nebraska	13
North Carolina	14
Wisconsin	15
North Dakota	16
Colorado	17
South Dakota	18
Michigan	19
Idaho	20
Washington	21
Iowa	22 (tied)
Virginia	22 (tied)
Kansas	24
Indiana	25

STATE	RANK
Oklahoma	26
Pennsylvania	27
Rhode Island	28
Arkansas	29
Tennessee	30
Utah	31
New Mexico	32
New York	33
Massachusetts	34
Nevada	35
Ohio	36
New Jersey	37
Maryland	38
South Carolina	39
Kentucky	40
Texas	41
Georgia	42
Missouri	43
West Virginia	44
Alabama	45
Mississippi	46
Florida	47
California	48
Louisiana	49
Illinois	50

Juries' Fairness

STATE	RANK	STATE	RANK
Oklahoma	1	Iowa	26
Connecticut	2	Indiana	27
North Dakota	3	Virginia	28
Idaho	4	Massachusetts	29
Washington	5	New Hampshire	30
Montana	6	Maryland	31
Utah	7	Michigan	32
Nebraska	8	Ohio	33
Maine	9	Nevada	34
South Dakota	10	South Carolina	35
Alaska	11	Tennessee	36
Delaware	12	Kentucky	37
Oregon	13	Texas	38
Vermont	14	Alabama	39
Minnesota	15	Pennsylvania	40
Wisconsin	16	New York	41
North Carolina	17	New Jersey	42
Arkansas	18	Georgia	43
Wyoming	19	Missouri	44
Arizona	20	West Virginia	45
Rhode Island	21	Louisiana	46
Kansas	22	Florida	47
New Mexico	23	Illinois	48
Colorado	24	Mississippi	49
Hawaii	25	California	50

Quality of Appellate Review

STATE	RANK	STATE	RANK
Delaware	1	Wisconsin	25 (tied)
Alaska	2	Oregon	27
Maine	3	Massachusetts	28
Idaho	4	Montana	29
Wyoming	5	Texas	30
North Dakota	6	Colorado	31
Connecticut	7	Georgia	32
North Carolina	8	Washington	33
New Mexico	9	Minnesota	34
Maryland	10	Kansas	35
Hawaii	11	Alabama	36
Virginia	12	Indiana	37
South Dakota	13	Arkansas	38
Nebraska	14	Ohio	39
Arizona	15	Michigan	40
South Carolina	16	New Jersey	41
Utah	17	Tennessee	42
New Hampshire	18	Kentucky	43
Iowa	19	Missouri	44
Rhode Island	20	Florida	45
New York	21	Mississippi	46
Nevada	22	West Virginia	47
Pennsylvania	23	California	48
Vermont	24	Louisiana	49
Oklahoma	25 (tied)	Illinois	50

Methodology

The 2019 Lawsuit Climate Survey: Ranking the States was conducted for the U.S. Chamber Institute for Legal Reform by The Harris Poll. The final results are based on interviews with a national sample of 1,307 in-house general counsel, senior litigators or attorneys, and other senior executives who are knowledgeable about litigation matters at public and private companies with annual revenue of at least \$100 million.

The general counsel, senior litigators or attorneys, and other senior executives included in this study were involved in or are very familiar with litigation in the states they evaluated within the past five years. On average, each telephone respondent evaluated four states, and each online respondent evaluated seven states.⁴ As a result, these 1,307 individual respondents represent a total of 8,423 responses or state evaluations.

Phone interviews averaging 19 minutes in length were conducted with a total of 202 respondents and took place between March 28, 2019 and June 24, 2019. Online interviews using the same questionnaire and averaging 15 minutes in length were conducted with a total of 1,105 respondents and took place between March 27, 2019 and June 21, 2019.

Sample Design

For the telephone sample, a comprehensive list of general counsel at companies with annual revenue of at least \$100 million was compiled using Hoovers Phone, InfoUSA, and Leadership Directories, as well as a list of U.S. Chamber Institute for Legal Reform (ILR) donors. An alert letter was sent to the general counsel at each company when possible. This letter provided general information about the study and notified the recipient of the option to take the survey online or by phone. It told them that an interviewer from The Harris Poll would be contacting them to set up an appointment for a telephone interview if that was their preference.

4. The number of evaluations was rounded to the nearest whole number. Partial evaluations of states were not included.

The letter included a toll-free number for respondents to call to schedule an appointment for a telephone interview. It also alerted the general counsel to a \$100 honorarium given in appreciation of the time invested in taking the survey.

For the online sample, the e-mail addresses for a representative sample of general counsel and other senior attorneys were drawn from Hoovers ConnectMail, Critical Mix, SSI/Research Now, Empanel, Precision, and Leadership Directories, as well as a list of ILR donors. Non-panel respondents received an electronic version of the alert letter, which included a password-protected link to take the survey. Once they accessed the survey online, all respondents were screened to ensure that they worked for companies with more than \$100 million in annual revenue and they had the appropriate title or role within the company.

Sample Characteristics

Over a third of respondents (35%) were general counsel, corporate counsel, heads of litigation, senior counsel/litigators, or chief legal officers. The remaining 65% of respondents were senior executives knowledgeable about or responsible for litigation at their companies. Respondents had an average of 14 years of relevant experience with litigation at their companies, including in their current position. All respondents were familiar with or had litigated in the states they rated within the past five years, the majority (70%) within the past three years.

Telephone Interviewing Procedures

The telephone interviews utilized a computer-assisted telephone interviewing (CATI) system, whereby trained interviewers call and immediately input responses into the computer. This system greatly enhances reporting reliability. It also reduces clerical error by eliminating the need for keypunching, since interviewers enter respondent answers directly into a computer terminal during the interview itself. This data entry program does not permit interviewers to inadvertently skip questions, as each question must be answered before the computer moves on to the next question. The data entry program also ensures that all skip patterns are correctly followed. Furthermore, the online data editing system refuses to accept punches that are out of range, demands confirmation of responses that exceed expected ranges, and asks for explanations for inconsistencies between certain key responses.

To achieve high participation, in addition to the alert letters, numerous telephone callbacks were made to reach respondents and conduct the interviews at a convenient time. Interviewers also offered to send respondents an e-mail invitation so that they could take the survey online on their own time. All phone interviewers participated in several sessions of rigorous training to ensure they were properly prepared to conduct interviews with the survey's high level audience.

Online Interviewing Procedures

All online interviews were hosted on The Harris Poll’s server and were conducted using a self-administered online questionnaire via proprietary web-assisted interviewing software. The mail version of the alert letter directed respondents to a URL and provided them with a unique ID and password that they were required to enter on the landing page of the survey. Those who received an e-mail version of the alert letter accessed the survey by clicking on the password-protected URL included in the e-mail. Due to password protection, it was not possible for a respondent to answer the survey more than once. Respondents for whom we had e-mail addresses received an initial invitation as well as reminder e-mails.

Interviewing Protocol

After determining that respondents were qualified to participate in the survey using a series of screening questions, respondents identified the state liability systems with which they were familiar. The respondents were then asked to identify the last time they litigated in or were familiar with the states’ liability systems; responses included in this study were from respondents who were involved in or very familiar with litigation in the state within the past five years. From there, respondents were given the opportunity to evaluate the states’ liability systems, prioritized by their most recent litigation experience. As stated earlier, respondents evaluated four states, on average, via telephone and seven states, on average, online.

Rating and Scoring of States

States were given a grade (A through F) by respondents for each of the key elements of their liability system, providing a rating of the states by these grades, the percentage of respondents giving each grade, and the mean grade for each element. The mean grade was calculated by converting the letter grade using a 5.0 scale, where A=5.0, B=4.0, C=3.0, D=2.0, and F=1.0. Therefore, the mean score displayed can also be interpreted as a letter grade. For example, a mean score of 2.8 is roughly a C- grade.

The Overall Ranking of State Liability Systems was developed by creating an index using the grades provided for each of the key elements. To create the index, each grade across the elements was rescaled from 0 to 100 (A=100, B=75, C=50, D=25, and F=0). Then, any evaluation that contained six or more “not sure” or “decline to answer” responses per state was removed. A total of 1% of state evaluations were unusable. From the usable evaluations, the scores on the elements were then averaged to create the index score from 0 to 100.

Mean Grade Scale	Index Grade Scale
A=5.0	A=100
B=4.0	B=75
C=3.0	C=50
D=2.0	D=25
F=1.0	F=0

The scores displayed in this report have been rounded to one decimal point, but rankings are based on the full, unrounded number. States that appear tied based upon the scores in this report were tied when the unrounded numbers were taken into consideration.

For the Rankings on Key Elements (pages 13–22), a score was calculated per element for each state based on the 0 to 100 rescaled performance grades. The states were then ranked by their mean scores on that element.

Reliability of Survey Percentages

The results from any sample survey are subject to sampling variation. The sampling variation (or error) that applies to the results for this survey of 1,307 respondents is plus or minus 2.7 percentage points. That is, the chances are 95 in 100 that a survey result does not vary, plus or minus, by more than 2.7 percentage points from the result that would have been obtained if interviews were conducted with all persons in the universe represented by the sample. Note that survey results based on subgroups of smaller sizes can be subject to larger sampling error.

Sampling error of the type so far discussed is only one type of error. Survey research is also susceptible to other types of error, such as refusals to be interviewed (non-response error), question wording and question order, interviewer error, and weighting by demographic control data. Although it is difficult or impossible to quantify these types of error, the procedures followed by The Harris Poll keep errors of these types to a minimum.

A full copy of the 2019 Lawsuit Climate Survey, including grades for each state on each of the key elements, is available at instituteforlegalreform.com.

Overall Rankings of State Liability Systems 2002–2019

STATE	2019 RANK	SCORE	N	CHANGE FROM 2017
Delaware	1	76.3	167	10
Maine	2	73.8	130	7
Connecticut	3	73.8	133	13
Wyoming	4	73.1	130	4
Alaska	5	73.1	158	1
North Dakota	6	72.6	149	11
Montana	7	72.5	139	20
Nebraska	8	72.3	140	-1
Idaho	9	72.2	129	-6
South Dakota	10	72.0	140	-9
Vermont	11	71.7	133	-9
Virginia	12	71.3	157	-2
Wisconsin	13	71.2	183	7
Oklahoma	14	71.2	123	17
Hawaii	15	71.1	155	8
North Carolina	16	70.9	135	17
Arizona	17	70.8	197	8
New Hampshire	18	70.7	143	-13
Utah	19	70.7	152	-7
Minnesota	20	70.7	147	-16
Colorado	21	70.7	145	14
New Mexico	22	70.6	102	10
Iowa	23	70.6	157	-10
Rhode Island	24	70.5	148	0
Oregon	25	69.9	132	-4
Washington	26	69.8	186	2
Maryland	27	69.7	148	-8
Massachusetts	28	69.6	157	-14
Nevada	29	69.5	152	8
Arkansas	30	69.5	115	6
Indiana	31	68.9	146	-16
Kansas	32	68.8	152	-14
Michigan	33	68.8	166	-11
Tennessee	34	68.3	172	-4
Ohio	35	67.7	183	-9
New York	36	67.7	289	-7
South Carolina	37	67.6	140	-3
Texas	38	67.1	276	1
Pennsylvania	39	66.6	207	-1
Kentucky	40	66.5	148	2
Georgia	41	66.1	171	-1
Alabama	42	65.6	173	1
New Jersey	43	65.4	211	-2
Missouri	44	64.4	159	5
West Virginia	45	63.3	175	0
Florida	46	62.3	296	0
Mississippi	47	61.9	150	-3
California	48	60.2	409	-1
Louisiana	49	60.0	163	1
Illinois	50	59.6	255	-2

Scores displayed in this table have been rounded to one decimal point. The column labeled “N” represents the number of evaluations for a given state.

STATE	2017	2015	2012	2010	2008	2007	2006	2005	2004	2003	2002
Delaware	11	1	1	1	1	1	1	1	1	1	1
Maine	9	14	12	12	3	5	9	11	12	16	18
Connecticut	16	22	25	24	19	14	5	18	18	17	10
Wyoming	8	8	3	15	23	22	16	9	15	25	20
Alaska	6	12	13	33	20	43	36	33	33	32	37
North Dakota	17	15	8	2	13	20	12	3	16	6	25
Montana	27	34	45	43	38	40	39	37	43	28	43
Nebraska	7	3	2	3	2	3	2	2	2	2	6
Idaho	3	6	6	18	26	30	18	10	5	13	14
South Dakota	1	9	11	10	12	11	7	8	17	4	9
Vermont	2	2	16	25	8	27	24	21	20	19	21
Virginia	10	11	7	6	6	12	3	4	3	8	2
Wisconsin	20	20	15	22	24	10	23	17	10	11	15
Oklahoma	31	33	42	31	17	38	33	32	31	36	41
Hawaii	23	30	29	35	45	42	46	41	39	43	40
North Carolina	33	7	20	17	21	16	10	20	19	20	16
Arizona	25	25	17	13	15	15	13	19	14	18	11
New Hampshire	5	5	21	16	16	6	6	12	7	10	17
Utah	12	10	9	7	5	9	17	14	6	7	8
Minnesota	4	13	4	11	11	2	14	7	8	9	19
Colorado	35	16	23	8	9	21	8	13	13	12	7
New Mexico	32	45	44	41	37	39	40	38	37	41	39
Iowa	13	4	10	5	7	4	4	5	4	3	5
Rhode Island	24	26	31	38	39	35	26	35	36	37	35
Oregon	21	32	28	21	14	17	30	25	27	14	13
Washington	28	29	22	26	27	25	28	15	24	21	3
Maryland	19	28	33	20	30	29	20	23	21	23	22
Massachusetts	14	17	19	9	18	18	32	31	28	22	36
Nevada	37	35	37	28	40	28	37	29	34	34	30
Arkansas	36	41	35	44	34	41	41	43	42	45	44
Indiana	15	18	14	4	4	8	11	6	11	5	12
Kansas	18	19	5	14	10	13	15	16	9	15	4
Michigan	22	24	27	30	33	23	22	24	23	29	28
Tennessee	30	23	26	19	22	7	29	22	25	26	24
Ohio	26	27	30	29	32	24	19	26	32	24	26
New York	29	21	18	23	25	19	21	27	22	27	27
South Carolina	34	36	39	39	43	37	42	39	40	42	42
Texas	39	40	36	36	41	44	43	44	45	46	46
Pennsylvania	38	37	40	34	36	32	31	34	30	31	31
Kentucky	42	39	38	40	29	33	34	36	35	35	38
Georgia	40	31	24	27	28	31	27	28	29	39	23
Alabama	43	46	43	47	47	47	47	48	48	48	48
New Jersey	41	38	32	32	35	26	25	30	26	30	32
Missouri	49	42	34	37	31	34	35	40	41	33	29
West Virginia	45	50	50	50	50	50	50	49	49	49	49
Florida	46	44	41	42	42	36	38	42	38	40	33
Mississippi	44	43	48	48	48	49	48	50	50	50	50
California	47	47	47	46	44	45	44	45	46	44	45
Louisiana	50	49	49	49	49	48	49	47	47	47	47
Illinois	48	48	46	45	46	46	45	46	44	38	34

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