



U.S. CHAMBER  
Institute for Legal Reform

2015 LAWSUIT CLIMATE SURVEY

# Ranking the States

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

.....  
SEPTEMBER 2015



**U.S. CHAMBER**  
**Institute for Legal Reform**

An Affiliate of the U.S. Chamber of Commerce

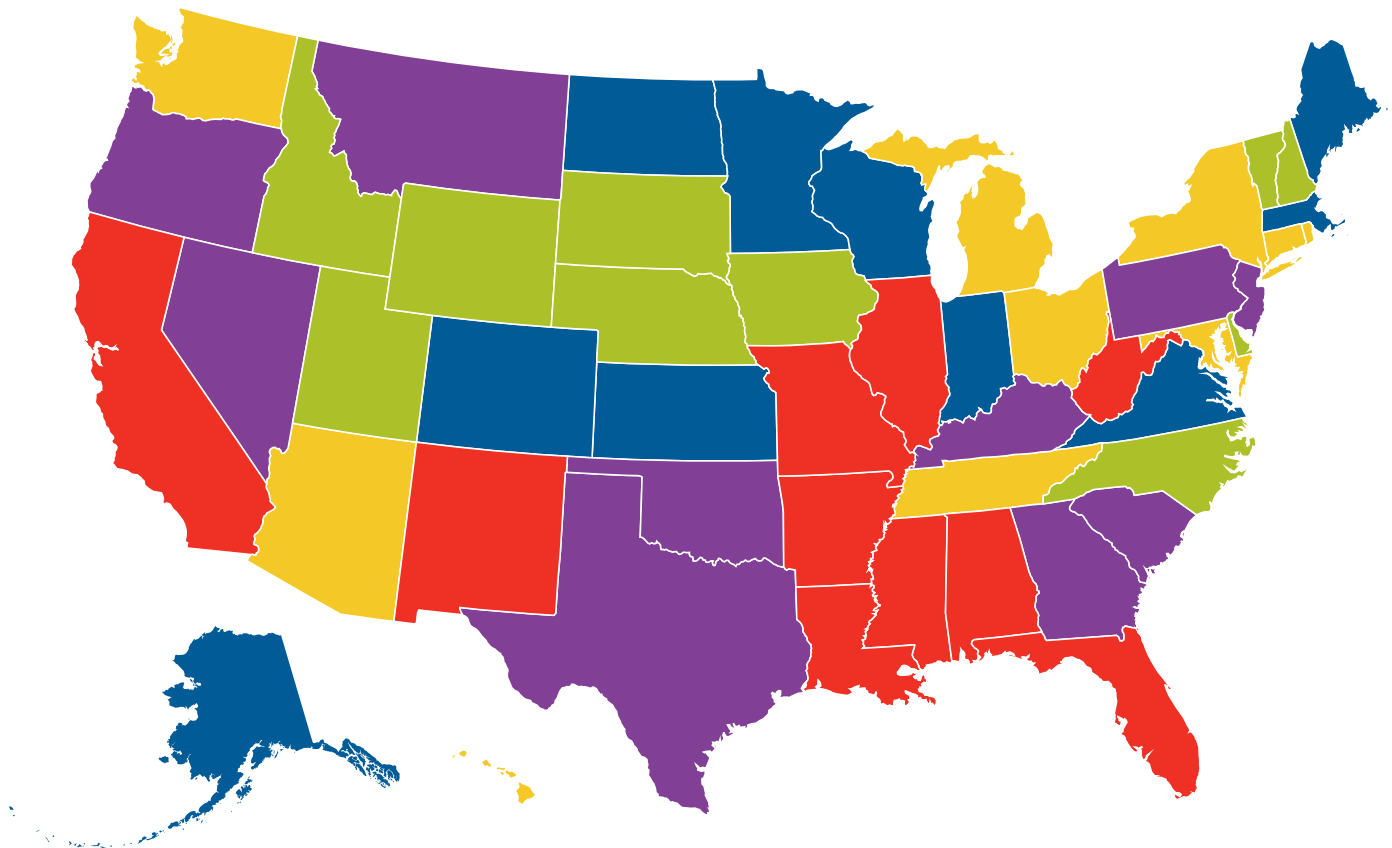
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# 2015 Ranking of State Liability Systems



## 1—10

1. Delaware
2. Vermont
3. Nebraska
4. Iowa
5. New Hampshire
6. Idaho
7. North Carolina
8. Wyoming
9. South Dakota
10. Utah

## 11—20

11. Virginia
12. Alaska
13. Minnesota
14. Maine
15. North Dakota
16. Colorado
17. Massachusetts
18. Indiana
19. Kansas
20. Wisconsin

## 21—30

21. New York
22. Connecticut
23. Tennessee
24. Michigan
25. Arizona
26. Rhode Island
27. Ohio
28. Maryland
29. Washington
30. Hawaii

## 31—40

31. Georgia
32. Oregon
33. Oklahoma
34. Montana
35. Nevada
36. South Carolina
37. Pennsylvania
38. New Jersey
39. Kentucky
40. Texas

## 41—50

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

# Overall Rankings of State Liability Systems 2008—2015

STATE	2015 RANK	SCORE	2012	2010	2008
Delaware	1	76.5	1	1	1
Vermont	2	73.8	16	25	8
Nebraska	3	73.0	2	3	2
Iowa	4	72.2	10	5	7
New Hampshire	5	70.7	21	16	16
Idaho	6	70.5	6	18	26
North Carolina	7	70.2	20	17	21
Wyoming	8	69.7	3	15	23
South Dakota	9	69.5	11	10	12
Utah	10	69.0	9	7	5
Virginia	11	68.3	7	6	6
Alaska	12	68.1	13	33	20
Minnesota	13	68.0	4	11	11
Maine	14	68.0	12	12	3
North Dakota	15	67.9	8	2	13
Colorado	16	67.8	23	8	9
Massachusetts	17	67.8	19	9	18
Indiana	18	67.7	14	4	4
Kansas	19	67.6	5	14	10
Wisconsin	20	66.6	15	22	24
New York	21	66.3	18	23	25
Connecticut	22	65.9	25	24	19
Tennessee	23	65.7	26	19	22
Michigan	24	65.5	27	30	33
Arizona	25	65.4	17	13	15
Rhode Island	26	64.6	31	38	39
Ohio	27	64.2	30	29	32
Maryland	28	63.9	33	20	30
Washington	29	63.8	22	26	27
Hawaii	30	62.8	29	35	45
Georgia	31	62.4	24	27	28
Oregon	32	61.2	28	21	14
Oklahoma	33	61.0	42	31	17
Montana	34	60.5	45	43	38
Nevada	35	60.4	37	28	40
South Carolina	36	59.4	39	39	43
Pennsylvania	37	59.4	40	34	36
New Jersey	38	59.3	32	32	35
Kentucky	39	59.0	38	40	29
Texas	40	58.5	36	36	41
Arkansas	41	57.7	35	44	34
Missouri	42	56.6	34	37	31
Mississippi	43	56.3	48	48	48
Florida	44	56.0	41	42	42
New Mexico	45	55.2	44	41	37
Alabama	46	55.1	43	47	47
California	47	49.9	47	46	44
Illinois	48	48.0	46	45	46
Louisiana	49	46.5	49	49	49
West Virginia	50	46.3	50	50	50

Scores displayed in this table have been rounded to one decimal point. However, when developing the ranking, scores were evaluated based on two decimal points. Therefore, states that appear tied based upon the scores in this table were not tied when two decimal points were taken into consideration.

# Overview

*The 2015 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' tort liability systems are perceived to be by U.S. businesses.

*The 2015 Lawsuit Climate Survey* constitutes the tenth fielding of the survey and builds upon previous studies, the first of which was initiated in 2002.<sup>1</sup> 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 2015 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 1,203 in-house general counsel, senior litigators or attorneys, and other senior executives at companies with at least \$100 million in annual revenues<sup>2</sup> who indicated they: (1) are knowledgeable about litigation matters; and (2) have recent litigation experience 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. 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 2015 survey reveals that the overall average scores of the states are increasing, and senior attorneys see the litigation environment improving generally: half of the respondents (50%) view the fairness and reasonableness of state court liability systems in the United States as excellent or pretty good, up from 49% in 2012 and 44% in 2010. The remaining 50% view the system as only fair or poor, or declined to answer (1%).

Moreover, a state's litigation environment continues to be important to senior litigators, with three-quarters (75%) of respondents reporting that it is likely to impact important business decisions at their companies, such as where to locate or do business. This is a significant increase from 70% in 2012 and 67% in 2010.

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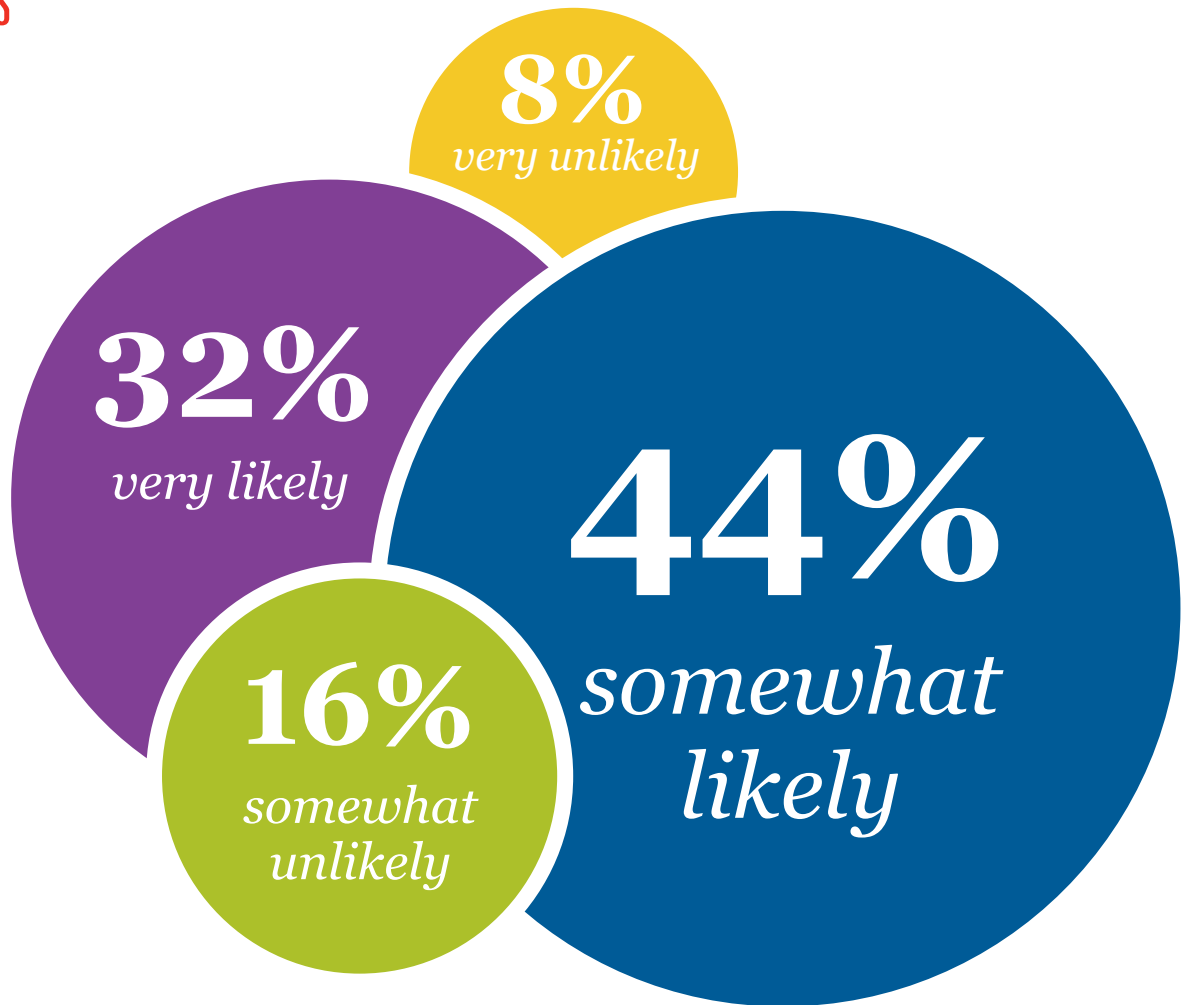
1. 2012, 2010, 2008, 2007, 2006, 2005, 2004, 2003, and 2002.

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

OVERVIEW

# 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?



## 75%\*

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

Results are given for a base of 1,203 general counsel/senior litigators.

\*Differences between chart values and nets are due to rounding.



## OVERVIEW

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

Having and enforcing meaningful venue requirements

---

Overall treatment of tort and contract litigation

---

Treatment of class action suits and mass consolidation suits

---

Damages

---

Timeliness of summary judgment or dismissal

---

Discovery

---

Scientific and technical evidence

---

Judges' impartiality

---

Judges' competence

---

Juries' fairness

Respondents were also asked to give the state an overall grade for creating a fair and reasonable litigation environment. These elements were then combined to create an overall ranking of state liability systems.



## OVERVIEW

Taken as a whole, general counsel and senior litigators perceive state courts to be doing better than average on the various elements. States received significantly more A's and B's (52%) than D's and F's (16%) when all of the elements were averaged together.

### AVERAGE PERCENTAGE ACROSS ALL ELEMENTS AMONG 50 STATES

<i>Grade</i>	<i>Average Percentage</i>
A	14%
B	38%
C	27%
D	11%
F	5%
Not sure/ Decline to answer	5%

Since the inception of the survey, there has been a general increase in the overall average score (expressed numerically on a scale of 1 to 100) of state liability systems, and this trend continues with the 2015 survey. The 2015 score has increased by 0.8 percentage points, building on the significant increase made in 2012.

### AVERAGE OVERALL SCORE AMONG 50 STATES

<i>Year</i>	<i>Average Overall Score</i>
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

## Most Important Issues for Improving the Litigation Environment

The study also asked respondents to select the most important issue needed to improve the litigation environment. Eliminating unnecessary lawsuits was mentioned by 32% of the attorneys who completed the survey. Other top issues named were placing reasonable limits on discovery (15%), limiting punitive or other types of damages (11%), and increasing the effectiveness of judicial case management (11%).

## Worst Local Jurisdictions

In order to understand if there are any cities or counties that might impact a state's ranking, the respondents were asked to select cities or counties that have the least fair and reasonable litigation environments. Respondents were provided a list of cities or counties that have a reputation of being problematic when it comes to contract and tort litigation and had the option of inserting a city or county not on the list. The worst jurisdiction was East Texas (26%); followed by Chicago or Cook County, Illinois (20%); Los Angeles, California (16%); Madison County, Illinois (16%); and New Orleans or Orleans Parish, Louisiana (15%).

To understand why senior litigators view particular jurisdictions negatively, a follow-up question was asked to those who cited a jurisdiction. A quarter (24%) mentioned that the reason why a city or county has the least fair and reasonable litigation environment is because of biased or partial jury/judges. Similar to 2012, this is the number one reason by a large margin. The next reasons provided include corrupt/unfair system (11%), poor quality of jury/judges (7%), personal experience (7%), a slow process/delays (6%), and excessive damage awards (6%).

## Conclusion

Several organizations and academics<sup>3</sup> 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 annual State Liability Systems Ranking Study 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 tenth such survey and state ranking, finds that while the overall average scores of the states are increasing, the senior lawyers in large corporations still have mixed perceptions about the fairness and reasonableness of state liability systems overall. They are split: about half believe that the states are doing an excellent or pretty good job with respect to their state liability systems, and the other half believe the states' systems are only fair or poor. On the various elements, the general counsel and senior litigators give state courts more A's and B's than D's and F's.

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3. *Analysis of National Survey of Registered Voters*, National Center for State Courts (2014); *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); *The Sources of Public Confidence in State Courts*, American Politics Research (2003); *Perceptions of the U.S. Justice System*, American Bar Association (1999).

## OVERVIEW

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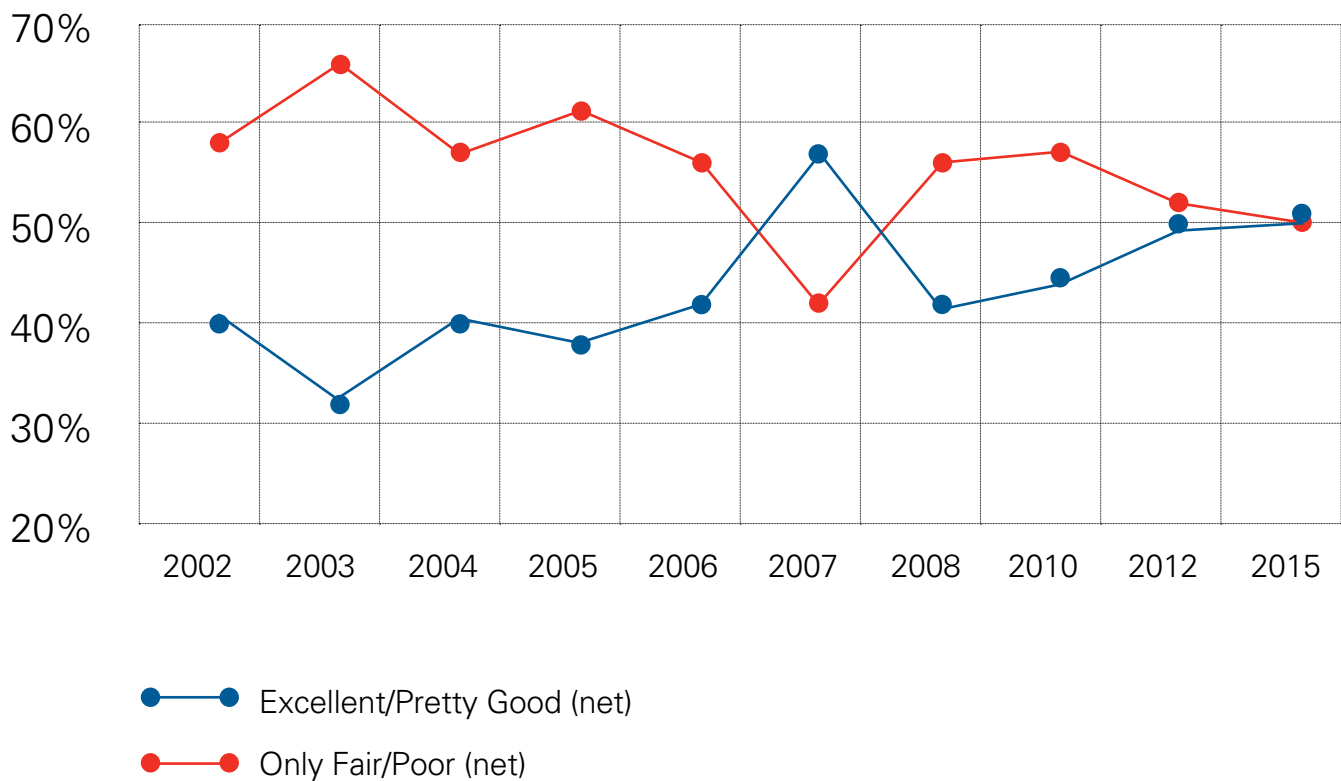
An examination of individual state evaluations, however, reveals wide disparity among those states that are doing the best job and those states that are doing the worst job, with the highest performing state (Delaware) scoring 77 out of a possible 100, and the poorest performing state (West Virginia) scoring 46 out of 100. However, the poorest performing state score for West Virginia does reflect a 1 percentage point improvement over the 2012 survey results and an 11 percentage point improvement since 2010.

Clearly, corporate counsel see specific areas for improvement in the individual states, and the perceptions of senior lawyers and executives in large companies matter. This survey reveals that three in four senior lawyers and executives feel that the litigation environment in a state is likely to impact important business decisions, which could have economic consequences for the states. The challenge for the states is to focus on those areas where they received the lowest scores and then make improvements where they are needed.

*“ Clearly, corporate counsel see specific areas for improvement in the individual states, and the perceptions of senior lawyers and executives in large companies matter. ”*

# Overall Rating of State Court Liability Systems Over Time

Overall, how would you describe the fairness and reasonableness of state court systems in America?



2015 results are given for a base of 1,203 general counsel/senior litigators.

# Spotlight

State policymakers inevitably want to know the reasons behind their state's ranking, particularly if they fared poorly. Exactly what happens in the courts that businesses find unfair or unreasonable? When states receive less than optimal grades, what reforms should be considered when they contemplate their results? Are the problems in an individual state's liability system state-wide, or is the state's ranking skewed by one (or more) individual city or county court that is viewed as particularly unfair or unreasonable? The Spotlight section answers these questions by highlighting findings from *The 2015 Lawsuit Climate Survey* that provide additional context to the state ranking itself.

These Spotlight issues are important in-and-of themselves but are not part of the actual calculation of the overall rankings of state liability systems; they simply provide additional insight for policymakers to consider.

## Most Important Issues for Improving the Litigation Environment

Eliminating unnecessary lawsuits	32%
Placing reasonable limits on discovery	15%
Limiting punitive or other types of damages	11%
Increasing the effectiveness of judicial case management	11%
Ensuring timely court decisions	9%
Assuring that liability is properly allocated among defendants	9%
Addressing e-discovery	6%

*Results are given for a base of 1,203 general counsel/senior litigators who were asked, “Which of the following do you think is the single most important improvement that should be made in a litigation environment?”*

*Respondents were provided with this closed end list of items to evaluate. Additional responses volunteered by respondents at “Other” were all below 1%.*

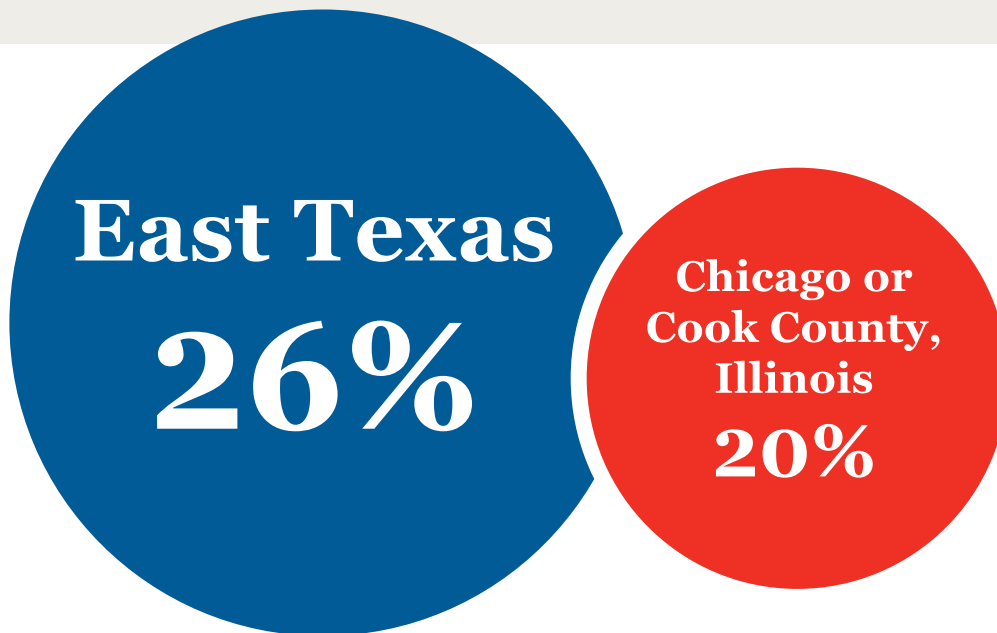


## Worst Local Jurisdictions

East Texas	26%
Chicago or Cook County, Illinois	20%
Los Angeles, California	16%
Madison County, Illinois	16%
New Orleans or Orleans Parish, Louisiana	15%
New York, New York	10%
San Francisco, California	10%
Miami or Dade County, Florida	10%
Philadelphia, Pennsylvania	7%
St. Louis, Missouri	7%
Detroit, Michigan	7%
Washington, DC	5%

*Results are given for a base of 1,203 general counsel/senior litigators who were asked, “Thinking about the entire country, 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?”*

*Respondents were asked to provide up to two responses to this closed end list of city and county courts. Other mentions volunteered by respondents at “Other” in the list were all below 1%.*



## Top Issues Mentioned as Creating the Least Fair and Reasonable Litigation Environment

Biased/partial judgment	24%
Corrupt/unfair system	11%
Poor quality of jury/judges	7%
Personal experience	7%
Slow process/delays	6%
Excessive damage awards/not reasonable	6%
Anti-business/anti-corporate	5%
Have read/seen a case study	5%
Heavily influenced by politics	4%
Good old boy system/depends on who you know	4%
Poor/bad system	4%
Overburdened with cases/too many cases/backlog	4%
Unpredictable jury/judges/system	3%
Base judgments on irrelevant factors/emotion not fact	3%
Incompetent jury/judges/system	3%
Patent trolls/favorable to patent cases	3%
Frivolous litigation	3%
Asbestos litigation	3%
Does not adhere to laws/rules	3%
Uneducated jury/judges	2%
Unfair jury/judges	2%
Liberal jury/judges/system	2%
Poor jury pool	2%
Unreasonable rulings/verdicts	2%
Bad reputation	2%
Personal opinion	2%
Discovery issues	2%
It has become too dependent on class action suits	2%
Expensive/high court costs	2%

*Results given are for a base of 1,034 general counsel/senior litigators who were asked, “Why do you say [Insert Name of City or County] has the LEAST fair and reasonable litigation environment for both defendants and plaintiffs?”*

*The responses displayed in this table were volunteered by respondents. Mentions of at least 2% are shown above.*



# Summary of Top/Bottom 5 States by Key Elements

<b>Overall treatment of tort and contract litigation</b>	<b>BEST</b>	<b>WORST</b>
	1. Delaware 2. Vermont 3. Nebraska 4. South Dakota 5. North Carolina	50. West Virginia 49. Louisiana 48. Illinois 47. California 46. New Mexico

<b>Having and enforcing meaningful venue requirements</b>	<b>BEST</b>	<b>WORST</b>
	1. Delaware 2. Nebraska 3. New York 4. Vermont 5. Minnesota	50. Illinois 49. West Virginia 48. Louisiana 47. California 46. New Mexico

<b>Treatment of class action suits and mass consolidation suits</b>	<b>BEST</b>	<b>WORST</b>
	1. Delaware 2. Vermont 3. Idaho 4. Nebraska 5. Wyoming	50. California 49. Illinois 48. Louisiana 47. West Virginia 46. Missouri

<b>Damages</b>	<b>BEST</b>	<b>WORST</b>
	1. Delaware 2. Kansas 3. Vermont 4. South Dakota 5. Iowa	50. California 49. Louisiana 48. Illinois 47. West Virginia 46. Alabama

<b>Timeliness of summary judgment or dismissal</b>	<b>BEST</b>	<b>WORST</b>
	1. Delaware 2. Vermont 3. Nebraska 4. Idaho 5. Wyoming	50. Louisiana 49. West Virginia 48. California 47. Illinois 46. Alabama

## Discovery

### BEST

1. Vermont
2. Delaware
3. Nebraska
4. New Hampshire
5. Iowa

### WORST

50. West Virginia
49. California
48. Illinois
47. Louisiana
46. New Mexico

## Scientific and technical evidence

### BEST

1. Vermont
2. Delaware
3. Massachusetts
4. New York
5. Iowa

### WORST

50. West Virginia
49. Louisiana
48. Illinois
47. Alabama
46. Arkansas

## Judges' impartiality

### BEST

1. Vermont
2. Delaware
3. Iowa
4. Nebraska
5. New Hampshire

### WORST

50. Louisiana
49. West Virginia
48. Illinois
47. New Mexico
46. Texas

## Judges' competence

### BEST

1. Delaware
2. Massachusetts
3. Maine
4. Wyoming
5. Iowa

### WORST

50. Louisiana
49. West Virginia
48. Illinois
47. New Mexico
46. California

## Juries' fairness

### BEST

1. Nebraska
2. Delaware
3. New Hampshire
4. Iowa
5. Vermont

### WORST

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

# 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 what are used to develop the (1–50) Overall Ranking of State Liability Systems, as described in the Methodology section.

Overall Treatment  
of Tort and  
Contract Litigation

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

Having and Enforcing Meaningful Venue Requirements

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

Treatment of Class  
Action Suits  
and Mass  
Consolidation Suits

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

Damages

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

Timeliness  
of Summary  
Judgment or  
Dismissal

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





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

Scientific  
and Technical  
Evidence

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

Judges' Impartiality

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

Judges' Competence

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

Juries' Fairness

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

# Methodology

*The 2015 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 1,203 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 revenues of at least \$100 million.

The general counsel, senior litigators or attorneys, and other senior executives included in this study were involved in or very familiar with litigation in the states they evaluated within the past four years. On average, each telephone respondent evaluated four states, and each online respondent evaluated five states.<sup>4</sup> As a result, these 1,203 individual respondents represent a total of 5,346 responses or state evaluations.

Phone interviews averaging 26 minutes in length were conducted with a total of 560 respondents and took place between March 9, 2015, and June 24, 2015. Online interviews using the same questionnaire and averaging 14 minutes in length were conducted with a total of 643 respondents and took place between March 12, 2015, and June 24, 2015. As a point of reference, the 2012 research was conducted between March 13, 2012, and June 25, 2012. The remaining prior years' research was conducted during October to January in the years 2002–2010.

## Sample Design

For the telephone sample, a comprehensive list of general counsel at companies with annual revenues of at least \$100 million was compiled using Hoovers Phone, InfoUSA, ALM Legal Intelligence and Leadership Directories. An alert letter was sent to the general counsel at each company. This letter provided general information about the study and notified the recipient of the option to take the survey online or by phone.

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*4. The number of evaluations was rounded to the nearest whole number.*

It told them that an interviewer from Harris Poll would be contacting them to set up an appointment for a telephone interview if that was their preference. The letter included a toll-free number for respondents to call and schedule an appointment for a telephone interview. It also alerted the respondent to a \$100 incentive in the form of a gift card or charitable donation 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, ALM Law Journal, Today's General Counsel, National Data Group, InfoUSA, ALM Legal Intelligence and Leadership Directories. 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 revenues.

### Sample Characteristics

A vast majority (73%) of respondents were general counsel, corporate counsel, associate or assistant counsel, or some other senior litigator or attorney. The remaining respondents were senior executives knowledgeable about or responsible for litigation at their companies. Respondents had an average of 19 years of relevant legal experience, including in their current position, and had been involved in or familiar with litigation at their current companies for an average of 10 years. All respondents were familiar with or had litigated in the states they rated within the past four years; 78% fell within the past three years. The most common industry sector represented was manufacturing, followed by services and finance.

### 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 respondents could take the survey online on their own time.

## Online Interviewing Procedures

All online interviews were hosted on 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 participants 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 four years. From there, respondents were given the opportunity to evaluate the states' liability systems, prioritized by most recent litigation experience. As stated earlier, respondents evaluated four states, on average, via telephone and five 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.

### Mean Grade Scale

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A = 5.0

B = 4.0

C = 3.0

D = 2.0

F = 1.0



## Index Grade Scale

A = 100

B = 75

C = 50

D = 25

F = 0

The Overall Rankings of State Liability Systems table was developed by creating an index using the grades provided for each of the key elements plus the overall performance grade. All of the key elements were highly correlated with one another and with overall performance. The differences in the relationship between each element and overall performance were trivial, so it was determined that each element should contribute equally to the index score. To create the index, each grade across the elements plus the overall performance grade were rescaled from 0 to 100 (A = 100, B = 75, C = 50, D = 25, and F = 0). Then, any evaluation that contained 6 or more “not sure” or “decline to answer” responses per state was removed. A total of 5.2% of state evaluations were unusable. From the usable evaluations, the scores on the elements were then averaged together to create the index score from 0 to 100.

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, 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 1,203 respondents is plus or minus 2.8 percentage points. That is, the chances are 95 in 100 that a survey result does not vary, plus or minus, by more than 2.8 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 (nonresponse 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 Harris Poll keep errors of these types to a minimum.

A full copy of the report, including grades for each state on each of the key elements, is available at [www.InstituteForLegalReform.com](http://www.InstituteForLegalReform.com).

# Overall Rankings of State Liability Systems 2002–2015\*

STATE	2015 RANK	N	SCORE	RANKING CHANGE FROM 2012
Delaware	1	89	76.5	0
Vermont	2	56	73.8	14
Nebraska	3	82	73.0	-1
Iowa	4	90	72.2	6
New Hampshire	5	67	70.7	16
Idaho	6	62	70.5	0
North Carolina	7	91	70.2	13
Wyoming	8	63	69.7	-5
South Dakota	9	62	69.5	2
Utah	10	90	69.0	-1
Virginia	11	126	68.3	-4
Alaska	12	58	68.1	1
Minnesota	13	89	68.0	-9
Maine	14	58	68.0	-2
North Dakota	15	59	67.9	-7
Colorado	16	89	67.8	7
Massachusetts	17	108	67.8	2
Indiana	18	94	67.7	-4
Kansas	19	102	67.6	-14
Wisconsin	20	127	66.6	-5
New York	21	176	66.3	-3
Connecticut	22	86	65.9	3
Tennessee	23	103	65.7	3
Michigan	24	114	65.5	3
Arizona	25	116	65.4	-8
Rhode Island	26	83	64.6	5
Ohio	27	125	64.2	3
Maryland	28	92	63.9	5
Washington	29	122	63.8	-7
Hawaii	30	62	62.8	-1
Georgia	31	108	62.4	-7
Oregon	32	87	61.2	-4
Oklahoma	33	80	61.0	9
Montana	34	67	60.5	11
Nevada	35	98	60.4	2
South Carolina	36	86	59.4	3
Pennsylvania	37	203	59.4	3
New Jersey	38	128	59.3	-6
Kentucky	39	95	59.0	-1
Texas	40	202	58.5	-4
Arkansas	41	74	57.7	-6
Missouri	42	106	56.6	-8
Mississippi	43	128	56.3	5
Florida	44	211	56.0	-3
New Mexico	45	75	55.2	-1
Alabama	46	98	55.1	-3
California	47	306	49.9	0
Illinois	48	197	48.0	-2
Louisiana	49	131	46.5	0
West Virginia	50	125	46.3	0

\*Scores displayed in this table have been rounded to one decimal point. The column labels "N" represents the number of evaluations for a given state.

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



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