

# WEATHER OR NOT?

## STATE LIABILITY AND ROAD WEATHER INFORMATION SYSTEMS (RWIS)

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## APPENDIX B. CITATIONS RELATING TO STATE SOVEREIGN IMMUNITY AND TORT LIABILITY<sup>273</sup>

This table lists state statutes and constitutional provisions relating to immunity for, and tort claims against, state governmental entities. It includes all citations that were found in the following categories:

- Constitutional provisions that give the legislature authority over sovereign immunity or tort claims issues;
- Statutes and constitutional provisions relating generally to sovereign immunity or tort claims against the state, including state tort claims acts and statutes establishing procedures for bringing tort claims against the state;
- Statutes that reference a discretionary function exception to governmental liability;
- Statutes that reference a misrepresentation exception to governmental liability;
- Statutes prohibiting punitive damages (also known as exemplary damages) against the state; and
- Statutes that provide limitations (“caps”) on damages (per occurrence, per person and/or per cause of action).

This table does not include the extensive case law addressing these topics nor citations dealing solely with political subdivisions such as municipal and county governments.

State/ Jurisdiction	Citations Relating to State Sovereign Immunity, Legislative Authority over Immunity Issues, and Tort Claims Against the State	Statutes Referencing Discretionary Function Exceptions	Statutes Referencing Misrepresentation Exceptions	Statutes Prohibiting Punitive Damages Against the State	Statutes Providing Limitations (“Caps”) on Damages
Alabama	Ala. Const. art. I, §14: <i>State not to be made defendant.</i>  Ala. Code §41-9-60 (1975): <i>Purpose of [Board of Adjustment].</i>			Ala. Code §6-11-26 (1975)	
Alaska	Alaska Const. art. II, §21: <i>Suits against the State. [Establishes legislative authority.]</i>  Alaska Stat. §§09.50.250 et seq.: <i>Claims against the State or State employees.</i>	Alaska Stat. §09.50.250	Alaska Stat. §09.50.250	Alaska Stat. §09.50.280	
Arizona	Ariz. Const. art. IV, pt. 2, §21: <i>Suits against the State. [Establishes legislative authority.]</i>  Ariz. Rev. Stat. Ann. §§12-820 et seq.: <i>Actions Against Public Entities or Public Employees.</i>	Ariz. Rev. Stat. Ann. §12-820.01 Ariz. Rev. Stat. Ann. §26-314 <i>[Relates to emergency management.]</i>		Ariz. Rev. Stat. Ann. §12-820.04	
Arkansas	Ark. Const. art. V, §20: <i>Sovereign immunity of the State of Arkansas.</i>  Ark. Stat. Ann. §§21-9-201 et seq.: <i>Liability of the State.</i>  Ark. Stat. Ann. §§19-10-101 et seq.: <i>Claims against the State.</i>			Ark. Stat. Ann. §21-9-203	
California	Cal. Const. art. III, §5: <i>Suits against the State. [Establishes legislative authority.]</i>  Cal. Government Code §§815 et seq.: <i>Liability of Public Entities.</i>	Cal. Government Code §820.2  Cal. Government Code §8655 <i>[Relates to California Emergency Services Act.]</i>	Cal. Government Code §818.8  Cal. Government Code §822.2 <i>[Relates to liability of public employees.]</i>	Cal. Government Code §818	
Colorado	Colo. Rev. Stat. §§24-10-101 et seq.: <i>Colorado Governmental Immunity Act.</i>			Colo. Rev. Stat. §24-10-114	Colo. Rev. Stat. §24-10-114
Connecticut	Conn. Gen. Stat. Ann. §§4-141 et seq.: <i>Claims Against the State.</i>				

State/ Jurisdiction	Citations Relating to State Sovereign Immunity, Legislative Authority over Immunity Issues, and Tort Claims Against the State	Statutes Referencing Discretionary Function Exceptions	Statutes Referencing Misrepresentation Exceptions	Statutes Prohibiting Punitive Damages Against the State	Statutes Providing Limitations ("Caps") on Damages
Delaware	Del. Code Ann. Const. art. I, §9: <i>Courts shall be open; remedy for injury; venue; suits against State. [Establishes legislative authority.]</i>  Del. Code Ann. tit. 10, §§4001 et seq.: <i>Tort Claims Act.</i>	Del. Code Ann. tit. 10, §4001			
District of Columbia	D.C. Code Ann. §§2-401 et seq.: <i>Claims against the District.</i>				
Florida	Fla. Const. art. X, §13: <i>Suits against the State. [Establishes legislative authority.]</i>  Fla. Stat. Ann. §768.28: <i>Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.</i>				Fla. Stat. Ann. §768.28 <sup>274</sup>
Georgia	Ga. Const. art. I, §2, ¶9: <i>Sovereign immunity and waiver thereof; claims against the state and its departments, agencies, officers, and employees. [Establishes legislative authority.]</i>  Ga. Code §§50-21-20 et seq.: <i>Georgia Tort Claims Act.</i>	Ga. Code §50-21-24		Ga. Code §50-21-30	Ga. Code §50-21-29
Hawaii	Hawaii Rev. Stat. §§662-1 et seq.: <i>State Tort Liability Act.</i>	Hawaii Rev. Stat. §662-15	Hawaii Rev. Stat. §662-15		
Idaho	Idaho Code §§6-901 et seq.: <i>Idaho Tort Claims Act.</i>	Idaho Code §6-904	Idaho Code §6-904	Idaho Code §6-918	Idaho Code §6-926
Illinois	Ill. Const. art. XIII, §4: <i>Sovereign immunity abolished.</i>  Ill. Ann. Stat. ch. 745, §§5/1 et seq.: <i>State lawsuit immunity act.</i>  Ill. Ann. Stat. ch. 705, §§505/1 et seq.: <i>Court of Claims Act.</i>				Ill. Ann. Stat. ch. 705, §505/8

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Indiana	Ind. Const. art. IV, §24: <i>Right to sue the state.</i> [Establishes legislative authority.]  Ind. Code §§34-13-3-1 et seq.: <i>Tort Claims Against Governmental Entities and Public Employees.</i>	Ind. Code §34-13- 3-3		Ind. Code §34- 13-3-4	Ind. Code §34-13- 3-4
Iowa	Iowa Code Ann. §§669.1 et seq.: <i>Iowa Tort Claims Act.</i>	Iowa Code Ann. §669.14	Iowa Code Ann. §669.14		
Kansas	Kan. Stat. Ann. §§75-6101 et seq.: <i>Kansas Tort Claims Act.</i>	Kan. Stat. Ann. §75-6104		Kan. Stat. Ann. §75-6105 Kan. Stat. Ann. §75-6109	Kan. Stat. Ann. §75-6105
Kentucky	Ky. Const. §231: <i>Suits against the Commonwealth.</i> [Establishes legislative authority.]  Ky. Rev. Stat. §§44.070 et seq.: <i>Board of Claims.</i>	<i>See note.</i> <sup>275</sup>			Ky. Rev. Stat. §44.070
Louisiana	La. Const. art. XII, §10: <i>Suits against the State.</i>  La. Rev. Stat. Ann. §§13:5101 et seq.: <i>Louisiana Governmental Claims Act.</i>				La. Rev. Stat. Ann. §13:5106
Maine	Me. Rev. Stat. Ann. tit. 14, §§8101 et seq.: <i>Maine Tort Claims Act.</i>	Me. Rev. Stat. Ann. tit. 14, §8104-B		Me. Rev. Stat. Ann. tit. 14, §8105	Me. Rev. Stat. Ann. tit. 14, §8105
Maryland	Md. State Government Code Ann. §§12-101 et seq.: <i>Maryland Tort Claims Act.</i>  Md. Courts and Judicial Proceedings Code Ann. §5-522: <i>Immunity; State Personnel.</i>			Md. Courts and Judicial Proceedings Code Ann. §5- 522	Md. State Government Code Ann. §12-104 <sup>276</sup>  Md. Courts and Judicial Proceedings Code Ann. §5-522
Massachusetts	Mass. Gen. Laws Ann. ch. 258, §§1 et seq.: <i>Claims and Indemnity Procedure for the Commonwealth, Its Municipalities, Counties and Districts and the Officers and Employees Thereof.</i>	Mass. Gen. Laws Ann. ch. 258, §10			Mass. Gen. Laws Ann. ch. 258, §2
Michigan	Mich. Comp. Laws Ann. §§691.1401 et seq.: <i>Governmental Liability for Negligence.</i>	<i>See note.</i> <sup>277</sup>			

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Minnesota	Minn. Stat. Ann. §3.736: <i>Tort Claims.</i>	Minn. Stat. Ann. §3.736(3)			Minn. Stat. Ann. §3.736(4)
Mississippi	Miss. Code Ann. §§11-46-1 et seq.: <i>Immunity of State and Political Subdivisions from Liability and Suit for Torts and Torts of Employees.</i>	Miss. Code Ann. §11-46-9		Miss. Code Ann. §11-46-15	Miss. Code Ann. §11-46-15
Missouri	Mo. Ann. Stat. §§537.600 et seq.: <i>Sovereign Immunity.</i>			Mo. Ann. Stat. §537.610	Mo. Ann. Stat. §537.610
Montana	Mont. Const. art. II, §18: <i>State subject to suit.</i>  Mont. Code Ann. §§2-9-101 et seq.: <i>Liability Exposure.</i>			Mont. Code. Ann. §2-9-105	Mont. Code. Ann. §2-9-108
Nebraska	Neb. Rev. St. Const. art. V, §22: <i>State may sue and be sued. [Establishes legislative authority.]</i>  Neb. Rev. St. §§81-8,209 et seq.: <i>State Tort Claims Act.</i>	Neb. Rev. St. §81- 8,219	Neb. Rev. St. §81- 8,219		Neb. Rev. St. §81- 8,224 <sup>278</sup>
Nevada	Nev. Const. art. IV, §22: <i>Suits against state. [Establishes legislative authority.]</i>  Nev. Rev. St. §§41.0305 et seq.: <i>Liability of and Actions Against This State, Its Agencies and Political Subdivisions.</i>	Nev. Rev. St. §41.032		Nev. Rev. St. §41.035	Nev. Rev. St. §41.035
New Hampshire	N.H. Rev. Stat. Ann. §§541- B:1 et seq.: <i>Claims Against the State.</i>	N.H. Rev. Stat. Ann. §541-B:19		N.H. Rev. Stat. Ann. §541-B:14	N.H. Rev. Stat. Ann. §541-B:14
New Jersey	N.J. Rev. Stat. §§59:1-1 et seq.: <i>New Jersey Tort Claims Act.</i>	N.J. Rev. Stat. §59:2-3		N.J. Rev. Stat. §59:9-2	
New Mexico	N.M. Stat. Ann. §§41-4-1 et seq.: <i>Tort Claims Act.</i>	<i>See note.</i> <sup>279</sup>		N.M. Stat. Ann. §41-4-19	N.M. Stat. Ann. §41-4-19
New York	N.Y. Court of Claims Act §8: <i>Waiver of immunity.</i>				
North Carolina	N.C. Gen. Stat. §§143-291 et seq.: <i>Tort Claims Against State Departments and Agencies.</i>				N.C. Gen. Stat. §143-299.2
North Dakota	N.D. Const. art. I, §9: <i>No title. [Establishes legislative authority.]</i>  N.D. Cent. Code §§32- 12.2-01 et seq.: <i>Claims against the State.</i>	N.D. Cent. Code §32-12.2-02		N.D. Cent. Code §32-12.2- 02	N.D. Cent. Code §32-12.2-02 <sup>280</sup>

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Ohio	Ohio Const. art. I, §16: <i>Redress for injury; due process.</i>  Ohio. Rev. Code Ann. §§2743.01 et seq.: <i>Court of Claims.</i>				
Oklahoma	Okla. Stat. tit. 51, §§151 et seq.: <i>The Governmental Tort Claims Act.</i>	Okla. Stat. tit. 51, §155	Okla. Stat. tit. 51, §155	Okla. Stat. tit. 51, §154	Okla. Stat. tit. 51, §154
Oregon	Or. Const. art. IV, §24: <i>Bringing suit against state.</i> <i>[Establishes legislative authority.]</i>  Or. Rev. Stat. §§30.260 et seq.: <i>Tort Actions Against Public Bodies.</i> <sup>281</sup>	Or. Rev. Stat. §30.265		Or. Rev. Stat. §30.270 <sup>282</sup>	Or. Rev. Stat. §30.270 <sup>283</sup>
Pennsylvania	Pa. Const. art. 1, §11: <i>Courts to be open; Suits against the Commonwealth. [Establishes legislative authority.]</i>  Pa. Cons. Stat. Ann. tit. 1, §2310: <i>Sovereign Immunity Reaffirmed; Specific Waiver.</i>  Pa. Cons. Stat. Ann. tit. 42, §§8521 et seq.: <i>Actions Against Commonwealth Bodies.</i>  Pa. Cons. Stat. Ann. tit. 35, §7704: <i>Immunity from civil liability. [Relates to emergency management.]</i>	Pa. Cons. Stat. Ann. tit. 42, §8524		Pa. Cons. Stat. Ann. tit. 42, §8528 <sup>284</sup>	Pa. Cons. Stat. Ann. tit. 42, §8528
Rhode Island	R.I. Gen. Laws §§9-31-1 et seq.: <i>Governmental Tort Liability.</i>				R.I. Gen. Laws §9- 31-2
South Carolina	S.C. Const. art. X, §10: <i>Claims against State.</i> <i>[Establishes legislative authority.]</i>  S.C. Code Ann. §15-78-10: <i>South Carolina Tort Claims Act.</i>	S.C. Code Ann. §15-78-60		S.C. Code Ann. §15-78-120	S.C. Code Ann. §15-78-120



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South Dakota	S.D. Const. art. III, §27: <i>Suits Against the State.</i> [Establishes legislative authority.]  S.D. Codified Laws Ann. §§21-32-1 et seq.: <i>Remedies Against the State.</i>	<i>See note.</i> <sup>285</sup>			
Tennessee	Tenn. Const. art. I, §17: <i>Remedies in Courts, Suits Against State.</i> [Establishes legislative authority.]  Tenn. Code Ann. §§9-8- 301 et seq.: <i>Tennessee Claims Commission.</i>  Tenn. Code. Ann. §§20-13- 101 et seq.: <i>Actions by and Against State.</i>			Tenn. Code Ann. §9-8-307	Tenn. Code Ann. §9-8-307
Texas	Tex. Civil Practice and Remedies Code Ann. §§101.001 et seq.: <i>Texas Tort Claims Act.</i>	Tex. Civil Practice and Remedies Code Ann. §101.056		Tex. Civil Practice and Remedies Code Ann. §101.023	Tex. Civil Practice and Remedies Code Ann. §101.023
Utah	Utah Code. Ann. §§63G- 7-101 et seq. (previously cited as Utah Code. Ann. §§63-30d-101 et seq.): <i>Governmental Immunity Act of Utah.</i>	Utah Code. Ann. §63G-7-301		Utah Code. Ann. §63G-7- 603	Utah Code. Ann. §63G-7-604
Vermont	Vt. Stat. Ann. tit. 12, §§5601 et seq.: <i>Tort Claims Against the State.</i>	Vt. Stat. Ann. tit. 12, §5601			Vt. Stat. Ann. tit. 12, §5601
Virginia	Va. Code §§8.01-195.1 et seq.: <i>Virginia Tort Claims Act.</i>			Va. Code §8.01- 195.3 <sup>286</sup>	Va. Code §8.01- 195.3
Washington	Wash. Const. art. II, §26: <i>Suits against the State.</i> [Establishes legislative authority.]  Wash. Rev. Code Ann. §§4.92.005 et seq.: <i>Actions and Claims Against State.</i>				

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West Virginia	<p>W. Va. Const. art. VI, §35: <i>State Not to Be Made Defendant in Any Court.</i></p> <p>W. Va. Code §§14-2-1 et seq.: <i>Claims Against the State.</i></p> <p>W. Va. Code §§55-17-1 et seq.: <i>Procedures for Certain Actions on Behalf of or Against the State.</i></p>				
Wisconsin	<p>Wis. Const. art. IV, §27: <i>Suits Against State. [Establishes legislative authority.]</i></p> <p>Wis. Stat. Ann. §§775.01 et seq.: <i>Actions Against State.</i></p>				
Wyoming	<p>Wyo. Const. art. 1, §8: <i>Courts open to all; suits against state. [Establishes legislative authority.]</i></p> <p>Wyo. Stat. §§1-39-101 et seq.: <i>Wyoming Governmental Claims Act.</i></p>	<i>See note.</i> <sup>287</sup>		Wyo. Stat. §1-39-118	Wyo. Stat. §1-39-118