

## Litigation

### 'Lawsuit Inferno' Predicted If Three New York Bills Are Signed Into Law, Tort Reform Group Says

| July 29, 2025 | By  **Brian Lee**



Three New York bills would pave the way for excessive litigation and expand liability if signed into law, the American Tort Reform Association said on Tuesday.

The association flagged:

S8186/A8303, which was requested by leaders of the state's Unified Court System, originally in 2023, asking to require that out-of-state companies with a presence in New York consent to general personal jurisdiction on matters that arise outside of the state's borders. Gov. Kathy Hochul vetoed prior versions in both 2023 and 2024.

The Grieving Families Act, S4423/A6063, which asks to expand damages available in wrongful-death lawsuits and has been vetoed by Hochul the past three consecutive years.

S5170/A3351, which would allow a plaintiff to recover money directly from a third-party defendant, if the original defendant doesn't pay the judgment within 30 days. It was passed by state lawmakers during their final marathon sessions in mid June. The year prior it only passed in the Senate.

None of the bills have been delivered to the governor.

The tort reform association said the jurisdiction bill "puts businesses at risk of being sued in New York for actions with little connection to the state," which would undermine "legal trends intended to promote fairness and could flood New York's courts with out-of-state litigation, damaging the state's business climate and economy."

It said it would also present the potential for a growth in "frivolous lawsuits."

"The broad jurisdictional reach would enable more out-of-state cases to be filed in New York, leading to greater court congestion and higher legal expenses for businesses operating in New York," the ATRA said, while noting that aAt an average of \$2,534, New Yorkers pay the third-most expensive "tort tax" in the nation due to excessive litigation costs.

However, one of its sponsors, Senate Deputy Majority Leader Michael Gianaris, D-Queens, previously told the Law Journal that business groups were opposed to it to escape greater accountability, and that the measure merely seeks to revert back to the way things were done for nearly a century, up until a U.S. Supreme Court decision in 2014.

"The people that administer the state's courts and have been dealing with this type of issue for over 100 years seem to think this is an important change to make," Gianaris said during a 2023 interview about the measure.

A legislative letter of support from the Office of Court Administration had said that being able to sue New York-licensed corporations in New York on claims that arose elsewhere would save New York residents and others the expense and inconvenience of traveling to distant forums to seek the enforcement of corporate obligations.

From 1916 through 2014, corporate entities with a presence in New York conferred jurisdiction to New York courts, its backers stated.

The rule was cast aside as a result of *Daimler AG v. Bauman*, with the U.S. Supreme Court unanimously holding in 2014 that an American company can't be sued for conduct in another country, and that U.S. courts have no jurisdiction.

However, a Supreme Court case decided in June 2023, *Mallory v. Norfolk*

*Southern Railway*, allowed Pennsylvania to go forward with a business registration by consent requirement. It reversed a Pennsylvania Supreme Court ruling that had found the requirement violated a due process clause.

New York is seeking to follow Pennsylvania in adopting the requirement.

"For the last few years, we have been operating without that level of accountability available to New Yorkers," Gianaris has said. "So this bill, rather than mandating it, would say that if a corporate entity registers with the state of New York to do business here, they are consenting to the court's jurisdiction on matters, the way it used to be, for most of the last century."

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The Grieving Families Act, one of Albany's rare pieces of legislation to garner bipartisan support, asks to update the state's 177-year-old wrongful death statute which doesn't allow families to seek damages for their pain and suffering.

The tort reform association's opposition reiterates claims made by industry, stating the bill resembles the previous versions that were vetoed, and that it would pose "serious economic risks and could make New York an outlier nationally by allowing damages for emotional loss in wrongful death cases — especially with no clear limits on the size of those awards."

Yet backers maintain the latest version has been altered to remove an allowance for claims for loss of love, society, protection, comfort, companionship and consortium, and it reduced the list of potential plaintiffs to a spouse, domestic partner, grandparents, and any person standing in loco parentis to the decedent.

Prior versions allowed the broader category of close family to sue.

In June, just before it passed in the lower legislative chamber, Assemblymember Jen Lunsford, D-Rochester, said:

“As a former trial lawyer representing families harmed by the negligence of others, I’ve seen firsthand the heartbreak of those who’ve lost a loved one, only to find the law cold and unresponsive to their suffering. The Grieving Families Act is about acknowledging that pain—whether it’s a child taken by violence or a worker who never came home because their employer puts profits before safety.”

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Advocates say that the bill on third-party judgments is needed to preserve the ability for a plaintiff to pursue an unsatisfied judgment from co-defendants or third parties when a cause of action has been extinguished by a defendant’s bankruptcy.

The Tort Reform Association said the legislation would give “plaintiffs a powerful new tool to collect on judgments by targeting third-party defendants — potentially increasing risk and costs across New York’s economy.”

The bill would appear to face long odds, as versions have existed since at least 2000.

Andrew Finkelstein, president of the New York State Trial Lawyers Association, issued a statement on Tuesday that assailed the American Tort Reform Association's scrutiny.

“This recognition,” Finkelstein said, “is a badge of honor for New York’s legislators, who fearlessly stand up to insurance special interests and set the standard for justice nationwide. The real tax New Yorkers pay every day? Sky-high insurance premiums.”

"Lawmakers have responded with the Sunshine Law, demanding that insurers disclose the basis for inflated and extortionate rates and open their books to the public. But the ATRA balks at transparency," the NYSTLA president added.

"They claim accountability is a burden on taxpayers," he continued. "The Grieving Families Act puts responsibility where it belongs, on wrongdoers and insurers, saving taxpayers' hard-earned dollars.

"We have all faced endless delays or denials from Big Insurance. So let us see through ATRA's pitiful attempt at satire in their "report." Make no mistake; this isn't a joke. Their agenda is to make money at the expense of New Yorkers' health and safety."

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