

1972

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Catholic University Law Review

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### Recommended Citation

Catholic University Law Review, *Current Status of No-Fault Legislation in United States*, 21 Cath. U. L. Rev. 466 (1972).

Available at: <https://scholarship.law.edu/lawreview/vol21/iss2/17>

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## **CURRENT STATUS OF NO-FAULT LEGISLATION IN UNITED STATES**

Even before Massachusetts enacted the nation's first no-fault law in August, 1970, re-evaluation of the automobile reparations system had begun in almost all the states. More and more attention is now being given to the various no-fault solutions as the number of states enacting such laws increase.

In order to determine the current status of no-fault legislation an inquiry was sent to the Commissioners of Insurance of all the states. The following analysis is based on information received in response to that inquiry. A brief summary of the major plans being considered appears in the appendix.

STATE	ACTIVITY	TYPE	COMMENT
Alabama	Plan introduced in House but not considered.	Florida Plan	Insurance Committee recommended no further action until 1973.
Alaska	Being considered.*	AIA Plan, NAII Plan, Cotter Plan.	Passage anticipated in 1972 session.
Arizona	Under study.**	Indefinite	Considered during next session.
Arkansas	No activity in legislature. Under study by Dept. of Insurance.	Hart Plan, Illinois-type Plan	Proposals expected in 1973 session.
California	Proposals have been defeated but still being considered.		Prospects for passage good in near future.
Colorado	Bill presented but not passed is being redrafted.	Many proposals being considered. High maximum coverage limits and subrogation between insurers is favored.	Passage expected in early 1972.
Connecticut	Many bills have been submitted but none voted upon. Still under study.	Most major proposals have been considered.	Prospects for passage difficult to determine. Depends upon nature of bill proposed.
Delaware	Enacted.		
District of Columbia	Being considered	Hart Plan	Passage may be controlled by action on a Federal bill.
Florida	Enacted.		
Georgia	No activity.		"Doubtful" in near future.
Hawaii	Under study. Some bills have been introduced but have received no action.	Broader Massachusetts type plan	Prospects for passage in 1972 are "very good."
Idaho	Under study.	Modified NAII plan, AIA type plan, and a "pure" no-fault plan are being examined.	Adoption of some plan is expected in 1972.
Illinois	Enacted.		
Indiana	Under study. Keeton-O'Connell type plan did not get far in 1971.	"Modified" plan	Prospects for passage good in 1973.

Iowa	Under study. A modified plan was introduced in 1971 but not acted on.	Illinois type plan	Favorable prospects for passage in 1972.
Kansas	Under study.	Modified Florida plan, and two "pure" no-fault plans are being considered.	"Speculative" in 1972.
Kentucky	No legislative activity.		Proposal probably patterned after Delaware plan is expected in 1972 session.
Louisiana	Under study.	Indefinite	Possible adoption of some proposal in 1972.
Maine	Under study.	Indefinite	Favorable prospects for passage in 1973.
Maryland	Being considered. Massachusetts type plan failed in 1971.	Indefinite	Prospects for passage difficult to determine at present.
Massachusetts	Enacted.		
Minnesota	Being considered. Davies plan received much attention but was not passed in 1971.	Davies Plan and Cotter Plan have been considered.	"Speculative" chances for passage at present.
Mississippi	None		
Montana	Under study. AIA plan failed in 1971.		More activity anticipated in 1973 session.
Nebraska	Under study	Indefinite; limited no-fault presently favored.	Prospects for passage within two years possible.
Nevada	AIA plan did not pass. Now under study.	Indefinite	Passage of any bill not expected in near future.
New Hampshire	Under study.	"Durkin plan" has been proposed by Insurance Commissioner.	No legislative activity until 1973.
New Jersey	Under study. Several bills have been introduced.	AIA plan and Keeton-O'Connell type plan have been proposed.	More proposals expected in 1972 session.
New Mexico	Under study. A Cotter-type plan did not pass in 1971.	All major proposals are being considered.	More proposals expected in 1972 session.
New York	Being considered. Several bills have failed to pass in legislature.	Many plans have been proposed, most significant being Governor Rockefeller's plan.	Rockefeller plan will again be considered in 1972.

North Carolina	Under study.		
North Dakota	Under study. Some proposals failed in 1971.	Indefinite	Further consideration anticipated in 1972. Prospects for passage speculative.
Ohio	Under study. Several bills have been introduced.	Massachusetts type bill has been proposed.	Prospects for passage uncertain.
Oklahoma	Under study. AIA plan did not pass in 1971.	Indefinite	Further consideration anticipated in 1972. Prospects for passage speculative.
Oregon	Modified plan enacted.	Mandatory first party benefits but tort system retained.	
Pennsylvania	Under study. Several bills before legislature.	Various proposals including Massachusetts and Delaware type bills.	Adoption of some bill anticipated in 1972.
Puerto Rico	Enacted.		Keeton-O'Connell and Saskatchewan plans influenced present law.
Rhode Island	Keeton-O'Connell Plan failed in 1968.	Indefinite	Several proposals expected in 1972 session. Prospects for passage difficult to estimate.
South Carolina	No-fault study bill defeated in 1971.		Massachusetts and Florida type plans may have best chance of ultimately becoming law.
South Dakota	Modified plan enacted.		
Tennessee	Under study.	Indefinite though low maximum coverage limits are possible.	Prospects for passage of some plan favorable in 1972.
Texas	Preliminary studies underway. No legislative activity to date.		
Utah	Under study.		Proposals expected in 1972 session.
Vermont	Under study.	NAII (Illinois) type plan	Prospects for passage very good in 1972.

Virginia	Under study.	Illinois plan is being seriously considered.	
Washington	Keeton-O'Connell plan and others did not pass legislature. Study bills have also failed.		
West Virginia	AIA and Cotter plans failed in legislature.		More proposals expected in 1972 session.
Wisconsin	Being considered. Several plans before legislature.	Massachusetts type plan, AIA plan, and others	Passage of some bill possible but not likely during limited 1972 session.
Wyoming	Under study. No bills before legislature to date.	Indefinite	Probable adoption of some plan in 1972 or 1973.

No response was received from Michigan and Missouri.

\*The term "being considered" generally refers to situations where there has been some legislative examination of no-fault.

\*\*The term "under study" means that a formal study bill has been passed by the legislature.

## APPENDIX

*The American Insurance Association (AIA) Plan* provides unlimited benefits for medical expenses and rehabilitation. It would also pay for 85 percent of lost earnings, to a maximum of 750 dollars per month. But subject to no total payment limits. The medical and income loss expenses which are compensated by collateral sources (excluding Social Security) do not reduce benefits received under the plan. Tort actions for "pain and suffering" are barred in all cases. Some versions of the plan establish benefit schedules much like workmen's compensation laws (e.g., loss of an eye-2,000 dollars).

*The Cotter Plan* provides first-party no-fault benefits for medical expenses up to a 2000 dollar limit, and 85 percent of lost earnings up to 500 dollars per month and limited to a maximum period of 52 weeks of disability and commencing 30 days after the accident. The plan would also pay up to 12 dollars per day for the loss of services of a non-wage earner (e.g., a housewife), subject to a 52 week limit and beginning 30 days after the accident. Tort actions for "pain and suffering" are limited to 50 percent of medical expenses if those expenses are less than 500 dollars; if medical expenses exceed 500 dollars, 100 percent is recoverable in a tort action.

*The Davies Plan* provides unlimited first-party no-fault benefits for medical expenses, and 75 percent of lost earnings, up to a 750 dollar per month maximum. The plan also pays for expenses reasonably incurred in the loss of services of a non-wage earner. Tort actions for bodily injury are barred except for punitive damages in cases of gross negligence. Tort actions for "pain and suffering" are allowed subject to a 25,000 dollar limitation for total disability and a 3,500 dollar limitation for disfigurement.

*The Delaware Plan* provides first-party no-fault benefits for medical expenses and lost earnings subject to a 10,000 dollar limitation per person, and a 20,000 dollar limitation per accident. Tort actions are permitted for "pain and suffering" and for economic losses in excess of recoverable first-party benefits. Subrogation, on a tort liability basis, is allowed between insurers for reimbursement of first-party payments.

*The Durkin Plan* calls for mandatory medical hospital and rehabilitation benefits of at least 2,000 dollars per person; loss of income protection for at least 85 percent of lost wages up to 175 dollars per week for a maximum period of 52 weeks; reimburse them to 25 dollars for lost services of the non-wage earner, 1,000 dollars for funeral expenses, and 5,000 dollars in accidental death benefits. Tort actions for "pain and suffering" are allowed only if there are

medical expenses exceeding 500 dollars, except for specific serious cases such as death, disfigurement, etc. The plan includes an optional offering of excess medical, hospital, rehabilitation, and income coverage above the amounts listed to an overall limit of at least 100,000 dollars per person.

*The Florida Plan* provides first-party benefits on a no-fault basis for all medical and wage loss expenses up to a 5,000 dollar limit per claimant, and for funeral expenses up to 1,000 dollars. Tort actions for economic losses are barred except for losses in excess of those provided on a first-party no-fault basis. Tort actions for "pain and suffering" are not allowed unless medical expenses exceed 1,000 dollars, or in cases of death, permanent disfigurement, permanent disability, or serious fracture.

*The Hart Plan*, which is the proposed federal no-fault plan, would provide for unlimited benefits for medical expenses and the costs of rehabilitation. It would also pay for 85 percent of lost earnings up to 1,000 dollars per month, but limited to a maximum period of 30 months of disability. Those medical and income loss costs which are compensated by collateral sources are not to be paid under this plan. Tort actions would be permitted in cases of "catastrophic harm" only, which includes permanent disability or disfigurement.

*The Illinois Plan* provides first-party no-fault benefits for medical expenses up to a 2,000 dollar maximum. It also provides for 85 percent of lost earnings subject to a total limitation of 7,800 dollars; there is no waiting period for these payments. The plan also covers loss of services of a non-wage earner up to a 4,300 dollar limit for one year. The right of recovery in tort actions for "pain and suffering" is limited as follows: recovery is limited to 50 percent of medical expenses to the extent such expenses are less than 500 dollars; recovery is limited to 100 percent of such expenses if they exceed 500 dollars, except in cases of death, disability, dismemberment, permanent disability or serious disfigurement.

*The Keeton-O'Connell Plan* provides first-party no-fault benefits for medical expenses and 85 percent of lost earnings; up to 750 dollars per month—up to a combined limit of 10,000 dollars per person and 100,000 dollars per accident. Tort actions for "pain and suffering" are not allowed unless the damages exceed 5,000 dollars. The plan also provides for a maximum payment of 500 dollars for funeral expenses. Subject to some exceptions, those medical and income loss costs which are compensated by collateral sources are not to be paid under this plan.

*The Massachusetts Plan* provides no-fault personal injury benefits for medi-

cal expenses and for 75 percent of lost earnings—up to a combined limit of 2,000 dollars. Tort actions for “pain and suffering” are allowed only if medical expenses exceed 500 dollars, or in cases of death, dismemberment or other specific injuries. Tort actions are also allowed to recover economic losses such as medical expenses and lost earnings, if those expenses exceed 2,000 dollars. Those who are entitled to workmen’s compensation payments are not entitled to first-party benefits under this plan.

*The National Association of Independent Insurers (NAII) Plan* provides first-party benefits for medical expenses up to a 2,000 dollar limit, and 85 percent of lost earnings up to 750 dollars per month and limited to a 6,000 dollar total payment, commencing two weeks after the accident. It also provides up to 12 dollars per day and a maximum total payment of 4,500 dollars for loss of services of a non-wage earner, also beginning two weeks after the accident. Tort actions for “pain and suffering” are limited to 50 percent of the medical expenses under 500 dollars, and 100 percent of such expenses exceeding 500 dollars. This plan also provides for “Catastrophe Loss Coverage” which begins when the basic coverage above has been exhausted and compensates certain expenses and losses up to an aggregate 100,000 dollar limit per person, per accident.

*The Oregon Plan* provides first-party benefits for medical expenses up to a 3,000 dollar maximum. It also provides for lost earnings subject to a 3,120 dollar limitation for one year, and there is a two week waiting period for this payment.

*The Rockefeller (-Stewart) Plan* provides unlimited benefits for medical expenses and lost earnings, (the payment for the latter is the actual amount of the loss less tax liability). However, the medical and income loss benefits paid under this plan are reduced by any compensation received from collateral sources, except those benefits paid from public revenues. The plan also provides unlimited benefits for rehabilitation and other economic losses. Tort actions for “pain and suffering” are completely barred, but tort actions are still allowed in cases of wrongful death.