

# Comparing State Debt Collection Policies

March 14, 2024



# INFORMATION BEFORE WE START

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- This webinar is being recorded.
- Recording, slides, and materials will be available at: [www.nclc.org/annual-conferences/webinars/](http://www.nclc.org/annual-conferences/webinars/)
- Add questions in the chat.



## Michael Best

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is a senior attorney at NCLC where he directs state policy work and co-authors the annual No Fresh Start Report examining state exemption laws. He also works on financial services issues, including credit reporting and high cost lending.



## Kathleen Moran-McCabe

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is a Lead Law and Policy Analyst at the Center for Public Health Law Research at Temple University's Beasley School of Law. She leads projects and conducts legal research on a variety of policy areas related to public health.



## David Udell

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is the Founder and Executive Director of the National Center for Access to Justice (based at Fordham Law School). He works to bring research and analysis to the task of creating a fairer civil and criminal legal system and a more just society.

# IMPORTANT LINKS

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## Resources discussed today

- No Fresh Start - <https://www.nclc.org/resources/no-fresh-start-2023/>
- State Debt Collection Litigation Laws - <https://lawatlas.org/datasets/debt-collection-litigation-laws>
- Justice Index: Consumer Debt Litigation - <https://ncaj.org/state-rankings/consumer-debt>

## Other debt policy resources

- State Policy Resources: Consumer Debt Collection - [nclc.org/debt-collection-policy-resources/](https://www.nclc.org/debt-collection-policy-resources/)

# State Debt Collection Litigation Laws Dataset: Exploring the Legal Landscape

**Katie Moran-McCabe, JD**

Center for Public Health Law Research, Temple University Beasley School of Law

# Center for Public Health Law Research

Temple University Beasley School of Law

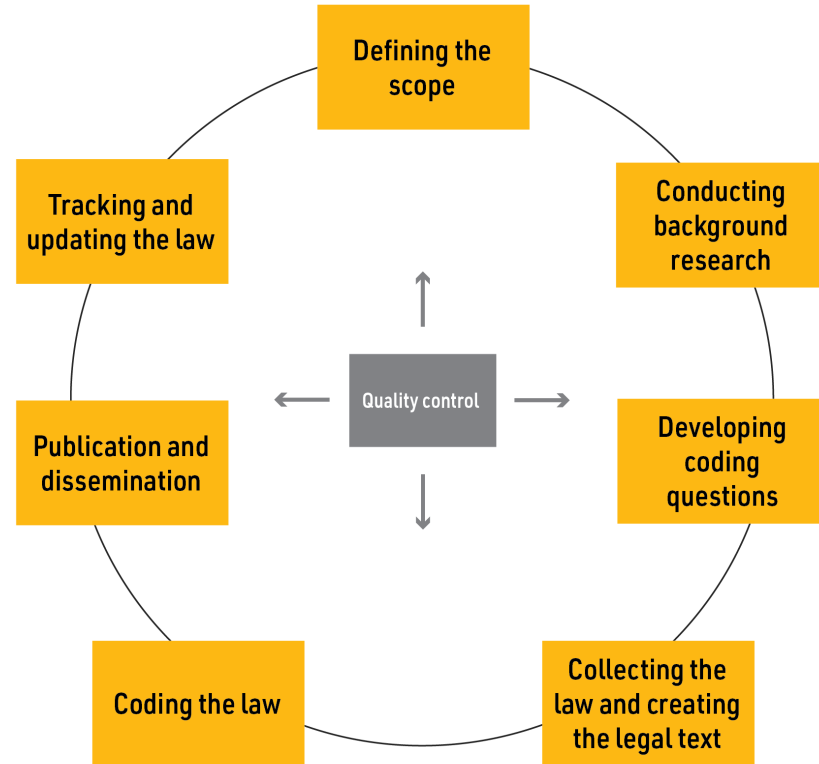
- Founded in 2009
- Advancing the use of **policy surveillance** data, methods development and training, and tools to elevate the field of **legal epidemiology** to achieve better health and greater health equity
- Building a **transdisciplinary community** of individuals interested in laws that influence health



# Methods & Scope

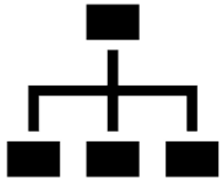
# The Policy Surveillance Process

**The systematic collection, analysis, and dissemination of laws and policies across jurisdictions or institutions, and over time.**



# MonQcle

by the Center for Public Health Law Research



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**Track**



**Collaborate**



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# Debt Collection Litigation Laws dataset - Scope

- Overview of state statutes, regulations, and court rules governing debt collection lawsuits that were in effect as of January 1, 2023
- Covers all 50 U.S. states and the District of Columbia
- Variables captured include requirements related to: statutes of limitation, notice, service, answer, default judgment, and judgment enforcement
- Primary focus on lawsuits involving lower dollar amounts heard in small claims or limited jurisdiction courts

# Navigating the Dataset

# Dataset Homepage

**Filter** | Explore |  Reset

Map | **Profiles**

1. What type of laws regulate debt collection lawsuits at any stage?

- Laws specifically governing debt collection lawsuits
- Laws governing civil procedure generally

2. What type of debt collection-specific policy does the jurisdiction have, if any?

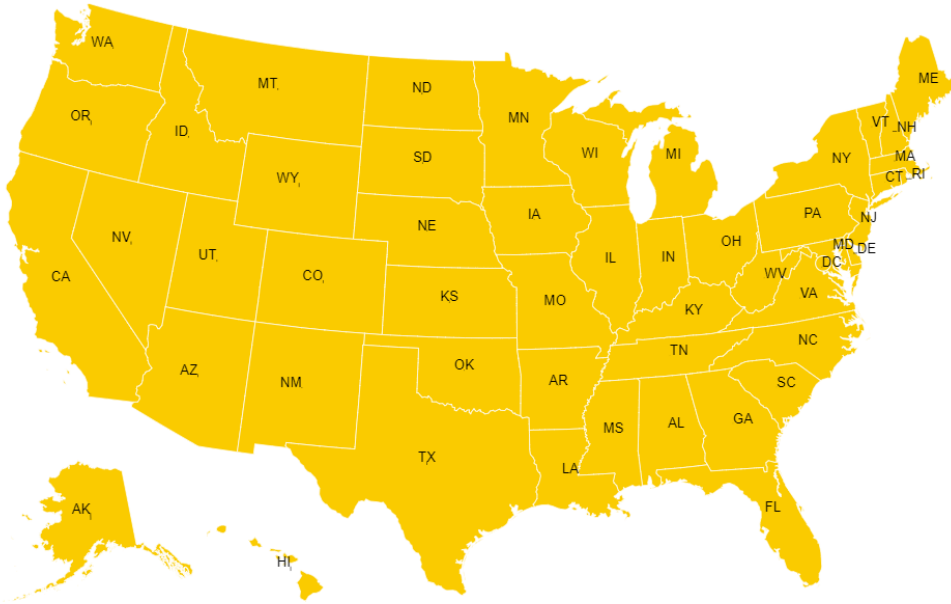
- State statute
- State regulation
- Civil procedure rule
- General jurisdiction court rule
- Limited jurisdiction court rule
- Small claims rule
- Jurisdiction does not have a debt collection-specific policy

3. What types of debt claims, if any, are regulated by the state's debt claim-specific law?

- All debt
- All consumer debt
- Credit card debt
- Medical debt
- Debt buyer debt
- Claims brought by an assignee, debt collector, or third party

(51 jurisdictions)

 Labels



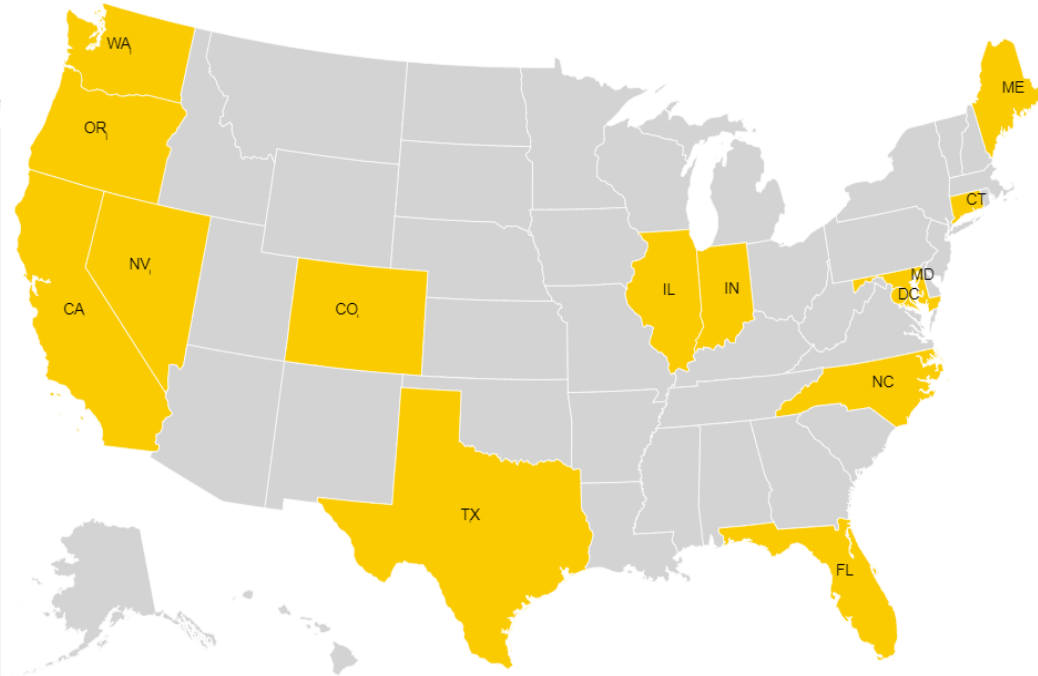
# Query by Variable - Map

| Criteria:

3. What types of debt claims, if any, are regulated by the state's debt claim-specific law? Debt buyer debt | ✕

3. What types of debt claims, if any, are regulated by the state's debt claim-specific law?

- All debt
- All consumer debt
- Credit card debt
- Medical debt
- Debt buyer debt
- Claims brought by an assignee, debt collector, or third party other than a debt buyer
- State-owned debt
- Payday lender debt
- Automobile debt
- Private student loan debt
- Open-end credit



  (14) Meets Criteria |   No data |

# Query by Variable - Table

## Excerpts from the law:

...  
Cal. Civ. Code § 1788.56

...  
A debt buyer shall not bring suit or initiate an arbitration or other legal proceeding to collect a consumer debt if the applicable statute of limitations on the debt buyer's claim has expired. §§

...  
Cal. Civ. Code § 1788.205

...  
Full Text

§§

...  
Cal. Civ. Code § 1788.202

...  
Full Text

§§

...  
Cal. Civ. Code § 1788.206

Cal. Civ. Code § 1788.205. Collection actions; requirements of complaint; disclosure of confidential information not required; exceptions  
Effective: 7/1/22 - Through: 1/1/23

In an action brought by a private education lender or private education loan collector to collect a private education loan:

(a) The complaint shall allege all of the following:

(1) The information required by paragraphs (1) to (11), inclusive, of subdivision (a) of Section 1788.202.

(2) That the applicable statute of limitations has not expired



# Query by Jurisdiction

📍 Washington



8. Can debt collection lawsuits be initiated in small claims court?

§ Yes

8.1. What is the jurisdictional limit to initiate a lawsuit in small claims court?

- 
- ⚠️ • \$5,000
  - \$10,000

8.2. Are plaintiffs required to file a debt claim as a small claims action if under a specified amount?

No

8.3. What restrictions apply to debt collection actions brought in small claims court?

- § ⚠️ • **The plaintiff must not be represented by a lawyer**
- **The defendant must not be represented by a lawyer**
  - **Plaintiff must not be a third party**
  - **Limited right to appeal**

9. The laws governing which type of actions were used to code questions 10 through 35?

**Civil actions, other than small claims, in limited jurisdiction court**

# Caution Notes

## Caution Note:

The small claims department of the district court may hear cases for the recovery of money only if the amount does not exceed \$10,000 for a case brought by a natural person, or \$5,000 in all other cases. Wash. Rev. Code § 12.40.010,

Can debt collection lawsuits be initiated in small claims court?

es

is the jurisdictional limit to initiate a lawsuit in small claims court?

-  • \$5,000
- \$10,000

plaintiffs required to file a debt claim as a small claims action if under

No

# Dataset Resources

## State Debt Collection Litigation Laws

Debt collection lawsuits have increased dramatically over the past few decades, now accounting for an estimated one in four of all cases on civil court dockets. These lawsuits — which can include civil lawsuits to recover student loan debt, medical debt, car loan debt, credit card debt, and more, are overwhelmingly resolved in favor of the debt collector. Debt and debt collection judgments can have severe and far-reaching consequences, including wage garnishment, bank account seizure, and inability to secure housing, employment, or medical care. Further, Black, Indigenous, and Latinx communities are disproportionately impacted by debt, contributing to the perpetuation of intergenerational and structural inequity.

This cross-sectional dataset provides a comprehensive overview of state statutes, state regulations, and court rules governing debt collection lawsuits that were in effect as of January 1, 2023, in all 50 U.S. states and the District of Columbia.

The Research Protocol includes details about the convention for determining which laws were used as the basis for coding, and specific information on the coding scheme and inclusion criteria; however, some key scoping and coding criteria are described below.

The dataset spans the entire lawsuit process, including statutes of limitation, notice, service, answer, default judgment, and judgment enforcement requirements. This dataset captures laws specific to debt collection lawsuits. Where no such law exists, the dataset captures laws governing civil proceedings generally (including debt claims), except for Questions 5, 6, 23, 24, and 25, which only capture provisions that specifically apply to debt collection lawsuits and do not include general requirements.

The dataset focuses on lawsuits involving lower dollar amounts heard in small claims or limited jurisdiction courts but also identifies key differences in the litigation process between courts. Question 9 in the dataset identifies which laws were used to code Questions 10-35 (i.e., laws governing actions in a general jurisdiction court, laws governing actions in a limited jurisdiction court, or laws governing small claims actions).

Where the information a plaintiff must provide to obtain a judgment in a debt collection lawsuit (Question 23) differs based on the type of debt, all required information was coded and a caution note indicates which requirements correspond to which types of debt. Where all the coded responses apply to one particular type of debt (e.g., medical debt), that detail is not included in a caution note, but the legal text cited indicates the type of debt addressed.

This dataset was created in collaboration with The Pew Charitable Trusts. Any views expressed here do not necessarily reflect the views of The Pew Charitable Trusts. *Please note: the information contained herein does not constitute legal advice. If you have questions regarding your legal rights or obligations, contact an attorney in your jurisdiction.*

CREATED BY: Center for Public Health Law Research

MAINTAINED BY: Center for Public Health Law Research

VALID FROM: January 1, 2023

UPDATED THROUGH: January 1, 2023

[Data](#) [Codebook](#) [Protocol](#) [Summary Report](#)

[See all related maps](#)

# Dataset Resources



Beasley School of Law

Center for  
Public Health  
Law Research

## State Laws Governing Debt Collection Lawsuits

February 2024

|    | Jurisdictions        | Effective Date |
|----|----------------------|----------------|
| 1  |                      |                |
| 2  | Alabama              | 1/1/21         |
| 3  | Alaska               | 1/1/21         |
| 4  | Arizona              | 1/1/21         |
| 5  | Arkansas             | 1/1/21         |
| 6  | California           | 1/1/21         |
| 7  | Colorado             | 1/1/21         |
| 8  | Connecticut          | 1/1/21         |
| 9  | Delaware             | 1/1/21         |
| 10 | District of Columbia | 1/1/21         |
| 11 | Florida              | 1/1/21         |
| 12 | Georgia              | 1/1/21         |
| 13 | Hawaii               | 1/1/21         |
| 14 | Idaho                | 1/1/21         |
| 15 | Illinois             | 1/1/21         |
| 16 | Indiana              | 1/1/21         |
| 17 | Iowa                 | 7/1/21         |

DeAnna Baumle, JD, MSW

### Introduction

Americans are deeply in debt — household debt has continued to increase throughout 2023, with many adults facing increasing balances of consumer debt such as credit card debt, student loans, mortgages, auto loans, and medical debt.<sup>1</sup> Debt collectors are increasingly using the court system to collect consumer debts: the number of debt collection lawsuits has increased dramatically over the past few decades and now accounts for about a quarter of all civil cases.<sup>2,3</sup> Debt and debt collection judgments can have severe and far-reaching consequences, including wage garnishment, bank account seizure, and inability to secure housing, employment, or medical care.<sup>4,5</sup> Further, debt has a disproportionate impact on Black, Indigenous, and Latinx communities, contributing to the perpetuation of intergenerational and structural inequity.<sup>2,6-8</sup>

Debt collection lawsuits are overwhelmingly skewed in favor of plaintiffs suing to recover the debt. Most lawsuits are initiated by a few big debt collector agencies and debt buyers.<sup>9,10</sup> These plaintiffs are almost always represented by lawyers familiar with the debt collection process, yet more than 90% of defendants do not have a lawyer to represent them.<sup>2</sup> This imbalance can greatly disadvantage defendants, who are often unfamiliar with laws governing their claims, and who may unknowingly forfeit valid defenses or be tricked or coerced into unfair negotiations and settlements.<sup>4,11,12</sup> Further, many defendants do not respond to debt collection lawsuits, and some defendants never even realize they had been sued until after judgment has been entered against them, resulting in wage garnishment or seizure of their property.<sup>4</sup> In several jurisdictions where data is available, more than 70% of debt collection lawsuits end in default judgment — meaning that the plaintiff has won the case because the defendant did not participate<sup>2</sup> — and more than 95% of debt claims are resolved in favor of the plaintiffs collecting the debt.<sup>5</sup>

lawsuits at any stage?

g debt collection lawsuits

procedure generally

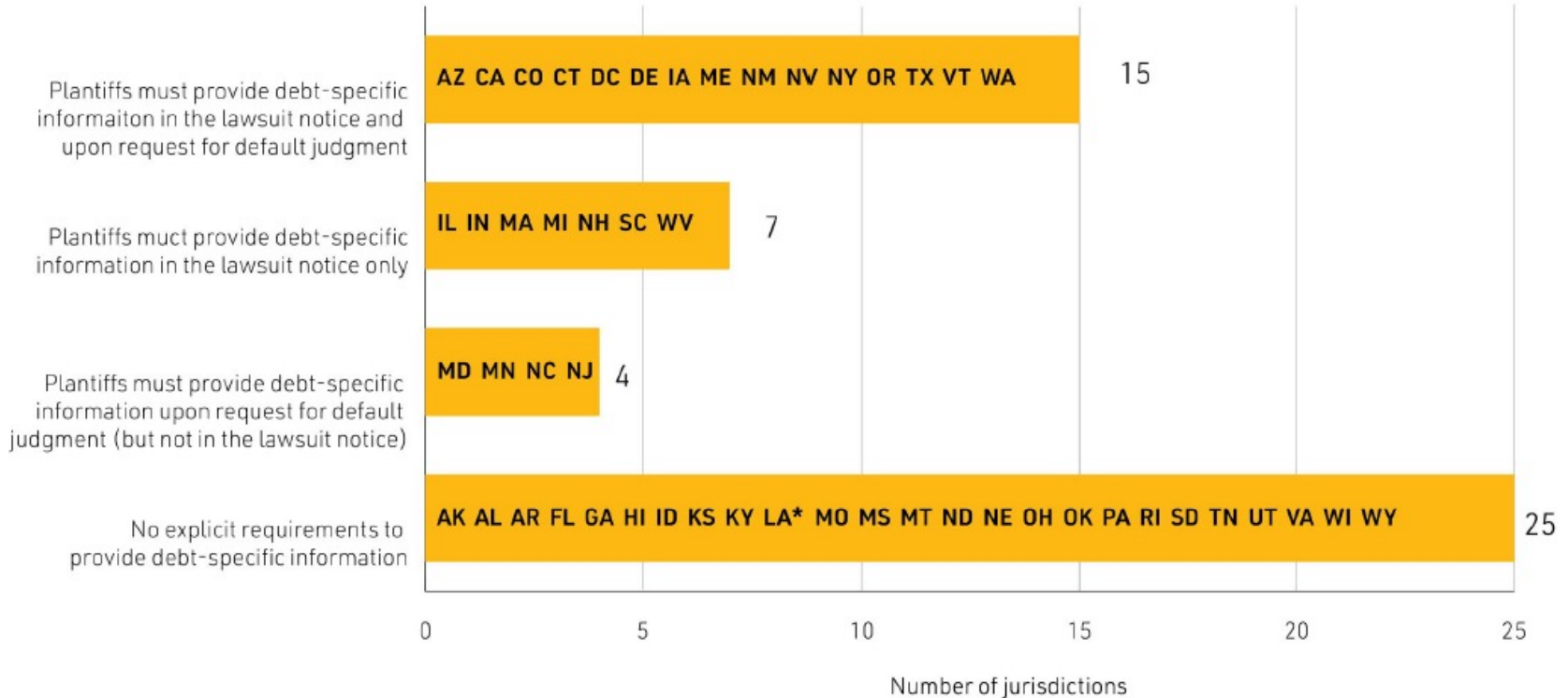
does the jurisdiction have, if any?

# Select Findings

# High Level Overview

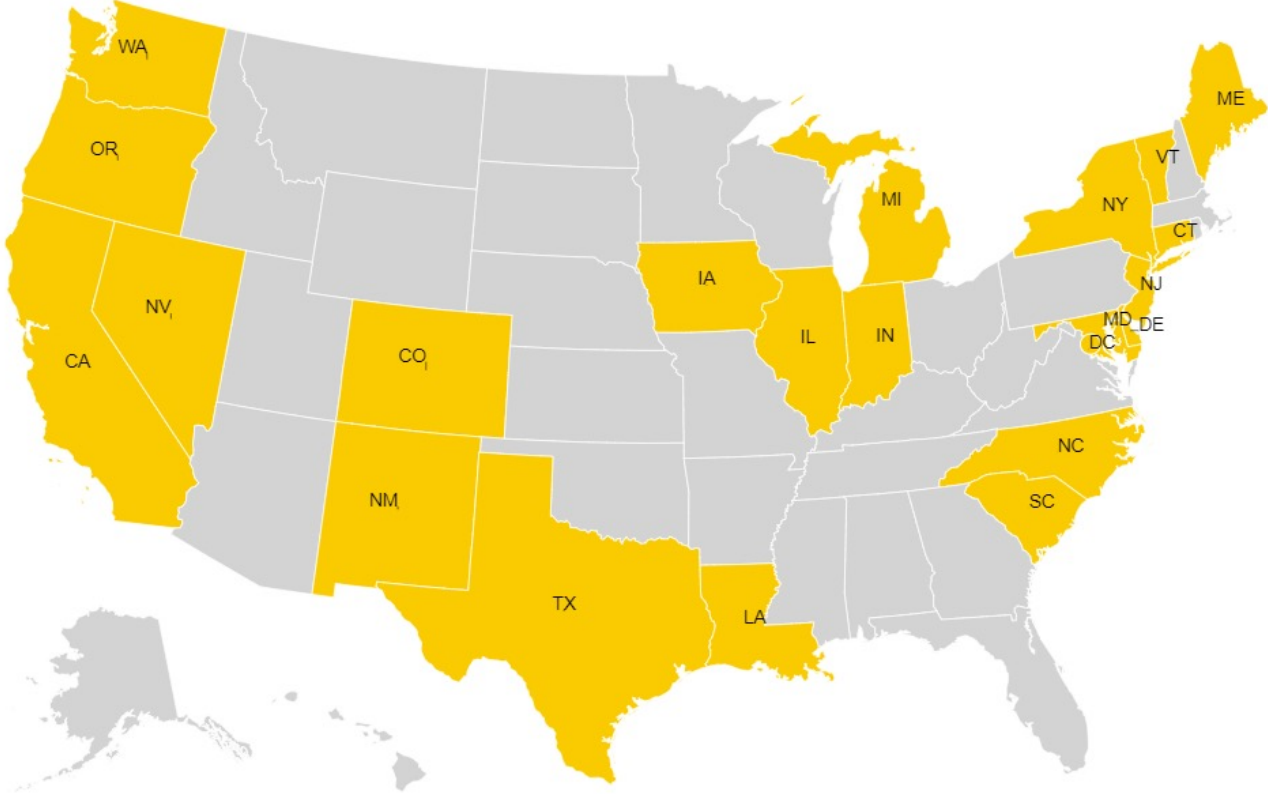
- 41 states and DC have at least one law that specifically governs debt collection lawsuits
  - 10 states have debt-specific laws that govern just one distinct aspect of debt collection lawsuits
  - 10 states have debt-specific laws that govern two distinct aspects of debt collection lawsuits
  - 21 states and DC have debt-specific laws governing three or more aspects of debt collection lawsuits

# Requirements to Provide Debt Claim Information



# Jurisdictions requiring evidence to be sworn under penalty of perjury

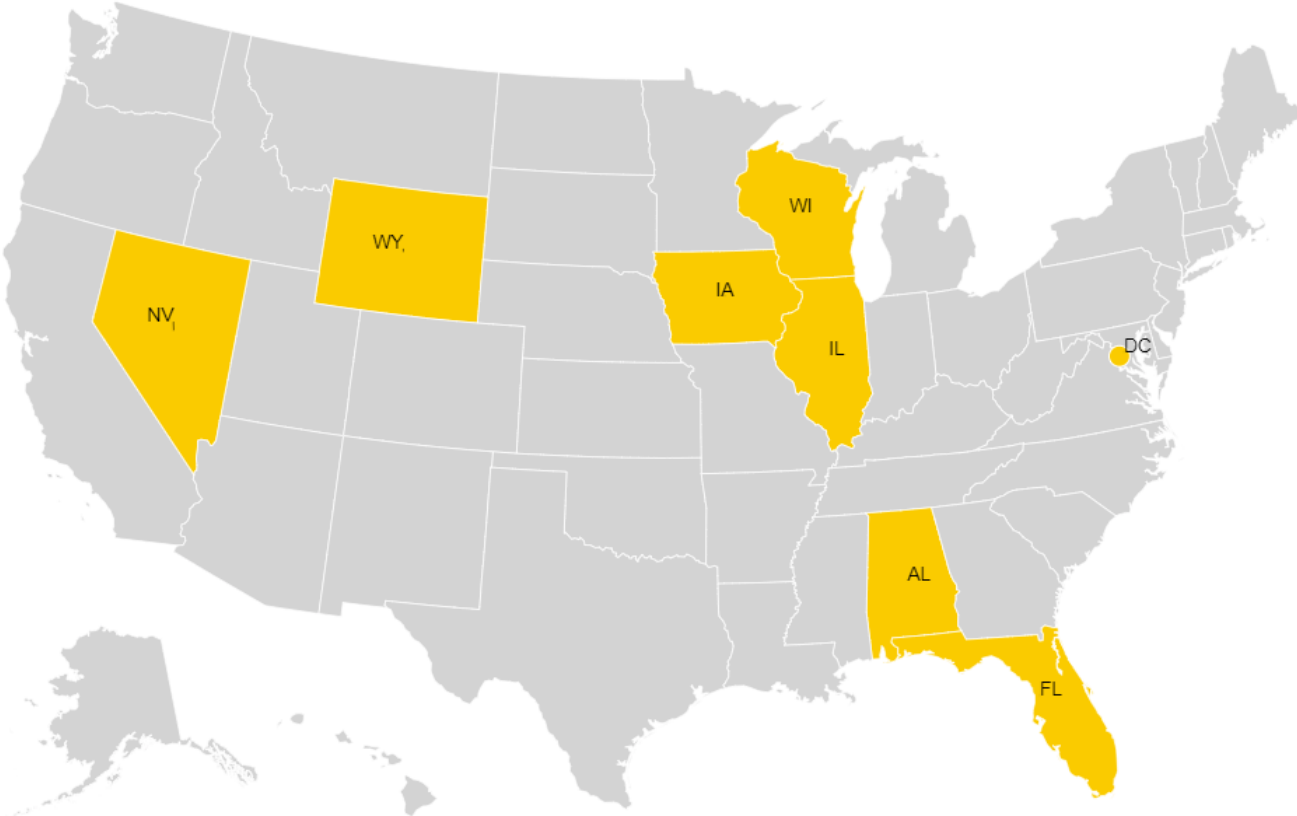
22 Jurisdictions



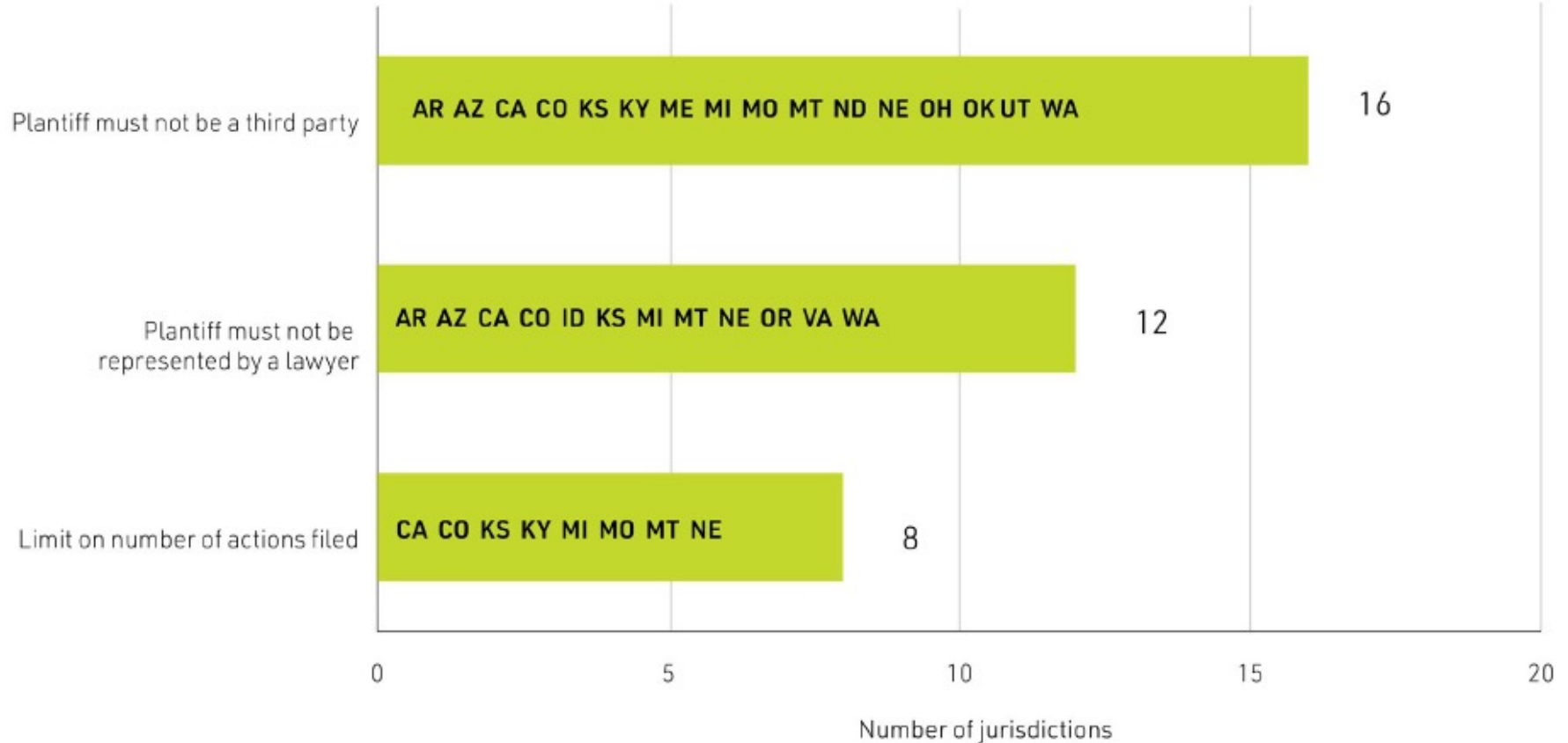


# Requirement to file debt claim as a small claims action if under a specified amount

8 Jurisdictions



# Select Small Claims Restrictions



# We Have the Data – Now What?

- Conduct policy landscape analyses and state comparisons
- Identify opportunities for reform
- Evaluate existing laws and reforms to better understand impact

## Explore the Data & Stay Tuned for an Update!



<https://lawatlas.org/datasets/debt-collection-litigation-laws>

# Thank You!

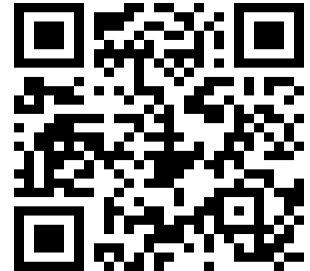
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