

WORKERS' COMPENSATION SUBROGATION IN ALL 50 STATES

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State	Main Statute	Carrier Sue 3P Directly?	Intervention	UM/UIM Recovery	Med Mal As 3P?	Legal Mal As 3P?	Recovery Limitations	Employer Negligence	Attorney's Fees	Future Credit	Auto No-Fault	PI Statute of Limitations
Alabama	§25-5-11	Yes, 6 Months after SOL	Yes	No	Yes	No	None	No	Pro Rata. <i>Fitch</i> Formula	Yes	No	2 Years
Alaska	§20.30.015	Yes, after 1 Year	Yes	Undecided	Yes	Yes	None	Only if 100%	Pro Rata. Past and Future	Yes	No	2 Years
Arizona	§23-1023(d)	Yes, after 1 Year	Yes	No	Yes	No	None	Proportional. Only if Verdict	No	Yes	No	2 Years
Arkansas	§11-9-410	Yes	Must	Employer's Policy Only	Undecided	Undecided	Made Whole Doctrine	No	Pro Rata	Yes	No	3 Years
California	Labor Code §3852	Yes	Yes	No	No	Undecided	None	Proportional. Only if Verdict	Apportion, if Active	Yes	No	2 Years
Colorado	§8-41-203	Yes	Yes	No	Yes	Undecided	None	No	Pro Rata	Yes	Not After 7/01/03	2 Years
Connecticut	§31-293	Yes	Must be Within 30 Days	No	Yes	No	None	No	Arguably, No	No. Must Recover in 3P	No	2 Years
Delaware	§19 Del. C. 2363	Yes, after 260 Days	Yes	Employer's Policy Only	Yes	No	None	No	Pro Rata	Yes	No	2 Years

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District of Columbia	§32-1535	6 Months after Award	Yes	No	Yes	Undecided	None	No	None, unless agreed upon by carrier.	Yes. May recover in 3P	Yes	3 Years
Florida	§440.39	Yes, after 1 Year	No	No	Yes	Undecided	<i>Manfredo</i> Formula: Failure to file Notice of Payment bars recovery	No	Pro Rata	Yes. May also recover in 3P	Yes	4 Years
Georgia	§34-9-11.1	Yes, after 1 Year	Yes	No	Undecided	Undecided	Made Whole Doctrine	No	Pro Rata	No	No	2 Years
Hawaii	§386-8	Yes, after 9 Months	Yes	Yes?	Undecided	Undecided	None	No	Apportion	Yes	Yes	2 Years
Idaho	§72-211	Yes	Yes	Yes?	Yes	Undecided	None	Reduces Lien Recovery	Apportion	Yes	No	2 Years
Illinois	§820 I.L.C.S. 305/5(b)	Yes, 3 Months before SOL	Yes	No	Yes	No	None	No. <i>Kotecki</i> Contribution Only.	Pro Rata. Limited to 25%	Yes. 25% of future benefits owed as atty's fees	No	2 Years
Indiana	§22-3-2-13	Yes, 1 Year after SOL	Yes	Employer's Policy Only	Yes	Undecided	Lien Reduction Statute §34-51-2-19	No	Pro Rata	Yes	No	2 Years
Iowa	§85.22	Yes, 90 Days Notice	Yes, if timely	No	No	No	§85.35. Settlement of Comp Claim Bars Subro	No	Pro Rata	Yes. May also recover in 3P	No	2 Years
Kansas	§44-504	Yes, after 18 Months	Yes	Only to Substitute Payment	Yes	Undecided	<i>Brabander</i> Formula	Yes. <i>Brabander</i> Formula	Apportion, if active.	Yes	Yes	2 Years
Kentucky	§342.700	Yes	Yes	No	Yes	Undecided	Made Whole Doctrine, Only if Due to 3P Limits.	Yes	Pro Rata	Yes	Yes	1 Year 2 Years for Auto

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Louisiana	§23:1101, et. seq.	Yes	Must	Employer's Policy Only	Yes	No	Plaintiff's Contributory Reduction 50% of Recovery Limit	Yes	Moody Fees. Pro Rata	Yes. May also recover in 3P	No	1 Year
Maine	39-A §107	Yes, after 30-Day Demand	Yes	Yes	Yes?	Undecided	None	No	Pro Rata	Yes	No	6 Years
Maryland	§9-901-903	Yes, first 2 Months	Yes	No	Yes?	Undecided	None	No	Pro Rata, Unless Intervention Necessary.	Yes	No	3 Years
Massachusetts	152 §15	Yes, after 7 Months	No	No	Yes	Undecided	None	No	Apportion	Yes	Yes	3 Years
Michigan	§418.827	Yes, after 1 Year	Yes	UM - Yes UIM - No	Yes	No	None	No	Pro Rata	Yes	Yes	3 Years
Minnesota	§176.061	Yes	Yes	No	Yes	Yes	Subrogable Elements Only. Naig Settlement	Lambertson Reduction	Pro Rata	Yes	Yes	6 Years
Mississippi	§ 71-3-71	Yes	Yes	No	Yes	Undecided	None	No	No	Yes	No	3 Years
Missouri	§287.150	Yes	Yes	Yes?	Yes	Undecided	Ruediger Formula	No	Pro Rata	Yes	No	5 Years
Montana	§39-71-412	Yes, after 1 Year	Yes?	Yes	Undecided	Undecided	Made Whole Doctrine	No	Pro Rata, Unless Waive 50%	No More 30% Reduction	No	3 Years
Nebraska	§48-118	Yes	Yes	Employer's Policy Only	Yes	Undecided	Fair and Equitable	No	Pro Rata	Yes	No	4 Years
Nevada	§616C.215	Yes	Yes	Employer's Policy Only	Yes	Undecided	None	No	Breen Formula	Yes	No	2 Years
New Hampshire	§281-A:13	Yes, after 9 Months	Yes	Yes	Undecided	Undecided	None	No	"As Justice May Require"	Yes	No	3 Years
New Jersey	§34:15-40	Yes, after 1 Year	No	Yes, only to prevent double recovery.	Yes	Undecided	None	No	Pro Rata	Yes	Yes	2 Years

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New Mexico	§52-5-17	No. Reimbursement Only	Yes	Employer's Policy Only	Yes?	Undecided	Modified Made Whole Doctrine - Subrogable Elements Only	Yes	Pro Rata	Yes	No	3 Years
New York	Work Comp §29	Yes, 30 Days Notice	Depends	No	Yes	Yes	None	"Grave Injury" Contribution	Kelly Formula	Yes	Yes	3 Years
North Carolina	§97-10.2	Yes, after 1 Year	Yes	After 10/1/99	Undecided	No	"Discretionary Reduction"	Yes. §97-10.2(e).	Pro Rata	No. Must Recover in 3P	No	3 Years
North Dakota	§65-01-09	Yes, after 60 Days	Yes	Undecided	Yes	No	Up to 50% of 3P Recovery	No	25% - 33 1/3%, if suit filed.	Yes	Yes	6 Years
Ohio	§4123.931	Yes	Yes	Yes	Probably	Probably	Proportional. No. Trust Account.	No	Yes	Yes	No	2 Years
Oklahoma	85 OSA §44	Yes	Yes	No	Yes	Undecided	Equitable Apportion	No	Pro Rata	Only if Recovery More Than Lien	No	2 Years
Oregon	§656.593	Yes, 90 Days after Election	No	No	Yes?	Yes	None	No	No. Off the Top	No. Must Recover in 3P	No	2 Years
Pennsylvania	77 P.S. §671	Yes	Yes	Employer: Yes Employee: No Other Person: Yes	Causes of Action Prior to 3/20/03	No	None	No	Pro Rata	Yes	Yes	2 Years
Rhode Island	§28-35-58	No	Yes	No	Yes	Undecided	None	No	Pro Rata	Yes	No	3 Years
South Carolina	§42-1-560	Yes, after 1 Year	Yes	No	Undecided	Undecided	Equitable Reduction	No	Set by Commission. F2 1/3	Yes	No	3 Years
South Dakota	§62-4-38, 39, 40	Yes	Yes	Employer's Policy Only	Undecided	Undecided	None	No	Pro Rata, Up to 35%	Yes	No	3 Years
Tennessee	§50-6-112	Yes, after 1 Year	Yes	No	Yes	Undecided	None	No	Pro Rata	Yes	No	1 Year

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Texas	§§ 417.001-417.004	Yes	Yes	Employer's Policy Only	Yes	Yes	None	After 1/1/03 Proportional Reduction	Apportion	Yes. May recover in 3P	No	2 Years
Utah	§34 A-2-106	Yes	Yes	No	Yes	Undecided	None	40% Rule	Pro Rata	Yes	Yes	4 Years
Vermont	Title 21§ 624	Yes, after 1 Year	Yes	Only if Plaintiff is made whole	Undecided	Undecided	None	No	Pro Rata	Yes	No	3 Years
Virginia	§65.2-309	Yes	Yes	Employer's Policy Only	Yes	Undecided	None	No	Pro Rata	Yes	No	2 Years
Washington	§51.24.030	Yes	Yes	Employer's Policy Only	Yes?	Yes	Made Whole Doctrine	No	Pro Rata	Yes	No	3 Years
West Virginia	§23-2A-1	Undecided	Probably	Employer's Policy Only	Yes?	Undecided	50% of 3P Recovery Limit	No	Statutory Reduction. §23-2A-1(b)	No	No	2 Years
Wisconsin	§102.29	Yes	Yes	No	Yes	No	None	No	No	Yes. May also recover in 3P	No	3 Years
Wyoming	§ 27-14-105	Yes, 15 Days Notice	Yes	Undecided	Undecided	Undecided	None	No	No	No. Must Recover in 3P	No	4 Years

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