

Summary of NIED Approaches Employed by Various States

State	Recognize NIED beyond instances involving (1) direct physical injury, (2) defamation, or (3) special duties/circumstances (e.g., common	Perceptual Requirement	Permitted Claimants	Extent of Emotional Distress Required	Cases
Alabama	Yes. Employs zone of danger test.	Plaintiff must either be physically injured or at immediate risk of physical injury.	N/A	N/A	<i>AALAR, Ltd., Inc. v. Francis</i> , 716 So. 2d 1141 (1998)
Alaska	Yes. Relative bystander.	Requires sudden sensory perception of the injury causing event or its immediate aftermath.	Family bystander	Serious emotional distress—a reaction beyond that which would be anticipated in a disinterested witness and which is not an abnormal response to the circumstances.	<i>Doan v. Banner Health</i> , 442 P. 3d 706 (Alaska Sup. Ct., 2019)
Arizona	Yes, but requires family member, manifestation by physical injuries and zone of danger. No	Witness the event.	Family bystander and perhaps "family-like" relationships.	Severe emotional distress manifested by physical injuries.	<i>Hislop vs. Salt River Project</i> , 5 P. 3d 267 (Az. Ct. of Appeals, 2000); <i>Guerra v. State</i> , 348 P. 3d 423 (2015) <i>FMC Corp. v. Helton</i> , 202 S.W.3d 490 (Ark. 2005)
Arkansas	No	N/A	N/A	N/A	<i>Dillon vs. Legg</i> , 68 Cal. 2nd 728 (1968); <i>Thing vs. La Chusa</i> , 48 Cal. 3rd 644 (1989)
California	Yes. Relative bystander.	Contemporaneous sensory perception	Close Family Relation	Severe emotional distress	

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State	Yes. Employs zone of danger test.	Plaintiff must either be physically injured or at immediate risk of physical injury.	Close Family Relation	N/A	N/A	Case Name and Citation
Colorado	Yes. Employs zone of danger test.	Plaintiff must either be physically injured or at immediate risk of physical injury.	Close Family Relation	N/A	N/A	<i>Colwell vs. Mentzer Invs. Inc.</i> , 973 P. 2d 631 (Colo. App. 1998)
Connecticut	Yes. Relative bystander.	Contemporaneous sensory perception	Close Family Relation	Severe emotional distress		<i>Clohessy v. Bachelor</i> , 675 A. 2d 852 (1996)
Delaware	Yes. Relative bystander.	Witness the event.	Close Family Relation	High degree of foreseeability of shock to plaintiff and the shock flows from abnormal	N/A	<i>Armstrong vs. AI Dupont Hosp. for Children</i> , 60 A. 3d 414 (Del Sup. Ct. 2012)
Florida	No - Employs physical impact test requiring a physical impact to the plaintiff in the absence of (1) demonstrable physical injuries resulting from psychological trauma or (2) "special relationship" (e.g.,	N/A	N/A	N/A	N/A	<i>Willis vs. Gami Goden Glades, LLC</i> , 967 So. 2d 846 (Fl. Sup. Ct., 2007) (touching by gun placed against one's head against their will is a sufficient "impact")
Georgia	No - Employs physical impact test requiring a physical impact to the plaintiff in the absence of (1) demonstrable physical injuries resulting from psychological trauma or (2) "special relationship" (e.g.,	N/A	N/A	N/A	N/A	<i>Strickland vs. Hodges</i> , 216 W.E 2d 706 (Ga. Ct. App. 1975)

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	Yes, applying a "pure foreseeability" test.	No.	Any foreseeable plaintiff.	Serious emotional distress.	
Hawaii					<i>Rodriguez vs. State</i> , 52 Haw. 156, 472 P. 2d 509 (1970); <i>Roes vs. FHP, Inc.</i> , 91 Haw. 470, 985 P. 2d 661 (1999); <i>Campbell vs. Animal Quarantine Station</i> , 632 P. 2d 1066 (Haw. Sup. Ct., 1981)
Idaho	Yes, if accompanied by physical manifestations of emotional injury. Yes. Employs zone of danger test.	N/A	N/A	Sufficient to produce physical manifestations of emotional injury.	<i>Berian v. Berberian</i> , 483 P. 3d 937 (Idaho Sup. Ct., 2020)
Illinois	Yes	Plaintiff must either be physically injured or at immediate risk of physical injury. Requires plaintiff to have learned of the incident by having witnessed the injury or the immediate gruesome	N/A	N/A	<i>Rickey v. Chicago Transit Authority</i> , 457 N.E. 2d 1 (1983)
Indiana	Yes	Requires plaintiff to have learned of the incident by having witnessed the injury or the immediate gruesome	Family bystander (i.e., spouse, parent, child, grandparent, grandchild, or sibling)	Severe or serious emotional injury	<i>Smith vs. Toney</i> , 862 N.E. 2d 656 (Ind. Sup. Ct. 2007)
Iowa	Yes. Relative bystander.	Located at the scene of the accident and the emotional distress resulted from the sensory and contemporaneous observance of the accident.	Family bystander w/n the second degree of consanguinity or affinity.	Serious emotional distress.	<i>Moore vs. Echman</i> , 762 N.W. 2d 459 (Iowa Sup. Ct., 2009)

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Kansas	No. Physical impact or or resulting physical injury required.	N/A	N/A	N/A	<i>Grube vs. Union Pac. R.R.</i> , 886 P. 2d 845 (Kan. Sup. Ct., 1994); <i>Lovitt vs. Board of County Com'rs</i> , 221 P. 3d 107 (Kan. Ct. of Appeals, 2009)
Kentucky	Yes	Existence of severe or serious emotional distress established by medical or scientific testimony.	Apparently to any individual so suffering severe emotional distress.	Severe or serious emotional injury would be caused to a reasonable person, normally constituted, would not be expected to endure it.	<i>Osborne vs. Keeney</i> , 399 S.W. 3d 1 (Ky, 2012); <i>Sergent vs. ICG Knott County, LLC</i> , 2013 U.S. Dist. LEXIS 173102 (E.D. Ky, 2013) [applying requirement of scientific/medical testimony to support recovery of emotional distress in all cases - including where plaintiff's leg was amputated]
Louisiana	Yes. Relative bystander.	View an event causing injury to another person, or who come upon the scene of the event soon thereafter.	Specified close family members.	Severe, debilitating, and foreseeable	L.a. Civ. Code art. 2315.6 A
Maine	Yes. Relative bystander.	Present at the scene and contemporaneous sensory perception of the accident (although not necessarily of the injury).	Close Family Relation	So severe that no reasonable [person] could be expected to endure it.	<i>Coward v. Gagne & Son</i> , 238 A. 3d 254 (ME Sup. Ct. 2020)

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State	No. (Emotional distress is an element of damage - not an independent tort.)	N/A	N/A	N/A	Case Law
Maryland	No. (Emotional distress is an element of damage - not an independent tort.)	N/A	N/A	N/A	<i>Hamilton vs. Ford Motor Credit Co.</i> , 502 A.2d 1057 (1986)
Massachusetts	Yes. Relative bystander.	Witness the event or its immediate aftermath.	Close family relationship.	Objective corroboration of the emotional distress required.	<i>Migliori v. Airborne Freight Corp.</i> , 690 N.E.2d 413 (Mass. Sup. Ct., 1998); <i>Sullivan vs. Boston Gas Co.</i> , 605 N.E.2d 805 (Mass. Sup. Ct., 1993). <i>Gustafson vs. Faris</i> , 67 Mich. App. 363 (1976); <i>Wargelin vs. Sisters of Mercy Hospital</i> , 149 Mich. App. 75 (1986)
Michigan	Yes	Actually witness the accident or witness events fairly contemporaneous with the negligent act or event - i.e., arrive at scene shortly thereafter.	Member of the direct victim's immediate family	Severe mental disturbance	<i>Engler vs. Illinois Farmer Ins. Co.</i> , 706 N.W.2d 764 (Minn. Sup. Ct., 2005)
Minnesota	Yes. Applies zone of danger test.	Within zone of danger of physical impact and reasonably feared for own safety.	Close relationship.	Severe emotional distress with physical manifestations.	

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State	Yes	Direct emotional impact upon plaintiff from the sensory and contemporaneous observance of the accident,	Close family relationship.	Substantial proof of demonstrable harm.	Illinois Cent. R.R. Co. v. Hawkins, 830 So.2d 1162, 1174 (Miss.2002) [testimony of sleeplessness and nightmares in addition to 3 visits to unnamed doctor insufficient to constitute "substantial proof of demonstrable harm"]; Summers v. St. Andrew's Episcopal Sch., Inc., 759 So.2d 1203, 1210 (Miss.2000) Bass vs. Nooney Co., 646 S.W. 2d 765 (Mo. Banc 1983); Asaro vs. Cardinal Glennon Memorial Hosp., 799 S.W. 2d 595 (Mo. Sup. Ct., 1990); Jarrett v. Jones, 258 S.W. 3d 442 (Mo. Sup. Ct. 2008)
Mississippi	Yes	Direct emotional impact upon plaintiff from the sensory and contemporaneous observance of the accident,	Close family relationship.	Substantial proof of demonstrable harm.	Illinois Cent. R.R. Co. v. Hawkins, 830 So.2d 1162, 1174 (Miss.2002) [testimony of sleeplessness and nightmares in addition to 3 visits to unnamed doctor insufficient to constitute "substantial proof of demonstrable harm"]; Summers v. St. Andrew's Episcopal Sch., Inc., 759 So.2d 1203, 1210 (Miss.2000) Bass vs. Nooney Co., 646 S.W. 2d 765 (Mo. Banc 1983); Asaro vs. Cardinal Glennon Memorial Hosp., 799 S.W. 2d 595 (Mo. Sup. Ct., 1990); Jarrett v. Jones, 258 S.W. 3d 442 (Mo. Sup. Ct. 2008)
Missouri	Yes, but requires defendant to realize/or should realize conduct presents unreasonable risk of causing distress and that the distress/mental injury be medically diagnosable and sufficiently severe to be medically significant. As to witnessing 3rd party injuries, employs zone of danger requirement.	Plaintiff must be present at the scene and within the zone of danger (i.e., placed in reasonable fear of physical injury to self).	No requirement for familial relationship.	Serious harm.	

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Montana	Yes, applying a "pure foreseeability" test.	No.	Serious or severe emotional distress (i.e., so severe that no reasonable [person] could be expected to endure it and that a reasonable person would endure such distress).
			In absence physical injury, the emotional anguish or mental harm must be medically diagnosable and must be of sufficient severity that it is medically significant.
Nebraska	Yes - Either "foreseeable bystander" or within the zone of danger.	No need for bystander to have experienced actual sensory perception of the injury, but the emotional trauma must result from either death or serious injury to the victim.	Hamilton v. Nestor, 659 NW 2d 321 (Neb. Sup. Ct. 2003)
	Yes. Relative bystander.	At or near the scene and experience contemporaneous sensory perception	
Nevada		Close family relationship (i.e., related by blood or marriage)	Emotionally injured by the contemporaneous sensory observance of the accident
			Grotts v. Zahner, 989 P. 2d 415 (Nev. Sup. Ct. 1999)

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New Hampshire	Yes. Relative bystander.	Contemporaneous sensory perception	Closely related - not limited to relations by blood or marriage ("a relationship that is of significant duration and which is deep, lasting and genuinely intimate, i.e., a relationship that is stable, enduring, substantial, and mutually supportive, cemented by strong emotional bonds and providing a deep and pervasive emotional security").	Severe emotional distress	St. Onge v. MacDonald, 917 A. 2d 233 (N.H. Sup. Ct. 2007)
New Jersey	Yes. Relative bystander.	Contemporaneous sensory perception	Close Family-Like Relation (extends to co-habitants who are engaged)	Severe emotional distress	Portee vs. Jaffee, 417 A. 2d 521 (NJ Sup. Ct. 1980); McDougall v. Lamm, 48 A. 3d 312 (NJ Sup. Ct. 2012)
New York	Yes. Employs zone of danger requirement and limits recovery to close family members.	Plaintiff must be present at the scene and within the zone of danger (i.e., placed in reasonable fear of physical injury to	Close family relationship - i.e., immediate family member (includes grandparents, but not aunts/uncles).	Severe emotional distress	Greene vs. Esplanade Venture, 168 N.E. 3d 827 (N.Y. Ct. of Appeals, 2021)

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North Carolina	Yes - Extended to "foreseeable bystander".	Not necessarily.	Factors to be considered on the question of foreseeability in cases such as this include the plaintiff's proximity to the negligent act, the relationship between the plaintiff and the other person for whose welfare the plaintiff is concerned, and whether the plaintiff personally observed the negligent act. Questions of foreseeability and proximate cause must be determined under all the facts presented, and should be resolved on a case-by-case basis by the trial court and, where appropriate, by a jury.	"Severe emotional distress", meaning any emotional or mental disorder, such as, for example, neurosis, psychosis, chronic depression, phobia, or any other type of severe and disabling emotional or mental condition which may be generally recognized and diagnosed by professionals trained to do so.	<i>Johnson vs. Ruark Obstetrics</i> , 395 SE 2d 85 (North Carolina Sup. Ct. 1990); <i>Newman v. Stepp</i> , 852 S.E. 2d 104 (North Carolina Sup. Ct. 2020)
North Dakota	Yes. Employs zone of danger requirement.	Plaintiff must be present at the scene and within the zone of danger (i.e., placed in reasonable fear of physical injury to N/A	Close family member.	Severe emotional distress resulting in physical harm.	<i>Muchow vs. Lindblad</i> , 435 N.W. 2d 918 (N.D. Sup. Ct., 1989)
Oklahoma	No	N/A	N/A	N/A	<i>Staton v. Vansickle</i> , 879 P.2d 929 (Okla. 1994).

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Oregon	No. Employs physical impact test.	N/A	N/A	N/A	<i>Saechao vs. Matsakoun</i> , 717 P. 2d 165 (Or. Ct. of App. 1986)
Virginia	Yes, but requires physical impact or resulting physical injury.	N/A	Those who suffer emotional distress as result of a breach of duty owed to him/her by the defendant.	Recovery permitted, notwithstanding the lack of physical impact, if proves by clear and convincing evidence that physical injury was the natural result of fright or shock proximately caused by the defendant's negligence.	<i>Delk vs. Columbia Healthcare Corp.</i> , 523 S.E. 2d 826 (Va. Sup. Ct., 2000)
Washington	Yes	Emotional distress must be within the scope of foreseeable harm of the negligent conduct.	Those who suffer fear, fright or distress for the peril of another. A jury question.	Mental/emotional suffering must be manifested by objective symptomatology and must be the reaction of a reasonable person (unless the defendant knows of some peculiar characteristic or condition of the plaintiff).	<i>Hunsley v. Giard</i> , 553 P. 2d 1096 (Wash. Sup. Ct. 1976); <i>Bylsma v. Burger King Corp.</i> , 176 Wn 555 (Wash. Sup. Ct. 2013)