

# How Bifurcated Trials Under Georgia's Tort Reform Affect Injury Victims

## When the Jury Decides Fault Without Ever Hearing How Badly You Were Hurt

Picture this. You were [seriously injured in a crash](#) that wasn't your fault. You spent weeks in the hospital, underwent surgery, lost months of work, and your life has changed in ways that are difficult to put into words. When your case finally goes to trial, you expect the jury to hear all of it: who caused the crash, what your injuries cost you, and how your life has been affected. That is how injury trials have worked in Georgia for generations.

Senate Bill 68 changed that. Under [Georgia's 2025 tort reform law](#), the defense can now request that your trial be split into separate phases, with the jury deciding who was at fault before they ever hear a single word about your injuries, your medical bills, or what you have been through. That structural change in how trials unfold has real consequences for injury victims, and understanding it is essential for anyone whose case may go to trial in Georgia today.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), we've been preparing for bifurcated trials since SB 68 took effect, and we want Georgia families to know exactly what this change means and how we fight back against it.

## What Bifurcation Means and How It Works

Bifurcation simply means splitting a trial into phases. Before SB 68, Georgia courts already had limited authority to bifurcate trials in certain circumstances, but it required judicial approval and was used sparingly. The new law changed the framework significantly.

Under [O.C.G.A. § 51-12-15](#), either party in a bodily injury or [wrongful death](#) case can now request a bifurcated trial by filing a written demand before the pretrial order is entered. Once that request is made, the court is generally required to grant it. The trial then proceeds in two distinct phases with the same jury:

- **Phase One:** The jury hears only evidence related to liability and fault. Who caused the crash or the incident? What [percentage of fault](#) does each party bear? During this phase, the jury receives no evidence about the victim's injuries, medical bills, [pain and suffering](#), or the human impact of what happened.
- **Phase Two:** If the jury finds the defendant liable in phase one, the same jury then hears all of the evidence about the victim's damages, including medical expenses, [lost wages](#), pain and suffering, and long-term consequences.

- **Phase Three:** If [punitive damages](#) are claimed, those are addressed in a separate third phase along with any related attorney fee determinations.

There are only two recognized exceptions where a court can deny a bifurcation request. The first applies when the victim was injured in a sexual offense and would suffer serious distress from testifying multiple times. The second applies when the amount in controversy is less than \$150,000. In most serious injury cases, neither exception applies, and the defense gets the split trial it wants.

It's also important to understand that the bifurcation rule is retroactive. Unlike the phantom damages rule and the seatbelt rule, which apply only to causes of action arising after April 21, 2025, bifurcation applies to all pending and future cases regardless of when the injury occurred.

### **Why the Defense Wants a Split Trial**

The insurance company and its attorneys don't request bifurcated trials because it makes the process more efficient. They request them because separating liability from damages gives them a significant strategic advantage.

When a jury decides fault without hearing about the victim's injuries, it changes the emotional and psychological context of the decision. A jury that hears how a crash happened in isolation, without knowing that the victim spent three months in rehabilitation, lost the use of their arm, or can no longer pick up their children, is deciding fault in a vacuum. The full human weight of the defendant's negligence is absent from the room at the moment the most critical decision is being made.

This matters because juries are human. When they understand what their fault determination actually means for a real person sitting in that courtroom, it affects how seriously they take that decision. By stripping that context out of phase one, the defense gets a cleaner, more clinical liability determination that is less influenced by the reality of what happened to the victim.

For example, consider a wrongful death case where a family lost their father and husband to a [truck driver's negligence](#). In a traditional trial, the jury would hear about the crash, the fatal injuries, and the devastating impact on the surviving family all together, as a unified story of loss caused by the defendant's conduct.

Under bifurcation, the jury first decides whether the truck driver was at fault before they ever hear that a man died, that his children grew up without him, or that his family's financial stability was destroyed. The decision about fault is made in a completely different emotional environment.

### **What Happens to Your Case When Trials Are Split**

Beyond the strategic disadvantage during phase one, bifurcated trials create practical burdens for injury victims that the defense doesn't share equally.

Victims and their witnesses may be required to testify twice, once during the liability phase and again during the damages phase. For seriously injured people or grieving family members, that means reliving the worst experience of their lives in open court on multiple occasions. The emotional toll of that process is real and significant.

Bifurcated trials also take longer and cost more. Preparing and presenting two separate phases of a trial requires more resources, more expert witnesses, and more time in the courtroom. Defense lawyers and insurance companies with deep financial resources are better positioned to absorb those costs than individual injury victims and their families.

There is also a risk of inconsistency between phases. A jury that finds liability in phase one has effectively committed to a finding that shapes the entire case going forward. If anything about the composition of the jury or the dynamics in the courtroom shifts between phases, the victim's ability to fully recover may be affected in ways that are difficult to predict or address.

### **How Experienced Attorneys Respond to Bifurcated Trial Requests**

The right legal team doesn't simply accept bifurcation as an obstacle. They prepare for it as a different kind of fight that requires a different kind of strategy.

Winning phase one in a bifurcated trial means building a liability case powerful enough to stand entirely on its own, without the emotional weight of the victim's injuries to anchor the jury's attention. That requires stronger evidence, more precise presentation of how the crash happened, and a clear narrative about the defendant's conduct that compels a finding of liability on its own merits.

Here's what that preparation looks like in practice:

- **Stronger Crash Reconstruction Evidence:** When the jury won't hear about injuries during phase one, physical evidence of [how the crash happened](#) and who caused it carries even more weight than it normally would.
- **More Precise Witness Preparation:** Every [witness who testifies](#) during phase one needs to be prepared to tell the liability story clearly and completely without referencing the victim's injuries or losses.
- **Early And Thorough Discovery:** Because bifurcation can draw out the trial timeline, building the evidentiary record early protects the victim's case from the delays the defense hopes will work in their favor.

- **Cohesive Phase Two Preparation:** If phase one goes well, phase two needs to be ready to deliver the full picture of the victim's losses immediately and powerfully, without losing the jury's attention across the gap between phases.

Bifurcation changes the shape of a trial, but it doesn't change who was responsible for the harm that was done. An experienced [Georgia personal injury attorney](#) knows how to adapt the strategy to the structure the defense chooses.

### **Georgia's Power Law Firm Is Ready for the Fight**

Senate Bill 68 gave the defense new tools, and bifurcation is one of the most significant among them. But the Law Offices of Gary Martin Hays & Associates, P.C. has been fighting for injured Georgians through every shift in the legal landscape for more than 30 years. We know how to build cases that win in phase one and deliver full accountability in phase two.

If you were injured in Georgia and you have questions about how SB 68 affects your case, [contact us today for a free consultation](#) with an experienced Atlanta personal injury lawyer. We represent injury victims on a contingency fee basis. That means no upfront costs, no hourly fees, and [no payment of any kind unless we win your case](#).