

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: West Virginia and South Dakota

West Virginia saw major activity this year on the judiciary front, especially in the last few days of its session. The following bills were approved by both chambers.

[HB 2120](#) requires all candidates for municipal judgeships undergo a criminal background check at their own expense. Those candidates convicted of any felony or certain misdemeanors are disqualified. Non-attorney municipal judges are required to attend at least one continuing education course annually. This had been signed into law by the Governor earlier in the session.

[HB 2770](#) would enhance penalties for certain acts against court security personnel, identical to the protections according police officers and firefighters in the state.

[HB 3106](#) would address workload issues within the state's family court circuits by adding judges as well as realigning and resetting some circuit boundaries.

[SB 141](#) expands the family court's jurisdiction to include sibling visitation

petitions. It too was signed into law earlier this year.

[SB 204](#) would permit magistrates to assess the total cost of jury service, rather than just a portion (current law provides for a assessment of \$200).

[SB 208](#) would require the Secretary of State provide notice to the Supreme Court of Appeals the Consolidated Public Retirement Board when a judge retires.

[SB 414](#) would establish a flat fee for certain services rendered by circuit clerks, eliminate other miscellaneous fees charged by circuit clerks, and authorize the circuit clerk to assess a fifty dollar fee to create and administer certain special funds.

Some bills that passed only one-chamber were also of note.

[HB 2789](#) would have authorized the Supreme Court of Appeals to create a panel of senior status magistrate assistants to be used when an active magistrate assistant is on extended leave. It passed the House and died in the Senate Finance committee.

[SB 382](#) would allow retired magistrates, magistrate clerks and other senior status



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employees retired from the employ of the Supreme Court of Appeals to work for the court after retirement on a temporary or per diem basis and draw both their retirement benefits and up to twenty thousand dollars in compensation. It passed the full Senate and the House Judiciary committee but died in House Finance.

South Dakota had a series of legislation impacting the courts, much of it at the request of the state's court system itself, and almost all of it approved by the Governor.

[HB 1091](#) expands the magistrate court's jurisdiction to allow them to administer adult probationary drug court efforts.

[HB 1093](#) grants the Supreme Court the power to declare judicial emergencies, permit suspension of court operations, designate another facility for cases to be heard, and toll deadlines and other time limits.

[HB 1098](#) expands magistrate court's jurisdiction to allow for acceptance of pleas in cases involving fines of up to \$2,000 (the prior limit was \$1,000).

[HB 1271](#) creates a drug court program as part of the state's Unified Judicial System and appropriates \$212,193 to start.

Still waiting the Governor's approval at this time is [HB 1249](#) which creates a teen court grant program and appropriates \$100,000 for the program.

Newly Introduced

Selection

[IOWA HB 601 \(2007\)](#) Requires Legislative Council to conduct study of the application, nomination, and appointment of women as judges. Study to recommend ways to increase number of women applicants. Report to be concluded by January 15, 2008. In House Judiciary committee

[MARYLAND SB 917 \(2007\)](#) Requires judges of the Orphan's Court have at least a J.D., or its equivalent, from an accredited law school; those currently serving are exempt. (Identical to [MARYLAND HB 77](#)). In Senate Judicial Proceedings committee

[VERMONT HB 470 \(2007\)](#) Expands authority of Judicial Nominations Board to include nominations for environmental judges, magistrates, and the chairperson and the members of the public service board. Specifies additional requirements for consideration of a nominee for a judgeship: candidate must have been admitted to practice of law in Vermont for at least 10 years and a Vermont resident for at least 1 year and must remain a Vermont resident during their term in office. Specifies as public all proceedings of the board prior to the board's receipt of the first candidate's completed application form. In House Judiciary committee

Qualifications and Terms

NONE

Rule Making Authority

[GEORGIA HB 292 \(2007\)](#) Allows for the creation of permanent process servers and their registration with and regulation by the Judicial Council of Georgia. Test for applications to be conducted by the Administrative Office of the Courts. Passed House Judiciary committee

[GEORGIA SB 232 \(2007\)](#) Removes requirement that court rules be compiled in one paper volume and replaces with provision allowing for creation of rules database available online. In Senate Judiciary committee

[WASHINGTON SB 5587 \(2007\)](#)
ORIGINAL: Members of the Commission on Judicial Conduct who participate in the initial investigation or probable cause determination are prohibited from participation in further proceedings.
AMENDED: Members of the Commission on Judicial Conduct who participate in the initial investigation or probable cause determination are prohibited from participation in further proceedings. Extends code of judicial conduct to Commission members. A respondent jurist is entitled to disclosure of the pleadings, papers, evidence records, and files of the Commission obtained or compiled during the course of investigation involving the discipline of the jurist. Approved as amended by Senate Judiciary committee

Structure Changes

[FLORIDA HB 1167 \(2007\)](#) Creates pilot program for the creation of special divisions or sections to handle complex business, corporate, and commercial disputes. The one year pilot program is to be conducted in

three judicial circuits. In House Judiciary committee

[FLORIDA SB 2692 \(2007\)](#) See [FLORIDA HB 1167](#) In Senate with no committee yet assigned

[IOWA HB 613 \(2007\)](#) Establishes mental health court pilot projects in three counties for three years starting January 1, 2008. In House Judiciary committee

Jurisdiction

[ARIZONA HB 2750 \(2007\)](#) ORIGINAL: Limited the boards of supervisors' authority to place Justice Courts in the same location within the county. AMENDED: Grants Justice Courts in counties over 2 million people original jurisdiction over small claims, civil actions, and some misdemeanor and civil traffic offenses. Approved as amended unanimously by House. In Senate Judiciary and Rules committees

[GEORGIA HB 599 \(2007\)](#) Grants Juvenile Court concurrent jurisdiction with the Superior Court for certain adoption proceedings. No committee yet assigned

[NEW MEXICO SJM 62 \(2007\)](#) Creates task force to examine decriminalization of traffic offenses with a report due in November 2007. Recommended Do Pass by Senate Judiciary committee

Salary and Budget

[VERMONT HB 313 \(2007\)](#) Expands procedures and means by which the court may collect unpaid fines, fees, and costs. Expands use of credit cards for payment of fines, penalties and surcharges. Approved by

full House and in Senate Judiciary committee

Other

[DELAWARE HB 53 \(2007\)](#) Removes the surplus “Associate” in referring to Judges of the Superior Court and Family Court in the Constitution. Amendment passed previous legislature, if approved again becomes part of Constitution. In House Judiciary committee

[ILLINOIS HB 1761 \(2007\)](#) Prohibits filming or photography, including photos from cell phones, during a court proceeding without the consent of the judge. Exempts photographing and filming of the proceedings of the Illinois Supreme Court or Illinois Appellate Court. In Judiciary I - Civil Law committee

[IOWA HB 579 \(2007\)](#) Expands definition of court seal to include electronic seals. Removes requirement that Supreme Court Clerk mail copies of all decisions to parties. In House with no committee yet assigned

[NEVADA AB 190 \(2007\)](#) Removes requirement that the Supreme Court receive from all district attorneys annual reports on murder or voluntary manslaughter cases. Removes requirement that the Supreme Court report on such cases to the Legislative Counsel Bureau. Supreme Court’s role to be taken over by Attorney General. In Assembly Judiciary committee

[OKLAHOMA SB 993 \(2007\)](#) Places State Capitol space temporarily occupied by the appellate courts under the management and control of the legislature. Approved by Senate Appropriations committee

Floor and Committee Activity

[MARYLAND HB 469 \(2007\)](#) Establishes a Task Force to Study Judicial Involvement with the Legislative Process to “study the issues that arise when the judicial branch of government becomes involved with legislative proposals; and identify inappropriate interference.” Unfavorably reported by House Judiciary committee

[MISSISSIPPI HB 1059 \(2007\)](#) Requires Supreme Court fund a pilot program case management and electronic filing system. Approved by House and Senate and on way to Governor for approval.

[MISSISSIPPI SB 2567 \(2007\)](#) Requires nonpartisan elections for Justice Court judges. Passed Senate Elections committee and Senate 43-9. Approved as amended in House committee by House 64-58. Returned to Senate for concurrence in amendments.

[MISSOURI SB 426 \(2007\)](#) Authorizes the Supreme Court to direct the Judicial Finance Commission to consolidate its annual report on the finances of the judicial department with any annual report prepared by the Supreme Court or the Office of the State Courts Administrator. Approved by Senate Judiciary and Civil & Criminal Jurisprudence committee

[MONTANA HJ 43 \(2007\)](#) Authorizes committee to determine if there is adequate legislative oversight of the Judicial Branch of government and a variety of other matters pertaining to the judiciary. Passed House 78-20 and sent to Senate.

[MONTANA HB 251 \(2007\)](#) Creates city courts of record, similar to existing city courts not of record. Tabled in Senate Judiciary committee

[NEW MEXICO HB 299 \(2007\)](#) Creates judicial performance evaluation fund under the control of the administrative office of the courts. Approved unanimously by full House and Senate Judiciary committee. In Senate Finance committee

[OKLAHOMA HB 2195 \(2007\)](#) Requires Administrative Director of the Courts develop a standard operating manual for guardians ad litem. Passed House and Senate and signed into law by Governor.

[WASHINGTON HB 1186 \(2007\)](#) Six-year pilot program for public financing for appellate court races. Supreme Court candidates need 500 qualifying

contributions, Court of Appeals 100, from registered voters. Candidates must attend at least one public forum. Candidates that having opted into the program later remove themselves must pay a fine. Candidates who are part of the program and later are found to have violated its terms are subject to civil penalties and disqualification from the program. If there is no funding appropriated by June 30, 2007, bill and program and deemed null and void. Approved as amended by House Appropriations committee.

[WYOMING SF 54 \(2007\)](#) Creates a drug court steering committee to study drug courts and make recommendations regarding administration, use of non-judges for proceedings, etc. Approved by full Senate and by House with amendments. Returned to Senate for consideration of amendments.

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