

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: New Mexico

New Mexico adjourned for the year at noon on March 17 and was within hours called [back into special session by Governor Bill Richardson](#) to address a series of bills, some impacting the judiciary, that had not passed both chambers.

Of those that made it to the Governor's desk that affected the court:

[HB 222](#) allows any member of the judicial retirement program to purchase service credits.

[HB 350](#) and its companion [SB 102](#) created the Court of Appeals Building Commission to take care, custody, and control of the building and its grounds.

[SB 64](#) permits magistrates acting in another magistrate's district by designation to collect fees and costs.

[SB 491](#) specifies the duty counties have to provide "adequate quarters" for district courts and district attorneys. It also specifies the type of furniture, equipment, and security devices minimally required to be "adequate quarters."

A related piece of legislation, [SM 32](#), created a task force consisting of the Administrative Office of the Courts and others to the study the old and, if approved by governor, new requirements that counties provide facilities for district courts and district attorneys. The focus of the task force's study, due November 30, 2007, is to be security.

Although not requiring the Governor's signature, [HJM 34](#) did pass both chambers. The joint memorial creates a task force to review the processes by which guardians of adults are appointed by the courts, trained, supervised and reviewed. The task force is to report by October 31, 2007.

Some one chamber bills were also of note:

Set to be reconsidered under the Governor's proclamation are efforts at making all statewide judicial races (i.e. Supreme Court and Court of Appeals) subject to public financing. Efforts to that effect in the regular session included [HB 818](#) and its companion [SB 799](#). HB 818 successfully made it through the full House and the Senate Finance committee before being left in Senate Rules at the end of session. SB 799 was approved by the Senate Rules committee and went no further. (see



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Selection below for Special Session legislation)

[HB 299](#) would have created a judicial performance evaluation fund under the control of the administrative office of the courts. It made its way through the full House and the Senate Judiciary committee before dying in the Senate Finance committee.

[HB 489](#) would have changed the formula for determining the salaries of the state's chief judges, specifying that the Chief Justice and other chief judges would receive a salary 5% greater than that the other members of their court. HB 489 passed the House, the Senate Judiciary and Senate Finance committees but was not acted on by the full Senate before adjournment.

[HB 1192](#) would have prohibited intimidation or retaliation against a judge. It passed the House unanimously but was left in the Senate Judiciary committee with no action taken.

[HJR 5](#) would have required a person appointed to fill a vacancy in a judicial office serve at least one year before facing election. It passed the House but no action was taken in the Senate.

Newly Introduced

Selection

[MASSACHUSETTS HB 1674 \(2007\)](#) Chief justice of a department may be removed by chief justice for administration and management for any reason (currently, may only be removed if "in the best interests of the administration of justice"). Chief justice

for administration and management to be selected or removed by chief justice and approved by at least 3 justices of the supreme judicial court (currently, selected or removed by majority of justices and can only be removed for malfeasance, misfeasance or nonfeasance). In House Judiciary committee

[MICHIGAN HB 4285 \(2007\)](#) Requires all candidates for office, including judges and justices, to file financial statements and reports including the name of each member of their immediate family and the name and address of each employer and assets of the candidate and their immediate family. Approved as amended by House 89-19. In Senate Campaign and Election Oversight committee

[NEBRASKA LB 290 \(2007\)](#) Provides that if there are not enough lawyer-members sitting on a judicial nominating commission, the Executive Council of the Nebraska State Bar Association shall nominate at least one lawyer-candidate for each vacancy. If unable to find enough such lawyer-candidates to fill the vacancies, the Council can seek out lawyers in other judicial districts. Passed Legislature and signed into law by Governor.

[NEVADA SJR 2 \(2007\)](#) Merit selection for justices of the supreme court and judges of the district court. Governor selects upon vacancy from list of three candidates. After one year of service, retention election. If retained, 6-year term. Retention requires 60% of votes in favor. In Senate Judiciary committee

[NEW MEXICO HB 6 \(SPECIAL SESSION 2007\)](#) Public financing of all statewide campaigns, including Supreme Court and

Court of Appeals. Judicial candidates must collect \$5 contributions from one-tenth of one percent of all voters in the state.

Approved by House Appropriations and Finance committee as amended and by full House 35-21. In Senate with no committee yet assigned. See [NEW MEXICO HB 818 \(2007\)](#) and [NEW MEXICO SB 799 \(2007\)](#).

[NEW MEXICO SB 1 \(SPECIAL SESSION 2007\)](#) See [NEW MEXICO HB 6 \(SPECIAL SESSION 2007\)](#) In Senate Rules and Senate Committee Committees.

[NORTH CAROLINA HB 678 \(2007\)](#)
Requires election of district court judges on primary election day with a runoff (if needed) at the time of the second primary. Purpose defined as effort to reduce the length of the general election ballot. In House Judiciary II committee

Qualifications and Terms

NONE

Rule Making Authority

[MARYLAND HB 792 \(2007\)](#) Specifically includes the Court of Appeals in provisions authorizing the Child Support Enforcement Administration to require a licensing authority to suspend specified professional licenses for failure to pay child support. Approved as amended unanimously by full House. In Senate Judicial Proceedings committee

[MASSACHUSETTS HB 1364 \(2007\)](#)
Modifies duties and responsibilities of first justices and the power of clerks, recorders and registers over personnel and other matters. Disputes between the two to be resolved by an independent arbitrator

(currently, disputes resolved by the chief justice of the department or the chief justice for administration and management). In House Judiciary committee

[NORTH CAROLINA SB 700 \(2007\)](#)
Provides supreme court with the authority to revise the rules of civil and criminal procedure and the rules of evidence, subject to amendment or veto by the general assembly. Authorizes supreme court to create advisory committees for such changes. In Senate Judiciary I committee

[OREGON HB 2322 \(2007\)](#) Allows Chief Justice to designate locations for holding circuit court proceedings outside of judicial district in event of emergency. Authorizes Chief Justice to establish fees for copies and services. Clarifies authority of judges to practice law. Prohibits judge pro tempore from presiding in action or proceeding if attorney who practices law with judge appears in action or proceeding. Clarifies that judges appointed to Court of Appeals are counted in determining that majority of three-judge panel consists of either elected or appointed Court of Appeals judges. Approved as amended by full House. In Senate Judiciary committee

[OREGON HB 3312 \(2007\)](#) Judicial Department required to establish policy that a person who obtains criminal prosecution information from the Department's databases must verify accuracy of information prior to selling information. In House Judiciary committee

[WISCONSIN AJR 31 \(2007\)](#) Prohibits the supreme court from requiring practicing attorneys to become members of the State Bar of Wisconsin or to pay dues to any bar association. In Assembly Elections and

Constitutional Law committee with hearing held March 22.

Structure Changes

[NEW HAMPSHIRE SB 113 \(2007\)](#)

Eliminates position of special justice of the district court. Future vacancies will not be filed unless the Supreme Court certifies that caseload or other considerations require the position be filled. Passed full Senate.

Jurisdiction

[MARYLAND HB 1109 \(2007\)](#) Increases from \$25,000 to \$30,000 the highest amount in controversy within the civil jurisdiction of the District Court in specified cases.

Approved unanimously by full House. In Senate Judicial Proceedings committee

[MASSACHUSETTS HB 1312 \(2007\)](#)

Authorizes Governor to apply for federal grant for the creation of a demonstration mental health court and authorizes chief administrative justice of the trial court of the commonwealth to create the program. In House Judiciary committee

[MASSACHUSETTS HB 1613 \(2007\)](#)

Authorizes the creation of drug courts in all District Courts. In House Judiciary committee

[MASSACHUSETTS HB 1715 \(2007\)](#)

Increases small claims jurisdiction from \$2,000 to \$5,000. In House Judiciary committee

[MASSACHUSETTS HB 1746 \(2007\)](#)

Increases small claims jurisdiction from \$2,000 to \$5,000. (NOT identical to MASSACHUSETTS HB 1715) In House Judiciary committee

[PENNSYLVANIA SB 294 \(2007\)](#) Creates the Medical Professional Liability Court with jurisdiction over of all civil actions against a health care provider for all medical professional liability claims. (similar to [PENNSYLVANIA HB 267](#)) In Senate Judiciary committee

Salary and Budget

[CALIFORNIA AB 227 \(2007\)](#) Revises amount counties are obligated to remit to the state's Trial Court Trust Fund. Amended by author and in Assembly Judiciary committee

[IOWA SB 549 \(2007\)](#) Amends variety of portions of law related to the judiciary. Clerk of district court need not retain for 60 days forfeited bail money. Modifies the manner in which court revenue is reconciled between a city and the clerk of the district court. (see [IOWA HB 641 \(2007\)](#)) Approved by Senate Judiciary committee

[MASSACHUSETTS HB 1553 \(2007\)](#)

Requires clerk of court to report to chief justice of the department estimated cost and revenues related to the operations of the court. (Currently, first justice of the court reports). In House Judiciary committee

[MICHIGAN HB 4474 \(2007\)](#) Creates indigent defense counsel fund with state court administrative office responsible for distribution of funds to counties. In House Appropriations

[NEW HAMPSHIRE SB 209 \(2007\)](#)

Requires the board of trustees of the judicial retirement plan to study the inclusion of service of all judges who are not members of the judicial retirement plan. Passed full Senate

[OKLAHOMA HB 1085 \(2007\)](#) Delinks salaries of most state officers from judicial salaries. (Currently Governor's salary = Chief Justice's salary, Attorney General's salary = Presiding Judge of the Court of Civil Appeals' salary, etc.) Unanimously approved by House. In Senate Appropriations committee

[OKLAHOMA HB 1282 \(2007\)](#) Increases to \$25 from \$10 filing fee charge that is applied to Court Information System Revolving Fund. Approved by House as amended 83-14. In Senate Appropriations committee

[PENNSYLVANIA SB 44 \(2007\)](#) Automatic, annual cost of living adjustments to judicial and district attorney salaries. In Senate State Government committee

[PENNSYLVANIA HB 671 \(2007\)](#) Permits judges, justices and other elected officials to decline increases in their compensation In House State Government committee.

[PENNSYLVANIA SB 365 \(2007\)](#) Extends to 2012 the senior judge operational support grants program. Approved by Senate Judiciary committee and in Senate Appropriations

Other

[MASSACHUSETTS HB 1327 \(2007\)](#) Prohibits defendants being arraigned from concealing their face. In House Judiciary committee

[MASSACHUSETTS HB 1661 \(2007\)](#) Gives exclusive authority to Attorney General to investigate threats to judges and their families and authorizes resources to that end. Creates crime of threats against

members of the judiciary or their families. In House Judiciary committee

[NEW HAMPSHIRE SB 170 \(2007\)](#) Establishes an office of mediation and arbitration within the judicial branch and combines existing probate court mediation fund and the court mediation fund. Passed full Senate

[NORTH CAROLINA HB 695 \(2007\)](#) Adds the Administrative Office of the Courts and other agencies to list of departments that participate in the state's Government Internship Program. In House Committee on State Personnel

[NORTH CAROLINA HB 785 \(2007\)](#) Requires clerk of court notify State Bar when a new hearing or trial in a capital case is ordered due to the misconduct of the prosecution or defense counsel. In House Judiciary II committee

[NORTH CAROLINA HB 789 \(2007\)](#) Redefines capital murder; new definition specifically includes killing of current or former judges and justices in course of their duties or because of the exercise of their duties. In House Judiciary II committee

Floor and Committee Activity

[ARIZONA SB 1167 \(2007\)](#) Requires by December 31, 2007 Superior Court clerks in counties with over 2 million people to publish electronically all criminal case minutes unless prohibited by law. Clerks in counties under 2 million people are to take steps to electronically publish such minutes. Approved by House Judiciary committee

[ARKANSAS HB 1384 \(2007\)](#) Permits District Court concurrent jurisdiction over eviction proceedings (currently, only circuit court has jurisdiction). Approved by House Judiciary committee as amended by the Senate.

[ARKANSAS HB 1715 \(2007\)](#) Increases from \$100 to \$150 filing fee for most actions in Supreme Court and Court of Appeals. Previously approved by House. Approved by full Senate and signed into law by Governor.

[ARKANSAS SB 18 \(2007\)](#) Requires expansion of drug court programs, creates a division of drug court programs within the Administrative Office of the Courts and creates a Drug Court Advisory Committee. Approved by full Senate as amended. In House Judiciary committee

[ARKANSAS SB 89 \(2007\)](#) Requires Administrative Office of the Courts provide assistance and support to cities and counties in the adoption of local court security plans and provision of court security for county and district courts. Creates a state court security grant program under the administration of the AOC. Creates a certification and training program for court security officers. Previously passed Senate as amended. Further amended by House and approved by full House. Returned to Senate Judiciary committee, which recommended approval with the House amendment.

[ARKANSAS SB 235 \(2007\)](#) Consolidates many City Courts into District Courts. Creates District Court Resource Assessment Board. Creates Pilot Program of full-time District Court judges that are employees of the state. Approved by full House with amendment. Senate concurred and re-

approved as amended by House. Bill held in Senate chamber.

[GEORGIA HB 197 \(2007\)](#) Repeals provisions allowing review of sentences of imprisonment for a period exceeding 12 years by a three-judge panel. Favorably reported by House Committee on Judiciary Non-Civil.

[GEORGIA HB 599 \(2007\)](#) Grants Juvenile Court concurrent jurisdiction with the Superior Court for certain adoption proceedings. Reported favorably by 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. Reported favorably by Senate Judiciary committee.

[INDIANA SB 41 \(2007\)](#) Extends until July 2011 the Commission on Courts, which is tasked with reviewing and reporting on all requests for new courts or changes in jurisdiction of existing courts. Passed full House 96-1. To Governor for approval.

[IOWA HB 641 \(2007\)](#) Modifies the manner in which court revenue is reconciled between a city and the clerk of the district court. Permits clerk of district court to offset any money owed *by* the city before distributing any amounts owe *to* the city, and vice versa. Unanimously approved by full House as amended on House floor. In Senate

[KENTUCKY SB 153 \(2007\)](#) Creates minimum qualifications and training requirements for certified court security officers. Specifically states sheriff is

responsible for court security, and that upon the sheriff's failure or refusal, the Court of Justice is required to contract with a local government for court security services. Approved by full House and Senate as amended and signed into law by Governor.

[MARYLAND HB 1363 \(2007\)](#) Merit selection for Circuit Court judges. Reduces terms from 15 years to 10 years. Bill withdrawn.

[MARYLAND SB 46 \(2007\)](#) Provides for the nonpartisan election of Circuit Court judges. Approved by full Senate 40-6. In House Judiciary with hearing set for March 29.

[MISSISSIPPI SB 2567 \(2007\)](#) Requires nonpartisan elections for Justice Court judges. Amended and passed full House 64-58. Senate declined to concur with House amendments. Conference committee members named to reconcile differences.

[MISSOURI HJR 12 \(2007\)](#) Provides that impeachments be tried by the Senate (currently, impeachments are tried by the Supreme Court). Reported favorably by House Special Committee on General Laws. In House Rules committee

[NORTH DAKOTA HCR 3002 \(2007\)](#) Directs the Legislative Council to study the judicial election and judicial selection process in North Dakota and pursue a public information and education program with the State Bar. Study report to be given to next legislative session (i.e. 2009). Previously passed House, passed full Senate by voice vote.

[NORTH DAKOTA SCR 4004 \(2007\)](#) Directs the Legislative Council to study the

respective responsibilities of county and state judicial system personnel under the Uniform Juvenile Court Act in light of statutory ambiguities in defining those responsibilities. Study report to be given to next legislative session (i.e. 2009). Previously passed Senate. Passed full House. Governor's approval not required.

[OKLAHOMA HJR 1042 \(2007\)](#) Increases from 1 to 3 members of the Judicial Nomination Commission elected by members of the state bar. Reduces from 12 to 10 commission members selected by Governor and requires they receive Senate confirmation. Approved by full House. In Senate with no committee yet assigned

[OKLAHOMA SB 990 \(2007\)](#) Creates the Judicial and District Attorney Redistricting Task Force. Task force to report by November 30, 2008. Approved by full Senate

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

[TENNESSEE HB 319 \(2007\)](#) Requires state AOC pay for expenses for a guardian ad litem in juvenile court cases involving dependency, termination of parental rights, or delinquent or unruly children. Approved by House Children & Family Affairs committee. In House Finance, Ways & Means committee

[TEXAS HJR 36 \(2007\)](#) Permits a state justice or judge who reaches the mandatory age of retirement while in office to complete the justice's or judge's current term.

Approved unanimously by full House. In Senate with no committee yet assigned

Approved by full House as amended. In Senate Judiciary committee

[WASHINGTON HB 1590 \(2007\)](#) Permits cities to contract with other cities for the delivery of municipal court services. Requires municipal courts to exercise jurisdiction over traffic infractions.

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