

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Kentucky and Idaho

Kentucky's legislature adjourned for the year on March 27, leaving a variety of bills having passed just one chamber.

One exception, signed into law earlier in the session, was [SB 153](#) and its House companion [HB 427](#), which creates minimum qualifications and training requirements for certified court security officers. The new law specifically states sheriffs are responsible for court security, and that upon a sheriff's failure or refusal, the Court of Justice is required to contract with a local government for court security services.

Among the one-chamber bills:

[HB 295](#) would have required an "Annual Report to Kentucky Taxpayers" to include among other things an organizational chart of the judicial branch, a list of revenues and expenditures, and a brief description and summary of statistical data on major programs and services. It was passed unanimously in the House but had no activity in the Senate.

[HB 465](#) as amended would have extended the state's senior status judge program (set to sunset at the end of 2007) to December 31, 2012. It passed the House 88-8; the Senate failed to act on it before adjournment.

[SB 54](#) would have required the courts give priority to certain candidate challenges immediately before an election and set deadlines for decisions. It was approved by the full Senate 29-1 but went nowhere in the House.

One bill of note that made it only as far as committee was [HB 198](#) which would have raised small claims jurisdiction from \$1,500 to \$3,000. It was approved by the House Judiciary committee and referred to the House Health & Welfare committee where it died.

Idaho was still in session as of the time of this writing, however there was a great deal of activity in that state's legislature related to the courts earlier in the session, including a variety of bills already signed into law. Among them:

[HB 20](#) provides that when a court orders supervised access between a parent and their child, the access must be overseen by a



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Research Division

NATIONAL CENTER FOR STATE COURTS
300 Newport Avenue, Williamsburg, VA 23185
Phone (800) 616-6109 Fax (757) 564-2022
Editor's Email: wraftery@ncsc.dni.us
Subscribe: gaveltogavel@ncsc.dni.us

Online: http://www.ncsconline.org/D_Research/gaveltogavel/



person appointed by the court who meets the qualifications and training established by Supreme Court rule, including criminal background checks. Those checks and other items are to be maintained by the Supreme Court.

[HB 21](#) was the result of the Idaho Supreme Court's Child Protection Committee and directs the Supreme Court to establish a series of oversight rules for guardians ad litem (GALs). To be included are rules and policies on fiscal controls and compliance with established standards for guardian ad litem programs receiving moneys from the grant administrator. GALs and others involved in these programs would be subject to criminal background checks.

[HB 180](#) authorizes the partial funding of drug courts and other programs from liquor sales taxes, permits, licenses, etc.

[HB 193](#) authorizes a 5% increase in the salaries of all district judges and justices of the supreme court effective July 1, 2007.

[SB 1006](#) clarifies that should a person appointed to fill a district judge vacancy lose in the subsequent election, the winner does not take office immediately but in the January after the election.

[SB 1082](#) requires the administrative director of the courts to report yearly the number of children who use judicial bypass in lieu of notifying their parents before having an abortion. It also specifically holds that all court files related to any such petition are exempt from disclosure.

One bill on its way to the Governor for approval or veto is [SB 1153](#), which expands the state's Small Lawsuit Resolution

program to include cases where claims are below \$50,000 (current limit: \$25,000).

Finally, [Senate Concurrent Resolution 109](#) recommends the courts and other state agencies involved in substance abuse and mental health treatment develop and adopt a standard statewide assessment tools for substance abuse and mental health. The resolution specifies and directs that the final assessment tools be determined and reported to the legislative Health Care Task Force by January 1, 2008. SCR 109 passed both chambers and was sent to the Secretary of State without the need for the Governor's signature.

Newly Introduced

Selection

[ALABAMA HB 474 \(2007\)](#) Nonpartisan election of all judges and justices. In House Constitution and Elections committee

[DELAWARE SB 51 \(2007\)](#) Requires that when person named to a judicial vacancy to be filled by a member of a certain political party, that the nominee have been a registered member of that political party for at least one year. Amendment passed previous legislature, if approved again becomes part of Constitution. In Senate Executive Committee.

[MICHIGAN HB 4498 \(2007\)](#) In circuits with at least 3 circuit judges, chief judge to be elected by judges of the circuit. In circuits with 2 circuit judges, supreme court to select chief judge. In House Judiciary committee

[MICHIGAN HJR 7 \(2007\)](#) Constitutional amendment to permit judges of a circuit to elect their chief judge. In House Judiciary committee

[MISSOURI HJR 31 \(2007\)](#) Replaces merit selection system in those areas that have it. Nominees to be named by governor and confirmed by Senate. At the end of their 10 year term in office, judges must be reconfirmed by both chambers of the legislature. No committee yet assigned

[MISSOURI HJR 33 \(2007\)](#) Modifies merit selection system in those areas that have it. Nominee to be named by governor and confirmed by a judicial confirmation commission. No committee yet assigned

[MISSOURI HJR 34 \(2007\)](#) Modifies merit selection system in those areas that have it. Nominees to be approved by majority vote of both chambers of the legislature every 10 years. Judges may be removed by bill of address approved by legislature. No committee yet assigned

[NEVADA AB 505 \(2007\)](#) Requires those seeking to place someone into consideration for a judicial election have 10 days from starting with the first Monday in December to do so. Judicial candidates have 10 days, starting on the first Monday in January, to accept candidacy. Does not apply to municipal judges. In Assembly Elections, Procedures, Ethics, and Constitutional Amendments committee

[NORTH CAROLINA SB 957 \(2007\)](#) Merit selection for appellate judges. Creates nominating commission which is to give governor 3 to 5 names. Governor may select from names or may appoint a person who was not nominated. Retention elections to be

placed on top of ballot ahead of all other elections. In Senate Ways and Means committee

[NORTH CAROLINA SB 1436 \(2007\)](#) Changes manner in which magistrates are chosen. Magistrates to be selected by chief district court judge of the district court district from list provided by clerk of the superior court for the district. If clerk fails to provide list, chief district court judge may select anyone meeting the basic requirements for the position. If chief district court judge fails to name magistrate, task falls to senior resident superior court judge. (Currently, selected by senior regular resident judge of the superior court from list provided by clerk of the superior court). Creates position of “emergency magistrate”, defined as any former magistrate temporarily recalled to service. Selection to be made by director of the administrative office of the courts. In Senate Ways and Means committee

[PENNSYLVANIA SB 616 \(2007\)](#) Adds justices of the peace to list of judges that are part of the state’s retention election system. In Senate State Government committee

Qualifications and Terms

[ALABAMA SB 251 \(2007\)](#) Specifies that a municipal judge may be retained as a city attorney while serving as a municipal judge. In Senate Judiciary committee

[NORTH CAROLINA 856 \(2007\)](#) Extends district court judge’s terms to 8 years (from 4 years). In Senate Ways and Means committee

Rule Making Authority

[FLORIDA HB 1479 \(2007\)](#) See [FLORIDA SB 2742 \(2007\)](#) below. In House Safety & Security Council and Policy & Budget Council

[FLORIDA HSSC 7 \(2007\)](#) Removes court's power to appoint attorneys for indigent persons and transfers power to public defenders. In House Safety & Security Council

[FLORIDA SB 2742 \(2007\)](#) Prohibits court rules of practice and procedure from being inconsistent with general law and they "shall not abridge, enlarge, or modify any substantive right". Specifies rules of practice and procedure may be repealed by general law. Creates a judicial conference with the responsibility to propose rules of practice and procedure governing violations of criminal law, violations of criminal law by juveniles, and postconviction proceedings. Proposed rules to be submitted to Supreme Court, who will transmit to legislature. Legislature may adopt, amend or reject any rule. In Senate Criminal Justice, Judiciary, Criminal and Civil Justice Appropriations committees

[MASSACHUSETTS HB 1401 \(2007\)](#) Chief justice for administration and management shall create policy permitting attorneys to bypass court security searches. In House Judiciary committee

[MASSACHUSETTS HB 1736 \(2007\)](#) Establishes ethical guidelines for district attorneys. Complaints to be referred to Disciplinary Board of the Supreme Judicial Court in forms and under rules determined by the court. In House Judiciary committee

[MASSACHUSETTS SB 796 \(2007\)](#) Requires Supreme Judicial Court tabulate

results of cases heard by the appellate courts. In Senate Judiciary committee

[MASSACHUSETTS SB 797 \(2007\)](#) Requires appellate courts to give a statement of reasons in any denials or dismissals of cases, actions or motions. In Senate Judiciary committee

[NEVADA SB 435 \(2007\)](#) Authorizes the appointment of masters in justice court to perform certain subordinate or administrative duties if the board of county commissioners has authorized such appointments and under rules established by the supreme court. In Senate Judiciary committee

[NORTH CAROLINA HB 2087 \(2007\)](#) See [NORTH CAROLINA SB 1306](#) below. In House Judiciary I committee

[NORTH CAROLINA SB 1022 \(2007\)](#) Permits electronic posting of legal notices, defined as "any matter that, pursuant to law or rule, is required to be officially advertised." AOC to enter contract agreement with Web site provider for site maintenance. In Senate Judiciary II committee

[NORTH CAROLINA SB 1102 \(2007\)](#) Requires the conference of chief district court judges to address forgiveness of arrears in the child support guidelines. In Senate Judiciary I committee

[NORTH CAROLINA SB 1136 \(2007\)](#) Court system personnel to be prescribed in a workload formula set forth and adopted by either the conference of district attorneys or the board of governors of the association of district court judges of the North Carolina magistrates' association. Any such formula

must be recommended to the Administrative Officer of the Courts. In Senate Judiciary I committee

[NORTH CAROLINA SB 1306 \(2007\)](#)

Provides that the courts may appoint an interpreter, payable from funds appropriated to the administrative office of the courts, in cases in which an interpreter is necessary to assist the court in the efficient transaction of business. In Senate Judiciary I committee

[TEXAS SB 565 \(2007\)](#) Authorizes chief justice in an emergency to order the moving of the courts of appeals, district courts, and statutory county courts at the county seat of a county in an adjacent district or administrative judicial region. Approved as amended by Senate Jurisprudence committee

Structure Changes

[PENNSYLVANIA SB 584 \(2007\)](#) Permits but does not require drug courts. If created, permits special court surcharge to support the drug court. Supreme Court may but is not required to appoint a statewide drug court coordinator and advisory council. In Senate Judiciary committee

[PENNSYLVANIA SB 587 \(2007\)](#) Permits but does not require the creation of mental health division in the court of common pleas for a county or judicial district. (see [PENNSYLVANIA HB 80](#)) In Senate Judiciary committee

Jurisdiction

[FLORIDA SB 2692 \(2007\)](#) 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. (see [HB 1167](#)) In Senate Commerce, Judiciary and Criminal and Civil Justice Appropriations committees

[MAINE HB 1136 \(2007\)](#) Transfers functions of the county registers of probate to the office of the clerk of courts as a first step toward greater regionalization of services. In House State and Local Government committee

[NEVADA SB 325 \(2007\)](#) Prohibits courts from hearing claims against the state based solely on the failure of the state to provide copies of statutes, regulations, reports, forms or other documents in a language other than English. Declares English the official language of the state and requires all official proceedings be in English. Exempts judicial activity if the use of English only would interfere with those proceedings. In Senate Government Affairs committee

[NEW HAMPSHIRE CACR 18 \(2007\)](#) Legislature alone to have power to define adequate education as mentioned in state constitution. In Senate Judiciary committee

[TEXAS SB 618 \(2007\)](#) Increases jurisdiction limits in justice, county, and small claims courts from \$5,000 to \$10,000. Approved as amended by Senate Jurisprudence committee

Salary and Budget

[ARKANSAS HB 1529 \(2007\)](#) Adjusts salaries of various judges and district court personnel. Amended and approved by House, further amended and approved by Senate, returned to House for consideration of Senate amendments.

[NORTH CAROLINA HB 957 \(2007\)](#)

Establishes minimum number of employees in each clerk of court's office. In House State Personnel committee

[NORTH CAROLINA SB 953 \(2007\)](#)

Establishes and funds three pilot self-serve centers in locations to be designated by the administrative office of the courts. Funds to be used to develop forms and instructions to address the increasing numbers of persons who either cannot afford representation or choose to represent themselves in family law matters and in some civil litigation. In Senate Appropriations/Base Budget committee

[NORTH CAROLINA SB 960 \(2007\)](#)

Increases variety of court costs, portions of which are to go to the court information technology fund and state legal aid. In Senate Ways and Means committee

[NORTH CAROLINA SB 1005 \(2007\)](#)

Appropriates funds for 20 safe haven supervised visitation programs statewide; programs to be selected by AOC. Safe havens are defined as "safe, neutral, and family-friendly environments for the exchange and visitation with children by parents who are separated and need temporary assistance in arranging and securing visitation plans." In Senate Appropriations/Base Budget committee

[NORTH CAROLINA SB 1134 \(2007\)](#)

Clarifies certain court costs, when assessed, how assessed and how the funds are to be distributed. In Senate Finance committee

[NORTH CAROLINA SB 1229 \(2007\)](#)

Prohibits executive branch from altering budget estimates submitted to the legislature

for the judiciary. Budget director may only recommend adjustments to budget estimate certified by chief justice. Provides that all funds appropriated to the judiciary not expended by end of the fiscal year remain with the judiciary unless chief justice and judicial council agree to allow funds to revert back to treasury. Removes for judiciary limitation that the number of new employees permitted be tied to the change in residential population for the state. Provides that should the state fall into deficit, it is the chief justice and not the budget director that will prepare a plan for the judiciary to address the issue and submit same to the legislature. Permits chief justice to transfer expenditures among budget line items and requires reporting of such transfers. Provides that the power of the governor to suspend state officers or employees extends to the executive branch only. In Senate Appropriations/Base Budget committee

[NORTH CAROLINA SB 1280 \(2007\)](#)

Establishes judicial department facilities reserve fund, provides increase in certain court costs for the fund, and directs its use for maintenance, renovation, construction, and purchase of state judicial facilities. In Senate Finance committee

[TEXAS SB 600 \(2007\)](#) Increases the compensation for statutory county court judges to an amount that is not less than \$1,000 less than a district court judge and requires that the state pay 60 percent of that salary. Approved as amended by Senate Jurisprudence committee

Other

[COLORADO SB 118 \(2007\)](#) Creates the court security cash fund commission and court security cash fund to provide

supplemental funding to counties with the most limited financial resources through grants for ongoing security staffing, security equipment costs, training of local security teams, and emergency court security needs. Requires a \$5 surcharge on certain court filing fees for civil actions and criminal convictions. Approved by full Senate and in House Judiciary and Appropriations committees

[MISSOURI HB 945 \(2007\)](#) Creates the crime of murder of a criminal justice official in the first degree. Criminal justice official includes judges. (see [SB 685](#)) Approved as amended by House Corrections and Public Institutions and House Rules committees

[NORTH CAROLINA SB 1281 \(2007\)](#) Amends various portions of law pertaining to judiciary. Administrative officer of the courts may set reasonable fees for interpreter training and testing and convert contractual positions to permanent State positions in certain circumstances. Requires an annual report on the implementation, operation, and effectiveness of the statewide drug treatment court program. Provides that the salary of the chief justice of the supreme court and chief judge of the court of appeals must be 2.7% greater than that of the other justices/judges of their respective courts. In Senate Appropriations/Base Budget committee

[NORTH CAROLINA SB 1287 \(2007\)](#) Allows judiciary, through the office of indigent defense services, access to Social Security Numbers held by the division of motor vehicles for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered. In Senate Judiciary II committee

[PENNSYLVANIA SB 618 \(2007\)](#) Makes editorial changes to constitution by replacing the phrase "justice of the peace" with "magisterial district judge." In Senate Judiciary committee

Floor and Committee Activity

[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 by Senate Judiciary committee. In Senate Rules committee

[ARIZONA HB 2758 \(2007\)](#) Alters the contributions that counties make to various Arizona Health Care Cost Containment System (AHCCCS) administrative costs, Acute Care, and justice of the peace salaries. Approved by Senate Government committee. In Senate Rules and Appropriations committees.

[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 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. Approved by House as amended by Senate. To Governor for approval.

[CALIFORNIA AB 227 \(2007\)](#) Revises amount counties are obligated to remit to the state's trial court trust fund. Approved as amended by Assembly Judiciary committee. In Assembly Appropriations committee

[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. Approved by House Safety & Security Council.

[GEORGIA HB 197 \(2007\)](#) Repeals provisions allowing review of sentences of imprisonment for a period exceeding 12 years by a three-judge panel. Approved by full House 102-62. In Senate with no committee yet assigned

[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. Approved by Senate Judiciary committee and full Senate. In House with no committee yet assigned

[HAWAII SB 948 \(2007\)](#) ORIGINAL: Reduces from 4-6 to 3 number of names considered for a judicial vacancy. AMENDED: Reduces from 4-6 to 3-5 number of names considered for a judicial vacancy. Requires Judicial Selection Commission rank nominees submitted to

Governor (no such requirement for nominees submitted to Chief Justice for district court vacancies). Passed full Senate. Amended by House Judiciary committee and approved as amended. In House Finance 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. Approved unanimously by House, approved unanimously by Senate.

[MARYLAND SB 508 \(2007\)](#) Creates medical liability divisions in the circuit courts and requires judges assigned have specialized training. Creation of such divisions to be in courts where deemed feasible by the chief judge of the court of appeals. Withdrawn by author.

[MARYLAND SB 914 \(2007\)](#) 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. Withdrawn by author.

[MISSISSIPPI HB 1158 \(2007\)](#) ORIGINAL: Chief justice to appoint for the court of appeals an opinion editor. AMENDED: Court of appeals authorized to employ an opinion editor. Approved by full House and Senate.

[MISSISSIPPI SB 2567 \(2007\)](#) ORIGINAL: Requires nonpartisan elections for justice court judges. AMENDED: Creates a task force to study and assess the duties and services provided by the justice court judges, the training and compensation of justice court judges, the jurisdictional limits of justice courts, uniform rules of procedure for justice court, whether jury trials should

occur in justice courts, when justice court judges are elected, the manner in which justice court judges are elected and the feasibility of nonpartisan elections for justice court judges. Report of the task force due December 1, 2007. Conference report approved with above amendments by both House and Senate.

[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 full Senate. In House with no committee yet assigned

[OREGON SB 267 \(2007\)](#) ORIGINAL: Provides that justice or municipal court may commence or cease operation as court of record only after entry of order by Supreme Court. AMENDED: Provides that justice or municipal court may commence or cease operation as court of record only after the city or county governing body files a declaration with the supreme court. Approved as amended by full Senate.

[PENNSYLVANIA SB 44 \(2007\)](#) ORIGINAL: Automatic, annual cost of living adjustments to judicial and district attorney salaries based on consumer price index. Repeals provisions that tie judicial

salary increase to federal judicial salary increases. Grants supreme court exclusive jurisdiction over these matters. AMENDED: Same, but removes provisions related to district attorneys. Approved as amended by Senate State Government committee 8-2.

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