

# Gavel to Gavel

A review of state legislation affecting the courts

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## *Focus: Mississippi*

The Mississippi legislature adjourned on March 30, with many of the bills pertaining to the courts having been heavily or repeatedly amended and most being left in committee. Of those that made their way to the Governor:

[HB 1059](#) started as a requirement that the state's Supreme Court fund a pilot program case management and electronic filing system. It was amended in the House to more permissive language: the court "may utilize and fund" the pilot program. It was signed into law by the Governor earlier in the session.

[HB 1158](#) was also heavily amended from its original language, which would have had the state's Chief Justice appoint an opinion editor of the Court of Appeals. The version that came out of a House committee and was approved by the House simply authorized the Court of Appeals to employ an opinion editor. Further Senate amending specified the employment of the opinion editor as subject to specific appropriation by the legislature. Ultimately, the appropriation language was dropped and the version sent

to the governor simply authorizes the Court of Appeals to employ an opinion editor.

Another heavily amended bill was [SB 2567](#), which started as legislation to make elections for justice courts nonpartisan and required that the elections be held at the same time as statewide officers. It passed as such in the Senate but was amended in the House to instead create a task force to examine the feasibility of nonpartisan elections for justice courts and the duties of the justice courts. After going through conference committee, the task force was further changed. In the version ultimately sent to the Governor, the task force is to report by December 1, 2007 on the duties and services of 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.

Several one-chamber bills were of note:

[HB 805](#) and its companion [SB 2541](#) would have locked the salaries of appellate court



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staff to that of district attorneys. The director of central legal staff would be limited to the salary of a district attorney. Senior staff attorneys with fifteen years or more experience could have salaries no greater than 90% of a DA's. HB 805 was approved by the full House and the Senate's Judiciary Division A committee before dying in the Senate Appropriations committee. SB 2541 passed the full Senate and the House Judiciary Division A committee before dying in the House Appropriations committee.

[SB 2020](#) started as a bill to give justice courts exclusive jurisdiction over cases involving claims under \$5,000. It was amended by Senate Judiciary Division A committee to include a whole host of new provisions, including requirements that counties furnish adequate security when justice courts were in session, removal of the power to conduct jury trials from justice courts, and the creation of a Mississippi Justice Court Study Committee. A Senate floor amendment removed the provision eliminating jury trials and instead directed the proposed study committee look into the possibility of ending jury trials in the justice courts. The amended version then passed the full Senate, only to be sent to the House where no action was taken.

[SB 2022](#) would have created a new ethics rule for judicial officers, requiring that they disclose to all litigants any gift of \$200 or more given to them by any party or attorney involved in a case before them. It also would have required the litigants and attorneys themselves disclose any such gifts to the other parties/attorneys. Failure to disclose would have been a felony, punishable by a fine up to \$20,000 and/or imprisonment of

up to 5 years. It passed the full Senate but went nowhere in the House.

[SB 2055](#) would have amended provisions of the public employee retirement system pertaining to members of the Supreme Court and Court of Appeals. Among other things, the bill would have included all remuneration except mileage when computing earned compensation, a provision currently in place for members of the state legislature. The bill passed the full Senate but died with no action taken in the House.

[SB 2547](#) would have raised salaries approximately 15% for members of the Supreme Court, Court of Appeals and Chancery Courts as well as district attorneys. It passed the full Senate and the House Fees and Salaries of Public Officers committee before dying in the House Appropriations committee.

## *Newly Introduced*

### **Selection**

[ALABAMA HB 536 \(2007\)](#) Merit selection for all judges and justices that are not already under such plans through prior amendments or local laws. Creates corresponding commissions. No impact on means of re-election at end of respective terms. In House Judiciary committee

[RHODE ISLAND SB 892 \(2007\)](#) Allows any person whose name was submitted to the governor by the judicial nominating commission for a judicial vacancy to be eligible for a subsequent nomination by the governor for a period of three years. In Senate Judiciary committee

## Qualifications and Terms

[NEVADA SB 479 \(2007\)](#) Requires masters appointed by a justice court to possess qualifications at least equal to those of the justice of the peace for the township in which the master is appointed. In Senate Judiciary committee

[NORTH CAROLINA HB 1107 \(2007\)](#) Extends district court judge's terms to 8 years (from 4 years). (see [SB 856](#)) In House Rules, Calendar, and Operations of the House committee

[PENNSYLVANIA SB 696 \(2007\)](#) Requires candidates for district justice or justice of the traffic court first pass a certification examination. In Senate State Government committee

## Rule Making Authority

[CALIFORNIA AB 612 \(2007\)](#) Codifies judicial council rule that a "child custody evaluator" is a "court-appointed investigator." In Assembly Judiciary committee

[FLORIDA SB 1346 \(2007\)](#) Revises public records laws. Deletes provision specifying certain public-record exemptions that apply to documents part of court file. Specifies conditions and categories of information the court may deem not public record. Approved by Senate Judiciary committee. In Senate Governmental Operations committee

[MISSOURI HB 1168 \(2007\)](#) Amends Missouri Supreme Court Rule to allow members of the general assembly with at least eight years service to take the bar examination. In House Special Committee on General Laws

[NEVADA AB 572 \(2007\)](#) Transfers administration and control of the Supreme Court Building and other property used by the Supreme Court to the court and permits court administrator to assign space and direct on related matters. In Assembly Government Affairs committee

[TEXAS HB 2766 \(2007\)](#) Permits district and county courts to meet at locations other than the county seat in the event of a natural disaster with specific locations to be determined by presiding judge. Approved as amended by House Judiciary committee

## Structure Changes

[NEVADA SJR 9 \(2007\)](#) Permits but does not require legislature create an intermediate appellate court to be called the Court of Appeals to consist of at least 3 members elected to 6-year terms. If created, court will have appellate jurisdiction in civil cases arising in district court and in criminal cases within the original jurisdiction of the district courts. Supreme court required to fix the jurisdiction of the court and provide for the review of appeals decided by the court. In Senate Judiciary committee

## Jurisdiction

[DELAWARE SB 56 \(2007\)](#) Permits supreme court to hear questions certified by the U.S. Securities and Exchange Commission. "Stricken" in lieu of SB 62.

[DELAWARE SB 62 \(2007\)](#) Permits supreme court to hear questions certified by the U.S. Securities and Exchange Commission. Amendment passed previous legislature, if approved again becomes part of Constitution. Approved by Senate Executive Committee and on Senate floor

[FLORIDA SB 1444 \(2007\)](#) Requires creation in two judicial districts of pilot arbitration programs regarding covenant and deed restricted communities. Approved by Senate Judiciary as amended. In Senate Regulated Industries committee

[MASSACHUSETTS SB 955 \(2007\)](#) Creates medical injury court department within the trial court. In Senate Judiciary committee

[MASSACHUSETTS SB 984 \(2007\)](#) Expands supreme judicial court's power to arbitrate disputes between municipalities. In Senate Judiciary committee

## Salary and Budget

[NORTH CAROLINA SB 1528 \(2007\)](#) 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. Chief justice may move funding among line items. Director of the AOC may, on advice of state judicial council, establish, abolish, allocate and reallocate most personnel positions and specifies positions that are not subject to the director's authority to change. Director may on advice of state judicial council create workload formulas for allocation of clerks. Creates office of trial court administrator and places such administrators in all courts the director of the AOC believes require them. (similar, but not identical, to [SB 1229](#)) In Senate Appropriations/Base Budget committee

[VERMONT HB 532 \(2007\)](#) Directs the state court, district court, and judicial bureau to pay rent for the cost of using a county courthouse. Authorizes assistant judges to

borrow a limited amount for capital construction with authorization from 75 percent of the legislative bodies of the municipalities in the county and authorizes them to request state funds raised through bonding to pay for capital construction required due to a federal or state mandate or to correct a threat to health and safety. In House Institutions committee

## Other

[ALABAMA HB 537 \(2007\)](#) Permits electronic publication of legal notices. Director of the administrative office of courts responsible for quality reviews of the system. In House Judiciary committee

[GEORGIA HR 596 \(2007\)](#) Creates study committee on the need for improving available remedies for defending against frivolous and malicious litigation. Study committee to report by December 31, 2007. In House Judiciary committee

[GEORGIA SB 318 \(2007\)](#) Permits judges within same circuit to ask for judicial assistance from other courts in same circuit (currently, limited to courts in same county). Applies in cases where judges are forced to disqualify themselves, are ill, absent, etc. In Senate Judiciary committee

[MASSACHUSETTS SB 787 \(2007\)](#) Creates commission to study feasibility of pilot mental health court. In Senate Judiciary committee

[MASSACHUSETTS SB 844 \(2007\)](#) 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.

(Identical to [HB 1661](#)) In Senate Judiciary committee

[MASSACHUSETTS SB 977 \(2007\)](#)

Increases penalties for assault, assault and battery or stalking a judge. In Senate Judiciary committee

[NEVADA SB 490 \(2007\)](#) Removes provision that requires all bill drafts requested by the supreme court to be delivered to the chair of the committee on judiciary of each house. Modifies other legislative procedural rules. Approved by Senate Legislative Operations and Elections committee

[SOUTH CAROLINA HB 3792 \(2007\)](#)

Permits electronic publication of legal notices. Director of the administrative office of courts responsible for quality reviews of the system. In House Judiciary committee

## *Floor and Committee Activity*

[DELAWARE HB 53 \(2007\)](#) Removes the surplus “Associate” in referring to Judges of the Superior Court and Family Court in the Constitution. Approved by full Senate unanimously. The Amendment, having passed previous legislature, is now part of Constitution.

[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 and in Senate Judiciary committee

[HAWAII HB 600 \(2007\)](#) Requires the judiciary to certify interpreters under rules,

procedures and standards set by the administrative director of the courts. Requires courts appoint and use certified interpreters in legal proceedings. Amended and approved by House Judiciary committee, further amended and approved by House Finance committee. Approved as amended by full House. Further amended and approved by Senate Judiciary and Labor committee. Further amended and approved by Senate Ways and Means committee.

[HAWAII HB 1211 \(2007\)](#) Increases fees for court-appointed counsel and guardians ad litem in family court cases. Requires the judiciary to provide the department of budget and finance with fees-related information so that the department can approve the necessary vouchers. In Senate Ways and Means committee

[ILLINOIS HB 622 \(2007\)](#) ORIGINAL:

Provides that any person required to submit to a drug test within the state must pay a \$2 fee, portions of which may be used as grants to drug courts. Creates the position of statewide drug court coordinator within the department of human services. AMENDED: Directs division of alcoholism and substance abuse within the department of human services create program to administer grants to local drug courts. Creates the office of the statewide drug court coordinator within the division of alcoholism and substance abuse. Approved as amended by House Human Services committee

[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 by full Senate 47-0. Returned to House for transmission to Governor.

[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 by full Senate 47-0. Returned to House for transmission to Governor.

[MISSOURI HJR 1 \(2007\)](#) ORIGINAL (as passed by House) Prohibits courts from instructing or ordering the levying or increase of taxes, or ordering how to spend, allocate, or budget fiscal resource. Applies to state and local governments. SUBSTITUTED by Senate committee: Prohibits courts from instructing or ordering the state's levying or increase of taxes, or ordering how to spend, allocate, or budget fiscal resources. Prohibits court from ordering the General Assembly or the executive to increase taxes or to create new taxes. Specifies exclusive authority over appropriations is with the legislature. Approved as substituted 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. Tabled in Senate Judiciary committee

[MONTANA SB 227 \(2007\)](#) Extends jurisdiction of Justice Courts with regards to writ of execution, such writ may be served anywhere in state. Prohibits justice courts from conducting pre-trial hearings by phone. Passed by full House as amended by House Judiciary committee. Returned to Senate for concurrence with House amendments.

[MONTANA SB 382 \(2007\)](#) Permits but does not require mental health courts in each judicial district. Previously passed House. Approved by Senate Judiciary committee

[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. Approved by full Assembly and sent to Senate

[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. Approved by full Senate. In Assembly Judiciary committee

[NEW MEXICO HB 6 \(SPECIAL SESSION 2007\)](#) ORIGINAL: 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. AMENDED: Same as above, but law only goes into effect if constitutional amendment approved that would do away with retention elections and replace them with partisan judicial elections. Approved as amended by the full Senate. House concurred in amendment. [Governor has indicated he will line item veto the amendment.](#)

[TENNESSEE HB 395 \(2007\)](#) Clarifies that if the elected successor to a judicial office becomes ineligible to serve prior to

September 1 due to death or other reason, a vacancy exists in that position. Approved by Senate Judiciary committee

[TENNESSEE SJR 139 \(2007\)](#) Popular election of various officials, including attorney general (currently, attorney general is selected by the Supreme Court). Approved by Senate Judiciary committee as amended 5-4. In Senate Government Operations committee

[TEXAS HB 41 \(2007\)](#) Deems confidential voter registration records, appraisal records, and other county records to be confidential if they contain the address information of state and federal judges and state legislators. Approved as amended by House Local Government Ways and Means committee

[TEXAS HB 842 \(2007\)](#) Requires the addresses of judges and justices be removed from publicly available copies of their personal financial statements. Approved by full House, not yet sent to Senate.

[TEXAS HB 1380 \(2007\)](#) Expressly states that courthouse security funds may be used to provide security for associate judges, and to require that the local administrative judges report security incidents to Office of Court Administration. Approved as amended by House County Affairs committee

[TEXAS SB 496 \(2007\)](#) Allows the judicial and court training fund to be used to train

attorneys, judges, law enforcement officers, law students, and other participants in cases of indigent representation (currently limited to judges and attorneys only). Approved as amended by Senate Jurisprudence committee and by full Senate. In House Judiciary 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. Defines emergency for purposes of this provision. Approved as amended by full Senate. In House 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 full Senate. In House Judiciary committee

[TEXAS SB 699 \(2007\)](#) Provides that parties in a civil action need only provide the last two numbers of each party's driver's license number and the last four numbers of each party's Social Security number to the clerk of the court. Authorizes court to issue a contempt finding if party fails to provide required information. Approved as amended by Senate Jurisprudence committee and by full Senate. In House Business & Industry committee

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