

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Maryland and Washington

Maryland's legislature adjourned April 9, having sent a series of judiciary-focused bills to the Governor.

[HB 331](#) and its companion [SB 143](#) authorizes the Administrative Office of the Courts, in collaboration with the other members of the oversight committee of the Circuit Court Real Property Records Improvement Fund, to establish a pilot program for electronic filing of instruments relating to real property.

[HB 459](#) and its companion [SB 587](#) requires the Chief Judge of the District Court to authorize the use of a single document for issuance of specified multiple, separately numbered, citations and requires the Chief Judge specify the means used to execute specified citations by a police officer and by a person to whom a citation is issued.

[HB 792](#) 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. It also authorizes the referral to the Attorney Grievance Commission for possible disciplinary proceedings.

[HB 1109](#) increases from \$25,000 to \$30,000 the amount in controversy that determines the civil jurisdiction of the District Court in certain cases.

A one-chamber bill of note was [SB 46](#), which would have established nonpartisan elections for the Circuit Court. The bill passed the Senate 40-6 and a hearing was held by the House Judiciary committee before the legislation was withdrawn.

There were several bills that were rejected or withdrawn but of interest.

[HB 77](#) and its companion [SB 914](#) would have required judges of the Orphan's Court have at least a juris doctorate or its equivalent. The House version was voted down by the House Judiciary committee while the Senate version had a committee hearing and was withdrawn.

[HB 469](#) would have established a Task Force to Study Judicial Involvement with the Legislative Process to "study the issues that arise when the judicial branch of



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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/



government becomes involved with legislative proposals and identify inappropriate interference.” The bill was voted down by the House Judiciary committee.

Washington’s legislature was no less active before it adjourned for the year on April 22. Going to the Governor for approval were:

[HB 1649](#) authorizes the purchase of an increased benefit multiplier for past judicial service for judges in the public employees’ retirement system and the teachers’ retirement system.

[HB 1994](#) allows courts to retain overpayments of \$10 or less made in connection with any litigation with the money deposited in the local current expense fund.

[HB 5320](#) creates an Office of Public Guardianship within the Administrative Office of the Courts with the Supreme Court to appoint the public guardianship administrator. The new office will contract and set minimum standards for public guardianship services. The bill also creates a Public Guardianship Advisory Committee to review the work of the office.

[HB 5351](#) and its companion [HB 1960](#) authorizes the Court of Appeals to create rules to provide reimbursement to a judge of that court for work-related travel expenses from the judge’s customary residence to the division headquarters of the court and back.

[SB 5918](#) alters the Judicial Retirement Account (JRA) program regarding claims against the account arising out of divorce and state community property laws.

Technical clarifications are made to the statutes that govern the administration of other types of claims against a JRA, such as bankruptcy.

A one-chamber bill of note was [HB 1590](#) and its companion [SB 5353](#) which expressly authorized cities to contract with another jurisdiction or jurisdictions for the delivery of municipal court services so long as the “host” jurisdiction and any contracting cities are in “reasonable proximity” to one another. The House bill passed that chamber 97-0 but no action was taken in the Senate. The Senate version was amended and reported out of that chamber’s Judiciary committee with no other action taken.

A great deal of legislative activity involved Washington’s judicial campaign finance structure. Although none passed a chamber, they were very active in committee.

[HB 1186](#) would have created public financing for Washington Supreme Court and Court of Appeals campaigns. The bill was amended by committee to create a six-year pilot project of public financing. The bill as amended passed both the House State Government & Tribal Affairs and Appropriations committees before dying in the House Rules committee.

[HB 1589](#) and [SB 5226](#) would also have created a voluntary pilot program for appellate races. HB 1589 had only a hearing, while SB 5226 was approved by the Senate Government Operations & Elections committee before dying in the Senate Ways & Means committee.

Other committee-active pieces of legislation were:

[HB 1522](#) (bill) and [HB 4209](#) (Constitutional Amendment) would have removed the mandatory retirement age (75) for judges and justices. Both piece of legislation were approved as amended by the House Judiciary committee but proceeded no further.

[HB 2150](#) would have created a merit selection process with retention elections for the appellate courts. It was approved by the House Judiciary committee but died in the House Rules committee.

Selection

[ALABAMA HB 710 \(2007\)](#) Merit selection with retention elections for appellate court justices and judges. Before retention election, judge/justice to be reviewed by Judicial Evaluation Commission and information provided to voters. Deletes mandatory retirement age provisons. In House Constitution and Elections committee

[NORTH CAROLINA HB 1454 \(2007\)](#) Provides that each superior court judgeship shall be elected separately, as is already provided for the appellate division and district court, and that vacancies shall be filled at the next election for a full eight-year term as is already provided for the appellate division. In House Election Law and Campaign Finance Reform committee

[OHIO HB 173 \(2007\)](#) Changes numerous provisions of law. Creates Judicial Appointment Review Commission that is to submit to governor three persons to fill any judicial vacancies. The governor may appoint one of the three recommended persons or another person to fill the vacancy,

however governor may not appoint a person who within two years before the appointment served on the commission. Creates Judicial Allotment Review Commission to study and review the allotment of judgeships in the courts for the purpose of recommending legislation to ensure the efficient and prompt administration of justice in Ohio
Raises judicial salaries. Requires the Supreme Court to establish a qualification program for candidates for judicial office and changes qualifications for most judges. Creates Supreme Court Security Fund and specifies fees and costs to be forwarded to the Fund and appropriations money to the Fund. In House with no committee yet assigned

[RHODE ISLAND HB 6324 \(2007\)](#) 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. (see [SB 892](#)) In House Judiciary committee

Qualifications and Terms

NONE

Rule Making Authority

[NEVADA AB 519 \(2007\)](#) Prohibits a district court from sealing a judicial public record unless a preponderance of the evidence indicates the existence of certain factors. District court must hold a hearing, provide notice of the hearing to the parties and the public, and allow both the parties and the public to present evidence and written briefs at the hearing. Approved as amended by full Assembly. In Senate Judiciary committee

[NORTH CAROLINA HB 1434 \(2007\)](#)

Requires North Carolina Courts Commission study excusing primary caregivers from jury duty. In House Rules, Calendar, and Operations of the House committee

Structure Changes

[TEXAS HB 530 \(2007\)](#) Requires drug courts in counties with populations over 200,000 (currently, required in counties over 550,000). Authorizes other types of drug/dependency courts for juveniles, family dependency, etc. Creates a \$50 court fee to intoxication, drug and other convictions. Approved by full House

Jurisdiction

NONE

Salary and Budget

[NORTH CAROLINA HB 1404 \(2007\)](#) Provides that the salary of senior resident superior court judges shall be at least fifteen percent greater than that of other superior court judges and that the salary of chief district court judges shall be at least fifteen percent greater than that of other district court judges. In House Appropriations committee

[TEXAS HB 3199 \(2007\)](#) Establishes a commission on judicial compensation to make recommendations to the legislature with regard to judicial pay. Approved as amended by full House

[TEXAS SB 1182 \(2007\)](#) Creates a supreme court support account in the judicial fund,

and requires the clerk of the supreme court and the clerks of the courts of appeal to collect a court cost fee of not more than \$50 and send the fees collected to the comptroller for deposit to the credit of the judicial fund. Approved by full Senate. In House Judiciary committee

[TEXAS SB 1519 \(2007\)](#) Entitles a judge or justice who is paid by the state, is a member of a Judicial Retirement System, and who is an active judge to longevity pay. Approved by full Senate and in House Judiciary committee

Other

[ILLINOIS SB 1306 \(2007\)](#) Defines “judge” able to administer an oath as those currently serving on certain courts, whether elected or appointed, and retired judges of certain courts. Excludes judges convicted of a felony or removed from office by the Illinois Courts Commission. Approved as amended by full Senate.

[TEXAS SB 705 \(2007\)](#) Requires Office of Court Administration to annually collect and publish a report regarding the contents of the jury charge and the sentences issued in capital cases. Approved by full Senate. In House Judiciary committee

[TEXAS SB 1655 \(2007\)](#) Establishes capital writs committee of the Texas Judicial Council and the creation of the office of capital writs to be overseen by the committee. Approved by full Senate and in House Judiciary committee

Floor and Committee Activity

[ARIZONA SR 1003 \(2007\)](#) Disapproves the governor's salary recommendations for elective state officers, justices and judges of courts of record and clerks of the superior court. (Rejection of recommendation required within 90 days of transmission to the legislature). Approved by Senate Appropriations committee. 90th day lapsed, salary raises to go into effect.

[IOWA SF 381 \(2007\)](#) Amends and changes variety of laws pertaining to judiciary. For vacancies on the court of appeals, decreases from 5 to 3 number of nominees submitted to governor by state judicial nominating commission. Eliminates the existing formula for the distribution of district judges among the judicial election districts. New formula to be created by the Supreme Court based on an estimated case related workload formula of judicial officers and accounting for administrative duties, travel time, and other judicial duties not related to a specific case. However, as per existing law, an incumbent district judge cannot be removed from office because of a reduction in the number of authorized judgeships within a particular judicial election district and the number of judges remains capped at 116. In counties with a population of under 300,000 inhabitants, chief judge of the judicial district to appoint a patient advocate. Currently selection made by the district court in the county. Prohibits a member of the county magistrate appointing commission from being appointed to or nominated for the office of associate juvenile judge or associate probate judge. Prohibits a member of the county magistrate appointing commission from voting for a family member or current law or business partner. Provides that a judge, clerk, or deputy clerk serving as a fiduciary may be

compensated for providing fiduciary services if such services are for a close friend's or family member's estate, trust, guardianship, or conservatorship. Signed into law by Governor.

[IOWA SF 430 \(2007\)](#) Pertains to judicial interaction with federally recognized Indian tribes. Specifies how tribal judgments may be filed with clerks of court. Authorizes district courts, after notice to parties, to contact tribal courts regarding certain judgments. To Governor for approval.

[MONTANA HB 629 \(2007\)](#) Allows judges of the District, Justices', City, and Municipal Courts to suggest, and the parties to request by motion, mediation for certain criminal proceedings. Signed into law by Governor.

[MONTANA HJ 7 \(2007\)](#) Joint Resolution urging Judicial an Executive Branches implement teleworking for their employees. Approved by House and Senate.

[MONTANA SB 227 \(2007\)](#) Extends jurisdiction of Justice Courts with regards to writ of execution, such writ may be served anywhere in state. Conference committee report approved by House and Senate.

[MONTANA SB 523 \(2007\)](#) Changes the Workers' Compensation court into a court of record. Approved by full House. Returned to Senate for transmission to Governor.

[NEW HAMPSHIRE SB 133 \(2007\)](#) Changes the amount of the filing fee to be deposited in the escrow fund for court facility improvements from \$3 to 7 percent of the fee. Adds the supreme court and the judicial branch family division to the courts required to collect this amount. Approved as

amended by full Senate. In House Judiciary committee

[OREGON HB 2367 \(2007\)](#) Provides that, if quorum is present, Council on Court Procedures may act by affirmative vote by majority of members in attendance on all matters other than promulgation of rules. Signed into law by Governor.

[OKLAHOMA HB 2050 \(2007\)](#) Modifies numerous laws pertaining to the District Courts. Makes changes to fees paid to jurors, the state's Lengthy Trial Fund, collection of fees by the court and use of credit or debit cards, expands sources courts may use to obtain names for jury service, changes exemptions for jury service, etc. Approved as amended by full Senate. Returned to House for approval of Senate amendments

[TEXAS SB 325 \(2007\)](#) Creates an appellate judicial system for the Ninth Court of Appeals (Currently, appellate judicial systems have been set up in eight of 14 appellate courts in Texas.) Passed both House and Senate and signed into law by Governor.

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