

# Gavel to Gavel

A review of state legislation affecting the courts

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## *Focus: North Dakota and Montana*

North Dakota broke a record for longest session since statehood with legislators in for [78 legislative days](#). Before leaving the marathon in Bismarck, several judiciary-centric bills made it through both chambers:

[HB 1083](#) eliminates the special electronic filing administration fund in the treasury but still allows the Clerk of the Supreme Court to charge and collect an electronic filing processing fee.

[HB 1097](#) extends until January 1, 2012 the statute authorizing the state's Court of Appeals.

[HB 2237](#) requires the state court administrator give to the secretary of state a list of any people who have received protection or restraining orders. The secretary of state is then required to ensure those names are not released to the public from the voting records and the state's central voter file.

[SB 2100](#) expands the list of people who must report abuse and neglect to include juvenile court personnel.

Three pieces of legislation not requiring gubernatorial approval direct the state's Legislative Council to study judicial issues.

[HB 1387](#) directs a study of the leasing or renting of facilities for the use by district courts from counties or other political subdivisions, including the feasibility and desirability of counties retaining a portion of the fees collected by the counties in lieu of leasing or renting by the state.

[HCR 3002](#) directs a study of the judicial election and judicial selection process in North Dakota. It also directs a public information and education program with the State Bar to include public forums around the state regarding judicial selection methodology and the conduct of judicial elections.

[SCR 4004](#) directs a study of the respective responsibilities of county and state judicial system personnel under the Uniform Juvenile Court Act.



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Montana's legislature was very active with bills addressing judicial issues. Making it to the Governor's desk were:

[HB 402](#) raises to \$100 the cost of filing a notice of appeal to the Supreme Court and requires the fee be paid by any cross-appellants as well as appellants.

[HB 629](#) allows trial court judges to suggest, and the parties to request by motion, mediation for certain criminal proceedings.

[SB 209](#) transfers regulation and registration of registered process servers away from clerks of the district courts to the Board of Private Security Patrol Officers.

[SB 227](#) extends jurisdiction of Justice Courts with regards to writ of execution; such writ may be served anywhere in state. An amendment that would have prohibited Justice Courts from conducting pre-trial hearings by phone was added by the House but ultimately removed from the final version and replaced with a provision that telephone conferences are permitted only if one side provides written notice at least 10 days prior.

[SB 382](#) permits but does not require mental health courts in each judicial district or limited jurisdiction court. Any such court requires the written consent of the prosecutor, the defense attorney, and the judge.

[SB 523](#) changes the Workers' Compensation court into a court of record.

Passing both chambers but not requiring the Governor's approval was [HJ 7](#), a Joint Resolution urging the Judicial and Executive

Branches implement teleworking for their employees.

One-chamber bills of note included:

[HB 60](#) would have created a self-help law program under the administration of the Supreme Court to develop legal forms for the public and training for judges and others on self-represented litigants. It was approved by the House Judiciary committee but a 50-50 tie vote on Second Reading in the full House forced the bill back into the House Appropriations committee where it was tabled.

[HB 251](#) would have created city courts of record, similar to existing city courts not of record. It was approved by the House but was tabled in the Senate Judiciary committee.

[HJ 43](#) would have authorized a special 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. It passed the House 78-20 and remained in the Senate Judiciary committee until a motion to remove it from committee and bring it to the floor failed 24-26.

[SB 202](#) would have provided public financing for supreme court candidates. After having passed the Senate on a 30-20 vote, it was sent to the House Appropriations committee where it was tabled.

Finally, a series of bills that reached only hearing stage were nevertheless interesting:

[SJ 8](#) urged the Supreme Court to permit graduates from a non-ABA accredited law school to sit for the bar exam.

[SJ 14](#) would have created a special committee to examine whether the Supreme Court should restrict permission to take the bar exam to those who have graduated from an ABA accredited law school. Hearings on both bills were held in the Senate Judiciary committee in February and no further action taken.

[HB 229](#) would have required judges recuse themselves when an attorney for a party has made a contribution to their campaigns unless all parties and attorneys involved waived the recusal requirement. It was heard in the House Judiciary committee and tabled.

## Selection

[SOUTH CAROLINA SB 742 \(2007\)](#) Judges must receive a majority of the vote of the members of the House and a majority of the members of the Senate voting in Joint Session to be elected (currently, election requires majority of whole General Assembly, not each chamber). In Senate Judiciary committee

## Qualifications and Terms

NONE

## Rule Making Authority

[MICHIGAN HB 4725 \(2007\)](#) Authorizes creation of Jail Population Management Plan. In areas with severe jail overcrowding, authorizes sheriffs and/or judges to reduce bail amounts. Judge may suspend or reduce

sentence to avoid overcrowding and may delegate this authority to Chief District Judge or Chief Circuit Judge. Authorizes accelerated review and rescheduling of court dates to reduce jail populations. In House Judiciary committee

## Structure Changes

[OHIO HB 154 \(2007\)](#) Abolishes Mayor's Courts effective January 1, 2008. Municipalities with a population over 1600 may replace Mayor's Courts with Community Courts presided over by a magistrate who is a lawyer appointed by judge of the Municipal Court or County Court. Those with populations under 1600 must transfer cases to Municipal or County Courts. If population falls below 1600, municipality may petition Supreme Court to retain Community Court. In House Judiciary committee

## Jurisdiction

[MAINE HB 1337 \(2007\)](#) Creates mold dispute resolution program as part of the existing Court Alternative Dispute Resolution Service. In House Natural Resources committee

## Salary and Budget

[NORTH CAROLINA HB 2000 \(2007\)](#) Provides that judges after 25 years of service are to receive an annual amount equal to twenty-four percent of their base salary for their position in lieu of merit and other increment raises paid to regular State employees. In House Appropriations committee

[NORTH CAROLINA HB 2022 \(2007\)](#)

Increases variety of court costs, portions of which are to go to the court information technology fund and state legal aid. (Identical except for name to [SB 960](#)) In House Finance committee

**Other**

NONE

*Floor and Committee Activity*

[ALABAMA HB 387 \(2007\)](#) Cost of living adjustments for state employees and officers. Expressly exempts from the adjustment judges of the appellate courts. Approved by full House. In Senate with no committee yet assigned

[ALABAMA SB 159 \(2007\)](#) Cost of living adjustments for state employees and officers. Expressly exempts from the adjustment judges of the appellate courts. (Similar, but not identical to [HB 387](#)) Approved as amended by Senate Finance and Taxation General Fund committee

[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 have until January 1, 2010 to do the same. Signed into law by Governor

[COLORADO HB 1054 \(2007\)](#) Increases, subject to appropriation, the number of county and district judges and Court of Appeals (19 to 22). Directs the entirety of certain docket and filing fees go to that

state's Judicial Stabilization Cash Fund (currently only a portion of the filing/docket fees go to the fund). To Governor for approval

[LOUISIANA HB 322 \(2007\)](#) Requires city court judges sign an order of appeal within three days and district court judges within seven days. Approved by full House

[NEBRASKA LB 5 \(2007\)](#) Judges and other elected officials not eligible to participate in state's employee suggestion system. Approved by Legislature. To Governor for approval

[NEBRASKA LB 214 \(2007\)](#) Permits a county judge needing assistance to request another county judge from a different judicial district to serve. (Current law requires a judge to either ask judges from within the district or obtain an appointment by the Chief Justice of a judge from another district.) Approved by Legislature. To Governor for approval

[NEBRASKA LB 449 \(2007\)](#) Permits clerk of the court to designate a person to certify judicial records of the Nebraska courts or any federal court in the country. Approved by Legislature. To Governor for approval

[NEBRASKA LB 508 \(2007\)](#) Extends from 120 days to 12 months after the death of a judge for the surviving spouse to exercise an option on contributions plus regular interest in the judge's retirement account. Allows for clerk-magistrates to apply for disability retirement benefits at any time prior to the date of normal retirement with the retirement payments deemed to begin on the date of the certification of the disability. Approved by Legislature. To Governor for approval

[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. Approved by full House. Must be approved by 2009 Legislature to be submitted to voters in 2010.

[NORTH CAROLINA HB 1743 \(2007\)](#) Amends various provisions of election law. Requires Judicial Voter Guide be distributed at least 28 days prior to election (currently, 14 days prior). Approved as amended by House Election Law and Campaign Finance Reform committee. In House Judicial I committee

[OKLAHOMA SB 145 \(2007\)](#) Permits carry and use of firearms within courthouses by a district judge, associate district judge or special district judge provided judge possesses valid concealed handgun license and places their name on a list maintained by the Administrative Director of the Courts. Approved by full House. To Governor for approval

[OREGON HB 2319 \(2007\)](#) Transfers duty to notify county treasurer of large property tax appeals from Oregon Tax Court to Department of Revenue. Approved by full House

[OREGON HB 2331 \(2007\)](#) Creates Court Facilities Planning Commission to study and make recommendations on minimum

standards for suitable and sufficient state court facilities to be constructed or renovated with state financial assistance. Imposes surcharges on specified court filing fees and appropriates funds collected to State Court Administrator to be used only for purposes of paying costs of Court Facilities Planning Commission. Increases or establishes legal aid filing fees for certain court filings. Approved by full House

[OREGON HB 2357 \(2007\)](#) Authorizes Chief Justice to make use of electronic documents, electronic filings and electronic signatures in court proceedings. Permits State Court Administrator, to the extent permitted by the Chief Justice, to provide rules for the destruction of paper records after electronic records have been created. Signed into law by Governor

[OREGON SB 700 \(2007\)](#) ORIGINAL: Requires Public Officials Compensation Commission establish salaries of elective officers including judges and justices. Subject to appropriation, salaries established by commission take effect unless Legislative Assembly passes bill rejecting or amending salaries. (currently, commission can only “review and make recommendations”) Changes membership of Commission to include six members selected by lot by the Secretary of State from the state’s list of registered voters. Requires passage of Constitutional Amendment [SJR 1](#) to take effect. AMENDED: Commission remains limited to “review and make recommendations.” Directs Governor to include recommended salaries in budget report and directs Legislative Assembly to consider salary recommendations in preparing budget. Changes membership of Commission to include six members selected by lot by the Secretary of State

from the state's list of registered voters.  
Takes effective immediately on passage.  
Approved as amended by full Senate

[RHODE ISLAND SB 470 \(2007\)](#) Modifies procedures for the distribution and posting of copies of Supreme Court opinions by utilizing both paper and electronic posting methods. (Similar to [HB 5525](#)) Approved by full Senate as amended.

[TENNESSEE HB 400 \(2007\)](#) Requires Department of Human Services review child support guidelines every three years and recommend to the Supreme Court revisions needed in order to maintain compliance with the federal law and that the guidelines result in determinations of appropriate child support awards. Signed into law by Governor.

[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. Approved by House Institutions committee

[VERMONT HB 546 \(2007\)](#) Establishes salaries for legislative, executive and judicial branches. For Chief Justice \$135,421; Associate Justices \$129,245; Superior court judges 122,867; District judges \$122,867. Effective January 1, 2008. Approved by Senate. To House for transmission to Governor.

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