

# Gavel to Gavel

A review of state legislation affecting the courts

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## *Focus: Florida and Hawaii*

Florida's legislature has now left Tallahassee, but not before sending to the Governor a series of bills regarding the judiciary. Bills passing both chambers included:

[HB 179](#) and its companion [SB 174](#) prohibits deputy clerks of court or deputy sheriffs who are employed full time from practicing law.

[HB 221](#) and its companion [SB 448](#) clarifies the status, regarding benefits, of county-funded personnel who assist in the operation of the circuit court (county-funded employees). Under the legislation, the county is considered the employer of county-funded employees for purposes of certain state laws. The bill permits these county-funded employees to be aggregated with other county employees for purposes of a flexible benefits plan. The legislation also clarifies that when a county provides personnel to the court system, the court system is responsible for those employees compliance with all requirements of federal and state employment laws.

[HB 7083](#) and its companion [SB 1088](#) creates five offices of criminal conflict and civil regional counsel to provide representation in certain cases. The chief judge in each circuit is required to develop the registry of private attorneys available as counsel, with the clerk of the court to maintain the list and provide the name of the next available attorney to the court.

[HB 7197](#) and its companion [SB 1468](#) exempts from sunset statutes laws that exempt social security numbers, bank account numbers and debit, charge, and credit card numbers held by the courts and other agencies from public records requirements and allows for requests for redaction of the numbers in court records.

Bills passing committee only but nevertheless of note included:

[HB 1167](#) which would have created a one year pilot program for special divisions or sections of three circuit courts to handle complex business, corporate, and commercial disputes. The bill was approved by the House Courts committee and Security and Safety Council but died on the House floor.



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[SB 1686](#) would have pushed for the creation of unified family court programs and expressed the legislative intent of achieving “one family, one judge.” It also would have required those affiliated with a not-for-profit legal aid organization to complete a security background investigation before being named a guardian ad litem. It was approved by the Senate Children, Families & Elder Affairs committee and the Senate Judiciary committee but died in the Senate Criminal and Civil Justice Appropriations committee.

Finally, one bill that was withdrawn but of note was [SB 408](#) which would have increased the number of justices on Florida Supreme Court from 7 to 15. The reason for the increase would have been because the Legislature “finds that the majority decision by the Florida Supreme Court in [Bush v. Holmes, 919 So.2d 392 \(Fla. 2006\)](#), was specious in its posture regarding the doctrine of judicial restraint and was the equivalent of judicial activism in policymaking...” The sponsor told local media that the filing of the bill was an accident: “[Basically, a law student came up with the idea and asked me to have it drafted so he could see how it would look, but it was never supposed to be introduced.](#)”

Hawaii’s legislature was exceptionally active with respect to legislation affecting the courts, however almost none of it was able to pass through both chambers.

Sent to the Governor for approval this session was [HB 1210](#) which allows flexibility and the use of electronic methods for selecting, summoning, and managing grand jurors and jurors.

Also passing both chambers but not requiring the Governor’s approval was [SCR](#)

[175](#), which requests the Judiciary to report on whether the courts are assessing a mandatory crime victim compensation fee against all convicted criminal offenders who have the ability to pay the fee. [SR 114](#), an almost identical resolution, also passed the Senate.

A series of bills addressing court interpreters were passed by both chambers, but no one bill passed both. [SB 625](#) would have required the judiciary certify court interpreters and to appoint and use certified court interpreters in legal proceedings. It passed the Senate with no activity in the House. [HB 600](#) on the other hand passed the House but was heavily amended by Senate committees before being approved by the full Senate. A conference committee named to reconcile the differences was unable to do so before the session ended.

Similarly, versions of [SB 1954](#) passed both chambers without being able to be reconciled. The Senate version required “all disciplinary sanctions” imposed by the supreme court upon any justice or judge in the state of Hawaii along with the findings and recommendations of the commission on judicial conduct, or its successor to be publicly disclosed within 30 days of the imposition of such sanction. The House version was limited to “every disciplinary sanction for serious misconduct.” A conference committee named to reconcile the differences was unable to do so before the session ended.

One-chamber bills of note included:

[HB 660](#) would have given circuit courts the power to conduct impeachment proceedings against county officers. It passed in the House and died in the Senate with no action

taken. Its companion [SB 960](#) was never acted upon.

[HB 1814](#) would have required the Board of Family Court Judges to provide the Legislature, upon request, reports containing Family Court data and information. It passed in the House and died in the Senate with no action taken.

[SB 948](#) would have reduced the number of nominees presented to the governor (or chief justice for district court vacancies) from four to six nominees to three to five nominees and required the Judicial Selection Commission rank the nominees. It was approved by the full Senate, but the House Judiciary committee only approved it with its own amendments. The bill ultimately died in the House Finance committee.

[SB 1158](#) would have created a citizen's family law advisory committee within the judiciary that would have advised the judiciary and the legislature. It was approved by the Senate with no action taken in the House.

[SB 1526](#) would have repealed the authority of the judicial salary commission to determine judiciary administrators' salaries. Instead, the maximum salary of the administrative director would be set as 80% of the Chief Justice and the maximum deputy administrative director's salary set at 95% of administrative director's salary. It was approved by the Senate with no action taken in the House.

[SCR 9](#) would have requested the Office of the Auditor to assess the handling of domestic violence matters in the Family Court of the First Judicial Circuit. The related bill [SCR 10](#) would have requested

the Judiciary implement a pilot family court parenting plan model program in the first circuit family court. Both were approved by the Senate. The House took no action on SCR 9 while SCR 10 was approved by the House Human Services and Housing committee before dying in the House Judiciary committee.

## *Newly Introduced*

### **Selection**

#### [SOUTH CAROLINA HB 4118 \(2007\)](#)

Judges and justices to be appointed by the Governor with the consent of the Senate. In House Judiciary committee

### **Qualifications and Terms**

NONE

### **Rule Making Authority**

NONE

### **Structure Changes**

NONE

### **Jurisdiction**

[ALABAMA HB 937 \(2007\)](#) Expands small claims jurisdiction of district court to include unlawful detainer actions. In House Judiciary committee

#### [SOUTH CAROLINA SB 764 \(2007\)](#)

Increases small claims jurisdiction in Magistrates Court from \$7,500 to \$10,000. In Senate Judiciary committee

## Salary and Budget

[MICHIGAN HB 4806 \(2007\)](#) Modifies requirements for health care benefits and vesting requirements under the judges retirement system. In House Oversight and Investigations committee

## Other

NONE

## Floor and Committee Activity

[CONNECTICUT HB 7429 \(2007\)](#)  
Combines language from 5 other bills. Requires the Judicial Selection Commission to evaluate incumbent state referees seeking reappointment in the same general way as they evaluate judges seeking reappointment, establish an Internet web site, and comply with the Freedom of Information Act's (FOIA) provisions on meeting notices and agenda availability. Requires Judicial Review Council make its investigatory records open to the public if its preliminary investigation finds probable cause a violation has been committed, requires all JRC proceedings, including deliberations in making its findings, to be open to the public. Removes Chief Justice's authority to name chief court administrator and probate court administrator and places it in the General Assembly. Defines "administrative functions" as that phrase is used in FOIA to identify Judicial Branch records and meetings subject to the act. Changes numerous court practices regarding openness of court records and proceedings to the public. Approved by House Appropriations as amended

[LOUISIANA SB 125 \(2007\)](#) ORIGINAL: Requires Supreme Court be located in state capital city by 2010. Requires Supreme Court review every case in which a district court ruling or judgment is reversed by an appellate court. AMENDED: Same, but requires Supreme Court move by 2012. Approved by House Judiciary A committee and amended on House floor.

[NEBRASKA LB 322 \(2007\)](#) Amends various statutes related to funding and appropriations. Creates Counsel for Discipline Cash Fund within the Supreme Court and administered by the State Court Administrator to pay the costs associated with the operation of the Office of the Counsel for Discipline. Signed into law by Governor

[NEW HAMPSHIRE HB 394 \(2007\)](#)  
Requires administrative judge of the district court to make a report on the district courts' experience with requirement that notice to defendants in small claims actions be by first class mail. Approved by Senate. To Governor for approval

[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. Approved as amended by full House. In Senate State & Local Government committee

[NORTH CAROLINA HB 1243 \(2007\)](#)  
Specifies when a judge may subject a juvenile to physical restraint in the courtroom. Approved by full House. In Senate Judiciary II 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. Approved by Senate Judiciary II committee

[OKLAHOMA HB 2069 \(2007\)](#) Modifies employer contribution rate for Uniform Retirement System for Justices and Judges. Conference committee report rejected by House 47-51.

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

[OREGON SB 271 \(2007\)](#) Permits judge to waive or defer all or part of the fees and

court costs payable to the court by a party in a civil action or proceeding if the judge finds that the party is unable to pay. Allows judge to delegate this authority to court administrator. Approved as amended by House Judiciary committee

[TEXAS HB 842 \(2007\)](#) Requires the addresses of judges and justices be removed from publicly available copies of their personal financial statements. To Governor for approval

[VERMONT HB 313 \(2007\)](#) Expands procedures and means by which the court may collect unpaid fines, fees, and costs. Expands use of credit cards for payment of fines, penalties and surcharges. Approved by both chambers. To Governor for approval.

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