

# Gavel to Gavel

A review of state legislation affecting the courts

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## *Focus: Alaska, Kansas and Minnesota*

Alaska's legislature was relatively quiet with respect to bills affecting the courts. The only activity of note was [HB 109](#), proposed by the Governor. It strengthens ethics requirements for elected officials and requires candidates file more detailed reports related to campaign donations and expenditures. The bill exempts judges seeking retention only if they neither seek nor obtain nor expend more than \$5,000. The bill was sent to the Governor for approval.

Also relatively quiet was Minnesota, however some legislation moving related to the courts.

[SF 1349](#) and its companion [HF 1388](#) would have repealed language that authorized the Supreme Court to set the salaries of the state court administrator and district court administrators and clarified that those administrators were enumerated employees for purposes of coverage under the Minnesota State Retirement System. They also would have established that the Judicial Council sets the policy on reimbursing new

judges for travel expenses between a judge's place of residence and permanent chambers. The Senate approved its version and sent it to the House, where no action was taken. The House version was never acted upon. (*Correction: The House version was held over and ultimately was folded into the Omnibus Public Safety Finance and Policy Bill which did pass the House. –editor*)

[SF 1700](#) and its companion [HF 1895](#) would have required court administrators provide a person who is proceeding in forma pauperis with a copy of the person's court file without charge. The House version was never taken up in committee, while the Senate version passed that chamber and into the House where it was never acted upon. (*Correction: The House version was held over and ultimately was folded into the Omnibus Public Safety Finance and Policy Bill which did pass the House. –editor*)

One chamber bills of note included:

[HF 1494](#) and its companion [SF 1588](#) would have placed limits on contributions to candidates for judicial office; \$2,000 in an election year and \$500 in other years. The House version was approved by the House Governmental Operations, Reform, Technology and Elections committee before



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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](mailto:wraftery@ncsc.dni.us)

Subscribe: [gaveltogavel@ncsc.dni.us](mailto:gaveltogavel@ncsc.dni.us)

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being substituted for SF 1588. The Senate version received that chamber's approval but died in the House.

Going nowhere legislatively but of note were a series of bills related to judicial discipline and the state's Board on Judicial Standards. [HF 1736](#) and [SF 774](#) would have curtailed the power of the Board to name its executive director and instead required Senate confirmation of the Board's choice. [HF 1261](#) and its companion [SF 2079](#) would have replaced the members of the state's Board on Judicial Standards with eight people randomly selected from a list of applicants that submitted their own names to the Secretary of State. The eight would then name a member of the House and Senate to sit with them. The bills would have removed the Supreme Court's power to set rules, practice and procedure not only for the Board but for the courts in general.

Kansas was more active, having concluded its legislative session with the following going to the Governor:

[HB 2140](#) declares English the official language of Kansas and requires its use in official proceedings. An exemption however allows for the use of English in order to "protect the rights of parties and witnesses in a civil or criminal action in a court or in an administrative proceeding."

[SB 31](#) clarifies the subject matter jurisdiction of municipal courts to allow the municipal court to hear and determine cases involving violations of city ordinances and specified violations that could be charged as a felony in district court.

[SB 57](#) repeals a requirement that the Chief Justice submit to the legislature an annual

report of all district magistrate judge positions created or eliminated under certain statutes.

[SB 85](#) allows retired justices and judges to work for the commission on judicial performance while receiving service retirement benefits pursuant to the provisions of the retirement system for judges.

Of note but proceeding no further than committee hearings were bills stripping the courts of jurisdiction to hear cases involving funding and appropriations. [HCR 5012](#) would have specified "the executive and judicial branches shall have no authority to direct the legislative branch to make any appropriation of money or to redirect the expenditure of funds appropriated by law, except as the legislative branch may provide by law or as may be required by the Constitution of the United States." [SCR 1601](#) would have detailed that "the legislature shall provide for finance of the educational interests of the state in the manner and amount as determined solely by the legislature."

Also of note were bills that would have altered the authority to name District Court Chief Judges. SB 45 and its companion [HB 2261](#) as introduced would have removed the power of the Supreme Court to name the Chief Judges and given that authority to the District Judges themselves. The House bill was introduced and no action taken. The Senate bill was [amended](#) by the Senate Judiciary Committee to limit this new rule to only the 18<sup>th</sup> Judicial District. The Senate's Committee of the Whole approved of the Senate's Judicial committee's report on the bill as amended but a day later the full Senate rejected the bill on a 19-21 vote.

## *Newly Introduced*

### **Selection**

NONE

### **Qualifications and Terms**

NONE

### **Rule Making Authority**

[WISCONSIN AJR 56 \(2007\)](#) Prohibits Supreme Court from assessing fees on attorneys, judges, or justices without statutory authority. In Assembly Elections and Constitutional Law committee

### **Structure Changes**

NONE

### **Jurisdiction**

NONE

### **Salary and Budget**

[PENNSYLVANIA HB 1365 \(2007\)](#) Creates Commission on Salaries and Benefits for Elected Officials, consisting of randomly selected registered voters, to study and fix the salaries of all elected state officials. In House State Government committee

### **Other**

NONE

## *Floor and Committee Activity*

[ALABAMA HB 227 \(2007\)](#) Recodifies and redefines jurisdiction of juvenile courts. Consolidates provisions in various statutes into one chapter. Postponed indefinitely in House

[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 Senate Finance and Taxation General Fund committee and by full Senate. To Governor for approval

[ALABAMA SB 159 \(2007\)](#) Cost of living adjustments for state employees and officers. Expressly exempts from the adjustment judges of the appellate courts. Postponed indefinitely in Senate

[ILLINOIS HB 622 \(2007\)](#) 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 by full Senate. To be returned to House for transmission to Governor

[ILLINOIS HB 1790 \(2007\)](#) Provides for the issuance of a restricted court reporter's certificate upon the written request of the Chief Judge of a reporter's circuit (currently, request must come from Supreme Court). Approved by full Senate. To be returned to House for transmission to Governor

[ILLINOIS HB 2377 \(2007\)](#) Creates Supreme Court Historic Preservation

Commission and Supreme Court Historic Preservation Fund. Commission to assist and advise the Supreme Court concerning the acquisition and preservation of historic buildings, objects, and documents related to the Illinois judiciary. Amended on House floor and referred to Rules committee

[LOUISIANA HB 210 \(2007\)](#) ORIGINAL: Links district court clerk's salaries to that of district court judges. (Currently, salaries are linked to population of district/parish). AMENDED: Salaries remain linked to population of district/parish, but amounts and levels changed. Amended and approved by House Judiciary committee and by full House. In Senate Judiciary A committee

[LOUISIANA HB 488 \(2007\)](#) Authorizes the Supreme Court Committee on Bar Admissions, Attorney Disciplinary Board, and the Office of Disciplinary Counsel to have access to and use of criminal arrest records that are maintained by the Department of Public Safety and Corrections. Amended and approved by House Judiciary committee. Full House removed Judiciary committee amendment and approved. In Senate Governmental Affairs committee

[LOUISIANA HB 818 \(2007\)](#) Provides for a 4% retirement benefit increase on July 1, 2007 and July 1, 2008, and for cost-of-living adjustments (COLAs) not exceeding 2% each year subsequent to those initial increases, for the judges and surviving spouses who receive retirement benefits from the judges' noncontributory plan. Approved by House Retirement committee

[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. Referred to Senate Finance committee.

[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 by full House. To Governor for approval

[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 full Senate as amended. Returned to Assembly with Senate amendment committee

[NEVADA SJR 2 \(2007\)](#) ORIGINAL: Merit selection for justices of the supreme court and judges of the district court. Governor selects upon vacancy from list of three candidates. After one year of service, retention election. If retained, 6-year term. Retention requires 60% of votes in favor. AMENDED: Same, but reduces retention requirement to 55%. Assembly concurs in Senate amendment. If approved again by 2009 legislature, on ballot in 2010.

[NEW HAMPSHIRE HB 895 \(2007\)](#) Removes power of Chief Justice of the Superior Court to certify court reporters. Certification and licensing to be handled by newly created board of court reporters as a part of the joint board of licensure and certification. Approved by as amended

Senate. To be returned to House for concurrence with Senate amendment

[NEW HAMPSHIRE SB 31 \(2007\)](#) Includes Chief Justice or the Chief Justice's designee on the state's Advisory Council on Emergency Preparedness and Security. Voted "Inexpedient to Legislate" by Senate Executive Departments and Administration committee

[NEW HAMPSHIRE SB 109 \(2007\)](#)  
ORIGINAL: Grants Chief Justice power to suspend, toll, or otherwise grant relief from time deadlines when certain emergency situations occur. AMENDED: Same, but limits power length of tolling, suspension, etc. to a 21-day period. Permits the legislature to terminate such orders by concurrent resolution. Approved as amended by House Judiciary committee

[NORTH CAROLINA HB 1479 \(2007\)](#)  
Establishes policies, procedures, and sanctions for courts to address contempt by juveniles. Approved by full House as amended. In Senate Judiciary II committee

[NORTH CAROLINA SB 659 \(2007\)](#)  
Elected officials that are members of the Judicial Retirement System or other retirement systems forfeit their pensions on conviction of specific state and federal offenses. Offense must be committed while serving judicial officer and is directly related to the member's service. Approved as amended by House Judiciary I committee. In House Pensions and Retirement committee

[NORTH CAROLINA SB 1131 \(2007\)](#)  
Permits District Judges to perform marriage ceremonies. Approved by full Senate and House Rules, Calendar, and Operations of the House committee

[NORTH CAROLINA SB 1363 \(2007\)](#)  
Provides that any candidate that receives a majority of the vote in a nonpartisan primary for a judicial seat is the sole nominee and will appear as the sole candidate on the final election ballot. Approved as amended by full Senate. In House Election Law and Campaign Finance Reform committee

[OHIO SB 180 \(2007\)](#) Increases penalties for crimes committed in courthouses. Any assault or menacing that occurs in a courthouse or building containing a courtroom is at minimum a fifth degree felony. (see [HB 141](#)) No committee yet assigned

[RHODE ISLAND HB 5516 \(2007\)](#) Repeals law that permits payment of actual travel expenses for the judges and justices of the courts and the stenographic clerks. Approved as amended by full House. In Senate Finance committee

[RHODE ISLAND HB 5519 \(2007\)](#) Provides that whenever a judge, justice or magistrate is granted a leave of absence without pay, such absence would not be credited towards active service time for the purposes of retirement. Approved by full House. In Senate Finance committee

[TENNESSEE SB 539 \(2007\)](#) Institutes popular elections for supreme court justices and all appellate judges. Abolishes the Tennessee plan of judicial selection. Enacts "Tennessee Judicial Public Campaign Financing Act", providing public financing for appellate court races. Action deferred by Senate Judiciary committee until January 2008

[TENNESSEE HB 544 \(2007\)](#) ORIGINAL: Extends sunset date for state's Judicial Selection Commission from June 30, 2007 to June 30, 2011. AMENDED: Extends sunset date to June 30, 2008. Approved as amended by full House. (see Senate version below)

[TENNESSEE HJR 108 \(2007\)](#) ORIGINAL: Requires courts utilize a rational basis standard when reviewing hunting, fishing, and similar regulations. AMENDED: Removes language directing court's use of rational basis standard. Approved as amended by House Conservation and Environment and House Calendar & Rules committees

[TENNESSEE SB 970 \(2007\)](#) ORIGINAL: Extends sunset date for state's Judicial Selection Commission from June 30, 2007 to June 30, 2011. AMENDED: Extends sunset date to June 30, 2008. Approved as amended by Senate Government Operations committee. In Senate Calendar committee

[TENNESSEE SJR 139 \(2007\)](#) Popular election of various officials, including attorney general (currently, attorney general is selected by the Supreme Court). Approved as amended by full Senate.

[SOUTH CAROLINA HB 3934 \(2007\)](#) "Judicial Enhancement Act" amends

numerous provisions of law. County clerk of court required to report to AOC number of indictments for which a true bill is returned, including defendant information, offense, etc. In complex civil cases and on motion by a party, Chief Administrative Judge may assign the action to a single judge to handle that case from beginning to end. Permits Family Court judge to appoint hearing officers. Increases fees in Magistrates Court and raises the court's jurisdiction from \$7,500 to \$15,000. Permits transfer of cases from General Sessions Court to Magistrates Court if crime punishable by no more than 1 year in prison or is classified a misdemeanor. Approved by full House. In Senate Judiciary committee

[WISCONSIN AJR 31 \(2007\)](#) Prohibits the Supreme Court from requiring practicing attorneys to become members of the State Bar of Wisconsin or to pay dues to any bar association. Approved by Assembly Elections and Constitutional Law committee. In Assembly Rules committee

[WISCONSIN SB 171 \(2007\)](#) Public financing of Supreme court campaigns. Approved by Senate Campaign Finance Reform, Rural Issues and Information Technology committee

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