

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Removing/altering court power over state bars

2007 saw several pieces of legislation that would have impacted the judiciary's authority over bar admission, discipline and overall administration. Though none made their way into law, 2008 already promises to meet or exceed the number of proposals introduced last year.

In 2007, Wisconsin's [AJR 31](#) would have prohibited the Supreme Court from requiring practicing attorneys to become members of the State Bar of Wisconsin or to pay dues to any bar association. [AJR 30](#) would have prohibited the Supreme Court from assessing indigent legal fees to attorneys licensed to practice law. Both were approved 4-3 by the Assembly Elections and Constitutional Law committee but never made it to the floor. A similar bill, [AJR 56](#) would have prohibited the Supreme Court from assessing fees on attorneys, judges, or justices without statutory authority. It never received a committee hearing.

Missouri's [HB 1168](#) would have amended the Missouri Supreme Court Rules to allow

members of the General Assembly with at least eight years service to take the bar examination. Montana's [SJ 8](#) would have urged their Supreme Court to permit graduates from a non-ABA accredited law school to sit for the bar exam while [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.

2008 finds several pieces of legislation already active even though most legislatures are not yet in session. In Arizona, initiative [I-08](#) is circulating by a group calling itself the "Committee for the Preservation of Constitutional Government" that would [remove all authority over bar licensing and discipline from the Supreme Court](#) and place it in a newly created Legislative commission. South Carolina's Legislature already has two similar bills pre-filed to remove the Supreme Court's power over bar admission and attorney discipline. [HB 4370](#) would place the authority under the General Assembly and direct it to pass laws "consistent with the manner by which the General Assembly regulates other professions that require a doctorate degree." [HB 4371](#) would specifically place the authority in a newly created Commission on



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the Legal Profession and Judiciary under the Department of Labor's Division of Professional and Occupational Licensing.

Newly Introduced

Selection

[MISSOURI HJR 49 \(2008\)](#) Increases to 9 the number of people on the Appellate Judicial Commission, 5 to be non-attorneys appointed by the Governor. (Current commission: 7 people, 3 non-attorney members) No committee yet assigned

[MISSOURI HJR 51 \(2008\)](#) Repeals the Commission on Retirement, Removal, and Discipline of Judges. No committee yet assigned

[MISSOURI SB 757 \(2008\)](#) In those counties that do not use merit selection, requires nonpartisan judicial elections beginning January 1, 2010. Prohibits partisan activity by such candidates and places enforcement with the Missouri Ethics Commission .In those counties that do use merit selection, no changes. Not yet assigned to committee

[WISCONSIN AJR 81 \(2007\)](#) Moves nonpartisan elections, including that of judges and justices, from Spring to November. In Assembly Elections and Constitutional Law committee

Qualifications and Terms

[FLORIDA HB 295 \(2008\)](#) Allows judges who have lost their seats in elections or who have failed to be re-elected to be considered "retired" for purposes of temporary assignment. In Safety & Security Council

[FLORIDA SB 740 \(2008\)](#) See [FLORIDA HB 295 \(2008\)](#). Not yet assigned to committee

[SOUTH CAROLINA SB 861 \(2008\)](#)

Requires candidates for a probate judgeship to have been a resident for at least five years and be licensed to the practice of law for at least five years prior to election (currently, need only be a resident at time of election and have either a bachelor's degree or have worked in a probate court for at least 4 years). In Senate Judiciary committee

Rule Making Authority

[SOUTH CAROLINA HB 4370 \(2008\)](#)

Removes Supreme Court's power over bar admission and attorney discipline. Places authority under General Assembly to pass laws "consistent with the manner by which the General Assembly regulates other professions that require a doctorate degree." In House Judiciary committee

[SOUTH CAROLINA HB 4371 \(2008\)](#)

Removes Supreme Court's power over bar admission and attorney discipline. Creates Commission on the Legal Profession and Judiciary under the Department of Labor's Division of Professional and Occupational Licensing. Commission to have power over bar admission and attorney discipline. In House Judiciary committee

Structure Changes

[MISSOURI SB 730 \(2008\)](#) Allows any "first-class" county to establish municipal courts, Number of judges to be set by and judges selected by the county commission. The organization and session schedule of the

court shall also be established by ordinance.
Not yet assigned to committee

Jurisdiction

[ARIZONA SCR 1004 \(2008\)](#) Allows Superior Court to have original jurisdiction over dissolution of marriage and annulment (currently, only has original jurisdiction over divorce and annulment). No committee yet assigned

[MISSOURI HB 1417 \(2008\)](#) Raises small claims jurisdiction from \$3,000 to \$5,000. Not yet assigned to committee

[MISSOURI HJR 41 \(2008\)](#) Removes court's jurisdiction to order the levy or imposition of new or increased taxes, licenses, or fees. Removes court's jurisdiction to order a government agency or the general assembly to appropriate or expend public funds. Allows courts to enjoin the levy or collection of illegal taxes, etc. or the expenditure of public funds not authorized by law or contrary to law. Allows courts to order reductions in tax rates. No committee yet assigned

Salary and Budget

NONE

Other

NONE

Floor and Committee

Activity

NONE

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