

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Utah

The Utah legislature adjourned March 5 has tackled some relatively large and complex pieces of legislation regarding the courts. Those bills enacted into law included:

[HB 63](#) recodifies, renumbers and revises the entire State Affairs Code (Title 63) including the sections on judicial nomination commissions.

[HB 78](#) recodifies, renumbers and revises the entire Judicial Code (Title 78).

[HB 79](#) reauthorizes the Office of the Court Administrator for another 10 years.

[HB 178](#) specifies and clarifies the territorial jurisdiction of Justice Courts.

[HB 236](#) clarifies the appellate jurisdiction of the District Courts over Justice and Small Claims court decisions as well as Juvenile Court jurisdiction.

[HB 319](#) requires the Judicial Council to approve certain grants to Judicial Branch agencies as well as including provisions for legislative review of certain grants.

[SB 72](#) heavily modifies the state's Justice Courts. Among other items, it sets or resets the terms and minimal qualifications (such as requiring a Bachelor's degree) to serve as a Justice Court Judge and established a performance evaluation and retention process for the judges. It amends the jurisdiction of the District Court with respect to the Justice Courts, specifies compensation for Justice Court Judge and limits their compensation through their secondary employment, and creates a county-wide judicial nominating commission to fill court vacancies.

[SB 105](#) modifies the state's judicial performance system, eliminating the system under the Judicial Council's system and creating a Judicial Performance Evaluation Commission. It requires the Commission conduct performance evaluations for judges up for retention, defines the elements in the evaluation and minimum performance standards. The Commission survey and findings must be posted online and published in a voter's guide along with the Commission's recommendation to retain, recommendation against retention, or lack of recommendation.

[SB 191](#) allows the Judicial Conduct Commission to decline to investigate any



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complaint that is received more than four years after the act or omission that constitutes the misconduct unless the complaint alleges criminal misconduct.

Selection: Newly Introduced

[ALABAMA HB 624 \(2008\)](#) Requires nonpartisan election of candidates for Circuit and District Court judgeships. In House Constitution and Elections committee

[HAWAII SCR 97 \(2008\)](#) Directs Legislative Reference Bureau to draft constitutional amendment to prohibit members of the Judicial Selection Commission from being employed by an insurance company or other associations to businesses entities that are parties to pending court cases. In Senate Judiciary committee

[IOWA HSB 776 \(2008\)](#) Restructures terms for members of the State Judicial Nomination Commission. Terms for all commissioners serving as of December 31, 2012 end on that date. Sets staggered 2, 4 and 6 year initial terms, followed by regular 6 year terms thereafter.

Selection: Floor and Committee Activity

[ARIZONA HCR 2006 \(2008\)](#) Merit selection threshold raised from counties of 250,000 to counties of 600,000. Rejected by House Judiciary committee

[ARIZONA HCR 2063 \(2008\)](#) Ends merit selection for Superior Court judges. Replaces with direct nonpartisan elections. Places Superior Court elections in state public financing system with funding to come from fines assessed on criminal

convictions. (see ARIZONA SCR 1021) Withdrawn from House Judiciary committee. Withdrawn by Counties, Municipalities, and Military Affairs Committee.

[CONNECTICUT SB 448 \(2008\)](#) Directs State Elections Enforcement Commission to submit report on inclusion of Probate Judges in state's public campaign financing program. Report due January 1, 2009. Joint committee on Government Administration and Elections reported favorable bill substitute

[MISSISSIPPI SB 2571\(2008\)](#) Makes Justice Court elections nonpartisan. Requires Justice Court Judge successfully complete a minimum competency examination, receive training and certification by the Mississippi Judicial College, and be subject to continuing education requirements. Failure to comply with requirements within 8 months of taking office results in forfeiture of office. Requires Sheriff provide court security for Justice Courts. Raises Justice Court jurisdiction to \$3,500 and allows for trials in certain criminal cases. Ends practice where larger counties may supplement their Justice Court Justice's salaries and sets salary levels. Approved by full House

Qualifications and Terms: Newly Introduced

[IOWA HF 2501 \(2008\)](#) Allows a senior judge who reaches age 78 to be reappointed to an additional two year term as a senior judge. (see also [IOWA HF 2300](#)) No committee yet assigned

[IOWA SF 2211 \(2008\)](#) Eliminates requirement that a nominee for a district judgeship be a resident of the judicial

election district prior to nomination. The nominee must still become a resident of the judicial election district upon appointment. (see [IOWA SF 2057](#)) In Senate Judiciary committee

Qualification and Terms: Floor and Committee Activity

[ARIZONA SB 1186 \(2008\)](#) (Bill) Requires Supreme Court create performance evaluation system for Superior Court commissioners. Evaluations to include public hearings on commissioners and reports to be made public. Passed as amended by full Senate

[COLORADO SB 54 \(2008\)](#) Establishes the office of judicial performance evaluation within the judicial department with a director appointed by the state commission on judicial performance. Repeals and reenacts, with amendments, sections establishing the duties of the state and district commissions. Specifies criteria by which the state and district commissions are to evaluate justices and judges. Requires written evaluations of justices and judges to contain certain information. Provides that interim evaluations are to be conducted for each justice and judge at least once during the justice's or judge's full term of office. Directs the state court administrator to provide case management data on each justice or judge being evaluated. Senate Appropriations committee passed as amended to Senate Committee on the Whole

[MARYLAND HB 287 \(2008\)](#) Allows Legislature to increase qualification requirements for certain Orphan's Courts Judge if the local government requests such an increase. Rejected by full House

Rule Making Authority: Newly Introduced

[CALIFORNIA AB 3052 \(2008\)](#) Authorizes Judicial Council, after transfer of responsibility to the state of a court facility that requires replacement, to gather information for appropriate alternative methods of project delivery for the court facility replacement, including, a public-private partnership agreement, specify a process and criteria for developing these alternative methods, and identify variables that will be used to evaluate the proposed alternative methods. In Assembly Judiciary committee

[CONNECTICUT SB 605 \(2008\)](#) Changes process of General Assembly review of proposed court rules revisions. Extends Judicial Selection Commission's power to include review of judicial referee's seeking reappointment. Requires Commission release names of qualified candidates for the position of associate judge or Chief Justice of the Supreme Court, establish web site with Commission's contact information and description of the Commission's duties including information on how to apply for a judicial office. Requires Commission give notice of the time and place of its meetings, and make the agendas public (except for personally identifiable information that might identify candidates). Requires number of votes for and against appointment or reappointment of an incumbent judge to the same or a different court be public. Requires Judicial Review Council create website with its contact information and information about how to file a complaint against a judge. Specifies Judicial Branch website must link to Judicial Review Council's website with link entitled "Complaints against Judges". Requires Council give

notice of the time and place of its meetings, and make the agendas public (except for personally identifiable information that might identify respondents). Council may issue advisory opinion on conduct at the request of a judge/referee; opinions to be published in law journal. Requires all admonishments be made public. Requires, with limited exceptions, the entire record of any investigation by the Council be open for public inspection. Allows Council to impose civil penalties of up to \$10,000. Sets term of the Chief Court Administrator as coterminous with the term of the appointing Chief Justice. Grants Chief Justice power to name Chief Probate Court Administrator. Specifically defines “administrative functions” of the courts not subject to open records requests. Requires judiciary make criminal docket of the Superior Court, including the docket number, name of the defendant, year of birth of the defendant and charge, and conviction information available to the public on its Internet web site. Makes any police report submitted to demonstrate probable cause an open public record unless sealed by court. Grants three business days (rather than 72 hours) to appeal order closing judicial proceedings or records. In Joint Committee on Judiciary

[GEORGIA HB 1397 \(2008\)](#) Requires Judicial Council develop uniform procedures for the reporting of the status of cases filed in the Superior and State Courts and requires monthly reporting of same. House Judiciary Non-Civil committee

[MICHIGAN HJR KK/ HJR 44 \(2008\)](#) Specifies conditions requiring Supreme Court Justice to recuse/disqualify from a case. In House Judiciary committee

Rule Making Authority: Floor and Committee Activity

[IOWA HSB 545 \(2008\)](#) Permits Supreme Court to make rules requiring confidentiality of certain court records and information maintained by the court. Such rules to prevail over any other conflicting state laws and administrative rules. Approved by House Judiciary committee

[MARYLAND HB 771 \(2008\)](#) Continues the State Board of Law Examiners under the Court of Appeals until 2019 (set to sunset in 2009). Increases maximum Bar examination fee that the Court of Appeals may impose on an applicant. Approved by full House

[MARYLAND SB 514 \(2008\)](#) See MARYLAND HB 771. Approved by Senate. Sent to House Judiciary committee

[VERMONT SB 246 \(2008\)](#) Prohibits the courts from allowing the general public to have unlimited electronic access to criminal and family court records. Approved by full Senate. Sent to House Judiciary committee

Structure Changes: Newly Introduced

NONE

Structure Changes: Floor and Committee Activity

[WASHINGTON HB 2557 \(2008\)](#) Raises District Court civil limit from \$50,000 to \$75,000. Raises small claims limit from \$4,000 to \$5,000. Prohibits court commissioners from presiding over criminal trials or civil jury trials unless agreed to by parties. Requires a judicial officer disqualify

himself or herself when a party files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judicial officer. The affidavit must be filed prior to any discretionary ruling, which does not include: arrangement of the calendar; setting of an action motion or proceeding for hearing or trial; arraignment of the accused; setting conditions of release; or setting of bail. Only one change of judicial officer is allowed each party in an action or proceeding. Senate approved with amendments. House approved amendments. Sent to Governor for approval

Jurisdiction: Newly Introduced

[GEORGIA HB 1391 \(2008\)](#) Allows magistrates to assist Superior Court Judges and State Court Judges by presiding over the trial of misdemeanor violations in state courts; Superior Court or State Court Judge to preside if jury trial demanded. No committee yet assigned

Jurisdiction: Floor and Committee Activity

[ALABAMA HB 28 \(2008\)](#) Recodifies Alabama Juvenile Justice Act, including provisions on judges named as juvenile and family court judges, jurisdiction of juvenile and family courts, etc. Approved by full House

[GEORGIA SR 721 \(2008\)](#) Prohibits courts from ordering the General Assembly to pass any law, including the creation or increase of any tax, fee, or appropriation. Declares the power of appropriation of state revenues is reserved exclusively to the General Assembly's discretion and that no court

shall have the power to declare an Act or program unconstitutional based upon the exercise of this discretion. Failed 32-23 in full Senate (2/3rds vote required)

[IOWA SSB 3075 \(2008\)](#) Amends variety of laws related to the judiciary. Clerks of the District Court to be appointed by and removable for cause by the Chief Judge for the district. (Currently, clerk chosen by and removed by majority vote of District Judges in the district). Removes obligation of District Court Clerk to collect uncontested parking violation fines for a city or county. (See IOWA HSB 543). Approved by Senate Judiciary committee

Salary and Budget: Newly Introduced

[CONNECTICUT SB 600 \(2008\)](#) Adopts the recommendations of the Commission on Compensation of Elected State Officials and Judges concerning salary increases for legislators and judges. In Joint Committee on Appropriations

[CONNECTICUT SB 624 \(2008\)](#) Provides for automatic increases in judicial salaries, tied to whatever increases are given to managerial employees in the classified civil service. In Joint Committee on Judiciary

Salary and Budget: Floor and Committee Activity

[IDAHO HB 587 \(2008\)](#) Increases all judicial salaries by 3%. Approved by full House. Approved by Senate Judiciary committee

[IDAHO SB 1252 \(2008\)](#) Provides that for wage, hour, and working conditions, Supreme Court shall prescribe rules for

employees of the judicial branch. Amends various wage and compensatory time laws. Approved by full House

[INDIANA SB 329 \(2008\)](#) Allows a person serving as a full-time magistrate on July 1, 2010, and requires a person who begins serving as a full-time magistrate after that date, to become a participant in the judges' 1985 benefit system. Allows under certain conditions a judge or magistrate who is a participant in the 1985 system to transfer to the 1985 system service credit earned in other system. Makes other pension modifications. Conference committee report adopted by House

[GEORGIA SB 460 \(2008\)](#) Modifies requirements and provisions of the Superior Court Clerks' Retirement Fund. Approved by Senate and sent to House

[MARYLAND SB 527 \(2008\)](#) Alters requirement that the State budget include an appropriation to pay rent to counties for space occupied by clerks of the circuit courts. Passed Senate and reported favorably with amendments from House Appropriations committee

[WASHINGTON HB 2822 \(2008\)](#) Creates the family and juvenile court improvement grant program to assist Superior Courts in improving their family and juvenile court systems, especially in dependency cases. Requires the Washington State Institute to evaluate the implementation of the program. Approved by full Senate

[WASHINGTON HB 2903 \(2008\)](#) Requires the Administrative Office of the Courts to create the position of court access and accommodations coordinator. The coordinator is to review court training and

other assistance required to provide access and accommodation for persons with disabilities. Approved by full Senate

Other: Newly Introduced

[IOWA HF 2500 \(2008\)](#) Creates crime of "interference with judicial acts" to include harassment of a judicial officer, court employee, or their family with the intent to interfere with or improperly influence, or in retaliation for, their official acts. No committee yet assigned

Other: Floor and Committee Activity

[CALIFORNIA AB 1491 \(2008\)](#) Revives and extends the deadline for transfer of responsibility for court facilities from the counties to the Judicial Council (the state) from June 30, 2007 to December 31, 2009. Imposes one financial penalty on those counties that transfer their facilities between October 1, 2008 and March 31, 2009 and another for transfers between April 1, 2009 and December 31, 2009. Approved as amended by Senate Appropriations committee

[COLORADO HB 1115 \(2008\)](#) Creates a new felony "Retaliation against a judge" if a person threatens, harasses, or harms certain individuals in retaliation or retribution against a judge. Approved by full House

[CONNECTICUT SB 321\(2008\)](#) Allows "Bureau heads" in judiciary and other branches/agencies to collectively bargain. Defines "bureau heads" and restricts number of same in judiciary to one-half of one per cent of the total number of permanent full-time employees. Received favorable report

from Joint Committee on Labor and Public Employees

[DELAWARE SB 199 \(2008\)](#)

“Housekeeping” bill. Removes obsolete references to “associate” and “resident” judges and justices and references to 1978 salary levels. Reported out of Senate Judiciary committee on its merits

[FLORIDA SB 766 \(2008\)](#)

Creates an exemption from public records requirements for the home addresses, telephone numbers, and certain other specified information concerning general magistrates, child support enforcement hearing officers, and the spouses, children, and grandchildren of specified judicial officials (similar, but not identical to HB 629). Approved by Senate Judiciary committee and referred to Governmental Operations committee

[IDAHO HB 370 \(2008\)](#)

Gives Idaho State Police responsibility for providing security and protection for Supreme Court justices, judges of the Court of Appeals, and at the Supreme Court Building. Passed both Senate. To Governor for approval

[INDIANA HB 1096 \(2008\)](#)

Amends various provisions concerning courts. Removes references to the clerk of the supreme court from statutes concerning: (1) compensation of elected officials; and (2) annual economic interest statements filed by

judicial officers or candidates for judicial office who are subject to election or a retention vote. (As of January 1, 2007, the clerk of the Supreme Court ceased being a statewide elected office and is now appointed by the Chief Justice.) Conference committee report adopted by House

[MINNESOTA HF 1262 \(2008\)](#)

Requires Supreme Court convene a study group to conduct an evaluation of family court processes and legal mechanisms available to individuals involved in family disputes. Report of study group due January 15, 2009. Approved by House Public Safety and Civil Justice committee

[OKLAHOMA HB 2486 \(2008\)](#)

Expands Council on Judicial Complaints to 7 members (CURRENT: 1 by Senate Present Pro Tempore, 1 by House Speaker, 1 by Bar President FUTURE: 2 by Senate Present Pro Tempore, 2 by House Speaker, 2 by Governor, 1 by Bar President). Approved as amended by House Judiciary and Public Safety committee

[WYOMING SB 42 \(2008\)](#)

Creates court security commission to establish standards, adopt security rules, visit and inspect facilities, etc. Commission would be under the supervision of the Supreme Court. Approved by full House and Senate

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