

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: West Virginia and Wyoming

In West Virginia, several pieces of legislation were introduced to change that state's judicial election system. For the most part, they broke down into merit selection plans ([SJR 6](#)) and nonpartisan election plans ([HB 2950](#), [HB 4650](#), [SB 218](#), [SB 475](#)).

These bills, all of which failed to pass, set the stage for the one that did. [SCR 69](#) directs the Joint Committee on Government and Finance to study judicial selection methods and public financing of judicial elections and report back to the 2009 legislative session.

Another study bill of note was [HCR 20](#) which requests the Joint Committee on Government and Finance study the establishment of a court of chancery or business courts. That report too is to be submitted by the start of the 2009 session.

Bills that made their way into law included:

[SB 238](#) which increases from \$300 to \$2,500 the minimum amount to filed suit in Circuit Court. The law also specifies that the

Circuit Court has original and general jurisdiction in most proceedings, writs (Habeas corpus, Mandamus, etc.) misdemeanors and crimes, and equity cases.

Wyoming's newly enacted statutes include:

[SB 42](#) creates a Court Security Commission under the supervision of the Supreme Court. The Commission is tasked with establishing standards, adopting security rules, and visiting and inspecting court facilities. The Commissions first annual report is due September 1, 2009.

[SB 67](#) sets judicial salaries for the next several years. For the Supreme Court: \$126,500 effective 7/1/08 and \$131,500 effective 7/1/09. For District Court: \$120,400 (7/1/08) and \$125,200 (7/1/09). For Circuit Court: \$98,800 (7/1/08); and \$102,800 (7/1/09). Finally, the legislature is authorized to grant future cost of living increases through budget bills (rather than in separate legislation as in this case) comparable to the increases provided to other state employees.

[SB 68](#) makes several modifications to the judicial retirement system's age, years of service and contribution requirements.



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Selection: Newly Introduced

NONE

Selection: Floor and Committee Activity

[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) Approved by House Appropriations committee. Amended and reported as constitutional by House Rules committee

[HAWAII HCR 241 \(2008\)](#) 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 House Judiciary committee

[ILLINOIS SB 2823 \(2008\)](#) Creates the Judicial Campaign Reform Act and a voluntary program of public financing of election campaigns for the offices of judges of the Illinois Supreme Court and Appellate Courts, administered by the State Board of Elections. Establishes funding mechanisms and provides penalties for violations. Sets mandatory contribution limits with respect to all judicial election campaigns. Held in Local Government committee and rereferred to Senate Rules committee

[MARYLAND HB 1275 \(2008\)](#) Provides retention election system for Circuit Court. Governor to appoint judge who would serve for at least 1 year and face retention vote for

an additional 10 year term. Received unfavorable report by House Judiciary committee

[MINNESOTA SB 3129 \(2008\)](#) Includes appellate court appointments in the Commission on Judicial Selection process (process currently limited to vacancies occurring in District Court and Worker's Compensation Appeal Court). Approved by Senate Judiciary committee

[OKLAHOMA HJR 1077 \(2008\)](#) Requires any appointment by the Governor to fill a Judicial Office shall be confirmed by a majority of the Senate. If Governor fails to appoint from slate of names given by the Judicial Nomination Commission within 60 days, Chief Justice to name (Chief Justice appointments would *not* require Senate confirmation). Approved by full House. In Senate with no committee yet assigned

[RHODE ISLAND HB 7831 \(2008\)](#) Prohibits member of Judicial Nomination Commission from serving more than one term. Bill withdrawn

Qualifications and Terms: Newly Introduced

[ALABAMA HB 690 \(2008\)](#) Requires mandatory education and certification for municipal court clerks and municipal court magistrates. Requires those clerks and magistrates complete continuing education approved by the Administrative Office of Courts. In House County and Municipal Government committee

[LOUISIANA HB 103 \(2008\)](#) Provides that no election shall be held to fill the unexpired portion of the final term of an elective office that has been abolished by law or

constitutional amendment and that the person appointed to fill such vacancy or who assumes the duties of such an office when a vacancy occurs shall serve for the remainder of the unexpired term. In House Governmental Affairs committee

Qualification and Terms: Floor and Committee Activity

[IOWA SF 2353 \(2008\)](#) Changes variety of laws pertaining of judicial selection and placement. Provides that the district judicial nominating commission shall nominate persons for appointment to the office of district associate judge, associate juvenile judge, or associate probate judge, rather than the county magistrate appointing commission. Requires that at time of appointment, person must reside in *district* where vacancy exists. (Current, need only reside in *county* where vacancy exists.) Requires District Judicial Nominating Commission consider all applicants and certify three persons for appointment in writing within 60 days to the longest serving district judge in the judicial election district where the vacancy occurs. (Current law provides that the list go to the Chief Judge of the judicial district.) Requires District Judges vote on names within 30 days or Chief Justice to make the appointment. Grants Chief Justice power to move “vacancy” to another judicial election district upon finding by the Chief Justice of substantial disparity in the allocation of judgeships and judicial workload between districts, and the Judicial Council approves the apportionment. Provides that a Senior Judge shall cease being a Senior Judge upon attaining 78 years of age. Approved as amended by full Senate

Rule Making Authority: Newly Introduced

[CONNECTICUT SB 703 \(2008\)](#) Modifies numerous provisions related to judiciary. Authorizes Chief Court Administrator to take any action the event of a major disaster necessary to ensure the continued operation the Superior Court. Such actions include the power to establish alternative locations to conduct judicial business, the use of telephonic, video or electronic technology to conduct court business, the power to suspend any judicial business that is not critical, and to take any other action necessary to ensure the continued operation of the Superior Court. Specifies Chief Court Administrator’s process for storage of e-documents and conversion of paper documents to electronic from. In Joint Judiciary committee

[MISSISSIPPI SCR 605 \(2008\)](#) Requests Supreme Court create rules to prohibit reproduction of child pornography that is evidence in a criminal proceeding and place limits on who may possess the evidence. In Senate Rules committee

[MISSISSIPPI SCR 606 \(2008\)](#) Requests Supreme Court create rules allowing admissibility of relevant prior bad acts in child molestation and sexual abuse cases. In Senate Rules committee

[MISSOURI HB 2431 \(2008\)](#) Requires complaints sent to the Commission on Retirement, Removal, and Discipline of Judges also be referred to the House of Representatives for consideration of impeachment proceedings. Creates General Assembly Joint Office on Judicial Investigations and Disciplinary Counsel to investigate all referred complaints and to

have to power to prosecute all complaints independent of the Commission. No committee yet assigned

Rule Making Authority: Floor and Committee Activity

[COLORADO HB 1193 \(2008\)](#) Prohibits district and county judges from presiding over a case in which they or a former judge of the same district or county court are a party. Requires the Chief Justice appoint presiding judge in such cases. Approved as amended by Senate Judiciary committee. Sent to Senate Committee of the Whole

[TENNESSEE HB 3060 \(2008\)](#) Specifies that if an appellate court declares a disaster pursuant to applicable court rules, then all statutes of limitation and repose will be extended by the same number of days that the applicable filing deadlines are extended; deadlines to be extended only in county in which disaster is declared. Approved by House Judiciary committee

[VERMONT SB 246 \(2008\)](#) Prohibits courts from allowing public access via the internet to criminal case records or family court case records. Bulk criminal history data may only be provided in a format that excludes the subject's name and any unique numbers that may reference the identity of the subject and only if researchers sign a user agreement which specifies data security requirements and restrictions on use of identifying information. Approved by full Senate. In House Judiciary committee

[WISCONSIN AB 937 \(2008\)](#) Requires all Supreme Court and Court of Appeals conferences, including preargument conferences, postargument decision conferences, opinion conferences, decision

conferences, and administrative conferences be open to the public. In Assembly Judiciary and Ethics committee

Structure Changes: Newly Introduced

[HAWAII HR 296 \(2008\)](#) Requests judiciary create separate calendars for environmental cases. In House Judiciary committee

[LOUISIANA HB 69 \(2008\)](#) Requires the Judicial Council to adopt standards and guidelines to be applied in determining the necessity of splitting or merging a court and requires the council to provide information to the appropriate standing committees of the House of Representatives or of the Senate as to their recommendation. In House Judiciary committee

Structure Changes: Floor and Committee Activity

[CONNECTICUT SB 376 \(2008\)](#) Requires courts establish a land use docket to hear actions related to planning and zoning, inland wetlands and eminent domain. Favorable reference from Joint Judiciary committee and send to House and Senate Judiciary committees

[NEBRASKA LB 1014 \(2008\)](#) Grants Supreme Court authority to determine by majority vote in which judicial district a judicial vacancy should be filled; Legislature would continue to set by statute the total number of judges. District courts would no longer act as trial courts when hearing small claims appeals. Grants power to appoint child support referees and civil equity matters. Permits videoconferencing and teleconferences for non-evidentiary and

evidentiary hearings. Requires Presiding Judges of the District and County Courts create an annual plan on how to assign between the courts cases involving domestic relations matters and certain felonies. Allows Supreme Court flexibility in compensation for retired judges called back into service to hear cases on a temporary basis. (Bill as amended by committee, merges provisions from several others not listed here, see [committee statement](#)) . Approved as amended by Judiciary committee. On Senate floor

[NEW HAMPSHIRE SB 378 \(2008\)](#) Creates the Committee to Study the Creation of a Business Court at the Superior Court Level. Report due by November 1, 2008. Approved by Senate Judiciary committee

[OKLAHOMA HB 2631 \(2008\)](#) Creates a panel of District Court Judges to preside over complex civil cases and defines what makes a civil case “complex.” Requires that where a civil case brought in District Court is reversed and remanded, in whole or in part, on appeal, the Chief Justice must designate a different District Judge to preside over all proceedings on remand to the District Court. Approved by full House. In Senate with no committee yet assigned

Jurisdiction: Newly Introduced

[LOUISIANA HB 129 \(2008\)](#) Increases civil jurisdiction of Justice Courts from \$3,500 to \$5,000. In House Judiciary committee

Jurisdiction: Floor and Committee Activity

[CONNECTICUT SB 376 \(2008\)](#) Requires Chief Court Administrator establish, in one

or more court locations, a land use docket for the hearing of land use matters separate from dockets for other matters. In House and Senate Judiciary committees

[IOWA SF 2356 \(2008\)](#) 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 full Senate. In House Judiciary 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. Approved by House Rules committee. On House floor Third Reading calendar

Salary and Budget: Newly Introduced

[KENTUCKY SB 248 \(2008\)](#) Specifies per-hour compensation rate for sheriffs and deputies to provide court security. In Senate Appropriations and Salaries committee

Salary and Budget: Floor and Committee Activity

[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 and State

[KANSAS SB 2968 \(2008\)](#) Fund salary plan adjustments for nonjudicial employees of the Judicial Branch by increasing docket fees by \$9 and depositing the money into the Judicial Branch Nonjudiciary Salary Adjustment Fund. Approved by Senate General Government Budget committee

[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. Approved by full Senate. Approved as amended by House Appropriations committee

[OKLAHOMA HB 2823 \(2008\)](#) Requires all state funding that is appropriated or that is otherwise made available to the Supreme Court for the operation of the alternative dispute resolution system must be funded from state appropriated funds. Specifies that all funds available by law for expenditure by the Supreme Court may be used and expended in conjunction or cooperation with any federal agency or instrumentality pursuant to such terms and conditions as may be necessary to obtain grants or federal

aid assistance in accordance with state law. Authorizes Chief Justice to accept on behalf of the judiciary or any particular court any donation or gift by any governmental or private entity. Gifts of cash and property to be received by the Administrative Office of the Courts and compiled into an annual report to the legislature. Approved by full House. In Senate with no committee yet assigned

[OKLAHOMA HB 3312 \(2008\)](#) ORIGINAL: Creates Task Force on Defined Contribution Retirement Plan for the Uniform Retirement System for Justices and Judges. Task Force to be composed of 13 members (4 by Governor, 5 by House Speaker, 4 by Senate President Pro Tempore). AMENDED; Same, but 17 members (including 2 named by Chief Justice, 1 by Public Employees Association and 1 by Public Employees Retirement System). Measure failed in House

[MISSISSIPPI HB 859 \(2008\)](#) Resets or raises salaries for trial and appellate court judges/justices and the clerks of their respective courts. Also adjusts salaries for legislators and elected members of the executive branch. Approved by full House. Approved by Senate Appropriations committee with amendments

Other: Newly Introduced

NONE

Other: Floor and Committee Activity

[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. In Senate Judiciary committee

[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 and Senate

[MARYLAND HB 1556 \(2008\)](#) Requires the Administrative Office of the Courts to develop and implement an automated external defibrillator program that meets specified requirements for each courthouse in the State. Bill withdrawn

[MISSISSIPPI HB 1108 \(2008\)](#) Creates specific crime of bribing a judge and sets penalties. Approved by full House. Approved by Senate Judiciary A committee

[NEW HAMPSHIRE HB 1180 \(2008\)](#) Includes bailiffs and court officers in the definition of “law enforcement officer” under the capital murder law. Clarifies that family division judges are included in the definition of “judicial officer” under the capital murder law. Approved as amended by full House. In Senate Judiciary committee

[NEW HAMPSHIRE SB 543 \(2008\)](#) Creates commission to study court security. Commission report due November 1, 2008. Approved by Senate Judiciary committee

[VERMONT SB 336 \(2008\)](#) Reorganizes laws related to delinquent and abused/neglected children and court proceedings and procedures related to same. Approved by full House. In Senate Judiciary committee

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