

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Virginia and Washington

Although Virginia's General Assembly is set to come back in to session on [April 23 to address vetoes](#), several pieces of legislation relevant to the courts have already been signed into law.

[HB 903](#) modifies the commonwealth's magistrate system. The power to appoint and supervise magistrates will shift from Circuit Court Judges to the Executive Secretary of the Supreme Court (although the Chief Judges of the Circuit Courts in the region are to be consulted regarding appointments). Magistrates will be required to have a Bachelor's Degree while Chief Magistrates will be required to be members of the Bar. Magistrates will be prohibited from practicing law and may not engage in any other business without the approval of the Executive Secretary. They will have to serve an initial nine-month probationary period (currently six months), complete a minimum training program, and pass a certification exam. The geographical boundaries of magistrate assignments will also change: the Executive Secretary may now move magistrates within regions.

[SB 112](#) removes the restriction on local salary supplements paid to local district court employees.

[SB 180](#) requires all papers in the clerks' offices be preserved, even if reproduced electronically. The documents may only be destroyed "in accordance with law."

One bill of note that has not yet been signed or vetoed is [SB 563](#), which provides that when a Circuit Court Judge holds a civil case under advisement for more than 90 days, the judge must report in writing an expected time of a decision. If there is no report or if the judge misses the expected time in the report any party may notify the Chief Justice who may inquire into the cause of the delay and, if necessary, designate a judge to assist the regular judge.

Washington State's newly enacted statutes include:

[HB 2557](#) makes numerous changes to the state's trial court system. The District Court jurisdiction minimum in civil actions is raised from \$50,000 to \$75,000, while the small claims jurisdiction maximum is raised from \$4,000 to \$5,000. Cities with municipal courts may form inter-local agreements with the county or other cities to



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have all cases heard in one court. District and Municipal Court Commissioners (except in Seattle) are prohibited from presiding over criminal trials and civil matters with jury trials. The restrictions on commissioners are waived if all parties agree. Prohibitions regarding recusal and disqualification are expanded to include all judicial officers, including magistrates, by motion. Each party is allowed only one change of judicial officer in an action or proceeding.

[HB 2903](#) directs the state's Administrative Office of the Courts to hire a Court Access and Accommodations Coordinator. Among other tasks, the Coordinator is to review the needs of courts for training and other assistance required to provide access and accommodation for persons with disabilities.

Selection: Newly Introduced

[LOUISIANA HB 313 \(2008\)](#) Requires judges to disclose certain income, liabilities, and financial transactions of the judge or his spouse; additionally requires candidates for judge to file financial disclosure statements with the Board of Ethics. In House Governmental Affairs committee

Selection: Floor and Committee Activity

[MISSOURI HJR 49 \(2008\)](#) ORIGINAL: 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). AMENDED: Increases from three to five the number of judicial candidates nominated by the Nonpartisan

Judicial Commission. Governor may veto the first list. If the Governor fails to appoint any of the nominees from a second list within 60 days, the Lieutenant Governor must appoint. If the Lieutenant Governor does not, the commission will appoint. Changes composition of Appellate Judicial Commission: 3 Missouri Bar members (one from each court of appeals district), 3 non-bar members (one from each court of appeals district), one non-bar member from anywhere the state. Circuit Judicial Commission: two Missouri Bar members and three non-bar members appointed by the Governor. All Commissioners to be named by Governor and confirmed by Senate to serve 4-year terms. All hearings, debates and votes of commissions to be conducted on 72 hours public notice. List of applicants for any judicial vacancy must be open to the public with their names posted on the web site of the Supreme Court and all information available to the respective commissions on the judicial candidates must be made available to the Governor. Every applicant nominated will be subject to a background check, including a criminal check, which will not be a public record, but available only to the commission and the Governor. Transfers responsibility for the approval of expenses incurred in the administration of the judicial selection plan from the Supreme Court to the Commissioner of the Office of Administration. Approved as amended by House Committee of Special Laws. In House Rules committee

[NEW HAMPSHIRE SB 445 \(2008\)](#) Requires Supreme Court approve of all new marital masters appointed. Approved by full Senate. In House with no committee yet assigned

Qualifications and Terms: Newly Introduced

NONE

Qualification and Terms: Floor and Committee Activity

[COLORADO SB 54 \(2008\)](#) Establishes the Office of Judicial Performance Evaluation within the Judicial Department. Office's Director to be 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. Approved as amended by Senate

[GEORGIA HB 1245 \(2008\)](#) Prohibits senior judges from presiding over capital cases. Modifies means by which indigent defenses are paid for. Approved by full Senate

[IOWA SF 2211 \(2008\)](#) Eliminates the requirement that a nominee for a district judgeship be a resident of the judicial election district prior to nomination for appointment by the district judicial nominating commission. Approved by House Judiciary committee

[PENNSYLVANIA SB 1153 \(2008\)](#)
Modifies membership and appointing power

of Minor Judiciary Education Board. Member to be selected by Supreme Court (currently Governor selects with Senate confirmation). Supreme Court to name chair (currently Board elects own chair). Board may select own executive director with Supreme Court approval. Board to set, with Supreme Court approval, examinations and conduct training courts for specific limited jurisdiction courts. Approved by full Senate

[VERMONT HB 871 \(2008\)](#) Requires Probate Judges be admitted to practice law in Vermont. Approved by full House. In Senate Judiciary committee

Rule Making Authority: Newly Introduced

[LOUISIANA HB 758 \(2008\)](#) Requires mandatory recusal for judges where parties, attorneys and/or their law firm, or those within three degrees of relationship to them donated to judge's campaign in the past five years. Provides for the selection of a panel of judges to try any motion to recuse deriving from these restrictions. In House Judiciary committee

[LOUISIANA HB 769 \(2008\)](#) Requires mandatory recusal for judges where parties, attorneys and/or their law firm, or those within three degrees of relationship to them donated to judge's campaign in the past five years. In House Judiciary committee

[LOUISIANA SB 277 \(2008\)](#) Requires recusal when to do otherwise would violate Supreme Court rules or the Code of Judicial Conduct. In Senate Judiciary A committee

[LOUISIANA SB 278 \(2008\)](#) Allows for substitution of judges in civil cases. Grants each side one substitution without cause.

Specifies reasons for substitution for cause. Requires recusal when to do otherwise would violate Supreme Court rules or the Code of Judicial Conduct. In Senate Judiciary A committee

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 by full Senate as amended by Senate. To House for concurrence in Senate amendments

[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 public disclosure of votes for and against appointment or reappointment of an incumbent judge to the same or a different court. 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 opinions 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. Favorable substitute reported by Joint Committee of the Judiciary

[GEORGIA HB 1245 \(2008\)](#) Prohibits senior judges from presiding over capital cases. Modifies means by which indigent defenses are paid for. Approved by full Senate. To Governor for approval

[GEORGIA SB 508 \(2008\)](#) Modifies provisions relating to Probate Court. Modifies membership of Probate Judges Training Council. Requires Probate Court

meet first Monday of January, April, July, and October (currently, first Monday of every month). Approved by House Judiciary committee

[GEORGIA SR 1030 \(2008\)](#) Creates Joint Electronic Records, Signatures, Filing, and Recording Study Committee. Committee to examine potential impact of e-signature and e-records on fees associated with electronic court filings, search and retrieval of electronic court filings, etc. Report due by 2009 session. Favorably reported by House Judiciary committee.

[HAWAII SB 3202 \(2008\)](#) Increases mandatory retirement age for judges and justices from 70 to 80. Amended and approved by House Judiciary committee. In House Finance committee

Structure Changes: Newly Introduced

NONE

Structure Changes: Floor and Committee Activity

NONE

Jurisdiction: Newly Introduced

[INDIANA HB 118 \(2008\)](#) Urges legislative council to assign to the Sentencing Policy Study Committee the topic of transfer of pardoning power from the Governor to the judicial branch. In House Rules committee

[LOUISIANA SB 213 \(2008\)](#) Removes Court of Appeal's review of administrative agency and worker's compensation determinations. Limits Court of Appeals jurisdiction to questions of law. In Senate Judiciary committee

Jurisdiction: Floor and Committee Activity

[MARYLAND SB 403 \(2008\)](#) (BILL) ORIGINAL: Increasing minimum amount of civil suit entitled to jury trial from \$10,000 to \$20,000. AMENDED: Changes limit from \$10,000 to \$15,000. Approved as amended by Senate Judicial Proceedings committee

[MARYLAND SB 404 \(2008\)](#) (CON AMENDMENT) ORIGINAL: Increasing minimum amount of civil suit entitled to jury trial from \$10,000 to \$20,000. AMENDED: Changes limit from \$10,000 to \$15,000. Approved as amended by Senate Judicial Proceedings committee

[NEW HAMPSHIRE SB 32 \(2007\)](#) Increases small claims actions limitations from \$5,000 to \$10,000. Requires mediation for small claims actions exceeding \$5,000. Approved as amended by full Senate. House approved Senate amendments

[NEW YORK SB 3615 \(2008\)](#) Allows certain justices of criminal courts to preside over arraignments and initial appearances on bench warrants in any suitable facility in the county of jurisdiction. Approved by full Senate. In Assembly Judiciary committee

[WISCONSIN AB 248 \(2008\)](#) Allows part-time circuit court commissioners to conduct preliminary examinations and arraignments, and, with the consent of both the state and the defendant, accept a guilty plea. Approved by full Senate. To Assembly for transmission to Governor

Salary and Budget: Newly Introduced

NONE

Salary and Budget: Floor and Committee Activity

[HAWAII SB 1526 \(2008\)](#) Removes Judicial Salary Commission's power to set salaries for Administrative Director and Deputy Administrative Director of the Courts. Sets Director's salary as 80% of Chief Justice's. Sets Deputy Director's salary as 80% of Director's. Amended and approved by House Labor committee In House Finance 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 House with amendments

Other: Newly Introduced

[LOUISIANA HCR 6 \(2008\)](#) Urges and requests the La. State Law Institute to study the law regarding the method for taking an appeal and to report its findings to the House of Representatives prior to the convening of the 2009 session. In House Judiciary committee

[LOUISIANA SB 46 \(2008\)](#) Requires the Judicial Council and the Louisiana State Law Institute to study the feasibility of creating family courts or domestic relations sections in certain judicial districts. Report due March 1, 2009. In Senate Judiciary A committee

Other: Floor and Committee Activity

[CALIFORNIA AB 1491 \(2008\)](#)

Reauthorizes the transfer of court facilities from counties to the state through December 31, 2009. Increases a county's annual facility payment (CFP) for each facility not transferred by October 1, 2008. Counties in which certain extraordinary circumstances exist may avoid the additional CFP upon mutual agreement with the AOC. Approved by full Senate

[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.) House and Senate agree to conference report. To Governor for approval

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

[NEW HAMPSHIRE SB 470 \(2008\)](#) Allows lobbyists and those connected with lobbyists to sit on committees established by the judicial branch. Approved by full Senate. In House Judiciary committee

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