

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Georgia and Idaho

Georgia's legislature adjourned late on April 4th, sending dozens of pieces of legislation to the Governor, including:

[HB 119](#) would set the statutory salaries for Justices and Judges of the Supreme Court, Court of Appeals and Superior Court.

[HB 1086](#) removes the statutory maximum (currently \$70) compensation a bailiff may receive per day.

[HB 1245](#) makes changes to numerous statutes pertaining to the courts. If approved, it would prohibit a senior-status judge from presiding over a capital case. It would also modify the way the state's Indigent Defense program is funded. The Chief Justice and Chief Judge of the Court of Appeals would no longer be able to name members of the Georgia Public Defender Standards Council or of the Circuit Public Defender Selection Supervisory Panels throughout the state.

[SB 11](#) would allow Judges of Superior and State Courts performing ordered military duty to continue in office and eligible for reelection during such duty. The bill would also allow a temporary vacancy due to

military service to be the basis for a judge from another district/county/area to temporarily sit in.

[SB 396](#) transfers from the Commissioner of Administrative Services and the Department of Administrative Services to The Council of Superior Court Judges of Georgia all administrative, salary, and travel expense reimbursement functions for Superior Court Judges and court reporters.

[SB 460](#) makes changes to the Superior Court Clerks' Retirement Fund, specifying when dues are to be paid, allowing late payment penalties, and specifying that a surviving spouse's benefit may be created for cases in which the clerk dies before 55.

However, there were two resolutions not requiring gubernatorial approval that became effective upon their legislative passage and are of note.

[HR 47](#) creates a Joint Legislative Study Committee on Judicial Election Reform. The Committee is to "to determine if the independence and impartiality of the courts are threatened by the conduct of these recent [judicial] campaigns." The Committee is to specifically focus on "the role of political parties in judicial elections, the role of



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special interest groups and tax-exempt organizations such as political organizations as defined in Section 527(e) of the Internal Revenue Code of 1986 in judicial elections, and how conflicts of interest due to campaign contributions are handled by the courts.” An Advisory Board to the Committee is assigned the task of obtaining information and testimony for the committee and specifically from those “who will be directly affected by any alteration of the existing mode of campaign finance.” The Committee is to report to the Legislature by the start of the 2009 session.

[SR 1030](#) creates a Joint Electronic Records, Signatures, Filing, and Recording Study 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. The committee is to report by the 2009 session.

Idaho’s legislature sent the following court-related bills to Governor Otter’s desk:

[HB 587](#) raises the salaries of the state’s Supreme Court Justices, Court of Appeals judges, District Judges, and Magistrate Judges by three percent (3%).

[SB 1248](#) clarifies the Supreme Court may fill temporary vacancies in the Court by assigning a senior justice, an active or senior district judge, or an active or senior magistrate judge to sit on the Court.

[SB 1252](#) specifies that for wage, hour and working conditions, the Supreme Court shall prescribe rules for employees of the judicial branch.

[SB 1270](#) expands the Idaho Court of Appeals from 3 to 4 judges and allows the Court of Appeals to sit in 3-judge panels.

[SB 1288](#) modifies the manner in which magistrate judges are appointed through the existing District Magistrate Commissions. Under the new law, magistrate judges that sit on such commissions are voting members and the trial court administrator for the district is named the secretary of the district’s commission. Attorneys serving on a commission are disqualified if they are or were a law partner of a candidate within the previous five years.

[SB 1362](#) repeals a requirement that a judge or other person assaulted for their official duties actually be employed or on duty (in the case of law enforcement) at the time of the assault. The bill thus extends the law’s protection to retired judges and justices in much the same manner as active jurists.

Selection: Newly Introduced
NONE

Selection: Floor and Committee Activity

[CALIFORNIA AB 1808 \(2008\)](#) Requires ballot pamphlet contain information on all justices and judges up for retention. Approved by Assembly Elections and Redistricting committee

[TENNESSEE HB 4076 \(2008\)](#) Adds one non-lawyer to Judicial Selection Commission thereby increasing membership of commission from 17 to 18 persons. Approved by House Judiciary’s subcommittee on Civil Practice and

Procedure. Referred to full Judiciary committee

Qualifications and Terms:

Newly Introduced

NONE

Qualification and Terms: Floor and Committee Activity

[ARIZONA SB 1186 \(2008\)](#) Requires Supreme Court to create performance evaluation system for Superior Court commissioners. Evaluations to include public hearings on commissioners and reports to be made public. Approved by House Rules committee

[FLORIDA SB 740 \(2008\)](#) ORIGINAL: 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. AMENDMENT: Same, but specifies person can only be selected for temporary assignment if there are no disciplinary or similar matters pending against them and only if the temporary assignment is consented to by all parties in the case. Approved as amended by Senate Judiciary Committee

[HAWAII SB 3202 \(2008\)](#) ORIGINAL: Increases mandatory retirement age for judges and justices from 70 to 80. AMENDED: Same, does not apply to justices or judges appointed prior to November 5, 2008. Approved as amended by full House. Senate and House disagree with respective amendments

[HAWAII SCR 58 \(2008\)](#) ORIGINAL: Establishes task force to review retirement age for state court justices and judges, the

lack of judicial term limits, the lack of a senior judge system, the current system of judicial accountability, and current means of judicial fitness. AMENDED: Creates task force to review state’s Sunshine Law. Approved as amended by Senate Judiciary committee

Rule Making Authority: Newly Introduced

[LOUISIANA SB 278 \(2008\)](#) Requires judges recuse if biased toward or against a witness. Requires judge recuse if in violation of any canon of the Code of Judicial Conduct or any other rule of the Louisiana Supreme Court. In Senate Judiciary A committee

Rule Making Authority: Floor and Committee Activity

[CALIFORNIA AB 2448 \(2008\)](#) Revises requirements regarding the granting of fee waivers for in forma pauperis litigants. Allows for imposition of lien on successful civil litigant’s recovery in certain cases. Requires Judicial Council adopt rules to implement changes. Approved by Assembly Judiciary committee and rereferred to Assembly Appropriations committee

[HAWAII HB 2697 \(2008\)](#) Authorizes the Intermediate Appellate Court to subpoena and compel the attendance of witnesses and compel the production of books, papers, documents, or tangible things. Authorizes any Intermediate Appellate Court Judge to administer oaths. Passed Senate as amended. House declines Senate amendments

[NEBRASKA LB 775 \(2008\)](#) Grants County Court Clerks power to appoint deputy clerks. Removes requirement that District Court Deputy Clerks be residents of the counties in and for which they act. Approved by full Senate. To Governor for approval

Structure Changes: Newly Introduced

NONE

Structure Changes: Floor and Committee Activity

[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. Passed by full House

Jurisdiction: Newly Introduced

NONE

Jurisdiction: Floor and Committee Activity

[HAWAII SB 2785 \(2008\)](#) Increases District Court civil jurisdiction from \$20,000 to \$30,000. Effective date January 1, 2050. Approved with House amendments by full House. Senate and House disagree with respective amendments

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

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 their salaries as equal to state's Administrative Director and Deputy department head, respectively. Passed House and transmitted to Senate. Senate declines to accept House amendments

[COLORADO SB 47 \(2008\)](#) Requires the state court-appointed special advocate office establish accountability and performance standards, based on state law and the standards of a national organization of CASA programs, that the state CASA office and local CASA programs must follow. Requires the state CASA office to determine the formula for distribution of the fund moneys to local CASA programs. Approved by Senate Appropriations committee

Other: Newly Introduced

[LOUISIANA SB 132 \(2008\)](#) Expands existing law indemnifying court employees and jurists to include justices of the peace and their constables. In House Appropriations committee

Other: Floor and Committee Activity

[CALIFORNIA AB 1876 \(2008\)](#) Clarifies the method of contracting for, and

accounting of, court security services provided by the sheriff or marshal. Sets requirements for the court security memorandum of understanding between the court and the sheriff or marshal and for quarterly reporting by the sheriff or marshal of security services and expenditures. Requires the Administrative Office of the Courts to report to the Legislature annually on court security expenditures and to conduct periodic audits. Approved by Assembly Judiciary committee

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

“Housekeeping” bill. Removes obsolete references to “associate” and “resident” judges and justices and references to 1978 salary levels. Approved by House Judiciary committee

[FLORIDA HB 639 \(2008\)](#) Exempts from public records indentifying information pertaining to general magistrates & child support enforcement hearing officers, information regarding their spouses, children, etc. Approved as amended by Government Efficiency & Accountability Council

[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 639). Approved by Governmental Operations committee. In Senate Rules committee

[HAWAII SB 3200 \(2008\)](#) Provides that if the Attorney General is requested to provide

representation to a court or judicial office by the Chief Justice and the Attorney General declines on the grounds of conflict of interest, the Attorney General shall retain an attorney for the court/judicial office. Senate agrees with House amendments. To Governor for approval

[LOUISIANA HB 45 \(2008\)](#) Prohibits injuring an officer of the court or their immediate family with the intent to influence the performance of their duties as an officer of the court. Approved by House Administration of Criminal Justice committee

[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 to the House of Representatives prior to the convening of the 2009 session. Approved by full House and Senate

[NEW HAMPSHIRE HB 159 \(2008\)](#) Creates interbranch criminal and juvenile justice council to provide leadership, communication, and coordination among those involved in or affected by the criminal and juvenile justice systems. Approved by Senate Judiciary committee

[NEW HAMPSHIRE SB 370 \(2008\)](#) Grants the Chief Justice of the Supreme Court the power to enter orders to suspend, toll, or otherwise grant relief from time deadlines imposed by statutes and rules of procedure, for a 21-day period, in the event of a declared state of emergency. Permits the legislature to terminate such orders by concurrent resolution. Approved by House Judiciary committee