

Gavel to Gavel

A review of state legislation affecting the courts

April 11, 2008

Volume 2, Issue 15

Focus: Maryland

Maryland's legislature adjourned on April 8 with one bill in particular becoming law.

[HB 87](#) authorizes a District Court commissioner to exercise the powers of that office in any county to which the commissioner is assigned by the Chief Judge of the District Court. The new law also authorizes the Chief Judge of the District Court to assign a commissioner to serve temporarily in any county.

Selection: Newly Introduced

[PENNSYLVANIA SB 1324 \(2008\)](#) (CON AMENDMENT) Creates merit selection system for appellate judges and an Appellate Court Nominating Commission. Commission to have 14 members (4 named by Legislative leaders, 4 by Governor, 6 members of public including dean of law school + 5 selected by "business organizations, civic organizations, professional associations, public safety organizations and unions") and submit 5 names to Governor to fill appellate court vacancies. Governor to select name and submit to Senate for confirmation. If Senate rejects, Governor must select alternate name

from same list. Judge or Justice to be subject to Yes/No retention election at end of term. In Senate Judiciary committee

[PENNSYLVANIA SB 1325 \(2008\)](#) (STATUTE) Creates 14 person Appellate Court Nominating Commission and specifies appointment (4 by Legislative leaders, 4 by Governor, 6 members of public including dean of law school + 5 selected by "business organizations, civic organizations, professional associations, public safety organizations and unions.") Commission to give 5 names to Governor. In Senate Judiciary committee

Selection: Floor and Committee Activity

[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 full Senate. In House Public Safety and Civil Justice committee

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



Legislative tracking provided
by LexisNexis

Research Division

NATIONAL CENTER FOR STATE COURTS
300 Newport Avenue, Williamsburg, VA 23185
Phone (800) 616-6109 Fax (757) 564-2022

Editor's Email: wraftery@ncsc.org

Subscribe: gaveltogavel@ncsc.dni.us

Online: http://www.ncsconline.org/D_Research/gaveltogavel/



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. Rejected by full House

[TENNESSEE HB 4076 \(2008\)](#) ORIGINAL: Adds one non-lawyer to Judicial Selection Commission thereby increasing membership of commission from 17 to 18 persons. AMENDED: Adds two lawyers (one from National Bar Association, other from Tennessee Lawyers' Association for

Women) to Judicial Selection Commission thereby increasing membership from 17 to 19. Approved as amended by House Judiciary committee. In House Calendar and Rules Committee

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 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. House Judiciary committee referred amended bill to Appropriations

[HAWAII HCR 69 \(2008\)](#) 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. Report due by start of 2009 session. Approved by full House

Rule Making Authority: Newly Introduced

NONE

Rule Making Authority: Floor and Committee Activity

[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. Approved by Senate Government Administration and Elections 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 as amended by Senate Judiciary committee

[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. Substituted by Senate version and approved by full House. To Governor for approval

Structure Changes: Newly Introduced

NONE

Structure Changes: Floor and Committee Activity

[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 Senate Judiciary committee

Jurisdiction: Newly Introduced

NONE

Jurisdiction: Floor and Committee Activity

[HAWAII HB 660 \(2008\)](#) Expands the jurisdiction of the Circuit Courts to include impeachment proceedings against county officers. Effective date 7/1/2050. Approved by full House. Senate disagrees with amendments. Conference committee appointed

Salary and Budget: Newly Introduced

NONE

Salary and Budget: Floor and Committee Activity

NONE

Other: Newly Introduced

NONE

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 with Senate amendments by full Assembly

[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 as amended by Senate Judiciary committee

[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 with Senate amendment by full Senate

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

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