

Gavel to Gavel

A review of state legislation affecting the courts

January 25, 2008

Volume 2, Issue 4

Focus: Court Security

While most legislatures are just barely into session, this year is already proving to be one of the most active when it comes to securing the nation's state courts. While the specifics vary widely, they are all focused on ensuring the protection of the personnel and people within the courthouse and beyond.

At the administrative level, Nebraska's [LB 722](#) would have the state absorb all costs associated with security of the trial court courtrooms throughout the state with funds appropriated to and through the Supreme Court. Kentucky's [HB 380](#) would mandate the Administrative Office of the Courts install security systems in the homes of trial court judges who have been threatened or had their family threatened. The systems would be capped at \$5,000 with any additional costs to be paid for by the judge. Idaho's [HB 370](#) would place security of the Supreme Court, the Court of Appeals and its corresponding justices/judges in the hands of the State Police. Wyoming's [SB 42](#) would create a new commission under the authority of the Supreme Court to establish court security standards and inspect facilities throughout the state. Finally, Missouri's [HB](#)

[1623](#) would expand the number of trial courts able to make use of a special civil suit surcharge fee for court security purposes.

On criminal punishment, Colorado's [HB 1115](#) would create a new felony crime "retaliation against a judge" to apply against people who threaten, harass or harm a judge or a judge's family. Similarly, New Mexico's [HB 375](#) creates the crimes of "retaliation against a criminal justice official" and "intimidation of a criminal justice official" and includes judges within the definition of "criminal justice official". Missouri's [HB 1567](#) and [SB 912](#) create the capital offense of "murder of a criminal justice official in the first degree" and include judges within the definition of a "criminal justice official." West Virginia's [SB 109](#) would increase the sentence associated with malicious assault of court security personnel in particular and police officers in general. Kansas' [SB 422](#) would add court services officers within the definition of law enforcement for the crime of assault on a law enforcement officer and similar statutes.

The issue of firearms and court security is being examined in a variety of ways. West Virginia's [HB 2127](#) and [HB 2700](#) would allow magistrates to carry concealed



Legislative tracking provided
by LexisNexis

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weapons without a permit. Michigan's [SB 505](#) would allow judges and retired judges with concealed weapons permits to carry their weapons in what would otherwise be statutorily defined "no-carry" zones. Finally, Arizona's [HB 2628](#) would explicitly create trial courts as a "no-carry" zones, so long as the presiding judge of the court orders it.

Newly Introduced

Selection

[KANSAS HB 2642 \(2008\)](#) Grants supreme court and the commission on judicial performance immunity from civil suit regarding judicial performance evaluations. Grants commission access to records that would otherwise not be publicly accessible. In House Judiciary committee

[MISSISSIPPI SCR 508 \(2008\)](#) Resets election cycle to fall in even years. Judges, justices and all officials elected in 2007 would see their current term reduced from 4 years to 3 years and face re-election in 2010. In Senate Elections committee

[MISSOURI SB 968 \(2008\)](#) Requires nonpartisan judicial commissions be included in the definition of "public governmental body" and therefore subject to the provisions of the Missouri Sunshine Act. States nonpartisan judicial commissions shall not be authorized to close meetings, records or votes related to personnel matters. In Senate Judiciary and Civil & Criminal Jurisprudence committee

[OKLAHOMA HB 2251 \(2008\)](#) Prohibits attorneys from contributing to any candidate seeking judicial office. No committee yet assigned

[RHODE ISLAND HB 7129 \(2008\)](#) Vests the governor with the sole authority to nominate on the basis of merit all judges and magistrates to all courts. (Currently, some judges/magistrates named by Presiding Justice, Chief Justice, etc.) In House Judiciary committee

[WEST VIRGINIA SB 218 \(2008\)](#) Requires nonpartisan elections of justices of the West Virginia Supreme Court of Appeals and Circuit Court Judges. Ballot to separate partisan offices from nonpartisan. In Senate Judiciary committee

[WEST VIRGINIA SJR 6 \(2008\)](#) Ends elections for Justices of the Supreme Court and Circuit Court Judges. Justices/Judges "are to be appointed based on merit" in a manner to be specified by the legislature. In Senate Judiciary committee

[WISCONSIN AB 704 \(2008\)](#) Requires registration and reporting requirements for those who, within 60 days of an election, make a communication that references any judges or other candidates. In Assembly Elections and Constitutional Law committee

Qualifications and Terms

[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. In Senate Judiciary committee

[ARIZONA SCR 1011 \(2008\)](#) (Constitutional Amendment) Requires Supreme Court create performance evaluation system for Superior Court

commissioners. In Senate Judiciary committee

[ARIZONA SCR 1013 \(2008\)](#) Removes Chief Justice of Supreme Court as chair of the Commission on Appellate Court Appointments and Commission on Trial Court Appointments. Chief Justice remains on commissions as non-voting member. Commissions to select chair from their members, but Chief Justice explicitly forbidden from being selected. In Senate Judiciary committee

[ARIZONA SCR 1014 \(2008\)](#) Raises from 200,000 to 750,000 the population requirement for a county to come under merit selection system. Trial judges named by Governor through merit selection must be confirmed by Senate. Raises mandatory retirement age for judges from 70 to 75. In Senate Judiciary committee

[NEBRASKA LB 933 \(2008\)](#) Removes requirement that clerk-magistrates attend institute on duties and function of office. Replaces with requirement that clerk-magistrates comply with the Supreme Court judicial branch education requirements as required by the Supreme Court. In Judiciary committee

[WEST VIRGINIA HJR 19 \(2008\)](#) Increases magistrate's terms from 4 years to 6. In House Constitutional Revision committee

Rule Making Authority

[ARIZONA HB 2628 \(2008\)](#) Permits the presiding judge of a trial court to order the court a "no-carry" zone for firearms, even if the person has a valid concealed carry permit. In House Judiciary committee

[COLORADO HB 1183 \(2008\)](#) 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. In House Judiciary committee

[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. No committee yet assigned

[OKLAHOMA SB 1664 \(2008\)](#) Prohibits District Court local rules from conflicting with any statutes or any rules of a Superior Court. Requires local rules be published on the Oklahoma Supreme Court Network to be valid and enforceable. No committee yet assigned

[WEST VIRGINIA HB 4106 \(2008\)](#) See SB 260. In House Judiciary committee

[WEST VIRGINIA SB 260 \(2008\)](#) Allows the Supreme Court of Appeals to establish a uniform bail schedule which will allow persons charged with crimes to be released by posting a standard bail when a magistrate is not available. In Senate Judiciary committee

[WEST VIRGINIA SB 277 \(2008\)](#) Authorizes Supreme Court of Appeals to create a panel of senior status magistrate assistants and allows their use when current assistants are on medical leave. In Senate Judiciary committee

Structure Changes

[MISSOURI HJR 56 \(2008\)](#) Removes power of Supreme Court to conduct impeachment trials and requires impeachments be tried by the Senate. (Currently, impeachments are tried before the Missouri Supreme Court or a special commission of seven jurists selected by the Senate.) Not yet assigned to committee

Jurisdiction

[ARIZONA SCR 1010 \(2008\)](#) States that “in all criminal cases, the juries shall be judges of the law as well as matters of fact.” In Senate Judiciary committee

[KENTUCKY HB 280 \(2008\)](#) Increases small claims jurisdiction from \$1,500 to \$5,000. In House Judiciary committee

[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. In Senate Judiciary committee

[IOWA HSB 543 \(2008\)](#) 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. No committee yet assigned

[IOWA SSB 3075 \(2008\)](#) See HSB 543. No committee yet assigned

[NEW HAMPSHIRE CACR 33\(2008\)](#) Specifies legislature alone shall define standards for education, determine the level of state funding thereof, etc. In Senate Judiciary committee

[OKLAHOMA SB 1620 \(2008\)](#) Increases small claims jurisdiction from \$6,000 to \$9,999.99. No committee yet assigned

Budget and Salary

[IDAHO HB 368 \(2008\)](#) Consolidates variety of court fee statutes into one section and adds fees to certain actions. In House Judiciary committee

[IDAHO HB 369 \(2008\)](#) Creates a Judge’s Retirement Stabilization Fund to help support the 1947 Judges' Retirement Fund. In House Judiciary committee

[WEST VIRGINIA SB 310 \(2008\)](#) Sets same salary (\$50,000) for all magistrates in the state (currently, salary based on size of population served). (Identical to HB 2344) In Senate Judiciary committee

Other

[DELAWARE SB 199 \(2008\)](#) “Housekeeping” bill. Removes obsolete references to “associate” and “resident” judges and justices and references to 1978 salary levels. In Senate Judiciary committee

[FLORIDA HB 639 \(2008\)](#) Exemption from public records indentifying information pertaining to general magistrates & child support enforcement hearing officers,

information regarding their spouses, children, etc. In 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 629). In Senate Judiciary 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. In House Judiciary committee

[KANSAS SB 422 \(2008\)](#) Includes court services officer within definition of law enforcement for crime of assault on a law enforcement officer and similar statutes. In Senate Judiciary

[KENTUCKY HB 320 \(2008\)](#) Requires the Administrative Office of the Courts to install security systems in homes of District Judges, Circuit Judges, and Family Court Judges who have been threatened or believe their lives or the lives of their spouse or children residing in the judge's home are at risk. Expenditure limited to a one-time cost of \$5,000 expenditure, remainder to be borne by the judge. In House Judiciary committee

[KENTUCKY HB 327 \(2008\)](#) Grants court security officers two years to obtain a high school diploma/GED. In House Judiciary committee

[MISSOURI HB 1623 \(2008\)](#) Allows counties not participating in the Missouri Nonpartisan Court Plan to collect a surcharge in civil cases to be used for courthouse security purposes. In House Judiciary committee

[SOUTH DAKOTA HB 1129 \(2008\)](#) Creates Commission on Equal Access to Our Courts to provide grants to deliver legal services to persons meeting income eligibility guidelines.

[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. No committee yet assigned

Floor and Committee Activity

[MICHIGAN SB 505 \(2007\)](#) Exempts judges and judges who retired in good standing from restrictions on the carrying of a firearm at certain locations. Approved by full Senate. In House Judiciary committee

[NEW MEXICO HB 309 \(2008\)](#) Creates State Ethics Commission with authority over all state employees and officials. Findings related to judges to be forwarded to Judicial Standards Committee. In House Judiciary committee

[NEW MEXICO HB 375 \(2008\)](#) Creates crimes of “intimidation of a criminal justice official” and “retaliation against a criminal justice official” and includes judges within definition. Approved by House Consumer

and Public Affairs committee. In House
Judiciary committee

[NEW MEXICO HB 344 \(2008\)](#) Creates State Ethics Commission with authority over all state employees and officials. Findings related to judges to be forwarded to Judicial Standards Committee. Similar, but not identical to other bills. In House Judiciary committee

[NEW MEXICO SB 376 \(2008\)](#) Creates State Ethics Commission with authority over all state employees and officials. Findings related to judges to be forwarded to Judicial Standards Committee. Similar, but not identical to other bills. In Senate Judiciary committee

[NEW MEXICO SJR 6 \(2008\)](#) Eliminates Judicial Standards Commission. Replaces with State Ethics Committee with authority over all elected officials. In Senate Rules committee

[UTAH HB 78 \(2008\)](#) Recodifies, revises and renumbers entire Judiciary Code (Title 78). Approved by Senate. Returned to House for transmission to Governor

[UTAH HB 79 \(2008\)](#) Reauthorizes for 10 years the Office of the Court Administrator. Approved by full House. Approved by Senate Government Operations and Political Subdivisions committee

[UTAH SB 105 \(2008\)](#) Creates 13-member Judicial Performance Evaluation Commission and removes evaluation from the Judicial Council. Requires performance evaluation for judges up for retention and defines elements in the evaluation as well as minimum performance standards. Requires commission survey and findings be posted

online and published in voter's guide. Commission may recommend retention, recommend against retention, or make no recommendation. Approved by Senate Judiciary committee. On Senate floor with floor amendment proposed

[UTAH SB 122 \(2008\)](#) Modifies space allocated to Supreme Court in Capitol and places control of Supreme Court chambers in Capitol under the Secretary of the Senate. Approved by full House. To Senate for transmission to Governor

[VIRGINIA SB 19 \(2008\)](#) Raises mandatory retirement age for judges from 70 to 75. Approved as amended by Senate Courts of Justice committee. In Senate Finance committee

[VIRGINIA SB 180 \(2008\)](#) Requires that originals of all papers in the clerk's office be retained, even if reproduced electronically, and shall be destroyed only in accordance with law. Approved by full Senate. In House with no committee yet assigned

[WEST VIRGINIA SB 238 \(2008\)](#) Increases from \$300 to \$2,500 minimum amount to filed suit in Circuit Court. State's Circuit Court has original and general jurisdiction in most proceedings, writs (Habeas corpus, Mandamus, etc.) misdemeanors and crimes, and equity cases. Approved as amended by full Senate. In House with no committee yet assigned

[WEST VIRGINIA SB 293 \(2008\)](#) Allows retired Supreme Court of Appeals magistrates, magistrate clerks and other senior status employees to work for the court after retirement on a temporary or per diem basis and draw both their retirement benefits and up to twenty thousand dollars in

compensation. Approved by Senate
Pensions committee. In Senate Finance
committee

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