

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: New Mexico

New Mexico's legislature, having adjourned on February 14, [may be coming back into special session](#). Before it made its Valentine's Day departure, both the House and Senate were active on court-focused legislation.

Among those bills signed into law was [SB 239](#), which changes the date when the justices of the Supreme Court elect a chief justice from January to April (i.e. *after* the legislature adjourns). [HB 142](#) creates a fund for the judicial performance evaluation program under the administrative office of the courts. Unspent funds for the program would not have to revert back to the general treasury at the end of the year.

Resolutions not requiring gubernatorial approval to take effect included [SM 31](#). The memorial requested the Administrative Office of the Courts conduct a study regarding the need for large counties to have a special judge or special master to hear code enforcement cases. [HM 12](#), which requested the Administrative Office of the Courts convene a task force to study the need for probation services in the Magistrate courts.

Bills not making it into effect but of note included [SB 437](#) and [HB 309](#) which would have created a state ethics commission with authority over any person elected or appointed to the judicial and other branches. The commission would have forwarded its findings against a judge to the judicial standards commission. The House and Senate passed their respective versions but were unable to reconcile the two in time.

[HJR 5](#) would have allowed a person named to fill a judicial vacancy to serve at least one year before being required to face a retention vote at a general election. It was approved by the full House and the Senate Judiciary committee but did not make it to the Senate floor prior to adjournment.

[HB 375](#) would have created the crimes of "intimidation of a criminal justice official" and "retaliation against a criminal justice official" and included judges within the definition of "criminal justice official." It was approved by the full House but died in the Senate Judiciary committee.

[SJM 8](#) requested the Administrative Office of the Courts and the Office of State Engineer determine ways to expedite the water rights adjudication process. It was



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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.dni.us

Subscribe: gaveltogavel@ncsc.dni.us

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



approved by the full Senate and received approval of the House Judiciary committee but died with the end of the session.

Newly Introduced

Selection

[ALABAMA HB 444 \(2008\)](#) Requires nonpartisan election of candidates for state judicial office. In House Constitution and Elections committee

[KANSAS HB 2799 \(2008\)](#) Creates Court of Appeals judicial nomination commission (currently, Supreme Court nomination commission selects names for Court of Appeals as well). Nominees to be selected by Governor from three names submitted, but nominee is subject to Senate confirmation (Senate confirmation not currently required). In House Federal and State Affairs committee

[KANSAS HB 2813 \(2008\)](#) Requires a retired District Judge who returns to temporary service under a written agreement with the Supreme court be subject to the same retention election procedures as an active District Judge. The retention election for a retired District Court Judge shall be held in the judicial district from which he or she retired. In House Judiciary committee

[KANSAS HCR 5031 \(2008\)](#) Requires Senate confirmation of candidates to Supreme Court. (Senate confirmation not currently required). Changes membership of Supreme Court nominating commission: 3 names from Speaker of House, 3 from Senate President, 3 from Governor; 1 name from each appointing authority to be a bar

member. In House Federal and State Affairs 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. In House Judiciary committee

[MINNESOTA SF 2401 \(2008\)](#) Extends judicial terms in office from 6 to 8 years. Creates merit selection system for judges. Nomination commission to be composed of 5 members named by Governor, 2 named by Chief Justice, 4 by Legislative leaders. Judges to be appointed by Governor from three names given by commission and serve at least 3 years before facing retention election. Requires Judicial Performance Commission evaluate judges and publish findings. Commission to be made up of 9 members named by Governor, 8 named by Chief Justice (all of whom must be current or retired judges), 8 by legislative leaders. In Senate State and Local Government Operations and Oversight committee

[MINNESOTA SF 2693 \(2008\)](#) Extends judicial terms in office from 6 to 8 years. Creates merit selection system for judges. Nomination commission to be composed of 5 members named by Governor (at 2 attorneys & at least 2 non-attorneys), 4 named by Chief Justice (2 attorneys & 2 non-attorneys). Judge to be appointed by Governor from three names given by commission and serve at least 3 years before facing retention election. Requires Judicial Performance Commission evaluate judges and publish findings. Performance Commission to be made up of 2 non-attorneys, 3 attorneys and 1 non-attorney per judicial district members named by

Governor and 2 non-attorneys, 3 attorneys and 1 non-attorney per judicial district named by Chief Justice (all of whom must be current or retired judges), In Senate State and Local Government Operations and Oversight committee

Qualifications and Terms

[ALABAMA HB 464 \(2008\)](#) Requires a lawyer be admitted to the practice of law for a certain number of years before taking judicial office. Supreme Court, Court of Civil Appeals, and Court of Criminal Appeals: 10 years. Circuit Court: 5 years. District Court: 3 years. In House Judiciary committee

[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. In House Judiciary committee.

[HAWAII SR 30 \(2008\)](#) See HAWAII HCR 69. In Senate Judiciary committee

[HAWAII SCR 58 \(2008\)](#) See HAWAII HCR 69. In Senate Judiciary committee

[MINNESOTA SB 2494 \(2008\)](#) Exempts judges in office on December 31, 1973 from mandatory retirement. In Senate Judiciary committee

[MINNESOTA SB 2615 \(2008\)](#) Raises mandatory retirement age for judges from 70 to 75. In Senate Judiciary committee

Rule Making Authority

[IOWA HSB 654 \(2008\)](#) Modifications to open records laws. Authorizes Supreme Court to issue rules requiring confidentiality of certain categories of material in records maintained by the courts that are about and linked to an identified or identifiable person and that if disclosed to the general public would constitute an unwarranted or undue invasion of personal privacy or that would present a clear and serious danger of facilitating identity theft or other criminal activity in relation to that person. No committee yet assigned

[IOWA SSB 3164 \(2008\)](#) See IOWA HSB 654. No committee yet assigned

Structure Changes

NONE

Salary and Budget

[GEORGIA SB 460 \(2008\)](#) Modifies requirements and provisions of the Superior Court Clerks' Retirement Fund. In Senate Retirement committee

[MARYLAND HB 1194 \(2008\)](#) Alters a requirement that the State budget include an appropriation to pay rent to counties for space occupied by clerks of the Circuit Courts. In House Appropriations committee

[RHODE ISLAND HB 7404 \(2008\)](#) Modifies policies regarding retirement of members of the Rhode Island Judiciary and State Police in conformity with those policies related to other state employees. In House Finance committee

[RHODE ISLAND SB 2329 \(2008\)](#) Requires salary of the jury commissioner be set by State Court Administrator (currently set by Unclassified Pay Plan Board). In Senate Judiciary committee

[WEST VIRGINIA HB 4506 \(2008\)](#) Sets same salary (\$50,000) for all magistrates in the state (currently, salary based on size of population served). Similar, but not identical to [WEST VIRGINIA HB 2344](#). In House Judiciary committee

[WEST VIRGINIA SB 664 \(2008\)](#) Exempts family court judges and magistrates from concealed weapon licensing requirements. In Senate Judiciary committee

Other

[RHODE ISLAND SB 2320 \(2008\)](#) Makes technical changes concerning the Municipal Courts as a result of the recent creation of the position of chief magistrate of the Traffic Tribunal. In Senate Judiciary committee

[WASHINGTON HB 3372 \(2008\)](#) Changes requirement that *the* office of the Clerk of the Superior Court be kept at the county seat to requiring the Clerk keep *an* office at the county seat. In House Local Government committee

[WEST VIRGINIA HB 4489 \(2008\)](#) Requires magistrate courts to maintain records relating to successful collection rates on judgments and to make reports of these available to claimants and general public. In House Judiciary committee

Floor and Committee Activity

[ARIZONA HB 3913 \(2008\)](#) Prohibits a court from citing or basing its determination on a resolution, ruling, policy, law or determination of any kind made by a foreign nation, an international court of justice, an international criminal court or other similar international or multinational body, or the United Nations. Prohibition extends to agreements between an individual, head of state, entity or political subdivision of a state and a foreign nation. Excludes from the prohibition determinations made pursuant to U.S. treaties. Approved by House Judiciary committee

[CALIFORNIA SB 6C \(2008\)](#) Sets timetable upon appropriation for addition of 100 new judges to Superior Courts (40 by 6/30/08; 10 after 7/1/08; 50 after 6/1/09). Approved as amended by Senate Budget and Fiscal Review committee

[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 by as amended by Senate Appropriations 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. Approved by full

House. Approved by Senate Judiciary committee

[IDAHO SB 1288 \(2008\)](#) Modifies district magistrate commissions, which appoint magistrate judges. Makes magistrate judge member of each commission a voting member. Makes trial court administrator of each district secretary of the commission. Disqualifies attorney member of the commission if a law partner of a magistrate candidate within the previous five years. Grants board of county commissioners' authority to waive the right to a resident magistrate judge. Signed into law by Governor

[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.) Approved as amended by full Senate. House declines to agree to Senate amendments. Conferees appointed

[LOUISIANA HB 1A \(2008\)](#) ORIGINAL: Requires every judge and candidates for judge in the state and many other government employees to disclose annually certain income, compensation, and financial transactions of the public servant or his spouse and additionally requires candidates for certain offices to file financial disclosure statements with the Board of Ethics. AMENDED: Judges removed from requirement (see LOUISIANA HB3A). To Governor for approval

[LOUISIANA HB 3A \(2008\)](#) Requires judges and candidates for judge to disclose certain financial information. Approved as amended by House Governmental Affairs committee.

[LOUISIANA SCR 5A \(2008\)](#) Urges and requests the Louisiana Supreme Court to adopt the same financial disclosure standards for judges that are applicable to other elected officials in the Code of Governmental Ethics. Approved by full Senate. In House Governmental Affairs committee

[LOUISIANA SR 6A \(2008\)](#) Urges and requests the Louisiana Supreme Court to adopt the same financial disclosure standards for judges applicable to elected officials in the Code of Governmental Ethics. (Similar to LOUISIANA SCR 5A) Approved by full Senate (House concurrence not required).

[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. In Senate Fees, Salaries and Administration committee

[VIRGINIA HB 903 \(2008\)](#) Restructures magistrate system. Transfers appointment and supervisory responsibilities from the circuit court judges to the Executive Secretary of the Supreme Court. Requires minimum of a bachelor's degree from an accredited college for magistrates named after July 1, 2008 unless waived by Executive Secretary. Requires chief magistrates be members in good standing of the Bar. Prohibits magistrates from the

practice of law or other business unless granted permission by Executive Secretary. Magistrates required to serve nine-month probationary period (currently, six months). Grants Executive Secretary power to assign magistrates anywhere within a region, rather than anywhere within a judicial district. Approved by full Senate. Return to House for transmission to Governor

[VIRGINIA SB 244 \(2008\)](#) Similar to HB 903. Approved by House Courts of Justice committee

[VIRGINIA SB 563 \(2008\)](#) Requires Circuit Court judges in civil cases notify parties of estimated time of decision if the case has been fully submitted and under advisement for over 90 days. Failure to provide the time estimate or missing the estimated time gives permission to the parties to notice the Chief Justice, who may then designate a judge or retired judge of a court of record or take other appropriate action to assist the regular judge in the performance of his duties. Approved by full Senate. In House Courts of Justice committee

[WASHINGTON HB 2557 \(2008\)](#) Raises District Court civil limit from \$50,000 to \$75,000. Raises small claims limit from \$4,000 to \$5,000. Prohibits court commissioners from presiding over criminal trials in criminal matters or civil jury trials unless agreed to by parties. Requires a judicial officer disqualify himself or herself when a party files an affidavit that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judicial officer. The affidavit must be filed prior to any discretionary ruling, which does not include: arrangement of the calendar; setting of an action motion or proceeding for

hearing or trial; arraignment of the accused; setting conditions of release; or setting of bail. Only one change of judicial officer is allowed each party in an action or proceeding. Approved as amended by full House. In Senate Judiciary committee

[WASHINGTON HB 2822 \(2008\)](#) Creates the family and juvenile court improvement grant program to assist Superior Courts in improving their family and juvenile court systems, especially in dependency cases. Requires the Washington State Institute for Public Policy to evaluate the implementation of the program. Approved by full House. In Senate Human Services & Corrections committee

[WASHINGTON HB 2903 \(2008\)](#) Requires the Administrative Office of the Courts to create the position of court access and accommodations coordinator. The coordinator is to review court training and other assistance required to provide access and accommodation for persons with disabilities. Approved by full House as amended. In Senate Judiciary committee

[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. Amended and approved by House Judiciary committee. Approved by full Senate. Approved by House Appropriations committee

[WYOMING SB 68 \(2008\)](#) Modifies judicial retirement system's age, years of service and contribution requirements. Approved by full House. To Senate for transmission to Governor

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