

Gavel to Gavel

A review of state legislation affecting the courts

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Editor's Note: The focus piece normally featured at the start of every Gavel to Gavel is suspended this issue to provide additional coverage of the numerous pieces of legislation active this session.

Newly Introduced

Selection

[CALIFORNIA AB 2095 \(2008\)](#) Requires Governor to make public the name of any person who has participated in a decisionmaking capacity in the evaluation or selection of any judicial applicant. In Assembly Judiciary committee

[CONNECTICUT SB 448 \(2008\)](#) Directs State Elections Enforcement Commission to submit report on inclusion of Probate Judges in state's public campaign financing program. Report due January 1, 2009. In Joint Committee on Government Administration and Elections

[KANSAS SCR 1619 \(2008\)](#) Requires Senate confirmation of Supreme Court nominees. In Senate Judiciary committee

[KENTUCKY HB 599 \(2008\)](#) Require voters in judicial elections to complete their ballots by ranking candidates in order of choice. Eliminates primaries in judicial elections. Requires all judicial candidates to file petitions of candidacy. In House Elections, Const. Amendments & Intergovernmental Affairs committee

[WEST VIRGINIA HB 4650 \(2008\)](#) Requires nonpartisan elections of justices of the West Virginia Supreme Court of Appeals and Circuit Court Judges. Ballot to separate partisan offices from nonpartisan. (see [WEST VIRGINIA SB 475](#)) In House Judiciary committee

Rule Making Authority

[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. In Assembly Judiciary committee



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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/



[CALIFORNIA AB 2357 \(2008\)](#) Requires the Judicial Council adopt rules of court regulating the contracting of court duties, functions, or services that will be performed by subcontractors or employees outside of the United States. Requires the rules to provide for a standard form or questionnaire to be completed by all successful bidders that includes a complete description of any or all portions of the contract that will be performed by subcontractors or employees outside of the United States, and would prohibit the performance of court duties, functions, and services that involve confidential, personal identification information by subcontractors or employees outside of the United States. In Assembly Judiciary committee

[CONNECTICUT HB 5528 \(2008\)](#) Allows public access to all judiciary documents held by any judicial office, official, or body or committee. Provides exception only for matters directly related to judicial decision-making in individual court cases and the management of the internal institutional machinery of the judicial branch including, but not limited to, budgeting, accounting, rule-making, personnel, facilities, physical operations, docketing, record-keeping and scheduling. Expands restriction on access to employee home addresses, currently extended to judges, police and others, to all government employees. In Joint Committee on Judiciary

[IOWA HF 2368 \(2008\)](#) Authorizes Supreme Court to set by rule the bond levels to be contained within the bond schedule used when a court is not in session for the release of a person arrested for a crime other than a forcible felony. Sets out role of Legislative Council and General Assembly in approving levels. In House Judiciary committee

Qualification and Terms

[IOWA HF 2300 \(2008\)](#) Allows a senior judge who reaches age 78 to be reappointed to an additional two year term as a senior judge. In House Judiciary committee

[KENTUCKY HB 581 \(2008\)](#) Establishes prerequisites for entry into the senior status judge program and establish a sunset date of July 1, 2012. In House Judiciary committee

Structure Changes

NONE

Jurisdiction

NONE

Salary and Budget

[CALIFORNIA AB 2164 \(2008\)](#) Authorizes the Administrative Office of the Courts to increase the amount distributed to a county law library fund from certain filing fees whenever it determines that the increase was necessary to defray the expenses of the law library. Requires the board of law library trustees to establish and maintain a law library at the county seat in suitable quarters provided by the Administrative Office of the Courts. In Assembly Judiciary committee

Other

[CONNECTICUT SB 321 \(2008\)](#) Allows "Bureau heads" in judiciary and other branches/agencies to collectively bargain. Defines "bureau heads" and restricts number of same in judiciary to one-half of one per cent of the total number of permanent full-time employees. In Joint Committee on Labor and Public Employees

[IOWA HB 2323 \(2008\)](#) Requires the clerk of the District Court to consult with a recognized county historical society or association prior to the destruction of a court file to ensure the preservation of and public access to such records. In House Judiciary committee

Floor and Committee Activity

[ARIZONA SB 1186 \(2008\)](#) Requires Supreme Court create performance evaluation system for Superior Court commissioners. Evaluations to include public hearings on commissioners and reports to be made public. Approved as amended by Senate Committee of the Whole

[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. Approved by full House. In Senate Judiciary committee

[CONNECTICUT SB 376 \(2008\)](#) Requires courts establish a land use docket to hear actions related to planning and zoning, inland wetlands and eminent domain. Approved as amended by Joint Committee on Planning and Development

[FLORIDA HB 295 \(2008\)](#) 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. Favorably reported from Committee on Courts and referred to Safety & Security Council

[HAWAII HB 2696 \(2008\)](#) Clarifies the role of, and the number of candidates to be nominated by, the Friends of the Judiciary History Center in the event of vacancies on the Center's Executive Board. Approved as amended by House Judiciary committee. Approved by full House. In Senate with no committee yet assigned

[IDAHO SB 1252 \(2008\)](#) Provides that for wage, hour and working conditions, Supreme Court shall prescribe rules for employees of the judicial branch Amends various wage and compensatory time laws. Approved by full Senate. Approved by House Rules committee

[INDIANA SB 329 \(2008\)](#) Allows a person serving as a full-time magistrate on July 1, 2010, and requires a person who begins serving as a full-time magistrate after that date, to become a participant in the judges' 1985 benefit system. Allows under certain conditions a judge or magistrate who is a participant in the 1985 system to transfer to the 1985 system service credit earned in other system. Makes other pension modifications. Approved with House amendments by full House. Returned to Senate for agreement to amendments

[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 full Senate. In House with no committee yet assigned

[IOWA SSB 3164 \(2008\)](#) 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. Approved by Senate State Government committee

[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. Approved by full House. In Senate Judiciary committee

[KANSAS HB 2825 \(2008\)](#) Provides that in civil and criminal cases the court or any party may request a hearing to seal or redact the court records or to close a court proceeding. Reasonable notice of such hearing would have to be given to all parties in the case. In a criminal case, notice would also have to be given to the victim. If the court grants the request, it would make and enter a written finding of good cause before closing the proceedings or granting leave to file the records under seal. Good cause does not exist unless the court makes a finding on the record that there exists an identified compelling safety, property, or privacy interest of a litigant that predominates the case and such interest outweighs the public interest in access to court records and proceedings. Approved by full House. In Senate Judiciary committee

[KENTUCKY HCR 97 \(2008\)](#) Requests the Supreme Court and the Administrative Office of the Courts to provide basic and in-service training for attorneys serving as guardians ad litem. Approved by House Judiciary 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. Reported favorably by House Governmental Affairs committee

[MARYLAND HB 87 \(2008\)](#) 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. Authorizes the Chief Judge of the District Court to assign a commissioner to serve temporarily in any county. Repeals limitations to the contrary. Approved by full House

[MARYLAND HB 287 \(2008\)](#) Allows Legislature to increase qualification requirements for certain Orphan's Court Judgeships if the local government requests such an increase. Approved as amended by House Judiciary committee

[MARYLAND HB 771 \(2008\)](#) Continues the State Board of Law Examiners under the Court of Appeals until 2019 (set to sunset in 2009). Increases maximum Bar examination fee that the Court of Appeals may impose on an applicant. Approved as amended by House Judiciary committee

[MARYLAND SB 514 \(2008\)](#) See MARYLAND HB 771. Approved by Senate Judicial Proceedings committee

[MARYLAND SB 58 \(2008\)](#) 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. Authorizes the Chief Judge of the District Court to assign a commissioner to serve temporarily in any county. Repeals limitations to the contrary. Approved by full Senate. Approved by

House Judiciary and by full House. In Senate Judicial Proceedings committee

[MINNESOTA HF 3023 \(2008\)](#) Extends judicial terms in office from 6 to 8 years. Creates merit selection systems 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. Approved as amended by House Governmental Operations, Reform, Technology and Elections committee. In House Public Safety and Civil Justice committee

[MISSISSIPPI SB 2571 \(2008\)](#) Makes Justice Court elections nonpartisan. Requires Justice Court Judge successfully complete a minimum competency examination, receive training and certification by the Mississippi Judicial College, and be subject to continuing education requirements. Failure to comply with requirements within 8 months of taking office results in forfeiture of office. Requires Sheriff provide court security for Justice Courts. Raises Justice Court jurisdiction to \$3,500 and allows for trials in certain criminal cases. Ends practice where larger counties may supplement their Justice Court Justice's salaries and sets salary levels. Approved by full Senate

[MISSOURI SB 757 \(2008\)](#) In those counties that do not use merit selection, requires

nonpartisan judicial elections beginning January 1, 2010. Prohibits partisan activity by such candidates and places enforcement with the Missouri Ethics Commission. In those counties that do use merit selection, no changes. Approved by Senate Financial & Governmental Organizations and Elections committee

[MISSOURI HJR 41 \(2008\)](#) Removes court's jurisdiction to order the levy or imposition of new or increased taxes, licenses, or fees. Removes court's jurisdiction to order a government agency or the general assembly to appropriate or expend public funds. Allows courts to enjoin the levy or collection of illegal taxes, etc. or the expenditure of public funds not authorized by law or contrary to law. Allows courts to order reductions in tax rates. Approved by House Rules committee

[MISSOURI HB 1567 \(2008\)](#) Creates the crime of murder of a criminal justice official in the first degree, punishable by death. Defines criminal justice official to include judges. Public hearing completed in Crime Prevention and Public Safety Committee

[NEW HAMPSHIRE HB 1361 \(2008\)](#) Requires marital masters be re-elected (initial appointment would continue to be by administrative judge of the judicial branch family division). Requires marital masters to be New Hampshire residents. Rejected by House Judiciary committee

[NEW HAMPSHIRE SB 441 \(2008\)](#) Authorizes the Chief Justice of the Supreme Court to request that the Governor appoint a representative from the judicial branch to the state's collective bargaining negotiating team. Approved by Senate Executive Departments and Administration committee

[NEW HAMPSHIRE HB 1180 \(2008\)](#)

Includes bailiffs and court officers in the definition of “law enforcement officer” under the capital murder law. Clarifies that family division judges are included in the definition of “judicial officer” under the capital murder law. Approved as amended by House Criminal Justice and Public Safety 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. Approved by Senate as amended. Sent to Governor

[UTAH SB 72 \(2008\)](#) Modifies Justice Courts. Defines judges of these courts are judicial officers and provides they are to be paid for by the state. Sets compensation rates. Judges to be selected by judicial selection committees in each judicial district. Candidates must have at least graduated college (currently, need only have high school diploma). Creates performance evaluation and retention process for judges. Approve by House as substituted. To Governor for approval

[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 or decline to make recommendation. Approved with House amendments by full Senate. To Governor for approval

[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. Signed into law by Governor

[VIRGINIA HB 903 \(2008\)](#) Merged into VIRGINIA SB 244 (see below).

[VIRGINIA SB 112 \(2008\)](#) Removes the restriction on local salary supplements paid to local District Court employees. Approved by full House. To Governor for approval

[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. Signed into law by Governor

[VIRGINIA SB 244 \(2008\)](#) 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 House with House amendment. Senate agreed to House amendment. To Governor for approval

[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 misses 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 House Court of Justice committee and by full House

[VIRGINIA SB 605 \(2008\)](#) Clarifies that when there is a dissent in a panel opinion of the Court of Appeals and an aggrieved party requests an en banc hearing, at least four judges of the Court must vote in favor of the hearing. The bill makes it clear that the voting judges must be active and would not include retired judges sitting by designation. Signed into law by Governor

[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 with Senate amendments by full Senate

[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 to evaluate the implementation of the program. Approved with Senate amendments by Senate Ways & Means and Rules committees

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

[WEST VIRGINIA SB 238 \(2008\)](#) Increases from \$300 to \$2,500 minimum amount to file suit in Circuit Court. Specifies Circuit Court has original and general jurisdiction in most proceedings, writs (Habeas corpus, Mandamus, etc.) misdemeanors and crimes, and equity cases. Approved by full House. To Governor for approval

[WEST VIRGINIA SB 536 \(2008\)](#) Exempts vehicles operated by the Supreme Court of Appeals from registration requirements for state cars. Approved by House Judiciary committee

[WEST VIRGINIA SB 337 \(2008\)](#) Removes obsolete language concerning the Clerk of the Supreme Court of Appeals regarding salary, bond, staff and selection. Passed in House and communicated to Senate

[WEST VIRGINIA HB 4388 \(2008\)](#)

Authorizes the Supreme Court of Appeals to maintain a domestic violence database to retain copies of protection orders. Approved with Senate amendment by full Senate. House concurs with Senate amendment. To Governor for approval

[WYOMING SF 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. Approved by full House

[WYOMING SF 67 \(2008\)](#) Defines judicial and other salaries. Supreme Court: \$126,500 (7/1/08); \$131,500 (7/1/09). District Court: \$120,400 (7/1/08); \$125,200 (7/1/09). Circuit Court: \$98,800 (7/1/08); \$102,800 (7/1/09). Approved by full House. To Senate for transmission to Governor

[WYOMING SF 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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