

Gavel to Gavel

A review of state legislation affecting the courts

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Editor's Note

Readers may notice a change to *Gavel to Gavel's* basic format. Floor/committee action on legislation was reported as a separate category. Now that we are tracking more states with more legislation (300+ bills, with more added every week), our style will change to accommodate readers. Starting this issue, subject headers will remain with bills newly filed and bills with floor or committee action now serving as subdivisions within each subject.

Readers have asked why we link to bill status and text for most but not all states. This is a function of the state legislative websites; some simply do not allow for direct linking in that manner. Moreover, linking to a bill's text may not always accurately reflect what the *current* text is. Where we can link to bill status and current text we will continue to do so. Where we cannot, we will continue to provide links to legislative search engines.

Thank you for making *Gavel to Gavel* such a success. Should you have any questions, please do not hesitate to contact me at wraftery@ncsc.org or (800) 616-6109.

-Bill Raftery



Legislative tracking provided
by LexisNexis

Focus: Initiatives

By all accounts, [2006 was the year of the initiative](#) with several efforts launched to modify or restrict courts or (in the case of JAIL4Judges) imprison judges. 2008 is proving to have repeats of some of the efforts defeated that year as well as some indications of what may come in 2010.

Arizona: The "Committee for the Preservation of Constitutional Government" is circulating [I-08](#) to remove all authority over bar licensing and discipline from the Supreme Court and place it in a newly created Legislative commission. The leader of the effort recently [confirmed their signature gathering efforts](#).

Arkansas: Two initiatives dealing with judicial terms have been approved by that state's Attorney General for circulation. [The first](#) would alter legislative term limits and impose limits for the first time on appellate judges and other elected officials. The current 8-year terms for Supreme Court and Court of Appeals justices and judges would be reduced to a maximum of two, 6-year terms. County Judges and Justices of the Peace on the other hand would see their terms increased from 2 to 4 years. [A second](#)



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[initiative](#) without the term limits elements would similarly increase County Judge and Justice of the Peace terms from 2 to 4 years.

Colorado: Proponents [of a failed 2006 effort to impose 10 year term limits on appellate court judges](#) have returned with a [new 12 year term limit proposal that would cover all judges](#).

Idaho: A proposal from a former member of JAIL4Judges [to redefine malfeasance and allow for civil suits against judges and court employees](#) has been filed with that state's Secretary of State although it is unclear if there is an effort to collect signatures.

Missouri: An initiative to [heavily modify the state's merit selection plan](#) has been submitted to the Secretary of State. Under the initiative, no more than 3 of the 7 members of the Appellate Nomination Commission could be lawyers with all 7 members selected by the Governor with Senate confirmation. The Governor would receive 5 names from the Commission (currently 3) and be allowed to reject the names and ask for new ones. Voters would be required to re-approve this selection plan every 10 years or replace it from a list of alternative judicial selection methods.

Oregon: [An initiative](#) to remove the "incumbent" designation on the ballot for judges appointed to their current office was withdrawn from consideration for the 2008 ballot. However, the proponent has [resubmitted a modified version of the proposal](#) that would prohibit anything "advantageous" next to a candidate's name for the 2010 ballot. The same proponent also submitted an [initiative to require](#) judges instruct juries of a "Right/Duty To Disregard

Law If Verdict Against Defendant Is "Unjust".

Selection: Newly Introduced

[ALABAMA HB 547 \(2008\)](#) Requires Supreme Court Associate Justices be elected by district (Chief Justice would remain elected statewide). Requires Court of Appeals and Court of Criminal Appeals Judges to be elected by district (currently statewide). Requires Circuit Judges to be elected by district within each circuit. Requires District Judges to be elected by district within each county. In House Constitution and Elections committee

[ILLINOIS SB 2823 \(2008\)](#) Creates the Judicial Campaign Reform Act and a voluntary program of public financing of election campaigns for the offices of judges of the Illinois Supreme Court and Appellate Courts, administered by the State Board of Elections. Establishes funding mechanisms and provides penalties for violations. Sets mandatory contribution limits with respect to all judicial election campaigns. In Senate Local Government committee

[ILLINOIS HCA 31 \(2008\)](#) Allows for recall of judges and other elected officials. In House Rules Committee

[MICHIGAN HB 5799 \(2008\)](#) Creates public finance system for Supreme Court races. In House Judiciary committee

[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). In Senate Judiciary committee

[MINNESOTA SB 3206 \(2008\)](#) Creates Commission on Judicial Selection. Chair and at least half the members of Commission to be named by Governor. Commission to submit three names to fill judicial vacancies, but Governor may ask for three additional names. Creates 48-member Commission on Judicial Evaluation to review sitting judges' performance. Judges may remain in office if they receive a 2/3 vote by the Commission on Judicial Evaluation. In House Judiciary committee

[MISSOURI HJR 73 \(2008\)](#) Eliminates Nonpartisan Judicial Nomination Commissions. Judicial appointments to be made by the Governor and confirmed by the Judicial Confirmation Commission, comprised of three members of the Missouri Bar to be appointed by the Governor, two members of the General Assembly to be appointed by the Speaker of the House of Representatives, and two members of the General Assembly to be appointed by the President Pro Tem of the Senate. The commission must consider recommendations made by the Missouri Bar during the confirmation process which include exceptionally qualified, qualified, no opinion, or not qualified. In House Constitution and Elections committee

[RHODE ISLAND HB 7829 \(2008\)](#) Modifies judicial selection process. Requires Governor to select from list of names submitted by Judicial Nomination Commission for vacancy (currently, Governor may also select from any names submitted in previous 5 years for same position). In House Judiciary committee

[RHODE ISLAND HB 7831 \(2008\)](#) Prohibits member of Judicial Nomination

Commission from serving more than one term. In House Judiciary committee

[RHODE ISLAND SB 2726 \(2008\)](#) See RHODE ISLAND HB 7831. In Senate Judiciary committee

[RHODE ISLAND SB 2754 \(2008\)](#) Removes Judicial Nomination Commission members who have served more than their 4 year term and continue to remain on commission because their replacement has not been named. Allows commissioners to remain only if at time of passage actively involved in judicial selection list. Prohibits commissioners from being a judge or holding any public office except notary public while on Commission. Commissioners are prohibited from being selected as a judge while on Commission and for 1 year after leaving. In Senate Judiciary 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 218](#)) In House Judiciary committee

[WISCONSIN SB 12 \(2007\)](#) Modifies contribution limits and reporting requirements for Supreme Court and other state campaigns. Approved as amended by Senate Campaign Finance Reform, Rural Issues and Information Technology committee. In Joint Finance committee

Selection: Floor and Committee Activity

[ILLINOIS HCA 28 \(2008\)](#) Allows for recall of judges and other elected officials. Approved as amended by State Government Administration committee

[WEST VIRGINIA SCR 69 \(2008\)](#) Requests Joint Committee on Government and Finance to study judicial selection methods and public financing of judicial elections. Joint Committee to report by start of 2009 session. Approved by full Senate and House (Governor's approval not required).

Qualifications and Terms: Newly Introduced

[MARYLAND HB 1559 \(2008\)](#) Prohibits the Chief Judge of the Court of Appeals from assigning a former judge to sit temporarily in a court in a case in which a sentence of death is sought. In House Judiciary committee

[NEW JERSEY SB 890 \(2008\)](#) Increases mandatory retirement age for justices and judges from 70 to 75. In Senate Judiciary committee

[RHODE ISLAND HB 7702 \(2008\)](#) Requires mandatory retirement of judges who have reached the age of seventy-two or have completed thirty-five (35) years of service. In House Finance committee

Qualification and Terms: Floor and Committee Activity

[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. Approved by full Senate. In House with no committee yet assigned

[ARIZONA SCR 1101 \(2008\)](#) (Constitutional Amendment) Requires Supreme Court create performance evaluation system for Superior Court commissioners. Approved by Senate Judiciary committee

[GEORGIA HB 1245 \(2008\)](#) Prohibits senior judges from presiding over capital cases. Modifies means by which indigent defenses are paid for. Approved by full House. In Senate with no committee yet assigned

Rule Making Authority: Newly Introduced

[FLORIDA SB 2568 \(2008\)](#) Requires trial courts issue written orders denying motions for summary judgment which states with specificity the legal basis for the denial and enumerates the specific disputed facts deemed material to the trial court. Allows for appeal of denial of summary judgment as described. Requests Supreme Court establish rules related to such denials and appeals. No committee yet assigned

[GEORGIA HB 1362 \(2008\)](#) Alters requirement that sheriff develop court security plan subject to chief judge's approval. Allows for alternate methods in development of security plans as provided by local laws. No committee yet assigned

[ILLINOIS HB 5182 \(2008\)](#) Abolishes the Division of Probation Services of the Illinois Supreme Court. Transfers the Division's

powers and duties to the Illinois Office of Probation Services. Transfers various functions relating to probation services from the Chief Judge of the Circuit Court to the county board or the county board chairman or president. In House Rules committee

[MISSOURI HB 2301 \(2008\)](#) Repeals Supreme Court Rule requiring an attorney licensed in the State of Missouri to be a member of The Missouri Bar in order to practice law in this state. In House Special Committee on General Laws

[NEW JERSEY ACR 148 \(2008\)](#) Requests the Supreme Court to increase small claims limit from \$15,000 to \$25,000. In Assembly Judiciary committee

Rule Making Authority: Floor and Committee Activity

[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. Approved by full House. In Senate Judiciary committee

[GEORGIA HB 1294 \(2008\)](#) Allows Chief Justice to extend judicial emergencies beyond normal limitations if a public health emergency exists. Emergency declaration may remain in place for as long as the public health emergency exists. Approved by House Judiciary committee

[GEORGIA SB 296 \(2008\)](#) Removes the Commissioner and Department of Administrative Services. Removes Commissioner from the Georgia Courts Automation Commission. Transfers

administrative and salary paying and travel expense reimbursement functions for Superior Court Judges and court reporters to the Council of Superior Court Judges. Provides that Council of Superior Court Judges is a separate units within the State Accounting Office. Approved by full Senate. In House with no committee yet assigned

[GEORGIA SR 1030 \(2008\)](#) Joint Electronic Records, Signatures, Filing, and Recording Study Committee. 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. Report due by 2009 session. Approved by full Senate (House concurrence not required).

[SOUTH DAKOTA SB 77 \(2008\)](#) Repeals prohibition on the taking of photographs or audio/video broadcasting of judicial proceedings. Approved by full House. To Governor for signature

Structure Changes: Newly Introduced

[MICHIGAN HB 5760 \(2008\)](#) Recreates Detroit Recorder's Court consisting of 29 judges to have exclusive jurisdiction over criminal cases punishable by over 1 year imprisonment. Removes judges from surrounding Circuit Court. In House Judiciary committee

[NEW JERSEY ACR 147 \(2008\)](#) (Constitutional Amendment) Authorizes legislature to transfer probation functions from Judiciary to State Parole Board. In Assembly Law and Public Safety committee

Structure Changes: Floor and Committee Activity

NONE

Jurisdiction: Newly Introduced

[NEW JERSEY ACR 148 \(2008\)](#) Requests Supreme Court raise small claims limits to \$25,000. In Assembly Judiciary committee

Jurisdiction: Floor and Committee Activity

[HAWAII SB 2474 \(2008\)](#) Increases small claims jurisdiction from \$3,500 to \$5,000. Approved by full Senate. In House Judiciary committee

[HAWAII SB 2785 \(2008\)](#) Increases District Court civil jurisdiction from \$20,000 to \$30,000. Effective date January 1, 2050. Approved by full Senate. Approved by House Judiciary 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 Special Committee on General Laws

[NEW YORK SB 3615 \(2008\)](#) Allows certain justices of criminal courts to preside over arraignments and initial appearances on bench warrants in any suitable facility in the county of jurisdiction. Approved by Senate Judiciary committee

Salary and Budget: Newly Introduced

[ILLINOIS HB 5266 \(2008\)](#) Requires the Compensation Review Board file separate reports with respect to (i) State executive branch constitutional officers and General Assembly members and (ii) judges and all other offices and positions subject to the Act. Provides that a report is effective if approved in whole or reduced by a resolution adopted by the General Assembly (now, effective unless disapproved in whole or reduced by a resolution adopted by the General Assembly). Requires a separate resolution and vote for each report. In House Rules committee

[ILLINOIS SB 2543 \(2008\)](#) Requires new a judges, constitutional officers or General Assembly members to participate in State Employees' Retirement System and that they may not have their employee contributions paid on their behalf by the State. Exempts those who previously participated in the Judges or General Assembly Retirement System before that date. In Senate Rules committee

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. Approved as amended by Senate Judiciary committee and Senate Labor committee

[KANSAS HB 2802 \(2008\)](#) Creates 11-member Kansas Performance Measurement Commission (one member selected by Chief Justice) to provide the Legislature with better and more consistent data for the appropriations process. Commission to hire consultant to design a performance measurement management system for the state by 2009. Approved by full House. In Senate Federal and State Affairs committee

[OKLAHOMA HB 3312 \(2008\)](#) ORIGINAL: Creates Task Force on Defined Contribution Retirement Plan for the Uniform Retirement System for Justices and Judges. Task Force to be composed of 13 members (4 by Governor, 5 by House Speaker, 4 by Senate President Pro Tempore). AMENDED; Same, but 17 members (including 2 named by Chief Justice, 1 by Public Employees Association and 1 by Public Employees Retirement System). Approved as amended by House Economic Development and Financial Services committee

Other: Newly Introduced

[ALASKA HB 411 \(2008\)](#) Permits Chief Justice to introduce measures to the House or Senate Rules Committees. (Change in law) In House State Affairs committee

[ALASKA HCR 23 \(2008\)](#) Permits Chief Justice to introduce measures to the House or Senate Rules Committees. (Change in Legislative Rules) In House State Affairs committee

[ILLINOIS SB 2452 \(2008\)](#) Specifies court records are expressly public records. expressly includes, but is not limited to, Provides that any judge, clerk or court

employee, etc. who unlawfully alters, destroys, defaces, removes, or conceals any public record commits a Class 3 felony and forfeits their elected office or public employment, pensions and benefits. Approved as amended by Judiciary Criminal Law committee

[MARYLAND HB 1556 \(2008\)](#) Requires the Administrative Office of the Courts to develop and implement an automated external defibrillator program that meets specified requirements for each courthouse in the State. In House Judiciary committee

Other: Floor and Committee Activity

[CONNECTICUT SB 487 \(2008\)](#) Requires Judicial Department report the number of women and minorities hired as judicial marshals to the Joint Standing Committee on Labor and Public Employees. Approved by Joint Standing Committee on Labor and Public Employees.

[MISSISSIPPI HB 1108 \(2008\)](#) Creates specific crime of bribing a judge and sets penalties. Approved by full House. In Senate Judiciary A committee

[WEST VIRGINIA HB 4711 \(2008\)](#) Requests the Supreme Court of Appeals to establish a multi-disciplinary commission to study, make findings and recommendations regarding incarceration population and costs. Approved by House Judiciary committee. In House Finance committee

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