

Gavel to Gavel

A review of state legislation affecting the courts

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Selection: Newly Introduced

[Rhode Island HB 6178](#) Limits the terms of the members of the judicial nominating commission to one term of four years, unless the member was appointed for less than four years or is participating in interviews for a judicial vacancy. In House Judiciary Committee.

Selection: Floor and Committee Activity

[Connecticut HB 6700](#) Requires future appointments and reappointments of family support magistrates be subject to approval by the General Assembly. Sets terms of office and compensation for such magistrates. Approved by full House 5/7/09.

[North Carolina HB 907](#) Provides that matching funds from the state's public financing system for judicial races are available as a result of a communication that supports or opposes all candidates for the same office. Approved by House Election Law and Campaign Finance Reform Committee 5/7/09.

[Rhode Island SB 428](#) ORIGINAL: Increases the time that the governor has to fill a judicial vacancy after a list of names is submitted from twenty-one (21) days to

forty-five (45) days. AMENDED: Limits members of the Judicial Nominating Commission to a single 4 year term. Provides that all current members of the commission having served longer than 4 years are removed from office upon passage. Approved as amended by Senate Judiciary Committee 4/30/09.

[Tennessee HB 1448](#) AS AMENDED: Authorizes the Speaker of the Senate and the Speaker of the House of Representatives each to appoint eight members, two from each of the three grand divisions and two at-large members, with at least six members being lawyers with at least one of the members appointed at large by each Speaker shall be a non-lawyer. Requires Speakers appoint one at-large non-lawyer member jointly. Requires effective September 1, 2009, the membership of the Judicial Selection Commission be replaced pursuant to this act. Requires initial terms of the new members will be staggered. Requires each member to be a United States citizen, at least 30 years of age, and a citizen of Tennessee for at least five years prior to appointment. Requires any member appointed from one of the grand divisions to have been a resident of that grand division for at least one year immediately prior to appointment. Requires no member of the Commission be a registered lobbyist in Tennessee. Reduces from six to four years the length of term for Commission



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members. Automatically vacates the office of any member of the Commission who misses four meetings during the member's term of office. Deems the Commission a governing body, requires all meetings to be open to the public, and authorizes the Commission to conduct private interviews with possible nominees. Requires the private interviews to be limited to discussion between Commission members and possible nominees and at no time shall the Commission deliberate toward a decision in these private interviews. Authorizes the Commission to vote anonymously. Requires the Commission, within 60 days of receipt of written notification from the Governor that a judicial vacancy has occurred, to select and certify three nominees. Requires the Governor, to fill a vacancy that occurs in the office of an appellate court after July 1, 2009, within 60 days. Requires the Governor after receiving the Commission's nominees for vacancies, to direct the TBI or other appropriate agencies to perform financial and criminal background investigations of the nominees. Reduces from 12 to nine, the membership of the Judicial Evaluation Commission. Reduces from six to five the number of members appointed by the Judicial Council with three members being state court judges, one lawyer, and one non-lawyer. Provides no more than two appointees can reside in the same grand division. Reduces from three to two the number of members appointed by the Speakers with each Speaker to appoint one lawyer and one non-lawyer and with no more than one of the appointees can reside in the same grand division. Extends the sunset provision for the Judicial Selection and Evaluation Commissions to June 30, 2013. Approved as amended by House

Finance, Ways & Means Committee, Subcommittee on the Budget 5/6/09.

Tennessee HB 1892 AS AMENDED:

Renames the "judicial selection commission" as the "judicial nominating commission." Removes all present members of the commission. Allows for Speakers of House and Senate to select members of the commission of their own choosing, allowing bar and other groups only to make recommendations (currently, such groups submit list of names for Speakers to choose from). Reduces commission terms from 6 years to 4 and prohibits members from being registered lobbyists. Determines any commission member who misses four meetings forfeits their office. Repeals requirement that governor must state why he or she is rejecting first panel of judges submitted by commission and allows governor who asks for second panel to choose from either panel. Approved as amended by House Government Operations Committee 4/29/09.

Tennessee HB 2141 Reduces the size of the judicial selection commission to 15 members and changes the process for selecting those members: the speaker of each house would each appoint seven members to the commission and jointly appoint one member. Eliminates requirement that the appointments to the commission approximate the population of the state with respect to race and gender. Vacates entire membership of the judicial selection commission. Requires the commission to submit to the governor a list containing the names of each applicant for the judicial vacancy and state next to the name whether that applicant is "highly qualified," "qualified," or "not qualified" for

the judicial vacancy based on the commission's review of each applicant's qualifications for the position (currently commission sends top 3 names). Requires person chosen by governor be subject to senate confirmation. Requires judges seeking to be retained in office via retention election receive 60% of the vote rather than a simple majority. Revises the membership of the judicial evaluation commission, allowing speakers of each house to select whomever they wish (currently must select from names chose by lawyer groups). Rejected by House Government Operations Committee 5/6/09.

[Tennessee HB 2377](#) Revises the membership of the judicial selection commission and the judicial evaluation commission. Decreases term of commission members from six to four years. Requires senate confirmation of governor's nominee to fill a vacancy for any state court judge. Increases the vote from a majority vote to 60 percent vote that a judge must receive in a retention election. Extends the sunset provision for the judicial selection and evaluation commissions to June 30, 2011. Rejected by House Judiciary Committee subcommittee on Civil Practice and Procedure 5/6/09.

[Tennessee HB 1892](#) AMENDED: Creates the Judicial Nominating Commission and the Judicial Performance Evaluation Commission to replace the Judicial Selection Commission and the Judicial Evaluation Commission. Provides newly created Commissions shall terminate on June 30, 2014. Provides the Speaker of the Senate and the Speaker of the House of Representatives shall each appoint eight members, two from each of the three grand

divisions and two at-large members, with at least six members being lawyers with the Speakers to appoint one at-large member jointly. Replaces entire membership of the Judicial Selection Commission pursuant to this act with the initial terms of the new members to be staggered. Requires each member to be a United States citizen, at least 30 years of age, and a citizen of Tennessee for at least five years prior to appointment. Requires any member appointed from one of the grand divisions to have been a resident of that grand division for at least one year immediately prior to appointment. Prohibits any member of the Commission from being a registered lobbyist in Tennessee. Reduces from six to four years the length of term for Judicial Nominating Commission members. Automatically vacates the office of any member of the Commission who misses four meetings during the member's term of office. Requires the Commission to conduct its deliberations in public after the private interviews with judicial vacancy candidates have been concluded. Authorizes the Tennessee Bureau of Investigation (TBI) to perform a Level II security clearance on possible nominees at the direction of the Governor. Requires the Governor, to fill a vacancy that occurs in the office of an appellate court after July 1, 2009, within 60 days. Requires the Governor after receiving the Commission's nominees for vacancies, to direct the TBI or other appropriate agencies to perform financial and criminal background investigations of the nominees. Reduces from 12 to nine, the membership of the Judicial Performance Evaluation Commission. Approved as amended by House Government Operations Committee 4/29/09.

[Tennessee SB 2114](#) AMENDED: Requires each judge of a circuit, chancery, criminal, or other state trial court of record to be elected to an eight-year term in a contested election held at the regular August election in 2014 and at each regular August election every eight years thereafter. Establishes procedures for filling judicial vacancies that occur during the term of office. Deletes the Judicial Selection Commission (JSC) in its entirety. Reestablishes the Judicial Evaluation Commission (JEC) composed of 12 members and extends the sunset provision for the JEC to June 15, 2015. Approved as amended by Senate Government Operations Committee 4/29/09.

[Texas HB 3995](#) Replaces partisan elections with nonpartisan retention elections. Grants supreme court power to suspend procedures for the conduct of any court proceeding affected by a disaster. Allows clerk of the supreme court to maintain records and documents in an electronic format. Approved by House Judiciary & Civil Jurisprudence Committee 5/4/09.

[Texas SB 392](#) Eliminates straight-party voting for judicial offices. Requires judicial office elections be on a separate ballot. Approved by Senate State Affairs Committee 4/28/09.

Qualifications and Terms: Newly Introduced

[Pennsylvania HB 1453](#) Establishes the Judicial Education Program in Domestic Violence and requires judges to attend and successfully complete the program. In House Judiciary Committee.

Qualifications and Terms: Floor and Committee Activity

[New Hampshire HB 655](#) Allows judges over 70 years of age to serve as senior active status justices, subject to an in-person review by the chief justice or administrative justice of the court. Repeals a provision authorizing such judges to serve as judicial referees. Approved with Senate amendment by Senate Judiciary Committee 5/6/09.

[North Carolina HB 1398](#) Grants Chief Justice power to designate senior resident superior court judge to serve in that capacity at the pleasure of the Chief Justice (currently, senior resident superior court judge is longest continuously serving judge). Approved by House Committee on Judiciary I 5/5/09.

[Tennessee HB 730](#) Allows certain municipal judges to concurrently serve as municipal recorder and exempts certain municipal judges from certain annual continuing education requirements imposed on municipal judges. Approved by House Finance, Ways & Means Committee 5/5/09.

[Texas HB 957](#) Prohibits anyone currently serving in judicial office from serving in the state legislature. Prohibits anyone serving in the state legislature from serving as a judicial officer. Approved by full House 5/6/09.

[Texas HB 1793](#) Requires a judge who hears the cases of children charged with certain misdemeanor offenses punishable by fine only to annually complete two hours of training specifically related to child welfare and the federal Individuals with Disabilities

Education Act. Approved by Senate Jurisprudence Committee 5/7/09.

Rule Making Authority: Newly Introduced

NONE

Rule Making Authority: Floor and Committee Activity

[Connecticut HB 6340](#) 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 and keep confidential names for all other judicial vacancies. 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 give notice of the time and place of its meetings, and make the agendas public (except for personally identifiable information that might identify respondents). 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 terms of the Chief Court Administrator and Probate Court Administrator as coterminous with the term of the appointing Chief Justice. Specifically defines "administrative functions" of the courts for purposes of 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 Joint Committee on Appropriations 5/5/09.

[Connecticut HB 6710](#) Authorizes the Chief Justice or Chief Court Administrator to take "any action necessary" to ensure operation of the state courts in an emergency. Authorizes e-filing of various documents. Increases to \$2 million the dollar limit of projects for the alteration, repair or addition to Judicial Branch facilities that remain under the control of the Judicial Branch. Approved by Joint Committee on Appropriations 5/5/09.

[South Carolina HB 3123](#) Provides a person must be a member of the South Carolina Bar pursuant to applicable court rules, or otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina. Requires the practice of law be defined by decisions of the Supreme Court of South Carolina prior to any criminal charges being filed under this law. Approved with Senate amendments by full Senate 5/7/09.

[Tennessee SB 1571](#) Provides that in order to practice law, person must receive license issued by supreme court and comply with Rule 6 of the rules of the supreme court, except for rule 19 pro hac vice admissions. Approved by full Senate 5/4/09.

[Texas HB 4068](#) Authorizes the content of local rules of judicial administration to

provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster. Authorizes the supreme court to suspend procedures for the conduct of any court proceeding affected by a disaster. Acknowledges the role of the judiciary in emergency preparedness. Approved by full House 5/6/09.

[Texas SB 1388](#) Requires Office of Court Administration create a process server certification division. Approved by full Senate 5/4/09.

Structure Changes: Newly Introduced

NONE

Structure Changes: Floor and Committee Activity

[Connecticut HB 6027](#) AS AMENDED: Restructures state's probate court system. Replaces the existing compensation structure for probate judges, which is based on probate court revenue, with a compensation structure based on probate district population and probate court workload. Establishes regional planning committees to explore opportunities for voluntary probate court consolidations. Establishes a probate appellate docket in the probate court system. Appropriates funds to pay for a portion of indigency expenses and the cost of health insurance for retired probate judges and staff when the Probate Court Administration Fund has been exhausted. Approved by Joint Committee on Appropriations 5/5/09.

[Connecticut HB 6385](#) Deletes all existing probate district boundaries and makes new

probate court districts the same as state senatorial districts. Requires probate judges have been admitted to the Connecticut bar at least 10 years. Directs Probate Court Administrator establish and maintain a budget for the probate court system and allocate the budgets for each court based upon the weighted workload of the court. Directs Probate Court Administrator ensure that all staff, including judges, who are offered insurance or retirement benefits work a minimum of twenty hours per week. Requires probate courts be open for business at least 40 hours a week (currently minimum of 20). Approved by Joint Committee on Appropriations 5/5/09.

[Connecticut HB 6708](#) Establishes a separate criminal docket for hearing criminal matters and providing diversionary services for defendants who have returned from service with the armed services, similar to the criminal docket for matters in which a defendant is a drug-dependent person. Approved by Joint Committee on Appropriations 5/5/09.

[Illinois HB 3795](#) Requires the Chief Judge of each judicial circuit establish a drug court program (currently, they may establish such programs). Approved by Senate Criminal Law Committee 5/7/09.

[Illinois HB 4212](#) Permits the Chief Judge of a judicial circuit to establish a military and veterans court program for veterans and active duty service members. Provides that in such judicial circuits, a veteran or active duty service member who has a substance abuse problem and who is subject to a criminal proceeding may with the consent of the prosecution and with the approval of the court be admitted into a military and

veterans court program. Excludes from the program certain specified veteran or active duty service members. Approved by Senate Judiciary Committee 5/6/09.

[North Carolina HB 666](#) Specifies DWI Courts as "drug courts". Approved by full House 5/6/09.

[Pennsylvania SB 383](#) Authorizes the establishment of problem solving court, including, but not limited to, drug courts, mental health courts and driving under the influence courts, in all courts of common pleas and the municipal court of Philadelphia. Approved by Senate Appropriations Committee 5/5/09.

[Texas HB 3595](#) Authorizes the presiding judges of the administrative judicial regions, after conferring with the judges of courts in their regions with a county population of not more than 200,000, to appoint one more full-time or part-time associate judges to operate a drug court program. Approved by full House 4/28/09.

[Texas SB 112](#) Requires judges in county courts, statutory courts, and district courts trying criminal cases to establish deferred prosecution programs for military service members and veterans. Approved by full Senate 5/4/09.

Jurisdiction: Newly Introduced

NONE

Jurisdiction: Floor and Committee Activity

[New Hampshire HB 281](#) AS AMENDED: Increases small claims jurisdiction to

\$7,500. Requires claims from \$5,000-\$7,500 be subject to mandatory mediation. Approved as amended by Senate Judiciary Committee 5/6/09.

Salary and Budget: Newly Introduced

[California SB 544](#) Authorizes Judicial Council to establish a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, as provided, for the purpose of undertaking or funding any activity authorized by Judicial Council. Removes limitations on the administrative and support services that can be provided by the Administrative Office of the Courts. In Assembly Judiciary Committee.

Salary and Budget: Floor and Committee Activity

[Florida SB 2108](#) AMENDED: Redirects filing fees to the Clerks of the Court Trust Fund within the Justice Administrative Commission. Requires Florida Clerks of Court Operations Corporation (FCCOC) to be administratively housed within the Justice Administrative Commission. Transfers Clerks of the Court Trust Fund from the Department of Revenue to the Justice Administrative Commission. Requires Chief Justice designate a member of the corporation's executive council to represent the state courts system. Grants the Speakers of the House and Senate the power to each name an ex officio member of the executive council. Provides that the Legislature is to make appropriations for the budgets of the clerks. Redefines term "state agency" for purposes of the fiscal affairs of the state to include FCCOC. Requires clerks

of court be funded pursuant to state appropriations rather than from filing fees, service charges, court costs, and fines. Requires FCCOC be funded via the state's General Appropriations Act rather than a contract with the Chief Financial Officer. Repeals various sections exempting FCCOC from state procurement administrative procedures. Requires clerks prepare their budgets for submission to FCCOC with a copy to the Supreme Court. Requires FCCOC compare a clerk's expenditures and costs with the clerk's peer group and for the clerk to submit documentation justifying higher expenditures. Requires a specified percentage of all court-related fines be deposited into the clerk's Public Records Modernization Trust Fund. Requires clerks court submit financial data to the Executive Office of the Governor. Authorizes Chief Financial Officer to conduct, and the Chief Justice of the Supreme Court to request, an audit of the FCCOC or a clerk of court. Revises requirements for the audits of clerks of court. Requires Supreme Court and Attorney General jointly enter into a contract with a vendor to publish copies of Florida cases. Requires clerks refer certain unpaid accounts to a private attorney or a collection agent. Requires FCCOC develop measures and standards for reviewing the performance of clerks of court and notify the Legislature and the Supreme Court of any clerk not meeting the standard. Requires that the clerk of court obtain the consent of the chief judge of the circuit concerning the clerk's office hours. Approved by full Senate 4/30/09. To Governor for approval.

[Hawaii HB 1536](#) ORIGINAL: Freezes the salaries of state office holders, including justices and judges of all state courts. SUBSTITUTED BY CONFERENCE

COMMITTEE: Imposes 5% cut in salaries for state office holders, legislators, agency/department executives, and justices and judges of all state courts. Conference committee report approved by House 5/5/09 and by Senate 5/7/09. To Governor for approval.

[Illinois SB 63](#) ORIGINAL: Requires that 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. 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. AMENDED: Entire text of bill struck. Replaced by entirely different non-court related bill. Approved as amended by House Executive Committee 5/6/09.

[Missouri HB 187](#) Extends the expiration date of the Statewide Court Automation Fund fee from September 1, 2009, to September 1, 2019, and allows the Court Automation Committee to continue to function until September 1, 2021. Reclassifies all state court commissioners to associate circuit court judges after January 1, 2010. Allows drug court commissioners to serve as family court commissioners if needed and available and appointed by a majority of the circuit court judges. Allows the required annual report of the Judicial Finance Commission to be combined with any other annual report prepared by the Missouri Supreme Court or the Office of State Courts Administrator if it is distributed

to the required parties. Changes certain caseload reporting requirements for municipal and associate circuit court judges. Approved by Senate Judiciary Committee 5/4/09.

[Missouri HB 237](#) Allows the supreme court to consolidate the annual report of the Judicial Finance Commission with the publication of any annual report prepared by the Supreme Court or the Office of State Court Administrator, as long as the consolidated report is distributed to the required parties. Allows municipal courts to create a fund to be used to pay for appointing attorneys for certain indigent defendants. House concurs with Senate amendments 5/5/09. To Governor for approval.

[New Hampshire HB 310](#) ORIGINAL: Establishes that judges and marital masters will be reimbursed for mileage to commute from their residences to their assigned courts only if the mileage is in excess of 50 miles each way. AMENDED: Same, but includes provisions related to HB 436 (same sex marriage bill) relative to the solemnization of marriages and affirmation of freedom of religion in marriage. Approved as amended by full Senate and House concurs with Senate amendment 5/6/09. To Governor for approval.

[North Carolina HB 1172](#) Authorizes Chief Justice to create a voluntary furlough program for judicial employees. Provides that employees would be entitled to the benefits provided to State employees. Approved by full House 5/7/09.

[Oregon SB 256](#) Authorizes Chief Justice of Supreme Court to establish specified fees.

Transfers continuing education programs for justices of the peace from Chief Justice to Oregon State Bar. Authorizes court to prioritize cases if court lacks sufficient resources to comply with multiple time limits required by law. Changes name of State Court Facilities Security Account to State Court Security Account. Expands use of moneys in account to include providing security for Judicial Department communications, data, information and records system. Authorizes presiding judge of judicial district with more than one place where court regularly sits to consolidate court administrative functions for specified purposes, subject to approval of Chief Justice. Streamlines family law facilitation and family court advocate programs. Repeals statutes that govern establishment of family court departments. Repeals statutes establishing and specifying purpose of Family Law Account. Modifies State Court Administrator's duties relating to shorthand reporter certification. Decreases amount of fee paid to jurors in circuit courts on third and subsequent days of required attendance. Allows Judicial Department to issue warrant for unpaid fees. Creates procedures by which Judicial Department, certain state agencies and county tax collectors may garnish property of person who owes fees, taxes or debts. Approved as amended by Senate Judiciary Committee 5/1/09.

[Texas HB 1925](#) Repeals restriction that certain court administrators' salaries may not exceed 70 percent of the salary paid by the county to their judges. Approved by full House 5/5/09.

Other: Newly Introduced
NONE

Other: Floor and Committee Activity

[Louisiana HB 532](#) Provides that "peace officer" includes full-time security personnel employed by the Supreme Court. Prohibits certified security personnel of the Supreme Court from being eligible to receive supplemental pay benefits even though the peace officer has successfully completed an approved training program of the Council on Peace Officer Standards and Training. Approved by House Judiciary Committee 5/6/09.

[North Carolina HB 1269](#) Authorizes a county or city to use excess facility fees without the approval of the administrative office of the courts. Authorizes administrative office of the courts to set the worthless check fee amount. Permits AOC Director to select retirement program for enrollment. Allows AOC Director to create an Internal Audit Division and specifies audits to be conducted. Allows courts to be closed for "catastrophic conditions" and defines the term. Allows Chief Justice to extend certain deadlines for "catastrophic conditions" and to issue any emergency directives necessary to ensure the continuing operation of essential trial or appellate court functions for 30 days, subject to 30 day renewals. Approved by House Committee on Judiciary II 5/5/09.

[North Carolina SB 797](#) Specifies a judge may disqualify for any reason that renders the judge unable to perform the duties required of the judge in the proceeding in an impartial manner. Requires any disqualification be in a written statement giving the specific reason or reasons for the

disqualification. Approved by Senate Committee on Judiciary I 5/7/09.

[Texas HB 1118](#) Requires appointment of administrative judge for drug court programs by the governor with senate confirmation. Specifies powers/duties of administrative judge for drug court programs. Approved by full House 5/1/09.

[Texas HB 559](#) Requires nondisclosure of certain personal information in voter registration records and concealed handgun license records that relates to a justice of the peace. Approved by Senate State Affairs Committee 5/6/09.

[Texas HB 890](#) Changes use of the term of office of judicial "master" to "associate judge". Approved by Senate Jurisprudence Committee 5/7/09.

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