

Gavel to Gavel

A review of state legislation affecting the courts

January 22, 2009

Volume 3, Issue 4

Focus: Court Interpreters

A shortage of [court interpreters in state courts](#) coupled with increasing budget pressures has made access for non- or limited-English proficient speakers a key issue in a number of state legislatures. Bills that made it out of committee in 2007/2008 included:

California's [AB 3050 of 2007](#) passed both legislative chambers but was [vetoed due to budget constraints](#). If enacted, it would have required the Judicial Council, by September 1, 2009, to establish a working group to review, identify, and develop best practices to provide interpreters in civil actions and proceedings, as specified. The bill would also have required the Judicial Council to select up to 5 courts to participate in a 3 year pilot project, to commence on July 1, 2010, to provide interpreters in civil proceedings. The legislation would also have made additions to an existing required report of the Judicial Council on court interpreter usage and need. The bill was

Louisiana's [HB 79 of 2007](#) which became law without the Governor's signature requires in civil and criminal proceedings a judge to appoint a competent interpreter to

interpret or to translate the proceedings to a non-English-speaking person who is a principal party in interest or a witness in a proceeding before the court and to interpret or translate his testimony. The new law also requires that in such proceedings the court is to order reimbursement to the interpreter for his services at a fixed reasonable amount as well as specifically providing that in civil proceedings this amount shall be taxed by the court as costs of court.

Washington State's [HB 2167 of 2007](#) was signed into law by that state's Governor and requires each trial court to develop a written language assistance plan to provide a framework for the provision of interpreter services for non-English-speaking persons accessing the court system in both civil and criminal legal matters. The law also requires each court receiving reimbursement for interpreter costs to provide to the administrative office of the courts by November 15, 2009, a report detailing an assessment of the need for interpreter services for non-English speakers in court-mandated classes or programs, the extent to which interpreter services are currently available for court-mandated classes or programs, and the resources that would be required to ensure that interpreters are provided to non-English speakers in court



Legislative tracking provided
by LexisNexis

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.org

Subscribe: gaveltogavel@ncsc.org

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



mandated classes or programs. The administrative office of the courts is to compile these reports and provide them to the appropriate committees of the legislature by December 15, 2009.

Active, but failing to become law, were:

New York's [S 521-A](#) and its companion **[A3916-A](#)** which would have increased up to \$250 the amount of compensation a court could pay to a temporary appointed interpreter. The Senate version was approved in 2007 and 2008, but both died in the Assembly.

Hawaii's [HB 600](#) and **[HB 625](#)**, both of 2007, contended with requirements that the judiciary certify interpreters as well as the appointing and use of certified interpreters in legal proceedings. While HB 625 only made it out of its initial House committees, HB 600 was passed by both the House and Senate with amendments. The House and Senate were unable however to agree in conference committee on a reconciliation of the two versions.

The 2009/2010 legislative cycle promises to be as active when it comes to court interpretation. Already introduced:

Georgia's [HB 24](#) would recodify most of the state's evidentiary rules, including establishment and specification of interpreter qualifications.

Mississippi's [SB 2447](#) creates a separate court interpreter fund to be managed by the Administrative Office of Courts for the purpose of making more efficient the procurement of interpreters and translation in the courts for persons with limited English proficiency.

Nebraska's [LB 333](#) creates a Supreme Court Access to Justice Cash Fund, to be administered by the State Court Administrator for statewide interpreter services in the courts and probation system and access to justice for indigent and pro se individuals who appear in court.

Virginia's [SB 912](#) provides that in a criminal proceeding involving a non-English speaker defendant, the cost of an interpreter shall be borne by the defendant if convicted at trial.

Selection: Newly Introduced

[Arizona SB 1042](#) Specifies it is the presiding judge of the *superior court* in *Maricopa County* that may appoint a court commissioner to serve in the tax court. Prefiled.

[Arizona SB 1053](#) Requires judicial and other candidates provide proof of citizenship prior to seeking office/seeking to be retained in office. In Senate (no committee).

[Arizona SB 1093](#) Specifies it is the presiding judge of the *superior court* in *Maricopa County* that may appoint a court commissioner to serve in the tax court. In Senate (no committee).

[Georgia HB 88](#) Provides for the nonpartisan election of clerks of the superior court, and other local officials. In House (no committee).

[Georgia HB 130](#) Provides for nonpartisan election of superior court clerks and specified county officers. In House (no committee).

Minnesota SB 80 Sets contributions limits for judicial candidates: \$2,000 in an election year for the office sought and \$500 in other years. In Senate State and Local Government Operations and Oversight Committee.

Mississippi SB 493 Vacancies in Supreme Court and Court of Appeals to be filled by Governor with Senate confirmation. Justices/judges to be subject to retention elections every 8 years. In House Judiciary A and Apportionment and Elections Committees.

Mississippi HB 542 Repeals 1994 law establishing nonpartisan elections for Supreme Court, Court of Appeals and Circuit Court. Would result in return to partisan primary and general elections. In House Judiciary A and Apportionment and Elections Committees.

Mississippi HB 549 Changes date of election for state officers, including supreme court and court of appeal races, to Saturday. In House Apportionment and Elections Committee.

Mississippi HB 713 Vacancies in Supreme Court and Court of Appeals to be filled by Governor with Senate confirmation. Justices/judges to be subject to retention elections every 8 years. In House Apportionment and Elections Committee.

Mississippi HCR 21 (Constitutional Amendment) Vacancies in Supreme Court and Court of Appeals to be filled by Governor with Senate confirmation. Justices/judges to be subject to retention elections every 8 years. In House Constitution Committee.

New Jersey ACR 212 (Constitutional Amendment) Eliminates tenure (i.e. serve until 70 after initial 7 year term and reappointment by Governor/confirmation by Senate) for Supreme Court justices. Requires Supreme Court justices be reappointed by the Governor, reconfirmed by the Senate *and* stand for retention elections every seven years. In Assembly Judiciary Committee.

New Jersey SB 2468 Permits the appointment of joint municipal court judges by agreement of affected municipalities. In Senate Community and Urban Affairs Committee.

Oklahoma HB 1452 Requires State Election Board create voter pamphlets prior to primary, general and special elections. Prohibits candidates whose pictures appear in pamphlets from wearing judicial robes. In House (no committee).

Oregon HB 2342 Authorizes governing body of county to appoint person to fill vacancy in office of justice of peace if court on which justice of peace served is not court of record. Takes effect only if Constitutional Amendment HJR 4 is approved. In House Rules Committee.

Oregon HJR 4 (Constitutional Amendment) Allows Legislative Assembly by law to provide for manner of filling vacancies in office of justice of peace. In House Rules Committee.

Indiana HB 1330 Provides that the judges of the Lake superior court county division to be selected by merit selection. In House Committee on Courts and Criminal Code.

Indiana HB 1491 Eliminates merit selection system for election of superior court judges in St. Joseph County and replaces with nonpartisan elections. In House Committee on Courts and Criminal Code.

Indiana HJR 9 (Constitutional Amendment) Specifies Supreme Court consists of Chief Justice and exactly 4 Associate Justices (currently, may have 4-8 associate justices). Members of court to select Chief Justice from among themselves. Provides that three of the justices are to be elected by the voters of districts and two of whom are elected by all the voters of Indiana. Provides that the governor fills a vacancy on the supreme court from the judges of the court of appeals and the individual who fills the vacancy serves the remainder of the unexpired term of the justice the individual succeeds. In House Committee on Courts and Criminal Code.

Texas SB 392 Eliminates straight-party voting for judicial offices. Requires judicial office elections be on a separate ballot. Prefiled.

Selection: Floor and Committee Activity

NONE

Qualifications and Terms: Newly Introduced

Alabama SB 28 Requires that persons elected or appointed to serve on the Supreme Court, Court of Civil Appeals, and Court of Criminal Appeals have a combined total of 10 years or more of licensure to practice law. Requires persons serving as a circuit court judge have a combined total of five years of licensure to practice law.

Requires persons serving as a district court judge have a combined total of three years of licensure to practice law. In Senate Judiciary Committee.

Mississippi HB 711 Requires all elected officials, including judges and justices, be suspended without pay when indicted and automatically removed from office on conviction for specified crimes. In House Judiciary A Committee.

Nebraska LB 343 Designates the time a judge's term ends (first Thursday after the first Tuesday in January next succeeding the judge's retention election). In Senate Judiciary Committee.

Oregon HB 2284 Specifies that where the Chief Justice is the subject of an inquiry as to his/her inability to continue, it is the justice of the Supreme Court that has served the longest period of time as a judge of that court that may file a request for an investigation into the disability. In House Judiciary Committee.

Texas SB 477 Prohibits judge who was reprimanded or censured or retire/resign while under investigation by the State Commission on Judicial Conduct from serving as a "visiting" judge. Requires visiting judges have served as a judge at least 96 months. Prefiled.

Virginia SB 1081 Clarifies that a special justice serves at the pleasure of the chief justice of the judicial circuit in which he serves, rather than the specific chief justice that makes the original appointment. In Senate Committee for Courts of Justice.

[Virginia SB 1434](#) Provides that the chief justice of the Virginia Supreme Court shall serve as chief justice for only two consecutive terms. In Senate Committee for Courts of Justice.

Qualification and Terms: Floor and Committee Activity

[Arizona HB 2058](#) Requires Court Commissioners have been practicing law for at least 5 years prior to appointment. Approved by House Judiciary Committee and sent to House Rules Committee 1/22/09.

[Virginia SB 856](#) Increases the mandatory retirement age for judges from age 70 to age 75. Approved by Senate Committee for Courts of Justice and sent to the Senate Committee on Finance 1/21/09.

Rule Making Authority: Newly Introduced

[Florida HB 369](#) Provides for chief judge of judicial circuit, subject to approval by Chief Justice, to establish program for retired justices or judges to preside over civil cases & trials upon written request of one or more parties and sets compensation levels. In House (no committee).

[Georgia HR 72](#) Urges the Supreme Court of Georgia to disbar or disallow admission to the bar any attorney who is convicted of altering or backdating a legal document. In House (no committee).

[Georgia HR 74 \(Constitutional Amendment\)](#) Remove the power of the Judicial Qualifications Commission to remove and discipline judges. Specifies power to remove or discipline judges is

vested exclusively in the General Assembly. Deems proceedings of the Commission to be advisory only. In House (no committee).

[Mississippi HB 484](#) Specifies that the rules created by the supreme court shall not abridge, enlarge or modify any substantive right. Specifies all laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. In House Judiciary A Committee.

[Nebraska LB 344](#) Change administration of the Civil Legal Services Program from the State Court Administrator to the Commission on Public Advocacy. In Senate Judiciary Committee.

[Oklahoma HJR 1028 \(Constitutional Amendment\)](#) Requires Oklahoma Bar Association to submit certain rules to Legislature for approval, disapproval, approval in part, or amendment. In House (no committee).

[Virginia HB 1946](#) Gives the Executive Secretary of the Supreme Court the responsibility for the operation of maintenance of a statewide case management system and financial management system, for related technology improvements, and requires that he permit an interface to any circuit court that uses automation or technology improvements provided by a private vendor or the locality. Requires costs of designing and implementing any such interface be the responsibility of the circuit court clerk. In House Committee for Courts of Justice.

[Virginia HB 2365](#) Provides that the Supreme Court of Virginia shall not promulgate any rule or regulation that prohibits any conduct of an attorney for the

Commonwealth that is permitted by the Constitution of Virginia or the Constitution of the United States or prohibits an attorney for the Commonwealth from, in good faith, advising a law-enforcement officer as to investigative conduct permitted by the Constitution of Virginia or the Constitution of the United States. In House Committee for Courts of Justice.

Virginia SB 1442 Gives the Executive Secretary of the Supreme Court the responsibility for the operation of maintenance of a statewide case management system and financial management system, for related technology improvements, and requires that he permit an interface to any circuit court that uses automation or technology improvements provided by a private vendor or the locality. The costs of designing and implementing any such interface shall be the responsibility of the circuit court clerk. In Senate Committee for Courts of Justice.

Oregon SB 268 Authorizes Chief Justice of Supreme Court to make rules relating to data that state courts may require to be submitted by parties and other persons for purpose of distinguishing particular persons from other persons with same or similar name. In Senate Judiciary Committee.

Oregon SB 270 Authorizes Chief Justice of Supreme Court to establish procedures for closing courts in emergencies and establish standards for determining when courts are closed for purposes of rules and laws. Authorizes presiding judge of judicial district to delegate exercise of administrative powers to another judge or to trial court administrator. In Senate Judiciary Committee.

Rule Making Authority: Floor and Committee Activity

Montana SB 197 Defines court transcripts costs. Permits office of the court administrator to adjust courts annually based on consumer price index. Approved as amended by Senate Judiciary Committee 1/21/09.

Wyoming HB 55 Permits the state supreme court, based on caseload studies, to determine where within a circuit the circuit court judge shall reside. Approved by full House 1/19/09.

Structure Changes: Newly Introduced

Indiana HJR 5 (Constitutional Amendment) Removes all county offices, including Clerk of the Circuit Court but excepting the office of sheriff, from the Indiana Constitution. In House Committee on Rules and Legislative Procedures.

Structure Changes: Floor and Committee Activity

Indiana SB 35 Creates a Sixth District of the Court of Appeals with 3 judges. Sixth District to sit in Indianapolis and have statewide jurisdiction. Approved by Senate Committee on Judiciary and sent to Senate Appropriations Committee 1/15/09.

Jurisdiction: Newly Introduced

Georgia HR 73 (Constitutional Amendment) Remove provisions relative to decisions of the Court of Appeals and Supreme Court binding other courts and

thereby provide that persons who are not parties to judicial actions shall not be bound by decisions therein. In House (no committee).

Oklahoma SB 729 Requires each district court to create a drug court (currently, they may create). In Senate (no committee).

Oklahoma SB 814 Increases small claims jurisdiction to \$20,000 from \$6,000. In Senate (no committee).

Oklahoma SB 815 Increases small claims jurisdiction to \$25,000 from \$6,000. In Senate (no committee).

Virginia SB 854 Directs the Office of the Executive Secretary of the Supreme Court to establish by January 1, 2010, no less than two and no more than five mental health courts in Virginia for nonviolent offenders with serious mental illnesses. In Senate Committee for Courts of Justice.

Jurisdiction: Floor and Committee Activity

NONE

Salary and Budget: Newly Introduced

Alabama SB 30 Clarifies the amount of compensation a retired justice or judge may receive, without suspension of his or her judicial retirement benefits, when called to limited active service by the Chief Justice. In Senate Finance and Taxation General Fund Committee.

Georgia HB 54 Alters various provisions relating to survivors' benefits under the

Georgia Judicial Retirement System. In House (no committee).

Indiana SB 535 Establishes the Indiana public retirement system to administer the judges' retirement fund and other specified public retirement systems. In Senate Committee on Pensions and Labor.

Maryland HB 37 Altering the computation of a retirement allowance for members or former members of the Judges' Retirement System who have 10 years of service credit and retire on disability under specified circumstances. In House Appropriations Committee.

Mississippi HB 702 Includes all remuneration or amounts paid (except mileage allowance) paid to Justices of the Supreme Court and Judges of the Court of Appeals as "earned compensation" for retirement fund purposes. In House Appropriations Committee.

Mississippi HB 733 Increases salaries of Circuit and Chancery Judges. In House Fees and Salaries of Public Officers Committee.

Missouri SCR 6 Rejects the salary increases for judges and other statewide elected officials recommended by the Citizen's Commission on Compensation for Elected Officials. In Senate (no committee).

Missouri SJR 6 (Constitutional Amendment) Provides that any schedule of compensation filed by the Missouri Citizens' Commission on the Compensation of Elected Officials shall be deemed ineffective unless it is approved by a majority vote of the General Assembly prior February 1 (currently, goes into effect unless *rejected* by two-thirds by February 1). Requires the

schedule of compensation for judges be considered separate and apart from the schedule of compensation for other public officials and shall require a separate majority vote of the General Assembly in order to be effective. In Senate (no committee).

Nebraska LB 333 Creates Supreme Court Access to Justice Cash Fund, to be administered by the State Court Administrator for statewide interpreter services in the courts and probation system and access to justice for indigent and pro se individuals who appear in court. Creates an access to justice fee of one dollar for each case filed in state trial or appellate courts. In Senate Judiciary Committee.

New Hampshire HB 334 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. In House Judiciary Committee.

New York AB 1689 Requires salaries of county, family and surrogate courts be same as that of justices of the supreme court (Note: in NY, the Supreme Court is a general jurisdiction trial court). In Assembly Judiciary Committee.

New York SB 635 Requires salaries of county, family and surrogate courts be same as that of justices of the supreme court (Note: in NY, the Supreme Court is a general jurisdiction trial court). In Senate Judiciary Committee.

Oklahoma SB 711 Eliminates procedure linking salaries of other state officers/elected officials to judicial salaries In Senate (no committee).

Oregon HB 2317 Requires Oregon State Lottery Commission to hold lottery prize in excess of \$600 and notify State Court Administrator if lottery prize winner is listed in database of persons having liquidated and delinquent court accounts. In House Judiciary Committee.

Oregon SB 93 Allows State Court Administrator to enter into intergovernmental agreement with United States Financial Management Service and Internal Revenue Service for purpose of offsetting federal tax refunds to collect liquidated and delinquent accounts of state courts and commissions, departments and divisions in judicial branch. In Senate Judiciary Committee.

Texas HB 261 Prohibits any state agency, including the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency, from adopting policies or rules under which they will not fully enforce immigration laws or, by consistent actions, fails to fully enforce immigration laws. The failure to "fully enforce" would result in partial loss of funding to the court/agency and would be determined by the attorney general's staff. An appeal of the determination would be only to the attorney general for a hearing before an administrative law judge. In House (no committee).

Virginia SB 912 Provides that where an interpreter is appointed for a non-English-speaking defendant in a criminal case, the defendant shall pay for the cost of the interpreter if convicted. In Senate Committee for Courts of Justice.

Virginia SB 1078 Provides that special justices, retired judges, or district court substitute judges presiding over involuntary commitment hearings shall receive a fee for each hearing that includes mileage, parking, tolls, and postage. In Senate Committee for Courts of Justice.

Virginia SB 1387 Increases the fee on civil and criminal cases from \$2 to \$10, to be used for courthouse construction, renovation, or maintenance. In Senate Committee for Courts of Justice.

Salary and Budget: Floor and Committee Activity

Indiana SB 121 Provides that in all civil, criminal, infraction, and ordinance violation actions, the clerk of the court shall collect an automated record keeping fee and sets the fee amount(s). Approved by Senate Committee on Judiciary and sent to Senate Appropriations Committee 1/15/09.

Missouri HCR 5 Disapproves the Missouri Citizens' Commission on Compensation for Elected Officials salary recommendations, including those for justices/judges. Approved by House Rules Committee 1/21/09.

North Dakota HB 1148 Permits state auditor to conduct audit with respect to clerk of district court services provided by a county upon the request of the state court administrator. Approved by full House 1/21/09.

Virginia SB 923 Repeals the section granting mileage reimbursement for circuit judges to travel to and from the courthouse each day if they do not reside in the county seat. Approved by Senate Committee for

Courts of Justice and sent to the Senate Committee on Finance 1/21/09.

Other: Newly Introduced

Mississippi HB 504 Authorizes creation of special license plates for state and federal judges. In House Ways and Means Committee.

Mississippi HB 642 Requires court clerk to send abstract of court record indicating conviction of traffic offense (currently, trial judge required to send). In House Judiciary B Committee.

New York AB 1508 Requires judges attend annual educational program or seminars on search and seizure and issuance of warrants In Assembly Codes Committee.

Oregon HB 2294 Increases number of members appointed to Council on Court Procedures by Board of Governors of Oregon State Bar from 12 to 14. In House Judiciary Committee.

Rhode Island SB 28 Authorizes creation of special license plates for former state chief or presiding justice or judge of any court. In Senate Constitutional and Regulatory Issues Committee.

Texas HB 545 Requires court clerks report to the Office of Court Administration the number of frivolous lawsuits filed each year. Requires Office of Court Administration maintain list of litigants in frivolous cases and send the names of their attorneys to the Bar for disciplinary proceedings. In House (no committee).

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. In House (no committee).

Texas HB 598 Permits the drivers licenses of state and federal judges and their spouses to use their assigned courthouse rather than their home address. In House (no committee).

Virginia HB 2526 Removes power to conduct judicial performance evaluation program from supreme court. Requires the Survey and Evaluation Research Laboratory of the Center for Public Policy at Virginia Commonwealth University to administer the program for the General Assembly and make annual reports to the Chairmen of the Committees for Courts of Justice of the House and Senate. In House Committee for Courts of Justice

Virginia SB 1284 Allows persons designated to provide courthouse security who have previously been certified and served as law-enforcement officers, other than a person terminated for cause, to meet reduced minimum compulsory training standards. In Senate Committee for Courts of Justice.

Virginia SJR 359 Continues the joint subcommittee to study the operations of circuit court clerks' offices. In Senate Committee on Rules.

Virginia SJR 360 Establishes a joint committee of the Senate Committee for Courts of Justice and the House Committee for Courts of Justice to study regular

assignment of judicial personnel outside of established circuit boundaries. In Senate Committee on Rules.

Wyoming HB 38 Requires all government entities, including courts, use the same fiscal year. Prefiled.

Other: Floor and Committee Activity

Indiana SB 122 Various provisions concerning courts. Repeals laws concerning the establishment and operation of county courts. (As of January 1, 2009, no county court will exist in Indiana.) Removes references to municipal courts. (Municipal courts ceased to exist on January 1, 1996.) Allows former holders of a judicial office who served at least four consecutive years as a judge or justice to serve as private judges. (Current law allows only former judges of circuit, superior, criminal, probate, municipal, or county courts to serve as private judges.) Allows domestic relations cases to be assigned to private judges. Approved as amended by Senate Committee on Judiciary.

For our new searchable database of all Gavel to Gavel legislation, click [here](#).