

Gavel to Gavel

A review of state legislation affecting the courts

January 15, 2010

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Editor's Note: Due to the release of a Special Edition on [Judicial Campaign Contributions and Expenditures](#), there will be no Focus piece this week.

Selection: Newly Introduced

[Alabama SB 173](#) Provides for a limitation on contributions for candidates for election to various courts: \$5,000 for Supreme Court, Court of Appeals, Court of Criminal Appeals and \$2,000 for Circuit and District Courts. Provides for increasing the allowed contribution amount based on the application of the consumer price index. In Senate Committee on Economic Expansion and Trade.

[Alabama SB 94](#) Provides for a limitation on contributions for candidates for election to various courts: \$5,000 for Supreme Court, Court of Appeals, Court of Criminal Appeals and \$2,000 for Circuit and District Courts. Provides for increasing the allowed contribution amount based on the application of the consumer price index. In Senate Committee on Judiciary.

[Mississippi HB 409](#) Requires elections for chancery clerk, circuit clerk, justice court judge and all other county offices by nonpartisan ballot. In House County Affairs and Apportionment and Elections Committees.

[Mississippi HB 460](#) Repeals Nonpartisan Judicial Election Act. Requires all judicial elections currently conducted in a nonpartisan manner (i.e. all courts except Justice) to be by partisan ballot. In House Judiciary A and Apportionment and Elections Committees.

[Mississippi HB 494](#) Repeals Nonpartisan Judicial Election Act. Requires all judicial elections currently conducted in a nonpartisan manner (i.e. all courts except Justice) to be by partisan ballot. In House Judiciary A and Apportionment and Elections Committees.

[Mississippi HCR 22 \(Constitutional Amendment\)](#) Provides that justices of the Supreme Court are to be initially appointed by the Governor with Senate confirmation. Provides for yes/no retention elections for subsequent terms. In House Constitution Committee.

[New Jersey ACR 19 \(Constitutional Amendment\)](#) Provides for 5 year terms for Justices of the Supreme Court and for tenure elections for a Justice to receive tenure upon reappointment. In Assembly Judiciary Committee.

[New Jersey ACR 78 \(Constitutional Amendment\)](#) Abolishes tenure for Supreme Court justices and establishes retention



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elections as part of the reappointment process. In Assembly Judiciary Committee.

[New Jersey ACR 81 \(Constitutional Amendment\)](#) Removes gubernatorial appointment of certain municipal court judges. In Assembly Judiciary Committee.

[Rhode Island HB 7088](#) Provides that if the governor fails to fill a vacancy within 21 days after receiving names of nominees, right to appoint falls to a "grand committee" of the general assembly, subject to Senate confirmation. Extends from 60 to 90 days time for Senate to confirm any appointment. In House Judiciary Committee.

[Rhode Island HB 7120](#) Vests with the governor the sole authority to nominate, on the basis of merit, from a list submitted by the judicial nominating commission with the advice and consent of the senate, all judges and magistrates, to all courts. (Currently presiding judges & chief judges appoint certain magistrates). In House Judiciary Committee.

[Tennessee SB 2035](#) Creates voluntary public financing system for Supreme Court races. In Senate Government Operations Committee.

[Virginia HB 241](#) Requires mandatory retirement of judges at the end of the term following their 70th birthday (currently must retire day they turn 70). Requires the General Assembly to approve retired judges for service under temporary recall. In House Committee for Courts of Justice.

[Virginia SB 190](#) Requires the Supreme Court or the Committee on District Courts to publish notice of a judge's intention to retire

upon receipt of that notice instead of upon certification of the vacancy. In Senate Committee for Courts of Justice.

Selection: Floor and Committee Activity
NONE

Qualifications and Terms: Newly Introduced

[New Jersey AB 611](#) Increases statutory mandatory retirement age for justices and judges from 70 to 75. In Assembly Judiciary Committee.

[New Jersey ACR 70 \(Constitutional Amendment\)](#) Increases mandatory retirement age for judges and justices from 70 to 75. In Assembly Judiciary Committee.

[Virginia HB 572](#) Provides a procedure for the assumption of the duties of a chief judge of a district court and notification of other judges in the event the chief judge is unable to perform his duties. In House Committee for Courts of Justice.

[Virginia SB 44](#) Increases the mandatory retirement age for district court judges only from 70 to 76. In Senate Committee for Courts of Justice.

[Virginia SB 146](#) Provides a procedure for the assumption of the duties of a chief judge of a district court and notification of other judges in the event the chief judge is unable to perform his duties. This bill is a recommendation of the Judicial Council. In Senate Committee for Courts of Justice

[Virginia SB 206](#) Adjusts the mandatory retirement age under judicial retirement for judges, justices and members of the State Corporation Commission from 70 to 73. In Senate Committee for Courts of Justice.

[Washington HJR 4216](#) (Constitutional Amendment) Removes mandatory retirement age for judges. In House Judiciary Committee.

**Qualifications and Terms:
Floor and Committee Activity**
NONE

**Rule Making Authority: Newly
Introduced**

[Virginia HB 242](#) Removes the requirement that the Committee on District Courts and the Supreme Court certify vacancies in the judiciary prior to the legislature filling those vacancies. In House Committee for Courts of Justice.

[Virginia HB 293](#) Clarifies that the Executive Secretary of the Supreme Court's responsibility as administrator of the circuit court system does not supersede the authority of the circuit court judges over running the court itself (e.g., setting terms of court, dockets, control of the courtroom, etc.). In House Committee for Courts of Justice.

**Rule Making Authority: Floor
and Committee Activity**
NONE

**Structure Changes: Newly
Introduced**

[Illinois HB 4822](#) Removes Probation Services as a Division of the Supreme Court and places it as an independent agency headed by a Director appointed by the Governor. In House Rules Committee.

[Indiana HB 1271](#) Provides that certain courts may establish a problem solving court for alternative treatment and rehabilitation. Requires the board of directors of the judicial center to adopt rules for the certification and operation of problem solving courts. In House Committee on Judiciary.

[Kansas HB 2417](#) Provides that when a vacancy occurs in a district judgeship it should be eliminated and replaced with a district magistrate judge. Provides eliminate to take place in those districts where the number of magistrate judgeships is less than or equal to 20% of the total number of district judge positions and district magistrate judge positions in such judicial district. In House Committee on Judiciary.

[Mississippi SB 2116](#) Requires State Drug Court Advisory Committee develop a plan to establish drug courts in all county courts, justice courts and municipal courts. In Senate Drug Policy Committee.

[Mississippi SB 2279](#) Permits but does not require creation of re-entry courts. In Senate Judiciary A Committee.

[New Jersey AB 260](#) Establishes a Special Medical Malpractice Part in the Superior Court. In Assembly Judiciary Committee.

[New Jersey AB 261](#) Creates 12 additional Superior Court judgeships; establishes a Special Business Part in the Superior Court;

provides for appropriations. In Assembly Judiciary Committee.

[New Jersey AB 262](#) Establishes a Business Part in the Superior Court. In Assembly Judiciary Committee.

[New Jersey AB 265](#) Creates a Business Court. In Assembly Judiciary Committee.

[New Jersey SB 524](#) Establishes a Medical Malpractice Court. In Senate Judiciary Committee.

[New Jersey SB 677](#) Creates a Business Court. In Senate Judiciary Committee.

[Oklahoma SB 1795](#) Requires the establishment of drug court programs in all district courts. In Senate (no committee).

[Virginia HB 240](#) Repeals statutes authorizing the creation of the Judicial Council of Virginia and the Committee on District Courts. Transfers the powers of those bodies to the Supreme Court or the Executive Secretary of the Supreme Court. In House Committee for Courts of Justice.

[Virginia HB 663](#) Allows the establishment of servicemembers and veterans courts as specialized court dockets within the existing structure of Virginia's court system. Creates state military members and veterans court advisory committee. Grants Supreme Court of Virginia administrative oversight for the implementation of the Act. In House Committee for Courts of Justice.

[Virginia SB 158](#) Allows the establishment of mental health courts as specialized court dockets within the existing structure of Virginia's court system. Requires localities

intending to establish mental health courts establish advisory committees. Requires Office of the Executive Secretary of the Supreme Court apply for any federal grants or other funding available to establish mental health courts. In Senate Committee for Courts of Justice.

Structure Changes: Floor and Committee Activity

NONE

Jurisdiction: Newly Introduced

[Arizona HCR 2003 \(Constitutional Amendment\)](#) Grants Superior Court original jurisdiction over "Annulment and dissolution of marriage" (currently reads "Divorce and for Annulment of marriage.") In House (no committee).

[Iowa HB 2002](#) Increases small claims jurisdiction from \$5,000 to \$10,000. In House Judiciary Committee.

[New Hampshire SB 437](#) Permits any district court justice to issue an emergency order of relief in any matter in any district court without prior assignment by the administrative judge. In Senate Judiciary Committee.

[New Jersey ACR 75 \(Constitutional Amendment\)](#) Prohibits courts from ordering municipalities to accept certain land uses. In Assembly Housing and Local Government Committee.

[New Jersey ACR 77 \(Constitutional Amendment\)](#) Prohibits courts from requiring that State government spend money. In Assembly Judiciary Committee.

[New Jersey SCR 24 \(Constitutional Amendment\)](#) Prohibits courts from requiring that State government spend money. In Senate Judiciary Committee.

[Oklahoma HJR 1056 \(Constitutional Amendment\)](#) Prohibits the courts to "look to the legal precepts of other nations or cultures. Specifically, the courts shall not consider Sharia Law, international law, the constitutions, laws, rules, regulations, and decisions of courts or tribunals of other nations, or conventions or treaties, whether or not the United States is a party." Requires courts adhere only to the U.S. & Oklahoma Constitutions, federal and state law and regulations, and where necessary the laws and regulations of another state. In House (no committee).

Jurisdiction: Floor and Committee Activity

NONE

Salary and Budget: Newly Introduced

[Alabama SB 78](#) Provides Judicial Branch may expend its appropriated funds as enacted "independent of the control or approval of the Department of Finance, the Governor, or any other member of the Executive Branch of government". Provides that the budget operations plans submitted to the Department of Finance "shall be for information purposes" only. Permits any "agency" of Judicial Branch (including the Supreme Court, Court of Criminal Appeals, Court of Civil Appeals, and the Administrative Office of the Courts) to amend or revised operations plan throughout the year without needing consent of

Department of Finance. Reaffirms Governor's constitutional power to Governor's authority to declare proration for all parts of state government receiving legislative appropriations, including agencies of the Judicial Branch, provided such a proration does not violate the "constitutional mandate of adequate and reasonable funding for the Unified Judicial System." In Senate Finance and Taxation General Fund Committee.

[New Jersey AB 881](#) Establishes "Court Security Enhancement Fund" and increases court fees. In Assembly Judiciary Committee.

[Virginia SB 258](#) Creates a local fee retention funding method for circuit court clerks' offices in which the clerk retains fees locally and pays 20 percent of gross fees to the state to be held by the Compensation Board in a trust fund beginning July 1, 2012. Requires trust fund be used to fund those offices that did not receive enough revenue in fees to maintain operations. Gives the clerk discretion in docketing judgments in favor of the Commonwealth, and removes the prohibition against charging fees for certain orders, entries, and documents. In Senate Committee for Courts of Justice.

Salary and Budget: Floor and Committee Activity

NONE

Other: Newly Introduced

[Alabama HJR 31](#) Declares, in part, as abridgment of the Constitution any "Judicial Order by the federal courts which assumes a power not delegated to the government of

the United States of America by the Constitution and which serves to diminish the liberty of any of the several states or their citizens shall abridge the Constitution." In House (no committee).

[Georgia HB 912](#) Prohibits any person "connected by employment, agency, or contract" with the judicial branch or other parts of government to address any committee or subcommittee of the General Assembly. In House Committee on Governmental Affairs.

[Indiana HB 1222](#) Requires the attorney general to represent a court that has issued an order of mandate for funds for the operation of the court or court related functions. Prohibits the state from reimbursing a judge for expenses incurred in employing a private attorney to represent the court in an action for mandate of funds. In House Committee on Rules and Legislative Procedures.

[Indiana HB 1311](#) Requires that, in the Indiana judicial reports, information concerning domestic relations cases be separated into: (1) actions for dissolution of marriage; (2) actions for legal separation; and (3) petitions to establish child support; and that information be provided for each of the categories. In House Committee on Judiciary

[Kansas HCR 5026](#) Requests Supreme Court, with Judicial Council, survey court system and appoint advisory committee to examine (1) unification and restructuring of the courts; (2) administrative supervision of the courts; (3) selection, tenure, compensation and retirement of judges and court personnel; (4) appellate review; (5)

financing of courts; and (6) such other areas assigned to it by the chief justice. In House Judiciary Committee.

[Mississippi SB 2040](#) Requires Justice Courts set aside one-half day a month to hear only traffic cases. In Senate Judiciary A Committee.

[New Hampshire HB 1689](#) Exempts state's Judicial Council and Judicial Retirement Plan Board of Trustees from repeal on June 30, 2011. In House Legislative Administration Committee.

[New Jersey AB 161](#) Establishes task force to study treatment of veterans diagnosed with post traumatic stress disorder in judicial proceedings. In Assembly Military and Veterans' Affairs Committee.

[New Jersey ACR 55 \(Constitutional Amendment\)](#) Authorizes statute transferring probation functions from Judiciary to State Parole Board. In Assembly Law and Public Safety Committee.

[New Jersey ACR 74 \(Constitutional Amendment\)](#) Establishes initiative process for limited purpose of overturning New Jersey Supreme Court decisions or statutes. In Assembly State Government Committee.

[New Jersey SCR 37 \(Constitutional Amendment\)](#) Authorizes statute transferring probation functions from Judiciary to State Parole Board. In Senate Judiciary Committee.

Other: Floor and Committee Activity

[Alabama SB 147](#) Continues until 2012
Board of Court Reporting. Grants power to
name a board member to Chief Justice based
on list of names submitted by
Administrative Office of Courts (currently,
state's Judicial Conference submits names).
Approved as amended by Senate
Government Affairs Committee 1/14/2010.

[Indiana HB 1044](#) Provides that a circuit
court clerk is not personally liable for acts or
omissions in the performance of the clerk's
duties absent gross negligence or intentional
disregard of the responsibilities of the office
of clerk. Specifies that the fact that a clerk is
not personally liable does not preclude an
action against the clerk's bond based on an
error or omission committed by the clerk.
Approved by full House 1/12/2010.

[Indiana SB 29](#) Provides that a circuit court
clerk is not personally liable for acts or
omissions in the performance of the clerk's
duties absent gross negligence or intentional
disregard of the responsibilities of the office
of clerk. Specifies that the fact that a clerk is
not personally liable does not preclude an
action against the clerk's bond based on an
error or omission committed by the clerk.
Approved by full Senate 1/12/2010.