

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Gavel to Gavel - The Blog

This week marks the entrance of *Gavel to Gavel* to the blogosphere. Our new blog, located at www.gaveltogavel.us, is intended to be a relatively open forum to provide more depth and analysis than what can be provided for in the weekly publication. It is not so much a replacement for the weekly edition, but an extension.

The blog will also include posts from readers and others to discuss and elaborate on the pending legislation, either as subject experts or people in-state who can better lay out the environment.

Your thoughts, ideas, posts, and questions are welcome.

Bill Raftery
Editor, *Gavel to Gavel*
wraftery@ncsc.org

Selection: Newly Introduced

[Arizona SB 1075](#) 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

House Rules Committee.

[Hawaii HB 1999](#) Authorizes appointment of judge or justice as Administrative Director of the Courts, who retains salary and benefits of judicial position. In House Committee on Judiciary.

[Hawaii SB 2156](#) Authorizes appointment of judge or justice as Administrative Director of the Courts, who retains salary and benefits of judicial position. In Senate Committee on Judiciary and Government Operations.

[Mississippi SB 3033](#) Prohibits judicial candidates from qualifying before January 1 of the year in which the election is held. In Senate Elections Committee.

[Mississippi SCR 561](#) Requires all elections, including those for judicial offices, be held on even numbered years. Reduces terms of current office holders accordingly. In Senate Constitution Committee.

[Oklahoma HJR 1075](#) Alters selection and composition of Court on the Judiciary, which has jurisdiction over the removal of judges. Provides that the trial and appellate divisions consist of 9 members each, none of whom may be judges and only 4 of whom may be attorneys per division. Provides divisions members are to be appointed by



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Editor's Email: wraftery@ncsc.org

Subscribe: gaveltogavel@ncsc.org

Blog: www.gaveltogavel.us

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the Governor and confirmed by the Senate. In House (no committee).

[South Carolina SB 1069](#) Permits the legislative delegation from a county to select that county's chief magistrate judge. If delegation opts not the select, chief magistrate judge to be selected by other law or court rule. In Senate Committee on Judiciary.

[Tennessee SJR 698 \(Constitutional Amendment\)](#) Requires popular election of attorney general (currently selected by Supreme Court). In Senate (no committee).

[West Virginia HB 4130](#) Creates WV Supreme Court of Appeals Public Campaign Financing Pilot Program. Provides alternative campaign financing options for candidates for the West Virginia Supreme Court of Appeals in 2012 through public funds funded through attorney fees, special court fees, and funds from the Treasurer's Unclaimed Property Trust Fund. Provides that candidates participating in the Pilot Project would be required to raise a certain amount of campaign funds to qualify for the program and receive public funds and are prohibited from raising or spending money from private sources. In House Judiciary Committee.

[West Virginia SB 195](#) Requires nonpartisan election of Supreme Court justices. In Senate Judiciary Committee.

[West Virginia SB 223](#) Creates Judicial Vacancy Advisory Commission to assist the Governor in filling judicial vacancies. Commission to submit names to Governor,

but recommendations are advisory only. In Senate Judiciary Committee.

[West Virginia SB 233](#) Creates WV Supreme Court of Appeals Public Campaign Financing Pilot Program. Provides alternative campaign financing options for candidates for the West Virginia Supreme Court of Appeals in 2012 through public funds funded through attorney fees, special court fees, and funds from the Treasurer's Unclaimed Property Trust Fund. Provides that candidates participating in the Pilot Project would be required to raise a certain amount of campaign funds to qualify for the program and receive public funds and are prohibited from raising or spending money from private sources. In Senate Judiciary Committee.

Selection: Floor and Committee Activity

[Indiana SB 36](#) Provides that magistrates who meet certain other criteria may be certified as special judges by the judicial nominating commission. Approved as amended by Senate Committee on Rules and Legislative Procedure 1/21/2010. In Senate Committee on Judiciary.

Qualifications and Terms: Newly Introduced

[Iowa HSB 556](#) Permits retired judge to teach up to six credit hours per semester or serve in a quasi-judicial activity and still receive retirement annuity. In House (no committee).

[Rhode Island HB 7156](#) Repeals the retired justice program, which allows certain civil matters to be tried before a retired justice of the Supreme Court. In House Judiciary Committee.

[Wyoming HB 37](#) Repeals mandatory retirement age for judges and justices. Effective only on condition constitutional amendment approved at 2010 general election. In House (no committee).

[Wyoming HJR 4 \(Constitutional Amendment\)](#) Repeals mandatory retirement age for judges and justices. In House (no committee).

Qualifications and Terms: Floor and Committee Activity

[Indiana HB 1061](#) AS AMENDED; Provides that an individual elected to the office of Circuit Court clerk after November 2, 2010, must complete at least 15 hours of training courses within one year, and 40 hours of training courses within three years after beginning the individual's term as Circuit Court clerk. Training courses to be developed by the Association of Indiana Counties and approved by the State Board of Accounts. Approved as amended by full House 1/19/2010.

[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. Approved by Senate Committee for Courts of Justice 1/18/2010.

Rule Making Authority: Newly Introduced

[Hawaii SB 2127](#) Clarifies the Supreme Court's rule making authority. In Senate Committee on Judiciary and Government Operations.

[Iowa HSB 596](#) Permits Supreme Court to set rules for conducting court hearings by video conference. Allows person who would be heard via video conference to request hearing be done in person instead. In House (no committee).

[Virginia HB 883](#) Sets out a procedure for the Supreme Court to follow in entering an order declaring a judicial emergency when there is a disaster as defined in the Commonwealth's Emergency Services and Disaster Law. Permits the judicial emergency order to suspend, toll, extend, or otherwise grant relief from time limits or filing requirements in any court affected by the order and allows designation of a neighboring jurisdiction as proper venue for civil and criminal proceedings. In House Committee for Courts of Justice.

Rule Making Authority: Floor and Committee Activity

NONE

Structure Changes: Newly Introduced

[Alabama HB 348](#) Authorizes but does not require drug courts be established by the presiding judges of the judicial circuits. Requires Administrative Office of Courts

assist in planning, developing, and implementing of drug courts. In House Government Appropriations Committee.

[Colorado HB 1104](#) Authorizes each judicial district to establish a program for the treatment of certain defendants who are veterans or members of the military (veterans court). Permits County or Municipal Court to transfer original jurisdiction of certain cases involving misdemeanors to the District Court for the purpose of assigning defendants to the veterans court. In House Judiciary and Appropriations Committees.

[Hawaii HB 1942](#) Establishes a temporary Hawaii Veterans Court within the Judiciary to help address prison overcrowding. In House Committee on Economic Revitalization, Business & Military Affairs

[Hawaii HB 1990 \(Constitutional Amendment\)](#) Authorizes temporary assignment of Circuit Judge to District Court by the Chief Justice. In House Committee on Judiciary.

[Hawaii HB 1995](#) Authorizes temporary assignment of Circuit Judge to District Court by the Chief Justice. In House Committee on Judiciary.

[Hawaii SB 2136](#) Establishes a temporary Hawaii Veterans Court within the Judiciary to help address prison overcrowding. In Senate Committee on Judiciary and Government Operations.

[Hawaii SB 2152](#) Authorizes the chief justice to temporarily assign a circuit judge to District Court where a district judge is

unavailable or for other reasons. Contingent upon ratification of related constitutional amendment. In Senate Committee on Judiciary and Government Operations.

[Hawaii SB 2158 \(Constitutional Amendment\)](#) Proposes a constitutional amendment to authorize temporary assignment of circuit judge to District Court by the chief justice. In Senate Committee on Judiciary and Government Operations.

[Illinois SB 2595](#) 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 Senate Assignments Committee.

[Kansas HB 2429](#) Eliminates requirement that every county have at least one District Court judge. Permits Supreme Court to eliminate a district judge position in a county and replace it with a district magistrate judge or judges. Permits Supreme Court to reassign district magistrate judges where their yearly average caseload is less than 600 cases (other than traffic and other specified cases). Provides that where all district magistrate judges are eliminated from a county the chief judge of the district is to assign a magistrate judge from another county to serve. If any one of the counties the magistrate judge is assigned to makes use of a yes/no retention election, the magistrate is subject to yes/no retention election in ALL counties, regardless of whether they use nonpartisan elections or not but must face first retention election at the next general election. Provides that where all district magistrate judges are eliminated from a county the county

commission may vote to retain the position by paying for the magistrate judge's salary from county funds. Provides that where all district magistrate judges are eliminated from a county the county remains for all expenses incurred as that county's share of the operations of the District Court within the judicial district, as determined by the chief judge of the judicial district. In House Judiciary Committee.

[Mississippi SB 2790](#) Requires municipalities with more than 10,000 people have two municipal judges instead of one. Permits municipalities with over 50,000 people to have up to six judges instead of three. In Senate Judiciary A and Municipalities Committees.

[Missouri HB 1646](#) Allows first classification counties to create County Courts. In House (no committee).

[Vermont HB 470](#) Restructures state's entire judiciary. Eliminates probate, family, and District Courts. Establishes a unified court system consisting of only the Supreme Court the Superior Court with the Supreme Court to exercise administrative control. Divides Superior Court into civil, criminal, family and probate, divisions. Reduces number of probate judges from 14 to 5 by ending practice of drawing probate court districts along county lines, instead creating five regional probate districts. Requires probate judges be attorneys. Eliminates judicial functions of "assistant judges". In House Committee on Judiciary.

[Virginia SB 592](#) Allows in specified area(s) 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 Senate Committee for Courts of Justice.

Structure Changes: Floor and Committee Activity

[Mississippi SB 2343](#) Requires municipalities with at least 20,000 people (currently 10,000) appoint a municipal judge. Approved by Senate Judiciary A Committee 1/19/2010. In Senate Municipalities Committee.

Jurisdiction: Newly Introduced

[Arizona HB 2379](#) Enacts the "Arizona Foreign Decisions Act" Declares the acceptance of Arizona into the Union was a "compact". Declares "Congress has no authority to preempt state regulation of state courts." Prohibits courts from implementing, referring or incorporating or using "a tenet of any body of religious sectarian law" and specifically includes sharia law, canon law, halacha and karma, but exempts decisions based on Anglo-American legal tradition, laws or case law from Great Britain prior enactment of the statute, or the definition of marriage as between one man and one woman, "and the principles on which the United States was founded." Prohibits use of any case law or statute from a non-U.S. jurisdiction or "foreign body", including the United Nations. Decisions that make use of a body of religious sectarian law or foreign law declared void and usages declared to be

grounds for impeachment. Declares these provisions apply to Federal courts sitting in diversity jurisdiction. Requires any court that construes this statute must do so in a way to confine the power of Congress and the federal judiciary. In House (no committee).

[Kansas SCR 1621](#) Declares any court order directing legislature appropriate a specific level of funding as "advisory". Declares "that courts lack the constitutional authority to order the legislature to make specific amounts of appropriation" and "no public moneys or moneys derived from the imposition of any tax shall be expended to finance or support litigation challenging the constitutionality of the amount of any legislative appropriation. In Senate Committee on Judiciary.

[Maryland SB 119 \(Constitutional Amendment\)](#) Increasing minimum amount of civil suit entitled to jury trial from \$10,000 to \$20,000. In Senate Judicial Proceedings Committee.

[New Mexico SB 102](#) Permits magistrate court sessions to be held at night. In Senate Public Affairs Committee.

[Oklahoma HJR 1079 \(Constitutional Amendment\)](#) Grants Legislature power to review and amend criminal sentences imposed by a court. In House (no committee).

[Virginia SB 651](#) Increases small claims jurisdiction from \$5,000 to \$10,000. Requires limit be adjusted July 1, 2015 and every five years thereafter based on

Consumer Price Index. In Senate Committee for Courts of Justice.

[Wisconsin AB 524](#) Increases the general jurisdictional amount in money judgment small claims actions from \$5,000 to \$10,000 if the claimant has commenced 20 or fewer such actions within the previous 365 days. Increases filing fees from \$22 to \$33 if filing more than 20 small claims cases in previous 365 days. In Assembly Judiciary Committee.

Jurisdiction: Floor and Committee Activity

[Indiana HB 1186](#) Allows a city or town that has not established a city or town court or an ordinance violations bureau to enter into an interlocal agreement with a city, town, or other municipal corporation that has established: (1) a city or town court; or (2) an ordinance violations bureau; to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of a city or town court or an ordinance violations bureau established by the city or town. Approved by House Committee on Courts and Criminal Code 1/19/2010.

Salary and Budget: Newly Introduced

[Florida HB 737](#) Creates Fiscal Stability Trust Fund to be administered by the Supreme Court. Requires 1 percent of General Revenue Fund automatically be placed in the Fiscal Stability Trust Fund. States "the judicial branch of state government shall be held harmless in years of fiscal deficits in the state as a matter of

public safety." Permits revenues in the Fiscal Stability Trust Fund to remain in the fund at the end of every fiscal year. Requires passage of HB 735 "or similar legislation". In House (no committee).

[Hawaii HB 1998](#) Authorizes the judiciary to pay a service fee to an electronic payment service provider and to pass the fee on to the customer. In House Committee on Judiciary.

[Hawaii SB 2155](#) Authorizes the judiciary to pay a service fee to an electronic payment service provider and to pass the fee on to the customer. In Senate Committee on Judiciary and Government Operations.

[Kansas HB 2476](#) Extends various fees set to expire in 2010 to 2011. In House Committee on Judiciary.

[Maryland HB 106](#) Increasing minimum amount of civil suit entitled to jury trial from \$10,000 to \$20,000. Law goes into effect only of constitutional amendment approved. In Senate Judicial Proceedings Committee.

[Mississippi SB 2708](#) Requires counties pay the salaries of court administrators directly to the county court administrator in the same manner as any other county employee would be paid. In Senate County Affairs Committee.

[Mississippi SB 2866](#) Increases judicial salaries by ten percent. In Senate Fees, Salaries and Administration and Appropriations Committees.

[Mississippi SB 3007](#) Provides that where the salaries of county supervisors are increased, the salaries of justice court judges will not

be automatically increased but must be approved separately. In Senate Fees, Salaries and Administration Committee.

[Missouri SB 767](#) Removes the restriction on certain counties using a court fee for courtroom renovation and technology. In Senate Judiciary Committee.

[Missouri SJR 36 \(Constitutional Amendment\)](#) Provides that any schedule of compensation filed by the 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 to such date. (Currently, becomes automatic unless overridden by legislature). Requires schedule of compensation for judges be considered separate and apart from the schedule of compensation for other public officials and requires a separate majority vote of the General Assembly in order to be effective. In Senate (no committee).

[Nebraska LB 1104](#) Changes salaries of Supreme Court (placeholder bill, current version replaces salary with "XXX"). In Senate (no committee).

[South Dakota HB 1081](#) Increases unified judicial system court automation surcharge for various filings and fines. In House Judiciary Committee.

[Virginia HB 1196](#) Allows the Executive Secretary of the Supreme Court to employ staff from state funds specifically appropriated to him for that purpose. In House Committee for Courts of Justice.

[Virginia SB 396](#) Allows localities to raise the fee assessed for courthouse construction, renovation, or maintenance above the current authorized amount of \$2 once every two years based upon the percentage increase in the Consumer Price Index. In Senate Committee for Courts of Justice.

[Washington HB 3043](#) Redirects funding from the judicial information system account to the access to justice account. In House General Government Appropriations Committee.

Salary and Budget: Floor and Committee Activity

NONE

Other: Newly Introduced

[Florida HB 735](#) Retroactively eliminates judicial immunity. Requires Supreme Court create plan for promoting civics for residents in state. Requires all final reports by court committees, retroactive to 2000, be submitted to the Governor, Cabinet, and Legislature. Requires Auditor General and the Office of Program Policy Analysis and Government Accountability conduct full audit review of state courts system and repeat the audit ever two years. Creates unified family courts, teen courts, drug courts and mental health courts in each judicial circuit. Expands Judicial Qualifications Commission. Requires panels of the Commission investigating complaints against judges include at least 5 "common citizen electors" as a staff committee, none of whom may be "officers of the court" and who must prepare a separate report on the investigation that is to be made publicly

available. Requires Auditor General and the Office of Program Policy Analysis and Government Accountability conduct full audit review of commission and repeat the audit every two years. In House (no committee).

[Hawaii HB 1935](#) Makes boards of the judicial branch subject to open meetings sunshine law in nonadjudicatory functions. In House Committee on Judiciary.

[Hawaii HB 2328](#) Amends the appointment process for the director of the office of information practices to require a list of nominees to be submitted to the governor by the judicial council, rather than allowing the director to be directly appointed by the governor. In House (no committee).

[Hawaii SB 2029](#) Makes boards of the judicial branch subject to open meetings sunshine law in nonadjudicatory functions. In Senate Committee on Judiciary and Government Operations.

[Hawaii SB 2196](#) Clarifies that a judge may be disqualified for cause by motion that must be decided by a different judge. In Senate Committee on Judiciary and Government Operations.

[Hawaii SB 2315](#) Amends the appointment process for the director of the office of information practices to require a list of nominees to be submitted to the governor by the judicial council, rather than allowing the director to be directly appointed by the governor. In Senate (no committee).

[Iowa SSB 3094](#) Requires the department of administrative services and any other state

agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure, to remit to the state court administrator, 10 percent of the amounts set off from the collection of delinquent court debt for use by the judicial branch to defray the costs of collecting unpaid court debt. Requires Supreme Court prescribe rules regarding the retention of all judicial branch records. Requires Supreme Court appoint administrator of the board of examiners of shorthand reporters. Transfers the authority to set fees for examination and admission to practice law in Iowa from the board of law examiners to the Supreme Court and provides the fees are to be appropriated to the Supreme Court directly to offset the costs of the examinations and admissions. Separates authority of Supreme Court to set mileage for jurors from provision for setting mileage for witnesses, court employees, and judges. In Senate (no committee).

[Mississippi SB 2766](#) Makes numerous changes to court/judicial districts. For multicounty districts, specifies how many judges or chancellors must come from each county. In Senate Judiciary A Committee.

[Missouri HCR 11](#) Notice and Demand to the federal government and state courts. Demands federal judicial appointees not be selected based on "level of ignorance of the jurisdiction between the legislative and judicial branches of our government." Declares, in part, that any "Judicial Order by the federal courts which assumes a power not delegated to the government of the United States 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).

[Missouri HCR 25](#) Declares anu "Judicial Order by the Judicatories of the United States of America which assumes a power not delegated to the government of the United States of America by the Constitution of the United States of America and which serves to diminish the liberty of any of the several States or their citizens are unconstitutional under the Constitution of the United States of America by the government of the United States of America." In House (no committee).

[New York AB 9726 \(Constitutional Amendment\)](#) Provides that no person shall have their legal action be dismissed on the grounds of it raising or being a non-justiciable political question. In Assembly Judiciary Committee.

[Oklahoma HJR 1063 \(Constitutional Amendment\)](#) Enacts the "Oklahoma Sovereignty Protection Act". Allows majority vote of Oklahoma House and Senate to declare null and void any federal (presumably judicial) "order or decision" that "is in conflict with the United States Constitution and that usurps the powers reserved to the State of Oklahoma." Prohibits the Governor from vetoing the legislative declaration. In House (no committee).

[Oklahoma HJR 1072](#) Makes district judges and associate district judges subject to impeachment by the state legislature. In House (no committee).

[Tennessee HB 2689](#) Requires the judicial council to meet at least twice each year while the legislature is in session. In House (no committee).

[Tennessee HB 2691](#) Requires judicial council, upon request or on own motion, to send suggestions for statutory changes pertaining to the judicial system to the legislature. In House (no committee).

[Virginia HB 827](#) Authorizes the Circuit and District Court clerks to set up an electronic recording system in their courtrooms. In House Committee for Courts of Justice.

[Virginia HJR 154](#) Directs the Virginia State Crime Commission to study the costs and benefits associated with establishing mental health courts designed to divert nonviolent offenders with mental illnesses from local jails and state prisons and place them into judicially monitored treatment programs. In House Committee on Rules.

[Virginia SB 220](#) Establishes electronic filing of cases in Circuit Courts by providing for acceptance of electronic images as original documents for filing and recording, and for the attachment of electronic seals or stamps for original signatures and notarizations in civil cases. Exempts from e-filing program cases where particular forms are specified by statute. In Senate Committee for Courts of Justice.

[Virginia SB 409](#) Requires the Circuit Court clerks to keep their offices open during convenient hours during those days on which that office is required to be open. Relieves the clerk of certifying local officers

lists to the Secretary of the Commonwealth, by imposing that requirement on the locality itself, and of maintaining a list or book of local active volunteer fire fighters, by imposing that duty on the state Department of Fire Programs. Requires the clerk to record only those writings specifically required by law to be recorded. Repeals several small monetary forfeitures imposed on the clerk for failure to (i) provide the Department of Corrections with copies of orders, (ii) record certificates of satisfaction as required, and (iii) perform any duty generally. In Senate Committee for Courts of Justice.

[West Virginia SB 164](#) Prohibits generally possession of deadly weapons in courthouses. Defines "courthouse" and provides exceptions. In Senate Judiciary Committee.

Other: Floor and Committee Activity

[Mississippi HB 297](#) Requires Justice Courts set aside one day a week to hear only traffic cases. Approved by House Judiciary B Committee 1/14/2010.