

Gavel to Gavel

A review of state legislation affecting the courts

January 29, 2010

Volume 4, Issue 5

Focus: Court Interpreters

Since its inception, *Gavel to Gavel* has focused on items in seven broad categories. Readers are welcome and encouraged, however, to submit their requests for a one-time special Focus piece outside those categories. This week's Focus is based on just such a request on legislation affecting court interpreters in the last two years. Have a Focus piece you would like to see in a future *Gavel to Gavel*? Email wraftery@ncsc.org with your idea!

Law

Texas [HB 4445/SB 1892](#) (2009) Requires the Texas Department of Licensing and Regulation to adopt rules regarding the licensing of court interpreters and providing the minimum score an individual must achieve on the examination to qualify for a license with a basic designation or to qualify for a license with a master designation. Signed into law 6/19/09, effective 9/1/11.

[Minnesota SB 1462 \(2009\)](#) Requires Supreme Court develop procedures for compensating language interpreters necessary to defense preparations in cases involving public health emergencies, pandemics, the mass dispensing of medication, isolation, and quarantine.

Signed into law 5/7/09, effective 5/8/09.

[Nebraska LB 35 \(2009\)](#) Provides that a lower court does not have to swear in an interpreter who has been sworn in by the Supreme Court. Signed into law and effective 5/29/09.

Currently Active in 2010

[California AB 663 \(2009/2010\)](#) Requires Judicial Council enter agreements to provide for telephone appearances in specified civil cases. Requires the Judicial Council, establish a working group to review, identify, and develop best practices to provide interpreters in civil actions and proceedings, as specified. Requires the Judicial Council select up to five courts to participate in a pilot project to provide interpreters in civil proceedings. Requires Judicial Council determine the need for and use of interpreters in civil and criminal court proceedings. Requires trial courts to collect and report the use of interpreters in all criminal and civil proceedings in the manner specified by the Judicial Council. Approved as amended by Assembly Judiciary Committee 4/15/09.

[Georgia HB 24 \(2009/2010\)](#) Recodifies most of the state's evidentiary rules, including establishment and specification of interpreter qualifications. Approved by



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House Judiciary Committee 3/3/09.
[Mississippi SB 2438 \(2010\)](#) Creates 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. In Senate Judiciary A Committee.

[Nebraska LB 333 \(2009/2010\)](#) Creates Supreme Court Access to Justice Cash Fund to be administered by the State Court Administrator to be used exclusively for statewide interpreter services in the courts and probation system and access to justice for indigent and pro se individuals. Carried over into 2010 session.

New York [AB 4432/SB 5406](#) (2009/2010) Requires a court interpreter file an affidavit or affirmation that he/she will make a true and impartial interpretation of the proceedings and follow the standards set forth in the USC Court Interpreter Manual and the Court Interpreter Canons of Professional Responsibility. Sets explicit standards and functions of court interpreters. Specifies rights of a non-English speaking party when waiving their rights to a court interpreter. Specifying the waiver will be effective when a non-English speaking party has consulted with an attorney and may be retracted during the court proceedings. In Assembly and Senate Judiciary Committees.

New York [AB 5273/SB 4594](#) (2009/2010) Requires orders of protection and temporary orders of protection issued in family court or in cases of family offenses in criminal court to be translated by an interpreter into the

native language of the parties. Approved by full Assembly 6/22/09.

New York [AB 5346/SB 2147](#) (2009/2010) Increases the amount of compensation which a court may pay to a temporary appointed interpreter to not more than two hundred fifty dollars per day. In Assembly and Senate Judiciary Committees.

[Virginia HB 1338 \(2010\)](#) Provides that the cost for a court interpreter shall be borne by a defendant who is convicted at trial of a criminal offense. In House Courts of Justice Committee.

[Washington HB 2518 \(2010\)](#) Permits certified or registered interpreters to forego taking the required oath at the beginning of each interpreting session, but requires the oath to be taken upon certification or registration and every two years thereafter. Maintains the oath requirement at the beginning of each interpreting session for interpreters who are neither certified nor registered. Approved as amended by House Committee on Judiciary 1/21/10.

Active in 2009 only

[Maryland HB 1102 \(2009\)](#) Authorizes a court to charge a defendant who is found guilty of a crime and who was appointed a foreign language interpreter during the prosecution of the case with certain costs for the services and expenses of the interpreter. Unfavorably reported by the House Judiciary Committee 3/9/09.

[Mississippi SB 2447 \(2009\)](#) Creates 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. No hearings.

[Nebraska LB 332 \(2009\)](#) Provides that a lower court does not have to swear in an interpreter who has been sworn in by the Supreme Court. Provision amended into LB 35 (2009).

[Nevada AB 99 \(2009\)](#) ORIGINAL: Increases penalties for crimes committed against “Participants in the legal process” and includes within that phrase court interpreters. AMENDED: Deletes references to “participants in the legal process”.

North Carolina [HB 1262/SB 510](#) (2009) Expands state-reimbursed interpreting services to encompass all court proceedings in which an interpreter is necessary to assist the court in the efficient transaction of business. House: No hearings. Senate: Approved as amended by Senate Judiciary I Committee 5/5/09.

[North Carolina HB 1477 \(2009\)](#) Provides if a party or witness in the General Court of Justice does not speak or understand the English language, the cost of interpreting or translating services for the party or witness is payable from funds appropriated to the Judicial Department. No hearings.

[Virginia SB 912 \(2009\)](#) Provides that the cost for a court interpreter shall be borne by a defendant who is convicted at trial of a criminal offense. Rejected by Senate Courts of Justice Committee 1/28/09.

Selection: Newly Introduced

[Alabama HB 443](#) Creates judicial vacancy commissions for the filling of judicial office vacancies, except those judicial circuits having judicial vacancy commissions provided by local constitutional amendments to the Constitution. Provides that if a local constitutional amendment creating a judicial vacancy commission is repealed, the county would be subject to the statewide judicial vacancy process in this amendment. In House Judiciary Committee.

[Arizona HCR 2037 \(Constitutional Amendment\)](#) Provides Supreme Court to name presiding judge of Superior Court only in counties above 800,000 people (currently, Supreme Court names all presiding judges). Presiding judges in counties below 800,000 to be elected by county electors. Requires Superior Court judges be elected by county electors in counties over 800,000. Provides vacancies to be filled by County Board of Supervisors (currently Governor fills). Retains merit selection commission for appellate courts, but requires all applicants be submitted to governor in rank order based on merit. Provides appellate judges will remain subject to yes/no retention votes. Includes judicial races in state’s public financing program. Sets spending limit for Superior Court candidates as equal to that for a candidate for the legislature and for presiding judge the same as Mine Inspector. Requires publicity pamphlet be created and distributed prior to elections and that all statements and comments filed with the secretary of state under 300 words be included. In House (no committee).

[Arizona SCR 1037](#) Requires presiding judges of Superior Courts and Chief Justice of the Supreme Court be elected by electors of the county or state. In House Judiciary Committee.

[Hawaii SCR 37](#) Urges Governor consider gender equality when appointing judges and justices. In Senate Judiciary Committee.

[Hawaii SR 26](#) Urges Governor consider gender equality when appointing judges and justices. In Senate Judiciary Committee.

[Iowa SSB 3147](#) Authorizes the Chief Justice to delay the filling of any judicial office. (Currently has authority, but set to lapse in June 2010). Authorizes Chief Justice to apportion new vacancies in judicial officers from one judicial election district to another. Allows Clerk of District Court be appointed solely by Chief Judge and removed by Chief Judge after consulting other judges (currently, may only be appointed or removed by majority vote of judges). Specifies Chief Judge has power to designate time and location for court to ensure magistrate available. Requires associated district judges reside in judicial election district at time of appoint and through entire term in office. Requires state court administrator consider case-related workload in apportion magistrates in state. Removes requirement that each county have at least one magistrate. Permits magistrate reside in a county that borders one for which he or she serves and to serve outside their normally appointed county. Requires full-time magistrates stand for retention election every six years and be an attorney. Requires majority vote of district judges before a full time magistrate can replace two part-time

ones. Provides that the district judicial nominating commission shall nominate persons for appointment to the office of district associate judge, associate juvenile judge, or associate probate judge, rather than the county magistrate appointing commission. Requires person so to be a resident of the judicial election district rather than just the county where the vacancy occurs. Requires district judicial nominating provide 3 names within 60 days of notice of vacancy to the longest serving district judge in the judicial election district for selection, rather than the chief judge of the judicial district. Requires the district judges of the judicial election district where the vacancy occurs select someone within 30 days or else the chief justice of the Supreme Court shall make the appointment. Allows chief justice to move a vacancy that occurs in the office of district judge, district associate judge, associate juvenile judge, or associate probate judge, from one judicial election district to another if a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts as determined by the judicial council. Permits chief judge of each judicial district, rather than a majority vote of all the district judges, to appoint the clerk of the district court and remove the clerk for cause after consultation with the judicial officers of the judicial district. Provides that a senior judge shall cease being a senior judge upon attaining the age of 78 years of age, unless the senior judge is reappointed by the Supreme Court for two additional one-year terms until the age of 80 is attained. Requires magistrates be attorneys, but allows existing magistrates to continue to serve and be reappointed. In Senate Judiciary Committee.

[Michigan HJR 46 \(Constitutional Amendment\)](#) Provides for election of Supreme Court justices from districts rather than statewide. In House Judiciary Committee.

[Mississippi HB 1544](#) Prohibits judicial candidates from qualifying before January 1 of the year in which the election is held. In House Apportionment and Elections Committee.

[Washington HB 4036](#) 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 House Judiciary Committee.

[West Virginia HB 2603](#) Provides for nonpartisan election of justices of the West Virginia Supreme Court of Appeals and circuit court judges. In House Judiciary Committee.

[West Virginia HB 3012](#) Requires magistrates be elected in districts rather than countywide. In House Judiciary Committee.

[West Virginia HB 3050](#) Requires disclosure by judicial officers of campaign contributions in excess of \$250. In House Judiciary Committee.

[West Virginia HB 3216](#) Authorizes the Chief Justice of the Supreme Court of Appeals of West Virginia to appoint senior family court judges back to the bench. In House Judiciary Committee.

Selection: Floor and Committee Activity

[Mississippi SB 3033](#) Prohibits judicial candidates from qualifying before January 1 of the year in which the election is held. Approved by Senate Elections Committee 1/28/10.

Qualifications and Terms: Newly Introduced

NONE

Qualifications and Terms: Floor and Committee Activity

[Virginia SB 44](#) Increases the mandatory retirement age for district court judges only from 70 to 76. Incorporated into SB 206 by Senate Committee for Courts of Justice 1/27/10.

[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. Approved as amended by Senate Committee for Courts of Justice 1/25/10. In Senate Finance Committee.

Rule Making Authority: Newly Introduced

[Mississippi HB 1415](#) Prohibits courts from restricting use of cell phones in circuit or chancery clerk's office. In House Judiciary B Committee.

[New Mexico SB 150](#) Allows supreme court to set copying fees charged by appellate

courts as they do for the trial courts. In Senate Judiciary Committee.

[South Carolina HB 4450](#) Provides that municipal court judges and magistrates are responsible for the dockets of their courts and for exclusively setting what cases are to be heard. In House Committee on Judiciary.

Rule Making Authority: Floor and Committee Activity

[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. Approved by House Committee for Courts of Justice 1/27/10.

Structure Changes: Newly Introduced

[Missouri SB 836](#) Specifies any circuit court may establish DWI courts. In Senate Judiciary Committee.

[West Virginia HB 2910](#) Increases from three to four minimum number of magistrates in a county. In House Political Subdivisions Committee.

[West Virginia HB 3269](#) Creates an Intermediate Court of Appeals for each of

the state's three congressional districts. In House Judiciary Committee.

Structure Changes: Floor and Committee Activity

[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 as amended by House Appropriations Committee 1/25/10.

[Mississippi SB 2343](#) Requires municipalities with at least 20,000 people (currently 10,000) appoint a municipal judge. Approved by Senate Municipalities Committee 1/21/10.

Jurisdiction: Newly Introduced

[Georgia HB 976](#) Increases magistrate court jurisdiction from \$15,000 to \$25,000. In House Judiciary Committee.

[Hawaii HB 2784](#) Increases small claims jurisdiction from \$3,500 to \$7,000. In House Judiciary Committee.

[Hawaii SB 2465](#) Increases small claims jurisdiction from \$3,500 to \$7,000. In Senate Judiciary Committee.

[Missouri HJR 82 \(Constitutional Amendment\)](#) Requires all impeachments, except that of the governor, be tried by the Senate (currently, Supreme Court tries all impeachments). In House (no committee).

[Missouri HJR 88 \(Constitutional Amendment\)](#) Prohibits Missouri judiciary or any branch from "recognizing, enforcing, or acting in furtherance" of any federal law, judicial ruling, etc. that exceeds the powers given the federal government and specifies this to include the right of private citizens to bear arms, fund or legalize abortions, purchase or sale of carbon credits, public option health care, same sex marriage, the "wall of separation" between church and state, or home schooling. Requires Missouri courts interpret U.S. Constitution as intended by signers or amendments based on congressional sponsor's intent. Prohibits view of U.S. Constitution as being a "living, breathing document". Permits a cause of action in state court under this amendment to void any federal action and permits the determination of whether a federal action has exceeded constitutional authority retroactively either by the state's Supreme Court or legislature. In House (no committee).

[New Mexico HJM 38](#) Requests administrative office of the courts conduct a study in the need for class A counties to have a special judge or special master to hear code enforcement cases. In House Health and Government Affairs Committee.

Jurisdiction: Floor and Committee Activity

NONE

Salary and Budget: Newly Introduced

[Kansas HB 2531](#) Recomputes percentage of docket fees that goes to various funds. In House Judiciary Committee.

[Kansas SB 461](#) Creates district magistrate judge supplemental compensation fund in state treasury and allows counties to place money into this fund for the explicit purpose of giving additional salaries to the county's magistrates judges. In Senate Ways and Means Committee.

[Mississippi HB 1316](#) 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 House Fees and Salaries of Public Officers Committee.

[Mississippi HB 1326](#) Provides for civil filing fee in circuit and chancery court to provide pay increase for judges and prosecutors. In House Fees and Salaries of Public Officers Committee.

[Mississippi HB 1372](#) 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 House Fees and Salaries of Public Officers Committee.

[New York AB 9760](#) Increases judicial salaries and sets all judicial salaries as a percentage of that given to a justice of the state's Supreme Court (note: in NY, the state's Supreme Court is a trial court of general jurisdiction). Creates compensation commission whose recommendations automatically become law. In Assembly Judiciary Committee.

[West Virginia HB 2060](#) Requires magistrate courts to maintain records relating to successful collection rates on judgments. In House Judiciary Committee.

[West Virginia HB 2731](#) Increases family court judges salaries from \$82,500 to \$111,000. In House Judiciary Committee.

[West Virginia HB 2806](#) Removes the salary cap for secretary-clerks and case coordinators of the family court. In House Judiciary Committee.

[West Virginia HB 3303](#) Increases the salaries of magistrates who serve populations of eight thousand four hundred or more. In House Judiciary Committee.

Salary and Budget: Floor and Committee Activity

[Georgia HB 54](#) Alters various provisions relating to survivors' benefits under the Georgia Judicial Retirement System. Approved by House Committee on Retirement 1/27/10.

[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. Passed by indefinitely in Senate Courts of Justice Committee 1/25/10.

Other: Newly Introduced

[Georgia HB 1002](#) Increases the punishment for certain crimes committed upon judges,

prosecuting attorneys, public defenders, clerks and deputy clerks of court, court reporters, and probation officers. In House Committee on Judiciary Non-Civil.

[Hawaii HCR 8](#) Requests judiciary and other branches remove portraits of jurists and other officials that served in the provisional government after 1893. In House Committee on Hawaiian Affairs.

[Hawaii SB 2495](#) Specifies a justice or judge may not be precluded from carrying on the judge's person a loaded firearm for personal protection without a license. Specified those with a firearms license may not carry it into a courthouse or courtroom unless they are a judge or justice. In Senate Committee on Public Safety and Military Affairs.

[Hawaii SCR 34](#) Requests judiciary and other branches remove portraits of jurists and other officials that served in the provisional government after 1893. In Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs.

[New Mexico HJR 10 \(Constitutional Amendment\)](#) Adds one municipal judge to judicial standards commission. In House Voters & Elections Committee.

[Pennsylvania HR 603](#) Appoints a committee and empowers it to make an investigation of the conduct of the Honorable Willis W. Berry, Jr., of the Court of Common Pleas of Philadelphia County. In House Judiciary Committee.

[West Virginia HB 2075](#) Allows family court judges to carry concealed deadly weapons

without obtaining a license. In House Judiciary Committee.

[West Virginia HB 2262](#) Makes it a misdemeanor to file a frivolous lawsuit with the court. In House Judiciary Committee.

[West Virginia HB 2761](#) Transfers juvenile justice database administration to Supreme Court. In House Judiciary Committee.

[Wyoming HJR 5](#) Declares any "Judicial Order is put into force related to the reservations expressed in this resolution, Wyoming's "Act of Admission" is breached and all powers previously delegated to the United States by the federal Constitution and Bill of Rights revert to the states individually." In House (no 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 full House 1/27/10. In Senate Judiciary A Committee.

[Mississippi SB 2040](#) Requires Justice Courts set aside one-half day a month to hear only traffic cases. Approved by Senate Judiciary A Committee 1/28/10.

[New Hampshire SB 330](#) Reinstates the court accreditation commission to prescribe minimum standards for all courts with respect to size, adequacy of facilities, security, decor and design, judicial

chambers, conference rooms, stenographic and clerical assistance, decorum, parking facilities, respect for the rights of the public, law enforcement personnel, and the accused, and such other features as the supreme court shall direct. Expands membership of commission. Approved as amended by Senate Judiciary Committee 1/27/10.

[Virginia HB 827](#) Authorizes the circuit and district court clerks to set up an electronic recording system in their courtrooms. Passed by indefinitely in House Courts of Justice Committee 1/27/10.

[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. Tabled by House Committee on Rules 1/21/10.

[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. Approved as amended by Senate Committee for Courts of Justice 1/25/10. In Senate Finance Committee.