

# Gavel to Gavel

A review of state legislation affecting the courts

March 19, 2009

Volume 3, Issue 12

## *Focus: Recovery of debts owed to the courts*

State legislatures contending with budget shortfalls are looking to unpaid fines, fees, and other debts payable to the judiciary as a means to bridge the gap. The methods vary but all are focused on the recovery of this money and its use by the state in general or the courts in particular. Among the proposals being considered in 2009 are:

New Mexico's [HJM 73](#) requests Congress enact federal legislation that would add unpaid local and state court fines and fees to those delinquent obligations that can be intercepted through the United States Department of the Treasury offset program.

Oregon's [SB 93](#) is similar to New Mexico's request. It allows the State Court Administrator to enter into an intergovernmental agreement with the United States Financial Management Service and Internal Revenue Service for the purpose of offsetting federal tax refunds to collect liquidated and delinquent accounts of state courts and commissions, departments and divisions in the judicial branch. [HB 2317](#) on the other hand focuses internally to the state and requires the Oregon State Lottery Commission hold lottery prize in excess of \$600 and notify the State Court Administrator if a lottery prize winner is

listed in database of persons having liquidated and delinquent court accounts.

Florida's [HB 121](#) and [SB 248](#) require certain persons who owe court-related fees, service charges, costs, and fines to appear before the court and requires circuit courts implement a Comprehensive Court Enforcement Program.

While these proposals all involve inter- or intra-governmental transfers, other states are considering involving the private sector.

Nevada's [AB 156](#) requires district courts, justice courts and municipal courts to contract with private debt collectors or other persons to collect certain debts.

New Jersey's [AB 2178](#) and [SB 986](#) permits municipal courts and others to place a surcharge on delinquent debts of up to 25% to pay the costs of hiring a private debt collector. (Under current law courts must pay the cost of private debt collection out of the delinquent monies collected).

Oklahoma's [HB 1061](#) permits the governing body of a municipality to enter into a contract with a debt collection agency to collect court debts.

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](mailto:wraftery@ncsc.org)

Subscribe: [gaveltogavel@ncsc.org](mailto:gaveltogavel@ncsc.org)

Online: [http://www.ncsconline.org/D\\_Research/gaveltogavel/](http://www.ncsconline.org/D_Research/gaveltogavel/)



ADVANCED GOVERNMENT SOLUTIONS  
Intelligence Analysis    Investigative    Screening & Identity Verification    Research    Case Management    Digital Asset Management

Legislative tracking provided by  
LexisNexis



## Selection: Newly Introduced

[Oregon HB 3404](#) Establishes Voter Owned Elections Fund to provide public financing to candidates for the Supreme Court and certain other public offices. Establishes Voter Owned Elections Commission to administer fund. In House (no committee).

[West Virginia SB 591](#) Requires magistrates be elected by divisions rather than countywide. In Senate Judiciary Committee.

## Selection: Floor and Committee Activity

[Minnesota SB 80](#) Sets contributions limits for judicial candidates: \$2,000 in an election year for the office sought and \$500 in other years. Approved as amended by Senate State and Local Government Operations and Oversight Committee 3/18/09.

## Qualifications and Terms: Newly Introduced

[Oregon HB 3457](#) Requires judges and other elected officials and public employees who must swear or affirm to support Constitution as condition of office or employment to take examination on constitutional principles. Makes results of examination accessible to public. In House Rules Committee.

[Pennsylvania HB 917](#) Requires Magisterial district judges be at least 25 years of age. In House Judiciary Committee.

## Qualifications and Terms: Floor and Committee Activity

[Illinois HB 3908](#) Encourages judges assigned to domestic violence cases participate in domestic violence training. Recommends Administrative Office of the Illinois Courts develop such training. Approved by House Judiciary II - Criminal Law Committee 3/12/09.

[New Hampshire HB 655](#) Allows judges over 70 years of age to serve as senior active status justices. Repeals a provision authorizing such judges to serve as judicial referees. Approved as amended by House Judiciary Committee 3/17/09.

[Texas SB 420](#) Prohibits a political subdivision or agency of the state from establishing or maintaining, formally or informally, a plan to evaluate, promote, compensate, or discipline certain judges based on the amount of money collected by that judge from traffic offenses. Currently, the law does permit municipalities to consider the amount of money collected from a municipal court or a municipal court of record when evaluating the performance of a judge employed by that municipality. Approved by full Senate 3/19/09.

[Texas SB 477](#) Prohibits judge who was reprimanded or censured or retired/resigned 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. Approved by full Senate 3/19/09.

## **Rule Making Authority: Newly Introduced**

[California AB 590](#) Requires the Judicial Council to develop one or more model pilot projects in selected courts to provide legal counsel to represent low-income parties in civil matters involving critical issues affecting basic human needs. In Assembly Judiciary Committee.

## **Rule Making Authority: Floor and Committee Activity**

[Florida SB 1424](#) Encourages the Supreme Court to adopt rules authorizing a party to appeal an order denying a motion for summary judgment. Approved as substituted by Senate Judiciary Committee 3/18/09.

[New Hampshire HB 625](#) Requires supreme court adopt rules providing for adequate security screening procedures to protect the lives and well-being of all court personnel and members of the public entering courthouses. Requires procedures be implemented in each courthouse by January 1, 2011. Requires each person entering a courthouse be screened for security purposes, except for judges, court officers and employees, and attorneys who meet the qualifications established by the committee on character and fitness. Voted inexpedient to legislate by House Judiciary Committee 3/11/09.

[Texas SB 445](#) Requires Supreme Court create rules to provide for the taking of notes by jurors in civil trials and submit written questions to witnesses. Approved by full Senate 3/19/09.

[Texas SB 780](#) Requires disclosure of the individual vote of each member of the Texas Supreme Court on a petition for review. Approved by Senate Jurisprudence Committee 3/19/09.

## **Structure Changes: Newly Introduced**

[Nevada SB 225](#) Increases number of judicial districts in state to 10 from 9 and realigns district boundaries accordingly. In Senate Committee on Judiciary.

[New York SB 3172](#) Creates pilot program of veterans courts. In Senate Judiciary Committee.

## **Structure Changes: Floor and Committee Activity**

[Illinois HB 3795](#) Requires the Chief Judge of each judicial circuit establish a drug court program (currently, they may establish such programs). Approved by House Judiciary II - Criminal Law Committee 3/12/09.

[Illinois HB 4212](#) Permits the Chief Judge of a judicial circuit to establish a military and veterans court program for veterans and active duty service members. Provides that in such judicial circuits, a veteran or active duty service member who has a substance abuse problem and who is subject to a criminal proceeding may with the consent of the prosecution and with the approval of the court be admitted into a military and veterans court program. Excludes from the program certain specified veteran or active duty service members. Approved by House Judiciary II - Criminal Law Committee 3/12/09.

[Nevada AB 187](#) Authorizes a district court to establish a program for the treatment of certain eligible defendants who are veterans or members of the military, using the existing law for the treatment of offenders with mental illness as a model. Requires courts ask defendants if they are veterans or serving in the military. Authorizes justice courts and municipal courts to transfer original jurisdiction of certain cases involving misdemeanors to the district court for the purpose of assigning offenders to the program of treatment. Approved by Assembly Committee on Judiciary 3/12/09. Approved by full Assembly 3/17/09.

[Pennsylvania SB 383](#) Authorizes the establishment of problem solving court, including, but not limited to, drug courts, mental health courts and driving under the influence courts, in all courts of common pleas and the municipal court of Philadelphia. Approved by Senate Judiciary Committee 3/10/09.

[Tennessee SB 2020](#) Creates a municipal court for any municipality that does not have such a court established by the general assembly. Approved by Senate Judiciary Committee 3/18/09.

[Washington SB 5151](#) ORIGINAL: Allows the presiding judge of the superior court in a county with more than 400,000 people to appoint attorneys to act as criminal commissioners to assist the superior court in disposing of adult criminal cases. SUBSTITUTED: Same, but requires the county legislative authority to approve the creation of the criminal commissioner positions. Approved by House Judiciary Committee 3/18/09.

## **Jurisdiction: Newly Introduced**

NONE

## **Jurisdiction: Floor and Committee Activity**

[New Hampshire SB 163](#) ORIGINAL: Limits the powers of justices of the peace to administering oaths, performing marriage ceremonies, and acknowledging instruments. AMENDED: Establishes a committee to study the powers of justices of the peace. Approved as amended by Senate Executive Departments and Administration Committee 3/4/09. Approved by full Senate 3/11/09.

## **Salary and Budget: Newly Introduced**

[Georgia HR 624](#) Creates committee to examine fees collected by superior court clerks, magistrate judges and others. In House Committee on Ways & Means.

[Kansas HB 2381](#) Increases docket fees by \$9 to provide a market rate salary adjustment for non-judicial employees. In House Judiciary Committee.

[North Carolina SB 598](#) Allows "in order to attract and retain the best qualified officers and employees for positions in the Judicial Branch of government" the Administrative Office of the Courts to contract with the governing body of a unit of local government for the provision of local funds to supplement the salaries of nonelected Judicial Department employees. In House Judiciary Committee I.

## Salary and Budget: Floor and Committee Activity

[Arkansas HB 1671](#) Modifies salaries for various judicial officers throughout the state. Approved as amended by House Committee on Judiciary 3/12/09. Approved by full House 3/16/09.

[Arkansas SB 801](#) Creates a task force to study the funding of the state judiciary. Approved by Senate Judiciary Committee 3/18/09. Approved by full Senate 3/19/09.

[Florida SB 2108](#) ORIGINAL: Transfers specified court-related services from clerk of court to state courts system, including case maintenance, records management, court preparation and attendance, assignment, reopening, and reassignment of cases, data collection and reporting and pro se assistance. Revises allocations of specified court fees. Provides for deposit of specified fees or portions of fees into State Courts Revenue Trust Fund. AMENDED: Deletes all references to transfer of court-related services from clerk of court. Requires clerks budgets be appropriated to the clerks through the legislative appropriations process. Provides for deposit of specified fees or portions of fees into State Courts Revenue Trust Fund. Approved as amended by Senate Judiciary Committee 3/18/09.

[Georgia SB 109](#) Removes duties and obligations regarding retirement and pension from the Department of Administrative Services and transferring them to the Council of Superior Court Judges of Georgia, the Council of State Court Judges of Georgia, the Prosecuting Attorneys' Council of the State of Georgia, and the Council of Juvenile Court Judges, as

appropriate. Approved by full Senate Retirement Committee 3/12/09

[Illinois SB 190](#) Revamps the Compensation Review Board members and membership criteria. Requires Board prepare and file a separate report with respect to each of the 3 branches of State government (now, the Board prepares and files one report). Provides that a Compensation Review Board report is effective if approved in whole or reduced by a resolution adopted by the General Assembly (now, effective unless disapproved in whole or reduced by a resolution adopted by the General Assembly). Approved by Senate State Government and Veterans Affairs Committee 2/27/09.

[Missouri SB 265](#) Extends deadline for collection of the statewide court automation fee from September 2009 to September 2013. Approved by Senate Judiciary and Civil and Criminal Jurisprudence Committee 3/12/09.

[New Hampshire HB 609](#) Establishes a judicial branch information technology fund to be funded by a percentage of court entry fees and by an increase in the penalty assessment on court fines. Approved by House Judiciary Committee 3/4/09.

[Texas SB 497](#) Provides that longevity pay that is paid to a judge or justice is not included as part of the judge's or justice's combined salary from state and county sources for purposes of the salary limitations provided by law. Approved as substituted by full Senate 3/19/09.

## Other: Newly Introduced

[New York AB 6879](#) Requires parties and their counsel disclose to opposing counsel campaign contributions above \$500 in the last five years to campaign of the judge presiding over their case. Provides if the other side has made no such contributions themselves, the judge must recuse upon timely application of the non-contributing party. In Assembly Judiciary Committee.

## Other: Floor and Committee Activity

[Arkansas SB 773](#) Authorizes a county judge to commence civil actions on behalf of the county. Approved by House City, County and Local Affairs Committee 3/11/09. Approved by full House 3/20/09. To Governor for approval.

[Illinois SB 1582](#) Restricts the disclosure of the residence address and telephone number of judges and candidates for judge. Approved by Senate Judiciary Committee 3/11/09.

[Maryland HB 917](#) Requires the Administrative Office of the Courts design uniform subpoena procedures and forms to be provided to and used by the circuit courts of the State for subpoenaing a person for a criminal, civil, or traffic matter. Rejected by House Judiciary Committee 3/16/09.

[New Hampshire HB 682](#) Clarifies that the state is required to provide and maintain court security, under conditions deemed appropriate by the supreme court, through the county sheriffs. Replaces references to

"bailiff" with "court security officer" and establishes the duties and powers of court security officers and the training requirements for court security officers. Increases the amount reimbursed to county sheriffs for persons employed as court security officers. Approved as amended by House Judiciary Committee 3/4/09.

[Tennessee SB 1711](#) Adds former municipal court judges to eligibility list for judiciary registration plates. Approved by Senate Transportation Committee 3/17/09.

[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. Approved by Senate Public Safety Committee 3/18/09

[Texas SB 683](#) Conforms probate judge recusal motions and reassignments to current law. Details a separate process for handling motions of statutory probate court judges. Approved by full Senate 3/19/09.

[Washington SB 5233](#) Allows clerk of the superior court to keep an offices at places in a county other than the county seat. Approved by House Local Government & Housing Committee 3/16/09.

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