

Gavel to Gavel

A review of state legislation affecting the courts

May 28 and June 4, 2009

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Selection: Newly Introduced

[Tennessee HB 2412](#) Proposes a limited constitutional convention to determine the method for choosing appellate court judges. In House Delayed Bills Committee.

[Tennessee SB 2377](#) Proposes a limited constitutional convention to determine the method for choosing appellate court judges. In Senate Delayed Bills Committee.

[Wisconsin SB 221](#) Alters various public campaign finance and campaign reporting requirements. Finds and declares that the function of judges and justices, who must independently apply the law, is fundamentally distinct from that of elective legislative and executive branch officials who take positions on issues that are influenced by, and represent the will of, their constituencies. Finds that because it is improper for a mass communication to seek to persuade a judge or justice to take a position on an issue, any such communication should be deemed to have been made for a political purpose. In Senate Judiciary Committee.

Selection: Floor and Committee Activity

[Connecticut HB 6700](#) Requires future appointments and reappointments of family support magistrates be subject to approval by the General Assembly. Sets terms of office and compensation for such magistrates. Approved with Senate amendment by full Senate 5/29/09. House concurs with Senate amendment 5/29/09. To Governor for approval.

[Illinois HB 7](#) Creates a Public Financing of Judicial Elections Task Force to assess the need for developing a system of public financing for judicial elections. Task Force to report by January 2012. House concurs with Senate amendments 5/31/09. To Governor for approval.

[Tennessee HB 1448](#) Substituted and replaced by SB 1573. Amends SB 1573 by removing provision that authorizes the governor, for good cause, to reject both panels submitted by the judicial nominating commission and fill the vacancy by appointing another qualified person who was considered by the commission as a possible nominee for the judicial vacancy but whose name was not included on either panel submitted to the governor. Approved as substituted and amended by full House



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5/28/09.

Tennessee SB 1573 AS AMENDED:

Replaces the judicial selection commission with the judicial nominating commission and vacates all current members of the judicial selection commission. Requires judicial nominating commission be conducted in a similar manner as the judicial selection commission under present law, except as described below. Requires members of the judicial nominating commission be appointed as follows: (1) Eight members would be appointed by the speaker of the senate. Two would be appointed from each of the state's three grand divisions, and the remaining two would be appointed at-large. At least six of the members would be lawyers; (2) Eight members would be appointed by the speaker of the house. Two would be appointed from each of the state's three grand divisions, and the remaining two would be appointed at-large. At least six of the members would be lawyers; and (3) One member would be jointly appointed at-large by the speaker of the senate and the speaker of the house of representatives, and the member would be a non-lawyer. No more than three of the members appointed at-large may be residents of the same grand division. Requires the administrative office of the courts (AOC) develop and post on its web site a downloadable, information and application form for citizens who wish to be considered for appointment to the judicial nominating commission. Requires the AOC, after 14-day application period, forward all applications to speakers. Allows speakers to select from applicants or, for good cause, fill a vacancy by appointing a qualified person not included within the pool of applicants if the speaker provides written notice to the

AOC stating the reasons for appointing a person not included within the pool. Limits nominating commission members to one, 2 year term. Requires a member be a citizen of the United States, be at least 30 years of age, and have been a citizen of the state for at least five years immediately prior to appointment. Any member appointed from one of the state's grand divisions must have been a resident of that grand division for at least one year immediately prior to appointment. Prohibits member from being a lobbyist registered in this state; any member becoming a registered lobbyist vacates the member's office as a member of the commission. Declares vacant the seat of any member who misses four meetings. Authorizes the commission, in selecting candidates for nomination to fill a judicial vacancy and after holding a public hearing, to hold such additional private interviews with the candidates as it deems necessary. Once the private interviews have concluded, the commission would conduct its deliberations in public. For gubernatorial appoints, provides there is no time period within which the governor must appoint a person from the first panel (currently must select or reject within 60 days). The governor would not have to state any reasons for requesting a second panel, and the governor may fill the vacancy from any nominee in either the first or second panel. Alternatively, for good cause, the governor may reject both panels and fill the vacancy by appointing another qualified person who was not considered by the commission as a possible nominee for the vacancy but who was not included in either panel submitted to the governor. If the governor rejects both panels, then the governor must provide written notice to the commission stating the reasons for rejection of the panels. If the

judicial nominating commission does not furnish a list of three nominees to the governor within 60 days after receipt of written notice from the governor that a vacancy has occurred, then the governor may fill the vacancy by appointing any person who is duly licensed to practice in the state of Tennessee and who is fully qualified under the constitution and statutes of Tennessee to fill the office. Allows Governor, upon receiving the commission's panel of nominees but prior to making the appointment, to direct the TBI or other appropriate agencies to perform appropriate financial and criminal background investigations and inquiries of the nominees. Requires governor must review and assess the results of these investigations. Revises ballot in retention elections to ask if the candidate should be "replaced or retained" instead of "elected and retained." Requires that the governor fill vacancies from a panel submitted by the judicial nomination commission. However, at the next regular August general election, the office would be filled by contested election. After the office is filled by contested election, the provisions of this amendment concerning the evaluation and retention process would again apply to the office. Replaces the judicial evaluation commission with the judicial performance evaluation commission consisting of nine members of appointed as follows: (1) The judicial council would appoint five members, of whom three would be state court judges, one would be a lawyer and one would be a non-lawyer. No more than two of those appointed would reside in the same grand division; (2) The speaker of the senate would appoint one lawyer and one non-lawyer member. No more than one of those appointed would reside in the same grand division; and (3) The speaker of the

house of representatives would appoint one lawyer and one non-lawyer member. No more than one of those appointed would reside in the same grand division; Limits a judicial performance evaluation commission member to two terms. Approved as amended by full Senate 5/28/09.

Qualifications and Terms: Newly Introduced

[New York SB 2594](#) Requires judges attend annual educational program or seminars on search and seizure and issuance of warrants. In Senate Codes Committee.

Qualifications 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 full House 5/26/09.

[Louisiana HCR 76](#) Requests that the attorney general study the training requirements of justices of the peace over the age of 70. Approved by full House 5/26/09.

[New Hampshire HB 655](#) AS AMENDED: Allows judges over 70 years of age to serve as senior active status justices. Approved with Senate amendment by full Senate 6/3/09. To House to concur.

[North Carolina HB 1398](#) Grants Chief Justice power to designate senior resident superior court judge to serve in that capacity at the pleasure of the Chief Justice (currently, senior resident superior court judge is longest continuously serving judge).

Approved by Senate Judiciary I Committee
5/28/09.

Rule Making Authority: Newly Introduced

NONE

Rule Making Authority: Floor and Committee Activity

[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 those courts selected by the Judicial Council. Approved by Assembly Appropriations Committee 5/29/09. Approved by full Assembly 6/1/09.

[California AB 663](#) 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 5 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 Appropriations Committee 5/29/09. Approved by full Assembly 6/1/09.

[Connecticut HB 6252](#) AS AMENDED:

Requires the Judicial Department establish employment standards for judicial marshals and make such employment standards publicly available on the judiciary web site. Provides that only those motor vehicle infractions and violations and misdemeanor offenses committed in the prior five years may be considered in evaluating people to serve as marshals. Approved as amended by full House 5/29/09.

[Connecticut HB 6710](#) ORIGINAL: Raises the cap on construction projects the Judicial Branch may undertake without Department of Public Works' oversight. Increases the Judicial Branch's and constituent units of the state system of higher education's independence over construction projects. Gives the state Supreme Court chief justice and chief court administrator authority to take action when there is a major disaster, emergency, disaster emergency, civil preparedness emergency, or public health emergency to ensure continuity of court operation. Permits data as well as documents to be filed electronically in civil, criminal, family, juvenile, or other matters. Requires the governor's recommended budget to incorporate, without change, the Judicial Branch's estimated budget appropriation, adjustments, and revisions the amount the chief court administrator transmits to the Office of Policy and Management secretary. AMENDED: Same, but eliminates requirement that governor's budget incorporate without change Judicial Branch's estimated budget. Approved as amended by full House 5/29/09.

[Illinois HB 66](#) AS AMENDED: Creates the Task Force on Electronic Access to Circuit Court Records. Provides that the Task Force

shall study laws and procedures relating to electronic access by the public to circuit court records and the exemptions from such disclosure and shall submit a report to the Governor and General Assembly by May 31, 2010 Approved as amended by House Judiciary I - Civil Law Committee 5/28/09.

[Tennessee SB 1571](#) Provides that in order to practice law, person must receive license issued by supreme court and comply with Rule 6 of the rules of the supreme court, except for rule 19 pro hac vice admissions. Approved with House amendment by full House 5/26/09. Senate concurs with House amendment 6/2/09. To Governor for approval.

Structure Changes: Newly Introduced

[New Jersey SB 2847](#) Permits counties to establish a central municipal drug court. In Senate Judiciary Committee.

[Tennessee HB 2413](#) Allows judges of general sessions court to interchange, upon request, with state trial court judges provided they have the same qualifications as the trial judge for whom they are sitting. In House Delayed Bills Committee.

Structure Changes: Floor and Committee Activity

[Connecticut HB 6385](#) AS AMENDED: Restructures state's probate court system. Eliminates the current method of compensating probate court judges, which is primarily based on the fees the court collects, and replaces it with a new system based on population and workload in which

a judge's compensation will be paid directly from the Probate Court Administration Fund. Establishes four classes or "bands" of probate courts based on the district's population and its annual weighted workload. Sets a probate judge's salary for courts in each band ranging from a low of 45% of a Superior Court judge's salary for band one to a high of 75% for band four courts. Requires that each probate court remit all fees, costs, and other income it receives to the state treasurer to be credited to the Probate Court Administration Fund. Requires that each probate judge must be a member of the bar of the state of Connecticut, unless judge was in office on January 4, 2011. Requires probate court administrator establish a budget committee to establish (1) a compensation plan, which includes employee benefits, for probate court employees; (2) staffing levels for each probate court; and (3) a miscellaneous office budget for each court. Requires probate courts to be open at least 40 hours a week instead of 20 hours. Establishes a probate redistricting commission to develop a plan to consolidate probate court districts into between 44 and 50 districts by September 15, 2009. Allows Connecticut Probate Assembly to submit a nonbinding redistricting plan for commission to consider. Creates positions of probate magistrate and attorney probate referee and authorizes a court to refer certain matters, with the consent of the parties or their attorneys, to the new positions. Makes numerous changes relating to the probate court administrator's authority over probate courts, payment for health insurance for retired probate judges and employees, eligibility of probate judges for health insurance and retirement benefits, retirement incentives for judges of courts that are

merged, appeals to special assignment probate judges, reimbursement for indigency costs from funds appropriated to the judicial department, and technical and conforming changes. Approved with Senate amendments 5/27/09. House concurs with Senate amendments 5/27/09. To Governor for approval.

[Illinois HB 3795](#) Requires the Chief Judge of each judicial circuit establish a drug court program (currently, they may establish such programs). House concurs with Senate amendments 5/31/09. To Governor for approval.

[Louisiana HB 574](#) AMENDED: Authorizes the judges of any judicial district court, by rule adopted by a majority vote of the judges sitting en banc, may assign certain divisions or sections of the court to a specialized division or section having criminal, civil, drug court, driving while intoxicated court, mental health court, juvenile, violent crimes or homicides, or other division or section having specialized subject matter jurisdiction. Provides that if a special division or section of court is assigned as a violent crimes or homicide division, the court may provide the district attorney an opportunity to request an expedited docket to more quickly hear cases involving crimes of violence that are committed with a dangerous weapon or homicide cases and specifies criteria that should be followed in cases granted expedited status. Provides that no rule adopted by the court may assign any division or section, without its consent, to the homicide division or section for longer than a three-year period. Provides that for the crimes the homicide section shall have jurisdiction over and authorizes the judges en banc to specify other crimes committed

using a firearm over which the section may exercise jurisdiction. Proposed law provides that effective November 1, 2009, cases shall be assigned to the homicide section and if more than one homicide section is created, cases shall be assigned by random allotment among those sections. Proposed law requires the criminal district court judges, en banc, to determine which cases shall be transferred to a homicide section and authorizes any judge, on his own motion, to transfer a case by signing the necessary order of transfer respecting the principle of random allotment. Requires all pretrial writs and appeals of cases in the homicide section to be given expedited preference. Approved by full House 5/27/09.

[Pennsylvania SB 38](#) 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 full Senate 6/3/09.

Jurisdiction: Newly Introduced

NONE

Jurisdiction: Floor and Committee Activity

[Maine HB 331](#) Increase to \$10,000 from \$4,500 small claims jurisdiction. Approved by House Bills in the Second Reading Committee 5/27/09. Approved by full House 6/1/09.

Salary and Budget: Newly Introduced

NONE

Salary and Budget: Floor and Committee Activity

[Delaware SB 37](#) Repeals requirement that fees chargeable in the Justice of the Peace Court be set by statute. Approved by full Senate 6/2/09. Approved by House Judiciary Committee 6/10/09.

[Louisiana HB 513](#) Requires all positions vacated due to early retirement remain vacant unless authorized by Judicial Budgetary Control Board. Provides that no more than 10% of vacancies may be filled by Board, unless certified an emergency by the Board and Chief Justice. Approved by House Committee on Appropriations 5/26/09.

[Maine SB 330](#) Increases the maximum amount of securities that may be issued by the Maine Governmental Facilities Authority for specific allocation to the judicial branch. Suspended indefinitely 6/1/09.

[Nevada AB 65](#) Authorizes a district court to charge and collect certain additional filing fees to be deposited into a special county account maintained for the benefit of the court to be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment and technology. Authorizes a board of county commissioners to impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court and provides

that the fee may be used only for programs for court security and must not supplant existing budgets for court security. Assembly concurs with Senate amendment 5/30/09. To Governor for approval.

[Pennsylvania SB 105](#) Establishes searchable budget database-driven Internet website detailing certain information concerning State expenditures by judicial and other agencies. Approved by full Senate 6/1/09.

[Tennessee HB 1499](#) Substituted and replaced by SB 1571. Substituted and replaced 5/26/09.

Other: Newly Introduced

NONE

Other: Floor and Committee Activity

[Connecticut HB 6545](#) Allows state managers in judiciary and other branches, excluding bureau heads, to bargain collectively. Approved by full House 6/1/09.

[New Hampshire HB 171](#) Establishes a commission to evaluate mental health court and set standards for the operation of mental health courts. Approved by full Senate 5/27/09.

[North Carolina HB 473](#) ORIGINAL: Permits magistrates to carry guns into courthouses. AMENDED: Permits magistrates to carry guns into courthouses if magistrate is in the building to discharge the magistrate's official duties, has a concealed handgun permit, has successfully completed weapons retention training substantially similar to that provided to certified law

enforcement officers in North Carolina, and secures the weapon in a place that is not accessible to the public when the weapon is not on the magistrate's person. Approved as amended by Senate Judiciary II Committee 6/2/09.

[Pennsylvania SB 220 \(Constitutional Amendment\)](#) Deletes all constitutional references to "justice of the peace" and replaces with "magisterial district judge." Approved by Senate Judiciary Committee 6/2/09.

[Tennessee HB 1102](#) Extends sunset date for judicial council to June 30, 2010. Approved by full House 6/3/09.

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