

Gavel to Gavel

A review of state legislation affecting the courts

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Focus: Veterans' Courts

Problem solving courts have taken a key place in state courts in an effort to address issues, such as drug abuse and mental health concerns, that affect those parties appearing before the court. While some state courts have created such dockets already without specific authorizing legislation, the issue is being actively debated by state legislatures around the country.

2005/2007

The first such piece of legislation was Massachusetts' [HB 863 of 2005](#) which would have created a veterans' court for the purpose of "[channeling veterans who enter the criminal justice system toward rehabilitative programs rather than incarceration.](#)"

New York's [AB 11649/S8621 of 2007](#) would have created a pilot program in New York City and Utica to handle any criminal cases in which a veteran was a defendant.

2009

While none of the 2005 or 2007 legislation made it past the committee stage, already six pieces of legislation in four additional states have been submitted for the 2009 session.

Oklahoma's [HB 2121](#) requires such a court in each district court serving a county-population of 100,000 or more. [SB 1009](#) and [SB 1128](#) on the other hand authorize but do not require the creation of veterans' courts in judicial districts with populations greater than 300,000.

Similarly, Nevada's [AB 187](#) merely authorizes the District Courts of that state 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.

Connecticut's [SB 676](#) establishes a special criminal docket for military veterans separate from the regular criminal docket to handle cases of returning military veterans who are accused of committing crimes which may be related to mental illness or



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substance abuse problems suffered due to military service.

The first of these pieces of legislation to make it out of committee is New Mexico's [SB 365](#). The bill appropriates \$100,000 to establish and operate a veterans' court, "[ensuring intervention and diversion to constructive social programs for appropriate veterans of the United States armed services who break a law as a result of posttraumatic stress or substance abuse.](#)" The bill was reported favorably by the Senate Judiciary Committee and is currently pending in the Senate Finance Committee.

Selection: Newly Introduced

[Alabama HB 548](#) Provides for the nonpartisan election of candidates for state appellate judicial office and a corresponding special ballot for such elections. In House Constitution and Elections Committee.

[Kansas SB 277](#) Repeals judicial performance evaluation of retired judges temporarily returned to the bench. Allows for use of certain funds by judicial council to fund the Kansas criminal code recodification. In Senate Judiciary Committee.

[Minnesota SB 791](#) Requires runoffs, rather than recounts, in judicial and other elections. In Senate State and Local Government Operations and Oversight Committee.

[Minnesota HB 970](#) Requires runoffs, rather than recounts, in judicial and other elections. In House State and Local Government Operations Reform, Technology and Elections Committee.

[Montana LC 2027](#) Prohibits justice of the supreme court from participating in cases in which the party or party's attorney gave money to the justice's campaign in excess of existing campaign contribution limits. In Drafting Process.

[Rhode Island SB 428](#) Increases the time that the governor has to fill a judicial vacancy after a list of names is submitted from twenty-one (21) days to forty-five (45) days. In Senate Judiciary Committee.

[Tennessee HJR 103 \(Constitutional Amendment\)](#) Requires popular election of attorney general (currently selected by supreme court). In House Judiciary Committee.

[Tennessee SJR 77 \(Constitutional Amendment\)](#) Requires popular election of the lieutenant governor, attorney general, and secretary of state (currently, attorney general selected by supreme court.) In Senate Judiciary Committee.

[Tennessee HB 1448](#) Raises number of words from 600 to 1,000 that a report from the judicial evaluation commission on each appellate judge may contain. In House (no committee).

[Texas HB 1359](#) Prohibits a person from knowingly making or authorizing a political contribution while in a courthouse. In House (no committee).

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

[Wisconsin AB 65](#) Makes numerous changes in the campaign finance law affecting campaigns for the office of justice of the supreme court. Creates a democracy trust fund to finance supreme court elections. Allows for public financing of all supreme court elections (currently, no funding is provided for primary campaigns). Lowers contribution limits from individuals and committees to \$1,000. In Assembly Judiciary Committee.

Selection: Floor and Committee Activity

[Arkansas HB 1263](#) Provides that should a vacancy occur in the office of county judge during a declared emergency, the office is to be temporarily filled based on a list previously prepared by the county judge designating 3 people, in order of succession. Approved by full Senate as amended 2/17/09.

[Georgia HB 156](#) Provides that elected magistrate judges who are performing ordered military duty may continue in office and be eligible for reelection during such duty. Approved by House Committee on Defense & Veterans Affairs 2/17/09.

[New Mexico HJR 5 \(Constitutional Amendment\)](#) Requires a judge appointed through the judicial nominating process serve until the next general election following at least one full year of service on the bench. Provides that if the person wins the election they shall hold the office until the expiration of the term in effect on January 1 following the general election. Approved as amended by House Voters & Elections Committee 2/19/09.

[Oklahoma HJR 1041 \(Constitutional Amendment\)](#) Requires Senate confirmation of all judicial officers. Approved by House Judiciary Committee 2/19/09.

Qualifications and Terms: Newly Introduced

[Florida SB 1584](#) Provides for chief judge of judicial circuit, subject to approval by Chief Justice, to establish program for retired justices or judges to preside over civil cases & trials upon written request of one or more parties and sets compensation levels. In Senate (no committee).

[Georgia HB 463](#) Requires municipal court judges be attorneys unless already serving as municipal court judge. In House Committee on Governmental Affairs.

Qualification and Terms: Floor and Committee Activity

[Alabama HB 66](#) Requires that persons elected or appointed to serve on the Supreme Court, Court of Civil Appeals, and Court of Criminal Appeals have a combined total of 10 years or more of licensure to practice law. Requires persons serving as a circuit court judge have a combined total of five years of licensure to practice law. Requires persons serving as a district court judge have a combined total of three years of licensure to practice law. Approved by House Judiciary Committee 2/19/09.

[Kansas HB 2164](#) Permits judges that reach the mandatory retirement age of 75 to finish out their current term. Approved by House Judiciary Committee 2/17/09.

[Virginia SB 1081](#) Clarifies that a special justice serves at the pleasure of the chief justice of the judicial circuit in which he serves, rather than the specific chief justice that makes the original appointment. Approved by House Committee for Courts of Justice 2/13/09.

Rule Making Authority: Newly Introduced

[Connecticut SJR 46 \(Constitutional Amendment\)](#) Specifies the general assembly shall prescribe by law the procedures used in state courts. In Joint Committee on Judiciary.

[Iowa SB 161](#) Provides that Iowa's open records law, relating to the regulation of records of a government body do not apply to government records under the control of the judicial branch related to the performance by the courts of their judicial functions. Requires the supreme court prescribe rules governing access to such records consistent with the open records law. Requires the supreme court prescribe rules regarding the creation, storage, retention, duplication, destruction, etc. of court records and administrative records. Eliminates certain discretionary powers of a clerk of court relating to certain methods of reproduction and destruction of original court records. In Senate State Government Committee.

[Maryland HB 856](#) Repeals prohibition against recording or broadcasting a criminal sentencing hearing. Establishes requirements for a media organization's request to provide media coverage of a criminal sentencing hearing. Provides specified factors that a presiding judge may consider in allowing

media coverage. In House Judiciary Committee.

[South Carolina SB 448 \(Constitutional Amendment\)](#) Removes Supreme Court's power over the admission to the practice of law and discipline of attorneys. Transfers power to such body as may be created by the General Assembly. In Senate Committee on Judiciary.

[Washington HB 2216](#) Transfers all mandatory, regulatory, licensing, and disciplinary functions of the Washington state bar association to the state supreme court. In House Judiciary Committee.

[Washington SB 6025](#) Transfers all mandatory, regulatory, licensing, and disciplinary functions of the Washington state bar association to the state supreme court. In Senate Judiciary Committee.

[West Virginia HB 2674](#) Allows the Supreme Court of Appeals to establish a uniform bail schedule. In House Government Organization Committee.

Rule Making Authority: Floor and Committee Activity

[Arkansas HB 1033](#) Repeals Reporter of the Supreme Court's power to omit decisions from publication. Repeals requirement that published volumes of Supreme Court and Court of Appeals decisions be delivered to state and local officials and permits destruction of published volumes if available electronically. Requires all opinions be available for free online. Permits Reporter of the Supreme Court to oversee publication and distribution of the decisions of the Supreme Court and the

Court of Appeals in such format and medium as the Supreme Court may direct. Approved by Senate Judiciary Committee 2/18/09.

[Kansas SB 134](#) Grants supreme court authority to establish additional charges to court fees and filings charges, notwithstanding any provision of law to the contrary. Approved by full Senate 2/19/09.

[South Carolina SB 3123](#) Provides a person must be a member of the South Carolina Bar pursuant to applicable court rules, or otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina. Requires the practice of law be defined by decisions of the Supreme Court of South Carolina prior to any criminal charges being filed under this law. Approved as amended by House Committee on Judiciary 2/18/09.

Structure Changes: Newly Introduced

[Georgia HB 495](#) Allows judges of the probate court to appoint associate judges of the probate court. Provides for the associate judges' authority, compensation, and qualifications. In House Committee on Judiciary.

[Michigan HB 4372](#) Creates mental health courts. In House Committee on Judiciary.

[Missouri HB 821](#) Allows larger counties to establish a county court to hear county ordinance violations if they so choose. In House (no committee).

[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. In Assembly Committee on Judiciary.

[Pennsylvania HB 418 \(Constitutional Amendment\)](#) Requires court of common pleas have a procedure for the disposition of cases involving dissolution of marriage, custody, child support, spousal support, alimony, alimony *pendente lite*, equitable division of marital property and related family law matters as provided by statute. Requires court have a family resource center and educational requirements for judges and family law masters and mediators as provided by statute. Specifies Judicial Conduct Board may investigate any a justice, judge, justice of the peace or family law master. In House Judiciary Committee.

Structure Changes: Floor and Committee Activity

[Indiana SB 35](#) Creates a Sixth District of the Court of Appeals with 3 judges. Sixth District to sit in Indianapolis and have statewide jurisdiction. Approved by Senate Appropriations Committee 2/19/09.

[Indiana HB 1703](#) 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 cases 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 2/16/09.

Jurisdiction: Newly Introduced

[New Mexico SB 590](#) Increases jurisdiction in metropolitan and magistrates courts to \$15,000 from \$10,000. In Senate Public Affairs Committee.

[Tennessee HB 1440](#) Extends jurisdiction over certain criminal offenses to municipal courts of municipalities having populations less than 150,000. In House Judiciary Committee.

[Tennessee HB 1479](#) Creates the unified family court pilot program. In House (no committee).

Jurisdiction: Floor and Committee Activity

NONE

Salary and Budget: Newly Introduced

[California AB 4 \(Second Extraordinary Session\)](#) Authorizes the Judicial Council to use the design-build procurement process in contracting and procuring a court facility, but would limit this authorization to 5 total projects, to be approved by the Department of Finance, as specified. In Assembly Rules Committee.

[Georgia HB 463](#) Provide for creditable service in the Georgia Judicial Retirement System for prior service as a member of the General Assembly. In House Committee on Retirement.

[Iowa HB 322](#) Requires the budget submissions of executive branch departments and the judicial branch to utilize a zero base approach. In House Appropriations Committee.

[Kentucky HB 138](#) Requires all courts and the Administrative Office of the Courts to participate in the state wide e-warrant system. Provides that failure to participate will result in denial of access to state and federal grants. In House Judiciary Committee.

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

[Montana LC 1178](#) Requires courts, judicial agencies and all governmental entities accept gold and silver coinage or "electronic gold currency" as payment. In Drafting Process.

[Oregon HB 2691](#) Requires that certain percentages of moneys spent by Judicial Department on specified treatment and intervention programs, and of moneys that offenders are required to pay for specified court-ordered treatment and intervention programs, must be for cost-effective, evidence-based programs. In House Judiciary Committee.

[Rhode Island SB 411](#) Grants governor authority to reduce or suspend appropriations to courts or any agency except the legislature in response to budget shortfalls and would also expand the governor's authority relating to interfund transfers. In Senate Finance Committee.

[Tennessee HB 1499](#) Clarifies that the administrative director of the courts shall not administer any funding or grants provided to any court appointed special advocate programs from the court appointed special advocate fund. In House Judiciary Committee.

[Tennessee HB 1486](#) Requires any increased court fees charged to the state in certain cases to be limited to the amounts charged before January 1, 2006. In House Judiciary Committee.

[Tennessee SB 1832](#) Requires any increased court fees charged to the state in certain cases to be limited to the amounts charged before January 1, 2006. In Senate Judiciary Committee.

[Texas HB 1284](#) Creates court record preservation fund. In House (no committee).

[Texas SB 925](#) Creates a court record preservation fund. In Senate (no committee).

[Utah HB 455](#) Increases the security surcharge for certain judgments and allocates the increase to the Court Security Account. Allows the Administrative Office of the Courts to use the security surcharge for perimeter security at all court locations. In House Rules Committee.

Salary and Budget: Floor and Committee Activity

[Arkansas HB 1467](#) Sets minimum and maximum salaries for county judges and other county officials. Approved by Committee on City, County & Local Affairs Committee 2/20/09.

[California SB 11 \(Second Extraordinary Session\)](#) Provides that judges who received supplemental judicial benefits provided by a county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date. Authorizes a county to terminate its obligation to provide benefits upon providing 180 days' written notice to the Administrative Director of the Courts and the impacted judges, but that termination would not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. Authorizes the county to elect to provide benefits for all judges in that county. Requires the Judicial Council to report to the specified Assembly and Senate by December 31, 2009 an analysis of the statewide benefits inconsistencies. Provides that no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of the bill on the ground that those benefits were not authorized under law. Provides that nothing in the bill shall require the Judicial Council to increase

funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the county, city and county, or the court. Approved by Assembly 2/15/09. To Governor for approval.

[Florida SB 1106](#) Re-creates the Operating Trust Fund within the state courts system without modification. Abrogates provisions relating to the termination of the trust fund. Approved by Senate Criminal and Civil Justice Appropriations Committee 2/19/09.

[Hawaii HB 1536](#) Freezes the salaries of state office holders, including justices and judges of all state courts. Approved by House Labor Committee and sent to House Finance Committee 2/18/09.

[Illinois SB 63](#) Requires that the Compensation Review Board file separate reports with respect to (i) State executive branch constitutional officers and General Assembly members and (ii) judges and all other offices. Provides that a 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). Requires a separate resolution and vote for each report. Approved by Senate Executive Committee 2/19/09.

[Indiana SB 535](#) Establishes the Indiana public retirement system (system) to administer the judges' retirement fund and other specified public retirement systems. Approved as amended by full Senate 2/19/09.

[Maryland SB 307](#) Provides that the salary increase recommendations in the joint resolution of the Judicial Compensation Commission may not be deemed to have been made effective if the joint resolution is not passed by the General Assembly by the 50th day of the 2009 Session. Resets date commission meets, providing that the Commission shall now meet every 4 years, beginning on September 1, 2009. Approved by House Appropriations Committee 2/18/09.

[North Dakota HB 1446](#) AS AMENDED: Provides \$5,000,000, to the supreme court for the purpose of providing funding for county office building projects. Funds can only be allocated where there is demonstrated growth in caseload of at least one thousand five hundred cases when comparing the total annual caseload in 2007 to 2003 and a demonstrated space deficiency. Rejected by full House 2/13/09.

[Virginia SB 1078](#) Provides that special justices, retired judges, or district court substitute judges presiding over involuntary commitment hearings shall receive a fee for each hearing that includes mileage, parking, tolls, and postage. Approved by House Committee on Health, Welfare and Institutions 2/19/09.

[Virginia SB 1387](#) Increases the fee on civil and criminal cases from \$2 to \$5, to be used for courthouse construction, renovation, or maintenance. Approved by House Committee for Courts of Justice 2/13/09.

[West Virginia HB 2305](#) Revises appointment and compensation provisions of the supreme court clerk and his or her staff.

Approved as amended by full House 2/18/09. In Senate Judiciary Committee.

Other: Newly Introduced

[Connecticut SB 921](#) Allows state managers in judiciary and other branches, excluding bureau heads, to bargain collectively. In Joint Committee on Labor and Public Employees.

[Georgia SB 181](#) Expands number of appointments made by the governor to the Board of Trustees to the Georgia Judicial Retirement System from 3 to 5. In Senate Committee on Retirement.

[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. In House Judiciary Committee.

[New Mexico SB 591](#) Provides that a judge's or magistrate's failure to inform a victim of the victim's rights under the constitution of New Mexico and as required by the Victims of Crime Act shall be grounds for submission of a complaint to the judicial standards commission. In Senate Public Affairs Committee.

[South Carolina SB 447](#) Creates the Commission on Judicial Oversight for the purpose of informing the General Assembly and the Supreme Court of complaints involving members of the judiciary. Provides the commission is to work with the Commission on Judicial Conduct to ensure that the General Assembly and the Supreme Court are notified in a timely fashion of all

complaints against members of the judiciary. In Senate Committee on Judiciary.

[Tennessee HB 1539](#) Adds former municipal court judges to eligibility list for judiciary registration plates. In Senate Transportation Committee.

[Texas HR 480](#) Creates a Special Committee on Impeachment to consider the impeachment of Judge Sharon Keller of the Court of Criminal Appeals for gross neglect of duty and conducting her official duties with willful disregard for human life. In House Judiciary Committee.

[Texas SB 916](#) Exempts certain judicial officers from certain requirements for obtaining or renewing a concealed handgun license and their authority to carry certain weapons. In Senate (no committee).

Other: Floor and Committee Activity

[Arkansas SB 303](#) Requires court security personnel complete additional training recommended by the Supreme Court Security and Emergency Preparedness Advisory Committee and approved by the Arkansas Commission on Law Enforcement Standards and Training. (Currently, training need only be approved by Commission on Law Enforcement Standards and Training). Approved by House Judiciary Committee 2/19/09.

[Indiana SB 245](#) 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. Approved by Senate Committee on

Corrections, Criminal, and Civil Matters
2/19/09.

[New Mexico HB 28](#) ORIGINAL: Prohibits intimidation of a criminal justice official, their staffs and families. SUBSTITUTED: Prohibits intimidation of or retaliation against a judge. Approved as substituted by House Judiciary Committee 2/19/09.

[New Mexico HB 529](#) Adds municipal judges to judicial standards commission. Approved by House Health and Government Affairs Committee 2/17/09.

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