

# Gavel to Gavel

A review of state legislation affecting the courts

Week ending March 11, 2011

Volume 5, Issue 11

## *Focus Trend: Changes to Judicial Conduct/Disciplinary Bodies*

The power of state judicial conduct/disciplinary bodies are relatively consistent; they may reprimand, suspend and/or remove judges from office. What varies widely are the funding for these bodies, their composition, and the extent to which their processes are public. Legislatures have become remarkably active this year in seeking to change all three, as reflected in the legislation listed below.

[Arizona SCR 1047 \(Constitutional Amendment\)](#) Requires all documents and proceedings relating to each complaint filed and reviewed by the Commission on Judicial Conduct by public. Approved by full Senate 3/1/11.

[Connecticut HB 6426](#) Requires future appointments and reappointments of family support magistrates be subject to approval by the General Assembly. Requires Judicial Review Council submit to legislature all complaints filed against magistrates seeking reappointment. In Joint Committee on Judiciary.

[Florida HB 7037 \(Constitutional Amendment\)](#) Provides all records, materials, & proceedings related to complaints & investigations of Judicial Qualifications Commission not otherwise exempt from disclosure are public upon filing of formal charges against judge or upon determination by commission or investigative panel that formal charges will not be filed. In House Judiciary Committee.

[Florida SJR 1704 \(Constitutional Amendment\)](#) Requires that certain proceedings, records, and materials of the Judicial Qualifications Commission be open to the public and to require the commission to notify the Speaker of the House of Representatives of complaints received or initiated, investigations conducted, and complaints concluded. In Senate Judiciary Committee.

[Georgia HB 262](#) Increases qualifying fee for judicial candidates in primaries and elections generally for the purpose of funding the Judicial Qualifications Commission. Approved by House Committee on Governmental Affairs 2/24/11.

[Georgia HR 6 \(Constitutional Amendment\)](#) Removes the power of the Judicial Qualifications Commission to remove and discipline judges. Specifies power to remove or discipline judges is vested exclusively in the General Assembly. Deems proceedings of the Commission to be advisory only. In House Committee on Judiciary.

[Massachusetts SB 1562](#) Provides no member of the Commission on Judicial Conduct may make an appearance in a representative capacity or receive a financial compensation or benefit from a partner, associate or other member of a firm who has filed an appearance in a representative capacity, for compensation, before a court of the commonwealth. In Joint Committee on State Administration and Regulatory Oversight.

Maryland [HB 797](#) & [SB 33](#) Requires the Commission on Judicial Disabilities refer specified matters to the Office of the State Prosecutor if there are reasonable grounds to believe that an officer of the court may have committed a

Indicates featured legislation



criminal offense. House Version: In House Judiciary Committee. Senate Version: In Senate Judicial Proceedings Committee.

New Mexico [HB 285 \(Statute\)](#) & [HJR 18 \(Constitutional Amendment\)](#) Adds magistrate judge and additional member of public to Judicial Standards Commission. Statute: Approved by full House 2/28/11. Approved by full Senate Public Affairs Committee 3/11/11. Constitutional Amendment: Approved by full House 3/7/11.

[Oklahoma HB 1414](#) Creates Council on Judicial Complaints Revolving Fund. Directs certain civil filing fees be sent to the Fund. Approved by full House 3/9/11.

[Pennsylvania HB 949 \(Constitutional Amendment\)](#) Removes Judicial Conduct Board from judiciary and recreates it within executive branch. Requires Board review every complaint filed against a judicial officer that addresses potential ethical violations and make a determination whether further action should be taken on the complaint. Prohibits dismissal based solely on decision by the board's chief counsel. Prohibits deferral of investigation of complaint because of possible pending criminal investigations or charges. Requires judge who is notified of pending criminal investigation forward notice to Board, which must start its own investigation. In House Judiciary Committee.

[Pennsylvania SB 59](#) Requires Judicial Conduct Board review every complaint filed against a judicial officer that addresses potential ethical violations and make a determination whether further action should be taken on the complaint. Prohibits dismissal based solely on decision by the board's chief counsel. Prohibits deferral of investigation of complaint because of possible pending criminal investigations or charges. Requires judge who is notified of pending criminal investigation forward notice to Board, which must start its own investigation. In Senate Judiciary Committee.

Tennessee [HB 1198](#) & [SB 1088](#) Provides that if a complaint is filed against a judge who is or was a member of the Court of the Judiciary at the same time as the investigative counsel served as counsel for the court, the investigative counsel must retain a special counsel to investigate any such complaint. House Version: In House Judiciary Committee. Senate Version: In Senate Judiciary Committee.

Tennessee [HB 1361](#) & [SB 1097](#) Provides that all records filed with, created by or in the possession of the Court of the Judiciary or the office of investigative counsel be maintained by the administrative office of the courts for at least eight years from the date of creation or receipt and that maintenance of the records does not change their status as a public or confidential record. House Version: In House Judiciary Committee. Senate Version: In Senate Judiciary Committee.

Tennessee [HB 1362](#) & [SB 1098](#) Provides that if a complaint filed against a judge and the judge is not reelected, resigns or retires before disposition of the complaint, the Court of the Judiciary must make the complaint and allegations contained therein public. House Version: In House Judiciary Committee. Senate Version: In Senate Judiciary Committee.

Tennessee [HB 1363](#) & [SB 1099](#) Provides that rules adopted by the Court of the Judiciary may not be inconsistent or in conflict with the statutory provisions establishing the court. House Version: In House Judiciary Committee. Senate Version: In Senate Judiciary Committee.

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Tennessee [HB 1366](#) & [SB 1094](#) Changes burden of proof necessary to cause investigation of a judge for misconduct from a reasonable person believing there is a substantial probability that misconduct occurred to probable cause that the misconduct occurred. House Version: In House Judiciary Committee. Senate Version: In Senate Judiciary Committee.

Tennessee [HB 1367](#) & [SB 1455](#) Authorizes the investigative panel of the Court of the Judiciary to request that a judge file a written response to a complaint filed against the judge within 20, rather than 30, days after service of notice. House Version: In House Judiciary Committee. Senate Version: In Senate Judiciary Committee.

[Tennessee SB 282](#) Vacates entire membership of Court of the Judiciary. Removes state bar's ability to name or appoint members. Replaces members with 6 judges (chosen by supreme court) and 10 nonattorney/nonjudges (4 chosen by governor, 3 speaker of the house, and 3 speaker of the senate). In Senate Judiciary Committee.

## **Jurisdiction: Newly Introduced**

[Iowa HB 575](#) Enacts “Iowa Freedom and Sovereignty Act.” Defines “Foreign law” as “any law enacted by a jurisdiction 4 or a governmental or quasi-governmental body other than the federal government or a state of the United States. “Foreign law” includes a religious law, legal code, accord, or ruling promulgated or made by an international organization, tribunal, or formal or informal administrative body.” Provides “any foreign law or other law that is in conflict with the principles of the Declaration of Independence, the Constitution of the United States, or the Constitution of the State of Iowa shall not have force or effect in this state...It is the public policy of this state that the only factor that a court, administrative agency, arbitrator, mediator, or other person acting under authority of this state’s laws shall consider in granting comity to a decision rendered under a foreign law that affects a sovereign citizen of this state is whether the decision violates the sovereign citizen’s rights under the Constitution of the United States or the Constitution of the State of Iowa.” In House State Government Committee.

[Iowa HB 577](#) Defines marriage as one man and one woman. Prohibits supreme court from exercising appellate jurisdiction over any efforts to prohibit or restrict this definition. In House Judiciary Committee.

[Iowa HJR 14 \(Constitutional Amendment\)](#) Provides the state courts “when exercising judicial power, shall uphold and adhere to the law as provided in the Constitution of the United States, the Constitution of the State of Iowa, the United States Code, federal regulations, established common law, the Iowa Code, the Iowa administrative code, and if necessary the law of another state of the United States provided the law of the other state does not include Sharia law. The courts shall not use the legal precepts of other nations or cultures. Specifically, the courts shall not consider international law or Sharia law. The provisions of this section shall apply to all cases before the respective courts including but not limited to cases of first impression.” In House Judiciary Committee.

[Maine HB 757](#) Transfers the jurisdiction over traffic infractions from the District Court to the Secretary of State, effective January 1, 2014. In Joint Committee on Judiciary.

[Missouri HB 768](#) Defines “foreign law” as “any law, rule, or legal code or system established and used or applied in a jurisdiction outside of the states or territories of the United States.” Provides “A court, arbitrator, administrative agency, or other adjudicative, mediation, or enforcement authority shall not enforce a foreign law if doing so would violate a right guaranteed by the constitution of this state or of the United States.” In House (no committee).

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

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[Arizona HB 2582](#) 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. Held by House Rules Committee 3/7/11.

[Hawaii HB 1333](#) ORIGINAL: Increases small claims jurisdiction from \$3,500 to \$5,000. AMENDED: Same, but make effective date 2030. Approved as amended by full House 3/8/11.

[Kansas HB 2087](#) Provides “foreign law,” “legal code” or “system” means any law, legal code or system of a jurisdiction outside of any state or territory of the United States, including, but not limited to, international organizations and tribunals and applied by that jurisdiction’s courts, administrative bodies or other formal or informal tribunals. Provides “Any court, arbitration, tribunal or administrative agency ruling or decision shall violate the public policy of this state and be void and unenforceable if the court, arbitration, tribunal or administrative agency bases its rulings or decisions in the matter at issue in whole or in part on any law, legal code or system that would not grant the parties affected by the ruling or decision the same fundamental liberties, rights and privileges granted under the United States and Kansas constitutions.” Approved by House Committee on Judiciary 3/10/11.

[Kansas HCR 5010 \(Constitutional Amendment\)](#) Provides legislature alone may determine school funding. Specifically proposed to overturn decisions of state's supreme court on subject. Approved by House Committee on Education 3/10/11.

[Kentucky SB 108](#) ORIGINAL: Increases jurisdiction of District Court in civil cases from \$4,000 to \$5,000. Increases jurisdiction of small claims division of District Court from \$1,500 to \$2,500. AMENDED: Same, but adds provision that cases in respective court(s) at time of adoption of law/increase to remain in same court. Approved by full Senate 3/3/11. To Governor for approval.

[Missouri SJR 15 \(Constitutional Amendment\)](#) Prohibits the executive, judicial, and legislative branches of Missouri's government from recognizing, enforcing, or acting on any federal law, executive order, judicial or administrative ruling, collection or dispersal of revenue, or other actions by the three branches of government that exceed the limited powers enumerated in the United States Constitution and delegated to the federal government. Prohibits the executive, judicial, and legislative branches of Missouri's government from recognizing, enforcing, or acting on federal restrictions on the right of private citizens to bear arms; federal laws legalizing or funding abortions or the destruction of human embryos; certain specified federal actions involving health care including a federal public option; federal actions requiring the sale or trade of carbon credits or the taxing on the release of carbon emissions; federal actions mandating the recognition of same sex marriages; federal actions increasing the penalty

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for a crime based on a perpetrator's thoughts or designating hate crimes; federal actions regarding the Establishment Clause based on a “wall of separation” between church and state; and federal actions restricting the right of parents or guardians to home school or enroll their children in a private or parochial school or placing restrictions on the school's curriculum. Requires Missouri courts to interpret the United States Constitution based on its language and the intent of the signers at the time of its passage. Interpretation of its amendments must be based on the intent of the congressional sponsors and co-sponsors. Non-originalist methods of interpretation that consider the constitution a “living, breathing document” and any interpretation that expands federal authority beyond the limited powers enumerated and delegated to the federal government are to be deemed to exceed the limited powers of the federal government. Missouri courts will be required to use this method of interpretation, and any court ruling inconsistent with this method will not be recognized or enforced in Missouri. Allows Missouri citizens to have standing to bring suit to enforce the provisions of the resolution. Approved by Senate General Laws Committee 3/8/11.

[New Mexico SB 525](#) Increases jurisdiction of metropolitan and magistrate courts from \$10,000 to \$15,000. Approved by Senate Public Affairs Committee 3/6/11.

[Oklahoma SB 156](#) AS AMENDED: Increases small claims jurisdiction from \$6,000 to \$10,000. Approved as amended by full Senate 3/8/11.

[Utah HB 376](#) Allows a defendant in an action in district court to remove it to a small claims court in the same jurisdiction if it is less than \$10,000 and the plaintiff agrees to the transfer, provided defendant pays the small claims filing fee. Approved by full Senate 3/10/11. To Governor for approval.

## **Qualifications and Terms: Newly Introduced**

[Minnesota SB 627](#) Allows judges reaching mandatory retirement age of 70 to serve until end of “official year of the state in the first even-numbered year” (currently may serve only to end of month turns 70). Deletes provision that puts word “incumbent” after judge's name if seeking re-election. In Senate Judiciary and Public Safety Committee.

[Pennsylvania HB 998](#) Raises minimum age for judges from 21 to 25. In House Judiciary Committee.

## **Qualifications and Terms: Floor and Committee Activity**

[Georgia HB 149](#) Provides magistrates other than the chief magistrate who are appointed by the chief magistrate with the consent of the judges of the superior court may be terminated without cause upon petition by the chief magistrate to the chief judge of the superior court of the circuit in which the magistrate sits. Approved by House Committee on Judiciary 3/11/11.

[Maryland SB 281 \(Constitutional Amendment\)](#) Requires Orphan's Court judges in the city of Baltimore \*and Baltimore and Prince George's County\* be attorneys. Approved by full Senate 3/8/11.

[New Mexico HB 486](#) ORIGINAL: Requires all metropolitan judges be attorneys and have practiced for at least five years. AS AMENDED: Same, but requires three years of state residency. Approved as amended by House Judiciary Committee 3/9/11. Approved as amended by full House 3/11/11.

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[Texas HB 322](#) Reduces length of time a visiting judge must have served as a judge from 96 to 72 months. Approved by House Judiciary & Civil Jurisprudence Committee 3/7/11.

[West Virginia SB 195](#) Requires magistrates to possess a bachelor's degree, an associate's degree in criminal justice or have at least four years prior experience as a magistrate. Approved by House Judiciary Committee 3/8/11.

## Rule Making Authority: Newly Introduced

[Alabama HB 199](#) Authorizes presiding circuit judge to conduct certain hearings by audio-video telecommunications. In House Judiciary Committee.

[Florida HB 7037 \(Constitutional Amendment\)](#) Provides all records, materials, & proceedings related to complaints & investigations of Judicial Qualifications Commission not otherwise exempt from disclosure are public upon filing of formal charges against judge or upon determination by commission or investigative panel that formal charges will not be filed. In House Judiciary Committee.

[Florida SJR 1704 \(Constitutional Amendment\)](#) Requires that certain proceedings, records, and materials of the Judicial Qualifications Commission be open to the public and to require the commission to notify the Speaker of the House of Representatives of complaints received or initiated, investigations conducted, and complaints concluded. In Senate Judiciary Committee.

[Maryland HB 3143](#) Authorizes the use of video-conferencing in certain court proceedings involving children and families. In Joint Committee on Judiciary.

[Massachusetts SB 1859](#) Provides district attorney has sole power to determine what criminal cases are to be tried and prioritized. Specifies court has no power to direct proceeding to trial over objections of district attorney. In Joint Committee on Judiciary.

[New York SB 3837](#) Directs the court of appeals to promulgate regulations authorizing lawyers who have worked in New York State for five years to be eligible to sit for the New York state bar exam. In Senate Judiciary Committee.

[Pennsylvania HB 949 \(Constitutional Amendment\)](#) Removes Judicial Conduct Board from judiciary and recreates it within executive branch. Requires Board review every complaint filed against a judicial officer that addresses potential ethical violations and make a determination whether further action should be taken on the complaint. Prohibits dismissal based solely on decision by the board's chief counsel. Prohibits deferral of investigation of complaint because of possible pending criminal investigations or charges. Requires judge who is notified of pending criminal investigation forward notice to Board, which must start its own investigation. In House Judiciary Committee.

[Texas HB 2847](#) Permits use of video teleconferencing systems for inmate witness testimony, pleas, and other actions. In House (no committee).

[Texas HB 2861](#) Requires (currently permits) use of original paper records in a proceeding before the trial courts. Requires trial court clerks keep all original paper documents in a case pending the final disposition of all proceedings in the case. For those cases or documents e-filed, requires transmission to clerk as a paper document. In House (no committee).

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[Texas HB 2919](#) Requires state bar rules adopted by the supreme court first be published in Texas Bar Journal and online for 30 days and that all comments be put online. In House (no committee).

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

[Oklahoma SB 790](#) Requires appeal of judge's denial of recusal motion be directly to supreme court. Approved by full House 3/7/11.

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

[Arkansas HB 2146](#) Defines crime of “illegal disbursement of funds by a judge”. Makes illegal instances where judge makes payments for services rendered to a public defender, assistant public defender, prosecuting attorney, or deputy prosecuting attorney resulting from the exercise of that person's official duties. In House Committee on Judiciary.

[Arkansas SB 868](#) Increases civil filing fee \$15 to pay for the Regional High School System for Adjudicated Youth. In Senate Committee on Judiciary.

[Florida HB 7061](#) Re-creates the State Courts Revenue Trust Fund within the state courts system without modification. Abrogates provisions relating to the termination of the trust fund to conform. In House Appropriations Committee.

[Georgia HB 33](#) Encourages but does not require judicial branch participate in the zero-base budgeting process proposed in bill. Approved by House Budget and Fiscal Affairs Oversight Committee.

[Illinois HR 149](#) Requests Commission on Government Forecasting and Accountability study the impact of time and interest on the underfunding of the State-funded retirement systems, including Judge's Retirement System. In House Rules Committee.

[Nevada AB 259](#) Transfers fees collected for transfer of cases between courts and recording of documents to legal services programs. In House Committee on Judiciary.

[Pennsylvania HB 957](#) Permits judges and others to decline to refuse benefits or salary. In House State Government Committee.

[Pennsylvania HB 984](#) Creates Commission on Salaries and Benefits for Elected Officials to set salary increases for judges and other elected officials. Commission recommendations become law 60 days after submission to the legislature. Limits salary increases to 10% of current salary. In House State Government Committee.

[Rhode Island HB 5840](#) Eliminates the cost-of-living retirement adjustments for all justices and their surviving spouses or domestic partners who have been hired on or after the effective date of the bill. In House Finance Committee.

[Texas HB 2954](#) Ends longevity pay for judges and state employees. Replaces longevity pay with merit pay system for state employees, but specifically exempts judges from it. In House (no committee).

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[Texas SB 1494](#) Requires municipalities report to the Texas Judicial Council the election or appointment of the presiding officer of the municipality, municipal court judge, or clerk of a municipal court. In Senate (no committee).

[West Virginia SCR 67](#) Requests Joint Committee on Government and Finance conduct study relating to circuit court filing fees. In Senate Judiciary Committee.

## **Salary and Budget: Floor and Committee Activity**

[Arizona HB 2355](#) Redefines for budget and other purposes various assessments as surcharges. Approved by Senate Rules Committee 3/7/11.

[Arkansas HB 1859](#) Provides expenditures from the circuit court and district court automation funds shall be approved by the administrative circuit judge of each judicial circuit or district judge (as applicable) and shall be authorized and paid under the state laws governing the appropriation and payment of county expenditures. Allows AOC to charge any fee (currently limited to \$10) for e-payment of fines. Approved by full House 3/10/11.

[Arkansas SB 221](#) Requires all “Judicial offices” and other state agencies place their expenditures online. Approved full House 3/8/11.

[Arkansas SB 310](#) Revises various laws related to payment of “special judges” appointed temporarily to serve on various courts. Approved by full House 3/10/11. To Governor for approval.

[Colorado SJR 7](#) Requests Chief Justice and Governor review, assess, and study the operation of state government in order to identify opportunities for improving its efficiency and effectiveness. Specifies use of “kaizen” or lean-government principles in review. Approved by full House 3/8/11.

[Florida HB 19](#) Authorizes each county commissioner, circuit court clerk, county comptroller, sheriff, supervisor of elections, property appraiser, & tax collector to reduce his or her salary on voluntary basis. Approved by State Affairs Committee, Government Operations Subcommittee 3/8/11.

[Florida HB 4135](#) Repeals statute that the salary of a judicial marshal of district court of appeals is to be set by law. Approved by House Judiciary Committee, Civil Justice Subcommittee 3/8/11.

[Florida HB 4137](#) Repeals statute that the salary of a judicial marshal of supreme court is to be set by law. Approved by House Judiciary Committee, Civil Justice Subcommittee 3/8/11.

[Florida SB 870](#) Authorizes each clerk of the circuit court to reduce his or her salary on a voluntary basis. Approved by Senate Community Affairs Committee 3/7/11.

[Florida SB 1018](#) Re-creates the State Courts Revenue Trust Fund within the state courts system without modification. Abrogates provisions relating to the termination of the trust fund to conform. Approved by Senate Budget Committee 3/11/11.

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[Hawaii HB 1038](#) Amends retirement benefits for judges and other state/county employees who become members of the employees' retirement system after June 30, 2012. Approved as amended by full House 3/8/11.

[Hawaii HB 301](#) Directs into the judiciary computer system special fund fees collected for electronic document certification, electronic copies of documents, and for providing bulk access to electronic court records and compilations of data. Approved by full House 3/8/11.

[Hawaii HB 575](#) Extends the five per cent legislative salary decrease from June 30, 2011, to June 30, 2013. Applies the five per cent salary reduction to executive and judicial branch positions. Approved by full House 3/10/11.

[Hawaii SB 1073](#) Increases the amount of surcharges for indigent legal fees. Approved by full Senate 3/8/11.

[Hawaii SB 1341](#) Amends retirement benefits for judges and other state/county employees who become members of the employees' retirement system after June 30, 2012. Approved by full Senate 3/8/11.

[Hawaii SB 946](#) Establishes the access to justice trust fund under the judiciary as an endowment, to be administered by a nonprofit entity. Requires investment of the principal. Authorizes disbursement of interest earned to fund nonprofit legal service organizations to assist with the legal services needs of the poor, indigent, and other vulnerable populations. Approved by full Senate 3/8/11.

[Kentucky SB 7](#) Requires Chief Justice to create a Web site to provide certain information on the expenditure of state funds. Approved by full House 3/8/11.

[Maryland HB 523](#) Requires the State Court Administrator to assess a \$100 fee for the special admission of an out-of-state attorney and to pay \$75 of the fee into the Janet L. Hoffman Loan Assistance Repayment Program. Approved by House Judiciary Committee 3/7/11. Approved by full House 3/10/11.

[Montana HB 65](#) Provides that in criminal matters when a interpreter is appointed, the interpreter's fee must be paid by the office of court administrator in accordance with judicial branch policy (currently paid out of the county general fund). Approved by full Senate 3/10/11. To Governor for approval.

[Montana HB 70](#) Requires separate investment fund must be maintained for judges' retirement system apart from any other retirement system. Approved by Senate State Administration Committee 3/9/11.

[Montana SB 67](#) Directs office of court administrator temporarily suspend juvenile delinquency intervention program annual evaluation for one year and transfer funds to the general fund in lieu of conducting the evaluation. Approved with House amendment by full House 3/10/11. To Senate to concur with House amendment.

[New Hampshire HB 492](#) Establishes a deferred retirement option in the judicial retirement plan. Modifies benefits related to service of certain judges of probate retiring because of permanent disability. Rejected by House Special Committee on Public Employee Pensions Reform 3/10/11.

[New Mexico SB 166](#) Increases appellate docket fees from \$125 to \$225. Creates the Appellate Transcription Fund to indigent appeals. Provides appellate docket fees to go to Fund (currently, docket fees are allocated to the

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Supreme Court Automation Fund and the Metro and Magistrate Court Facilities Fund.) Approved by full Senate 3/5/11.

[New Mexico SB 248](#) Adjusts state contribution rate for judicial retirement system. Approved as amended by Senate Finance Committee 3/5/11.

[New Mexico SB 277](#) Increases magistrate courts operations fee applied to certain convictions from \$4.00 to \$7.00. Approved by full Senate 3/8/11. Approved by House Taxation and Revenue Committee 3/11/11.

[Oklahoma HB 1005](#) Creates the Task Force on Pension Benefit Funding and Security to examine Judges and Justice Retirement System and other systems. Approved by full House 3/9/11.

[Oklahoma HB 1414](#) Creates Council on Judicial Complaints Revolving Fund. Directs certain civil filing fees be directed to the Fund. Approved by full House 3/9/11.

[Oklahoma SB 310](#) Creates the Uniform Retirement System for Justices and Judges Reform Act of 2011 (placeholder). Approved by full Senate 3/8/11.

[Oklahoma SB 498](#) Changes the rate of pay a court reporter receives for temporary employment by a district court, workers comp court, or corporation commission, from a set rate of \$57.60 per day to a rate “to be set by such court.” Approved by full Senate 3/8/11.

[Utah SB 274](#) Allows Justice Court Technology, Security, and Training Account to also cover expenditures for justice court audit expenditures. Adds information technology to the list of expenditures permitted by the Court Reporter Technology Account. Approved by full Senate 3/7/11. Approved by full House 3/9/11. To Governor for approval.

[West Virginia SB 96](#) Authorizes State Auditor in conjunction with the West Virginia Supreme Court of Appeals to establish in-service training programs for circuit clerks and their assistants and employees. Approved by House Judiciary Committee 3/7/11. Approved by full House 3/10/11. To Governor for approval.

## **Selection: Newly Introduced**

[Arkansas SB 828](#) Provides person may only use prefix “judge” or “justice” on ballots before their name if they are currently serving in the office to which they are seeking election and have been in that office at least 12 months. In Senate Committee on Judiciary.

[Florida HB 7039 \(Constitutional Amendment\)](#) Requires justices or judges receive at least 60% of vote to be retained in office starting with 2012 election. In House Judiciary Committee.

[North Carolina HB 325](#) Ends elections for judges. Provides for initial appointment by the Governor of anyone otherwise qualified to serve as a judge. Provides, after at least 24 months of service, judge or justice to be subject to Yes/No election. If retained, to serve full term. Provides chief justice to be selected by members of supreme court. In House (no committee).

## **Selection: Floor and Committee Activity**

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[Arizona SCR 1040 \(Constitutional Amendment\)](#) Increases to 400,000 the population requirement for a county to have merit selection for judges (currently 250,000). Increases supreme court and superior court terms to 8 years. Strips state bar's power to fill certain vacancies on judicial nominating commissions. Requires instead state bar submit 3 names for each state-bar vacancy on commission for governor's approval and that a majority of the 3 must be the same political party as governor. Requires attorney-members of commissions have been member of bar at least five years. Removes requirement that governor's appointments to commission be confirmed by senate. Provides of 13 members of appellate commission, none may be currently serving as a judge, not more than two of the members may be attorneys, not more than one member may be a retired judge, not more than nine members may be members of the same political party, and not more than six members may be residents of the same county. Provides supreme court \*must\* adopt any rules that the commissions vote for themselves, so long as they are lawful. Expands number of names to be submitted to governor for a vacancy from 3 to 6. If fewer than 6 people apply, all eligible names must be submitted. Subjects all those selected by governor to senate confirmation. Ends retention elections. Provides that at end of term governor may reappoint and senate may reconfirm judge. Approved by full Senate 3/8/11.

[Arizona SCR 1045 \(Constitutional Amendment\)](#) Removes the requirement that attorney members are nominated to the Governor by the Arizona State Bar as part of the Commission appointment process. Approved by Senate Rules Committee 3/8/11.

[Georgia HB 158](#) Changes date for non-partisan elections, including judges, to June from July. Approved by full House 3/10/11.

[Iowa HB 242](#) Provides governor must appoint at least one district judicial nominating commission member from each county unless there are fewer counties than commissioners. Approved by full House 3/7/11.

[Oklahoma SB 22](#) Requires, effective November 2011, all judicial officers running for election make all of their written rulings and opinions available online at least 60 days prior to the election. Approved by full Senate 3/9/11.

[Oklahoma SB 327](#) ORIGINAL: Provides for nonpartisan election for court clerks and other county officers. AMENDED: Provides for nonpartisan election of sheriffs only. Approved as amended by full Senate 3/9/11.

[Oklahoma SB 621 \(Constitutional Amendment\)](#) Requires any appointment or reappointment by the Governor to fill a Judicial Office be confirmed by a majority of the Senate. Approved by full Senate 3/8/11.

[Oklahoma SJR 36 \(Constitutional Amendment\)](#) Ends state's merit selection system. Allows governor to appoint any qualified person with senate confirmation. Approved by full Senate 3/9/11.

[Utah SB 212](#) Allows the Judicial Performance Evaluation Commission to vote in a closed meeting on whether or not to recommend that the voters retain a judge. Removes litigants from the judicial performance evaluation survey. Reduces the number of categories to be included in the performance evaluation survey. Allows survey respondents to supplement responses to survey questions with written comments. Establishes a clear minimum performance standard. Establishes that the judicial performance evaluation survey is to be reported in three categories: legal ability, judicial temperament and integrity, and administrative abilities. Allows only a judge who is the subject of an unfavorable retention recommendation to meet with the commission about its recommendation. Allows the judicial

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performance evaluation commission to only report public discipline that a judge has received. Approved by full House 3/8/11. To Governor for approval.

[West Virginia HB 2732](#) ORIGINAL: Creates public finance system for state legislative races. AMENDED: Directs state bar assess “fair administration of justice fee” to pay for existing public financing system for supreme court races. Creates or increases fees/fines in civil cases to pay for public financing system for supreme court races. Approved as amended by Senate Judiciary Committee 3/9/11.

## Structure Changes: Newly Introduced

[Texas HB 2873](#) Creates Insurance and Medicaid Fraud Court. Provides judges are not to be elected by chosen by governor and confirmed by senate. In House (no committee).

[Texas HB 2880](#) Creates Fifteenth Court of Appeals District out of portions of the Thirteenth Court of Appeals District. In House (no committee).

## Structure Changes: Floor and Committee Activity

[Arkansas HB 1869](#) Ends pilot program of converting certain counties/courts into District Courts. Creates District Courts for all counties in state incrementally with full implementation set for 2017. Approved by House Committee on Judiciary 3/11/11.

[Georgia SB 39](#) Permits creation of mental health court divisions in any court with criminal jurisdiction. Approved by Senate Committee on Judiciary 3/10/11.

[Indiana HB 1153](#) Expands the types of persons that may participate in court established alcohol and drug services programs. Establishes procedures to be used by a problem solving court to terminate an individual's participation in a problem solving court program. Specifies that a city or town user fee fund or county user fee fund includes problem solving court fees collected by the clerk of the court. Approved by Senate Committee on Judiciary 3/10/11.

[Montana SB 41](#) Allow cities to establish courts of record (currently may establish courts not of record). Approved by full House 3/9/11. To Governor for approval.

[New Hampshire HB 609](#) Consolidates probate courts, district courts, and judicial branch family division into new circuit court. Approved by House Judiciary Committee 3/10/11.

[North Dakota HB 1108](#) Extends Temporary Court of Appeals authorization from 2012 to 2016. Approved by Senate Committee on Judiciary 3/10/11.

[Oklahoma HB 1555](#) Authorizes creation of veterans' treatment courts in all judicial districts. Approved by full House 3/10/11.

[Utah HB 494](#) Establishes that justice courts may not be created or certified by the Judicial Council unless the justice court operates a recording device in each court room. Approved by full House 3/7/11.

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[Utah SB 318](#) Establishes that justice courts may not be created or certified by the Judicial Council unless the justice court operates a recording device in each court room. Approved by full Senate 3/8/11. Approved by full House 3/10/11. To Governor for approval.

## **Other: Newly Introduced**

[Colorado HB 1282](#) Creates statutory obligation for the judicial department to provide a public access system for certain court records that direct-paying users and nonpaying users can access remotely. Prohibits the judicial department from restricting a direct-paying user from replicating the information on its system. Creates a Judicial Public Access System Advisory Board to govern the aforementioned system. In House State, Veterans, & Military Affairs Committee.

[Iowa HB 542](#) Jury nullification. Provides criminal defendants have right to inform jury they are finders of fact and may judge law. Provides right of jury cannot be bound by rules of civil or criminal procedure, juror's oath, court order, etc. Prohibits courts from using any method to prohibit jurors willing to exercise their right to judge law and fact. Allows any party to present evidence of constitutionality or intent of law. In House Judiciary Committee.

[Maine SB 297](#) Creates the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts. In Joint Committee on Judiciary.

[Maine SB 225](#) Requires designs for new court facilities must adequately address the space needs of the district attorneys and the attorneys providing indigent legal services. Requires Chief Justice ensure that a statewide organization of district attorneys and the Maine Commission on Indigent Legal Services are consulted when designing the new facilities. In Joint Committee on Judiciary.

[Minnesota HB 989](#) Repeals timing objectives for criminal case disposition by courts. In House Judiciary Policy and Finance Committee.

[North Carolina HB 272](#) Directs AOC (i) study issues related to the sale of court records and how best to ensure the accuracy of the information available to the customer and to protect a citizen's right to have his or her record expunged and (ii) review the State's statutes relating to a person's "criminal record" and make recommendations on defining the term "criminal record" by statute. In House Committee on Rules, Calendar, and Operations of the House.

[Pennsylvania SB 759](#) Establishes the Pennsylvania Innocence Inquiry Commission within the Administrative Office of Pennsylvania Courts. In Senate Judiciary Committee.

[Texas HB 2973](#) Protects individual's right of free speech, right to petition, or right of association, and right to petition. Includes in right to petition right to communication with any judicial proceeding, any issue related to a matter in a judicial proceeding, and communications likely to enlist the public participation in judicial decisions. Gives right to directly address any "public servant" and includes in definition of "public servant" any judges, any elected officials, and jurors. Requires any motion to dismiss in a suit related to an individual's right of free speech, right to petition, or right of association be decided within 30 days of hearing on motion. In House (no committee).

[Texas HB 2974](#) Requires any motion to dismiss in a suit related to an individual's right of free speech, right to petition, or right of association be decided within 30 days of hearing on motion. In House (no committee).

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## Other: Floor and Committee Activity

[Arizona SB 1288](#) Provides “Government shall not deny, suspend or revoke a professional or occupational license, certificate or registration based on a person's exercise of religion...A person's exercise of religion is not unprofessional conduct.” Specifies “Government” includes all courts and administrative bodies or entities under the jurisdiction of the Arizona supreme court.” Approved by full Senate 3/8/11.

[Florida HB 4067](#) Repeals requirement that the clerk of the circuit court, or a deputy, shall reside at the county seat or within 2 miles thereof. Approved by House Judiciary Committee 3/10/11.

[Florida HB 87](#) Requires that opinions of Supreme Court or district court of appeal that declares a Florida statute, regulation, or government practice unconstitutional, recommends any statutory or regulatory changes to the current law, or identifies drafting issues be sent by the court to the executive and legislative branches and acknowledged by them. Approved by House Judiciary Committee, Civil Justice Subcommittee 3/8/11.

[Hawaii SB 11](#) Transfers responsibility for judiciary security personnel from department of public safety to newly created office of the sheriff within the department of the attorney general. Approved by full Senate 3/8/11.

[Iowa SB 326](#) Filling vacancies - Grants authority to the chief justice to delay the nomination of a supreme court justice, court of appeals judge, district judge, district associate judge, associate juvenile judge, or associate probate judge magistrate for budgetary reasons. Grants authority to delay nomination for magistrates with certain limits. Judicial allocation - Authorizes chief justice to apportion a trial judge vacancy to another judicial election district upon finding a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts and a majority of the judicial council approves the apportionment. Requires state court administrator apportion magistrates throughout the state using a case-related workload formula in addition to the other criteria already listed in statute. Permits the chief judge to assign a magistrate to hold court outside of the magistrate's county of appointment for the orderly administration of justice. Residence - Requires district associate judge reside \*in the judicial election district\* in which he or she serves (currently must reside in county). Allows a magistrate to be a resident of a county contiguous to the county of appointment during the magistrate's term of office. Terms - Specifies that a senior judge, upon attaining the age of 78, may serve a one-year term and a succeeding one-year term at the discretion of the supreme court. Currently, a senior judge, upon attaining the age of 78, may serve a two-year term at the discretion of the supreme court. Selection - Permits chief judge of judicial district to appoint clerk of court and remove clerk for cause after consultation with other judges (currently, clerk is appointed and removed by a majority vote of all district judges in district). Approved by full Senate 3/9/11.

[Mississippi HB 506](#) Allows all prosecutors, public defenders, and others holding a firearms license and having taking a specified court to carry a firearm into any courthouse except in courtrooms during a judicial proceeding. Signed into law by Governor 3/11/11.

[Missouri HB 111](#) Modifies numerous parts of law related to courts and judicial proceedings. Prohibits Department of Revenue from releasing the home address or any information contained in the department's motor vehicle or driver registration records regarding any state or federal judge or his or her immediate family members. Allows any state or federal judge to request the issuance of special license plates and driver's licenses. Approved by House Judiciary Committee 3/7/11.

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[New Hampshire HB 146](#) AS AMENDED: Jury nullification. Provides “In all court proceedings the court shall instruct the jury of its right to judge the facts and the application of the law in relationship to the facts in controversy. The court shall permit the defendant or counsel for the defendant to explain this right to the jury.” Approved by House Judiciary Committee 3/9/11.

[New Hampshire HR 7](#) Directs house judiciary committee to investigate whether grounds exist to impeach marital master Phillip Cross and/or any justice of the New Hampshire superior court. Approved by House Judiciary Committee 3/9/11.

[New Mexico HB 285](#) Adds magistrate judge and additional member of public to judicial standards commission. Approved by full Senate Public Affairs Committee 3/11/11.

[New Mexico HB 600](#) Requires all judicial districts create domestic relations mediation programs. Approved by House Health and Government Affairs Committee 3/10/11.

[New Mexico HJR 18 \(Constitutional Amendment\)](#) Adds magistrate judge and additional member of public to judicial standards commission. Approved by full House 3/7/11.

[New Mexico SM 37](#) Requests administrative office of the courts consult with the children, youth and families department, the aging and long-term services department and others to examine opportunities and barriers to expanding grandparents' visitation rights. Approved by Senate Rules Committee 3/7/11.

[Texas HB 462](#) Sets practice for assignment of assignment of special judges in counties with no statutory county courts or statutory probate courts. Approved by House Judiciary & Civil Jurisprudence Committee 3/7/11.

[Texas HB 720](#) Requires Office of Court Administration post online list of all persons declared vexatious litigants Approved by House Judiciary & Civil Jurisprudence Committee 3/7/11.

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