

# Gavel to Gavel

A review of state legislation affecting the courts

Week ending July 8, 2011

Volume 5, Issue 28

## *Focus: Clerks of Court*

This week marks the annual meeting of the [National Association for Court Management](#), including clerks of court and court administrators from around the nation. Despite being mostly locally-focused, the roles, duties, and responsibilities of these individuals are often altered and impacted by legislation adopted at the state level. The following laws affecting these officials were adopted in the 2011 legislative session.

[Colorado HB 1018](#) Permits clerk to affix a seal electronically or to logically associate it with an electronic record or document, including court records and warrants.

[Florida HB 19](#) Authorizes each circuit court clerk to reduce his or her salary on voluntary basis.

[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.

[Florida SB 224](#) Specifies the level of detail for each fund in the clerk of the court's budget. Requires the court clerk's approved budget be posted on a county's website.

[Montana HB 480](#) Provides a clerk of a justice's court of record acting as a judge pro tempore may not preside over a trial but may preside over an initial appearance.

[Nebraska LB 669](#) 2011 Provides for clerks and staff of the district courts and the county courts to assist one another in the provision of court services based on agreements with the Supreme Court and the State Court Administrator. Repeals statute providing for divisions of a county court to be at a location other than the county seat and requires certain cases to be filed with the county court clerk in the county seat.

[New Hampshire HB 609](#) Consolidates probate courts, district courts, and judicial branch family division into new circuit court. Repeals law requiring each probate, family, and district court location having a clerk (or register) and a deputy clerk. Provides the administrative judge of the circuit court shall appoint a clerk with responsibility for each circuit court site and that in the interest of the effective administration of justice, any such clerk may have responsibility for one or more circuit court locations. Defines and specifies duties of circuit clerks.

[Nevada AB 195](#) Requires that, before a court record is destroyed by the clerk of a district court or a deputy clerk of a district court, the clerk must place an image of the record on microfilm or save the image in an electronic recordkeeping system. Provides a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record pursuant to a schedule for the retention and disposition of court records established by the Supreme Court without placing an image of the record on microfilm or saving the image in an electronic recordkeeping system.

[Ohio HB 114](#) Allows the clerk of the court of common pleas to compete for the award of a motor vehicle deputy registrar contract in any county with a population of 40,001 to 50,000 people. Allows the clerk of the court of

common pleas to compete for the award of a deputy. Allows a county auditor who is designated to act as a deputy registrar and the clerk of the court of common pleas to allocate their deputy registrar duties and certificate of title duties and fees between them. Requires a clerk of the court of common pleas to inform the Registrar of Motor Vehicles if space is available at an office of the clerk that could be occupied by a deputy registrar and, subject to the approval of the Registrar, permits a clerk and deputy registrar to occupy a common location where neither is an occupant. Allows a clerk of a court of common pleas to issue a certificate of title to a motor vehicle applied for by an agent of a licensed motor vehicle dealer when that agent has a properly executed power of attorney from the dealer.

[Oklahoma HR 1019](#) & [SR 3](#) Declares March 28 through April 1, 2011, "County Government Week" to honor county government officers, including, Court Clerks.

[Oklahoma SB 510](#) Requires court clerks collect demographic data related to the adoption of all children and shall make an annual report to be delivered to the Administrative Director of the Courts.

[Rhode Island SB 117](#) & [HB 5131](#) Redistricts state district court. Reduces number of divisions of the district court from 6 to 4. Directs clerks to transfer files/cases to particular divisions.

[Texas HB 1573](#) Requires a clerk of a court that does not provide online Internet access to that court's criminal case records to post notice of a prospective criminal docket setting as soon as the court notifies the clerk of the setting (prior requirement was posting at least 48 hours before the docket setting).

[Texas SB 886](#) Allows court clerk to enter information into a judgment execution docket electronically.

[Washington HB 1794](#) Increases penalties for assaults on court-related employees, including judicial officers, court-related employees, county clerks, and county clerk employees.

## **Jurisdiction: Newly Introduced**

NONE

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

[Wisconsin SB 117](#) Provides actions in which state government is sole party may be filed in any county (currently must be filed in Dane County/state capital). Provides appeals must be heard in Court of Appeals district OTHER than the one in which the case was filed. Provides district is to be selected by appellant. Approved by Senate Committee on Judiciary, Utilities, Commerce, and Government Operations 7/6/11.

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

NONE

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

NONE

Indicates featured legislation

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

NONE

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

NONE

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

[California SCA 13 \(Constitutional Amendment\)](#) Requires any change to the formula used to calculate the pension benefits of a member of the Judges' Retirement System II or any a public retirement system, as defined, that results in an increase in the member's pension benefits shall apply only to service performed on and after the operative date of the change, and would prohibit the retroactive application of that change. Alters numerous provisions related to state's retirement systems. In Senate Rules Committee.

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

[California SB 384](#) Requires the payment of a single complex case fee on behalf of all plaintiffs in a civil case. Approved by Assembly Appropriations Committee 7/6/11.

[Massachusetts HB 2965](#) Modifies retirement earnings and benefits of certain senior justices. Approved by Joint Committee on Public Service 7/6/11.

## **Selection: Newly Introduced**

NONE

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

[California SB 182](#) AS AMENDED: Adds gender identity and orientation to the list of demographic data provided by judicial applicants, nominees, appointees, justices, and judges required to be collected and released by the Governor, the Commission on Judicial Nominees Evaluation (JNE Commission) of the State Bar, and the Administrative Office of the Courts (AOC). Approved by Assembly Appropriations Committee 7/6/11.

## **Structure Changes: Newly Introduced**

NONE

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

NONE

## **Other: Newly Introduced**

[Alabama SB 19 \(2012\)](#) Allows for recall of judges and other state elected officials. Prefiled in Senate Constitution, Campaign Finance, Ethics, and Elections Committee.

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## Other: Floor and Committee Activity

[California AB 116](#) AS APPROVED BY ASSEMBLY: Requires commencing no earlier than July 1, 2011, and no later than December 15, 2012, the State Auditor establish a pilot program to audit 6 trial courts, and based on the results of the pilot program, on or before December 15, 2013, commence audits of all trial courts, as provided. Requires that on or before December 15, 2013, and biennially thereafter, the State Auditor audit the Administrative Office of the Courts, the Habeas Corpus Resource Center, and the appellate courts. Provides these audits are in lieu of statutory requirement that the State Auditor provide his or her assessment of the implementation of certain contracting provisions by the judicial branch. AS AMENDED BY SENATE: Removes all references to courts and audits. Approved as amended by full Senate 7/7/11. To Assembly to concur with Senate amendment.

[California AB 618](#) AS AMENDED: Provides that a person who is unable to understand English, and who is charged with a crime, has the right to a competent interpreter provided by the court to provide exclusive and ongoing interpretation services throughout any criminal proceeding as required by law. This includes a right not to share an interpreter with a witness. The person charged with the crime is also entitled to a separate interpreter not to be shared with a codefendant during any trial proceeding, including jury instructions, and in any proceeding, as required by law, at which witnesses are called and testimony is taken. Any rights pursuant to this provision may be waived as provided by this section. Provides that a person who is charged with a crime has a right to a determination by the court of the competence of an interpreter at any time during a proceeding if on the basis of the interpreter's provision of interpreter services during a criminal proceeding, the court determines there is good cause to question whether the continued use of the interpreter in the proceeding may prejudice the rights of the person charged with the crime such that it would not be in the interest of justice or efficiency for the interpreter to continue. Specifies that notwithstanding any other provision of this article, a non-interpreter staff person of the court, or any person employed by the sheriff, probation department, prosecutor, jail or corrections department of the prosecuting city or county shall not provide interpreter services during a proceeding under this section. This subdivision shall not be construed to negate or modify the circumstances under which a court has the authority to appoint a noncertified interpreter. Establishes that the foregoing rights may only be waived expressly by the person charged if the waiver is affirmatively shown to be intelligent and voluntary. Approved by Senate Public Safety Committee 7/5/11.

[California SB 264](#) Repeals requirement that local public agencies file a record of all known or reported injuries incurred by skateboarders in a public skateboard park with the Judicial Council and the Council report on them. Approved by Assembly Appropriations Committee 7/6/11.

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