

Gavel to Gavel

A review of state legislation affecting the courts

Week ending April 22, 2011

Volume 5, Issue 17

Jurisdiction: Newly Introduced

[North Carolina SB 687](#) Increases small claims jurisdiction from \$5,000 to \$10,000. Increases district court jurisdiction from \$10,000 to \$20,000. In Senate Committee On Judiciary I.

[Wisconsin SB 70](#) Increases small claims jurisdiction from \$5,000 to \$10,000. In Senate Committee on Judiciary, Utilities, Commerce, and Government Operations.

Jurisdiction: Floor and Committee Activity

[Minnesota SB 506](#) ORIGINAL: Increases conciliation court jurisdiction to \$15,000 from \$7,500 or, if case involves consumer credit transaction, to \$7,500 from \$4,000. AMENDED: Increases conciliation court jurisdiction to \$20,000 from \$7,500 or, if case involves consumer credit transaction, to \$10,000 from \$4,000. Approved as amended by Senate Judiciary and Public Safety Committee 4/18/11.

[Missouri HB 708](#) Specifies that any court, tribunal, arbitration, or administrative agency decision or ruling which is based, in whole or in part, on foreign law or legal code that would not grant the parties affected by the decision or ruling the same rights granted under the Missouri Constitution or the United States Constitution will violate the public policy of Missouri and be void. Approved by full House 4/20/11.

[Nevada AB 261](#) ORIGINAL: Increases small claims cases from \$5,000 to \$9,000. AMENDED: Increases small claims cases from \$5,000 to \$7,500. Approved as amended by House Committee on Judiciary 4/15/11. Approved by full Assembly 4/18/11.

[Texas HB 911](#) ORIGINAL: Provides “In this chapter, “foreign law” means a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States...A ruling or decision of a court, arbitrator, or administrative adjudicator may not be based on a foreign law if the application of that law would violate a right guaranteed by the United States Constitution or the constitution of this state.” AMENDED: Same, but amends to read “adjudicator *on a matter arising under the Family Code* may not be based on a...” Approved as amended by House Committee on Judiciary & Civil Jurisprudence 4/18/11.

Qualifications and Terms: Newly Introduced

[Colorado HB 1302](#) Creates a program within the department of state for the purpose of providing training to judges in managing business litigation. In House Committee on Judiciary.

[Minnesota HB 1536](#) 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

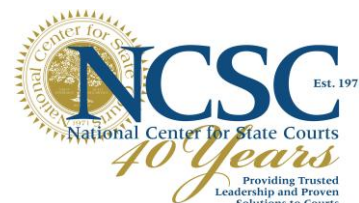


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that puts word “incumbent” after judge's name if seeking re-election. In House Judiciary Policy and Finance Committee.

Qualifications and Terms: Floor and Committee Activity

[Arizona HB 2352](#) Removes the requirement that an appointed court commissioner have engaged in active general practice for at least three years before being appointed. Requires that an appointed commissioner be an Arizona resident for five years before taking office. Increases the term in which an appointed commissioner must have been admitted to practice law in Arizona from three to five years. Approved by full Senate 4/19/11. To Governor for approval.

[Arizona HB 2424](#) Provides that if county wishes to create a probate court, each judge serving in that court must first demonstrate competence in all areas of probate jurisprudence as prescribed by the supreme court. Establishes a probate advocacy panel to recommend ways to improve the probate system through statutory changes. Approved by full Senate 4/19/11. To Governor for approval.

[Texas HB 1931](#) Allows former or retired statutory probate court judges to be recalled as special judges. Approved by House Judiciary & Civil Jurisprudence Committee 4/20/11.

Rule Making Authority: Newly Introduced

[New York SB 3837](#) Requires court of appeals make rule allowing individuals who have worked under supervision of an attorney in New York state for five years to be eligible to sit for the New York state bar exam. In Senate Judiciary Committee.

Rule Making Authority: Floor and Committee Activity

[Nevada SB 194](#) ORIGINAL: Urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in class actions to make a disclosure to each member of the class concerning possible consequences that the member of the class may face if the member does not opt out of the class. AMENDED: Urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in such class actions to all the disclosures required pursuant to F.R.C.P. 23 to each member of the class. Approved by full Assembly 4/22/11.

[Texas HB 2847](#) Permits use of video teleconferencing systems for inmate witness testimony, pleas, and other actions. Approved by House Criminal Jurisprudence Committee 4/18/11.

Salary and Budget: Newly Introduced

[Louisiana HB 522](#) Provides deadlines for submission of court cost proposals to the Judicial Council and provides that the review process for court costs and fees shall not apply to mayor's courts, magistrate courts, or justice of the peace courts. In House Judiciary Committee.

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[Louisiana HB 530](#) Increases court employee contributions, changes from a 3-year to a 5-year Final Average Compensation (FAC), and provides for more restrictive “anti-spiking” provisions for court employees. In House Committee on Retirement.

[Louisiana HB 553](#) Provides for a uniform fines and costs assessment form for criminal cases. In House Judiciary Committee.

[Louisiana HB 556](#) Adds a \$1 court cost for use in the implementation of an integrated juvenile justice information system. In House Judiciary Committee.

[North Carolina SB 687](#) Alters Retirement Allowance of Judges/Justices of state retirement plan after August 2011. In Senate Committee on Pensions & Retirement and Aging

[Washington SB 5941](#) Removes expiration date for various court surcharges. Provides revenue from the surcharges is to be split equally between the state and the county collecting the fee. In Senate Committee on Ways & Means.

Salary and Budget: Floor and Committee Activity

[Alabama HB 414](#) Reduces employer contribution rates into the Judicial Retirement Fund (JRF). Approved by Senate Finance, Taxation and Education Committee 4/21/11.

[Arizona HB 2355](#) Redefines for budget and other purposes various assessments as surcharges. House concurs with Senate amendments 4/19/11. To Governor for approval.

[Indiana HB 1004](#) Requires creation of website that lists all state and local expenditures and fund balances, include the judicial branch and courts. Approved by full Senate 4/21/11. House does not concur in Senate amendments 4/21/11.

[Missouri HB 116](#) Provides any state or municipal court may refer to the department of revenue for collection debts owed to them. Provides department may provide collection services on debts referred to the department by a court. Approved as amended by Senate Ways and Means Committee 4/21/11.

[Nevada AB 196](#) Requires district courts forward to the county treasurer the necessary information for the collection of the debt of a criminal defendant. Permits county unable to collect the debt to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning to the Office of the State Controller the responsibility for collecting the debt. Requires a defendant to pay costs and fees associated with the efforts to collect a debt. Approved by Assembly Committee on Judiciary 4/20/11.

[Nevada AB 259](#) Transfers fees collected for transfer of cases between courts and recording of documents to legal services programs. Approved by Assembly Committee on Judiciary 4/20/11.

[Nevada AB 9](#) AS AMENDED: Requires the county treasurer to deposit 25 percent of the fees received from justices of the peace into a special account administered by the county and maintained for the benefit of the justice courts within the county. Provides money in the account must be used only to offset the costs for adding or maintaining new judicial departments, if any money remains in the account in a fiscal year after satisfying such

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offset of costs, for other purposes generally related to the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts. Approved as amended by Assembly Committee on Judiciary 4/19/11. Approved by full Assembly 4/20/11.

[Oklahoma HB 1414](#) Creates Council on Judicial Complaints Revolving Fund. Directs certain civil filing fees be directed to the Fund. Approved by full Senate 4/19/11. To Governor for approval.

[Oklahoma HB 2132](#) Modifies judicial and other retirement systems funding ratios and cost of living adjustments. Changes the definition of a “nonfiscal retirement bill” by removing the provision that allows a cost-of-living increase to be considered nonfiscal. Stipulates that any retirement bill having a fiscal impact is subject to the statutory requirements related to concurrent funding. Approved by full Senate 4/19/11. To House to concur with Senate amendments.

[Texas HB 2174](#) Creates judicial access and improvement account to provide funding for basic civil legal services, indigent defense, and judicial technical support through certain county service fees and court costs imposed to fund the account. Approved by House Judiciary & Civil Jurisprudence Committee 4/20/11.

[Texas HB 2344](#) Permits counties to create a law enforcement technology fund and to require certain defendants to pay court costs for deposit in the fund. Approved by House Criminal Jurisprudence Committee 4/18/11.

[Texas HB 2949](#) Removes all authority of the comptroller of public accounts in jointly administering the court collection improvement program developed by a county or municipality to improve the collection of court costs, fees, and fines imposed in criminal cases. Transfer the duties imposed on the comptroller for administering the programs solely (currently, joint with comptroller) to the office of court administration. Approved by House Criminal Jurisprudence Committee 4/18/11.

Selection: Newly Introduced

[North Carolina SB 746](#) Provides Governor and Chief Justice are to pick co-chairs for North Carolina Courts Commission, if co-chair policy is approved by Governor. (Currently governor picks single chair after consultation with Chief Justice). In Senate Committee on Rules.

Selection: Floor and Committee Activity

NONE

Structure Changes: Newly Introduced

[Louisiana HB 528](#) Redistricts Supreme Court districts. In House Committee on Governmental Affairs.

Structure Changes: Floor and Committee Activity

[Nevada AJR 7 \(Constitutional Amendment\)](#) Creates intermediate appellate court. Approved by full Assembly 4/18/11.

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[New Hampshire HB 609](#) Consolidates probate courts, district courts, and judicial branch family division into new circuit court. Approved by full Senate 4/20/11. To Governor for approval.

Other: Newly Introduced

[Alabama SB 417](#) Allows electronic publication of legal notices. Requires website be developed and hosted by outside provider who would report to Administrative Office of Courts. In Senate Judiciary Committee.

[California SB 662](#) Authorizes the Department of Finance and any county to enter into a contract that would authorize the county to integrate public services, including court security staff. In Senate Rules Committee.

[Iowa HR 47](#) Articles of impeachment against Justice Brent Appel for same-sex marriage decision. In House Judiciary Committee.

[Iowa HR 48](#) Articles of impeachment against Chief Justice Mark S. Cady for same-sex marriage decision. In House Judiciary Committee.

[Iowa HR 49](#) Articles of impeachment against Justice Daryl L. Hecht for same-sex marriage decision. In House Judiciary Committee.

[Iowa HR 50](#) Articles of impeachment against Justice David S. Wiggins for same-sex marriage decision. In House Judiciary Committee.

[New York AB 7242](#) Increases offenses by one level if target was judicial officer but individual harmed was bystander, In Assembly Codes Committee.

[New York SB 4764](#) Increases offenses by one level if target was judicial officer but individual harmed was bystander. In Senate Codes Committee.

[Oregon HB 3644](#) Directs counties to consider implementing veterans' court. In House Rules Committee.

[Texas HR 1485](#) Recognizing Municipal Courts Week in Texas. In House (no committee).

[Texas HR 1486](#) Recognizing Municipal Courts Week in Texas. In House (no committee).

Other: Floor and Committee Activity

[Arizona SB 1192](#) Requires supreme court select a nationally recognized independent research organization to review and assess the methodology used in creating the child outcome based support model for child support and the effect that model would have on child support for families in this state if that model were adopted. Approved by full House 4/19/11. To Governor for approval.

[Arizona SCR 1001 \(Constitutional Amendment\)](#) ORIGINAL: Allows state school fund to be used for high schools. AMENDED: Qualifications & Terms- Increases to 8 years the term of office for Supreme, Court of Appeals, and Superior Court judges starting in 2013. Increases the judicial retirement age from 70 to 75 years old.

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Appellate and Trial Court Commissions- Removes the requirement that attorney members be nominated by the Board of Governors of the Arizona State Bar. Establishes that four attorney members be appointed by the Governor and one member be appointed by the President of the State Bar. Requires, upon an attorney member vacancy, the Arizona bar to solicit, review and forward to the Governor all applications and recommendations for appointment. Increases the time period attorney members must be admitted to practice from 5 to 10 years. Specifies that attorney members must be in good standing with the state bar, have no formal disciplinary complaints and have never been formally sanctioned as a result of disciplinary action. Requires the Commissions to submit at least eight nominees, rather than three, to the Governor to fill a vacancy in the office of a justice or judge of the Supreme Court, Appellate Court or superior court. Permits the Commissions to reject an applicant and submit less than eight nominees, unless the applicant receives a two-thirds vote. Requires the Commissions to nominate any applicant who receives a majority vote. Requires, if more than one vacancy exists in the same court at the same time, the Commissions to submit the names of at least six persons nominated to fill each vacancy and prohibits the submission of the name of the same person for more than one vacancy. Permits the Governor to make an appointment from any of the nominees presented for any of the vacancies in that court, if more than one vacancy exists in the same court at the same time. Supreme Court- Must make available through its website, every written opinion or order that is issued by a judge of a court of record that resolves a contested matter of law and that is not sealed or confidential. Must transmit a copy of the judicial performance review of each justice and judge who is up for retention to the Senate President and the Speaker of the House of Representatives at least 60 days before the regular primary election. Legislature- Permits a joint legislative committee consisting of the Senate and House Judiciary committees to meet and take testimony on the justices and judges who are up for retention at least 60 days prior to the general election. Senate concurs with House amendment 4/18/11. To appear on November 2012 ballot.

[Connecticut HB 6600](#) Requires State Librarian, in consultation with the Chief Court Administrator of the judicial branch and others, establish standards and guidelines for the preservation and authentication of electronic documents. Approved by Joint Government Administration and Elections Committee 4/18/11.

[Florida HB 443](#) Requires that each state attorney and public defender implement a system by which the state attorney and public defender can electronically file court documents with the clerk of the court. Requires that the Florida Prosecuting Attorneys Association and the Florida Public Defender Association report to the President of the Senate and the Speaker of the House of Representatives by a specified date on the progress made in implementing the electronic filing system, etc. Approved by House Judiciary Committee 4/21/11.

[Hawaii HB 298](#) Exempts court interpreters who appear at the request of the circuit court, family court, or district court from parking violations for expired meters. House agrees to Senate amendments 4/18/11. To Governor for approval.

[Montana SJR 26](#) Directs Joint Subcommittees on Appropriations monitor the Court Help Program and the Water Courts during interim. Approved by full House 4/20/11.

[Montana SJR 29](#) Requests Legislative Council interim study of restorative justice. Approved by House Judiciary Committee 4/20/11.

[Nevada AB 121](#) ORIGINAL: Requires state court administrator examine the condition of the physical security of all courts, assess any threats that endanger the public, court facilities or judicial officers and employees and make recommendations to and carry out the directions of the Chief Justice to ensure and maintain security for all

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persons accessing judicial services. Authorizes certain personnel of the capitol police to provide, under certain circumstances, security services to the justices and employees of the Supreme Court while working at locations outside the grounds of the Supreme Court building. Allows supreme court to contract out for additional security of supreme court and grants those appointed powers of a peace officer when the security officer is carrying out duties prescribed by the Court Administrator. AMENDED: Removes references to state court administrator examinations of court security. Strikes references to Capitol Police providing security to supreme court employees. Approved by full Assembly 4/18/11.

[Nevada AB 194](#) Amends state law to make it consistent with federal law by removing from state law an ambiguity that could have been construed to require persons with disabilities to pay for their own interpretive services in civil judicial proceedings. Approved by full Assembly 4/18/11.

[Nevada SB 26](#) AS AMENDED: Modifies numerous provisions of law pertaining to courts/judicial administration. Authorizes the court to enter a civil judgment for the amount of any unpaid fines, administrative assessments, fees and restitution imposed against a criminal defendant and permits a finding and punishment for contempt for failure to pay. Approved by full Senate 4/22/11.

[Oregon HB 2667](#) ORIGINAL: Repeals obsolete provision relating to jury trials in county courts. AMENDED: Specifies that court administrator is subject to direction of court in entering judgment by default. Updates statutory references to Oregon State Bar's Lawyer Referral Service to include website address. Establishes, for declaratory judgment filings occurring on or after January 1, 2011, and before July 1, 2011, \$117 filing fee. Requires, upon request, partial refund of any filing fee paid at higher rate on or after January 1, 2011, and before effective date of Act Approved as amended by full House 4/21/11.

[Tennessee HB 2039](#) Authorizes judges who complete certain firearms training to carry a weapon in courtrooms. Approved by House Judiciary Committee 4/19/11.

[Texas HB 1754](#) Reorganizes powers and duties among agencies and entities in Texas that provide representation to indigent defendants. Creates Texas Indigent Defense Commission. Requires the Office of Court Administration of the Texas Judicial System to provide administrative support, including information technology services support, to the commission as necessary to carry out the bill's provisions relating to the commission. Requires courts provide all rules and forms that describe county procedures for providing indigent defendants with counsel, any revisions to those rules or forms previously submitted, or verification that rules and forms previously submitted still remain in effect. Approved by full House 4/21/11.

[Texas HB 2017](#) Removes provisions allowing special license plates for justices of supreme court or judge of court of criminal appeals. Allows for issuance of special license plates to most state judges. Allows for issuance of special license plates to federal judges. Approved by full House 4/20/11.

[Texas HB 857](#) Expands the definition of "active judicial officer," for purposes of such an officer's eligibility for a license to carry a concealed handgun, to include a person appointed and serving as an associate judge in a suit affecting the parent-child relationship, a suit relating to the marriage relationship, or a suit for a protective order relating to family violence. Includes such associate judges and Federal judges who are not Texas residents from prohibitions on carrying firearms into courts. Approved by House Homeland Security & Public Safety Committee 4/18/11.

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[Texas SB 1242](#) Provides magistrates enjoy same judicial immunity as judges. Approved by House Judiciary and Civil Jurisprudence Committee 4/20/11.

[Texas SB 1717](#) Makes numerous changes to laws affecting the judiciary. Authorizes the supreme court or, in vacation, a justice of the Supreme Court of Texas (supreme court) to issue a writ of mandamus to compel a statutory county court judge, a statutory probate court judge, or a district judge to proceed to trial and judgment in a case. Requires a judge, if a district judge determines on the judge's own motion that the judge should not sit in a case pending in the judge's court because the judge is disqualified or otherwise should recuse himself or herself, to enter a recusal order, request the presiding judge of that administrative judicial region to assign another judge to sit, and take no further action in the case except for good cause stated in the order in which the action is taken. Provides that existing statute regarding transfer for cases applies only to counties with two or more district courts, rather than only to civil cases in counties with five or more district courts. Provides that, notwithstanding any other law, each district court holds in each county in the judicial district terms that commence on the first Mondays in January and July of each year. Entitles all district judges in a county to equal amounts of supplemental compensation from the county unless otherwise provided. Authorizes the district judges in a county with two or more district courts to adopt rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of the courts as in their discretion they consider necessary or desirable for the orderly dispatch of the business of the courts. Requires a district court to sit in the county seat for a jury trial in a civil case. Authorizes the commissioners court of the county to authorize a district court to sit in any municipality within the county to hear and determine nonjury trials in civil cases and to hear and determine motions, arguments, and other matters not heard before a jury in a civil case that is within the court's jurisdiction. Provides that, in addition to other jurisdiction provided by law, a statutory county court exercising civil jurisdiction concurrent with the constitutional jurisdiction of the county court has concurrent jurisdiction with the district court in cases between \$500-\$200,000 (currently \$100,000). Provides that the judge of a statutory county court does not have general supervisory control or appellate review of the commissioners court. Requires the judge of a statutory county court be at least 25 years of age, a United States citizen and have resided in the county for at least two years before election or appointment and be a licensed attorney in this state who has practiced law or served as a judge of a court, or both combined, for the four years preceding election or appointment. Requires the justices of the peace in each county to, by majority vote, adopt local rules of administration. Abolishes each small claims court under Chapter 28, Government Code, on the effective date of this section. Requires the supreme court, not later than January 1, 2013, to promulgate rules to define cases that constitute small claims cases. Approved by Senate Jurisprudence Committee 4/18/11.

[Washington HB 1371](#) Transfers most functions of the Sentencing Guidelines Commission to the Department of Corrections and the Administrative Office of the Courts. Approved by House Committee on Ways & Means 4/15/11.

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