

Gavel to Gavel

A review of state legislation affecting the courts

Week ending May 6, 2011

Volume 5, Issue 19

Jurisdiction: Newly Introduced

NONE

Jurisdiction: Floor and Committee Activity

[Hawaii HB 1333](#) CONFERENCE COMMITTEE AMENDED: Increases small claims jurisdiction from \$3,500 to \$5,000. House and Senate approve conference report 5/3/11. To Governor for approval.

[Nevada AB 261](#) AS AMENDED: Increases small claims cases from \$5,000 to \$7,500. Approved by full Senate 5/2/11. To Governor for approval.

[Tennessee HB 1355](#) Provides that circuit and chancery courts shall have exclusive jurisdiction over claims filed against governmental entities, and provides that general sessions courts have concurrent jurisdiction with those courts. Approved by House Judiciary Committee 5/5/11.

Qualifications and Terms: Newly Introduced

NONE

Qualifications and Terms: Floor and Committee Activity

[Colorado HB 1302](#) Creates a program within the department of state for the purpose of providing training to judges in managing business litigation. Approved by full House 5/6/11.

[Massachusetts HB 1823 \(Constitutional Amendment\)](#) Ends tenure-under-70 for judges, allowing judges to serve for life. Rejected by Joint Committee on Judiciary 5/2/11.

[Massachusetts HB 1826 \(Constitutional Amendment\)](#) Increases mandatory retirement age from 70 to 76. Approved by Joint Committee on Judiciary 5/2/11.

[Missouri HB 889](#) Requires county municipal court judges in charter counties to meet the residency requirements and any other requirements established by a county ordinance. Approved by House Local Government Committee 4/27/11.

[New York SB 4587 \(Constitutional Amendment\)](#) Increases the mandatory retirement age for all judges and justices of the unified court system, except for justices of town and village courts, from 70 to 74. Permits justices of the supreme court and judges of the court of appeals to continue in service past the mandatory retirement age for three two year terms. (Note: in New York, "supreme court" is court of general jurisdiction). Approved by Senate Judiciary Committee 5/3/11.



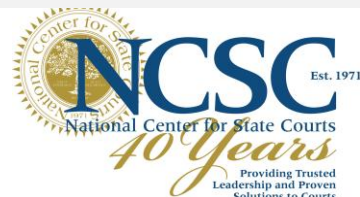
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[Texas HB 1931](#) Allows former or retired statutory probate court judges to be recalled as special judges. Approved by full House 5/5/11.

[Texas HJR 61 \(Constitutional Amendment\)](#) Increases the terms of district judges from 4 to 6 years. Provides for transition to new 6 year terms. Rejected by full House (failed to get 2/3rds vote) 5/5/11.

Rule Making Authority: Newly Introduced

NONE

Rule Making Authority: Floor and Committee Activity

[Alabama HB 199](#) Authorizes presiding circuit judge to conduct certain hearings by audio-video telecommunications. Approved by full House 5/4/11.

[Connecticut HB 6605](#) Requires Judicial Branch amend the annual attorney registration form in order to allow attorneys to indicate whether they maintain professional liability insurance or not. Requires Judicial Branch to indicate on its website the insurance status of attorneys. Approved by Joint Committee on Judiciary 5/2/11.

[Texas HB 2847](#) Permits use of video teleconferencing systems for inmate witness testimony, pleas, and other actions. Approved by full House 5/3/11.

[Vermont HB 448](#) ORIGINAL: Directs the treasurer and representatives from the judicial branch, the Vermont state employees' association, and the Vermont troopers' association meet to review and evaluate the Vermont state employees' member contribution rate structure. AMENDED: Removes any mention of review and evaluation. Approved with Senate amendment by full Senate 5/2/11. House concurs with Senate amendment 5/3/11. To Governor for approval.

Salary and Budget: Newly Introduced

[Iowa HSB 247](#) Provides for 2% increases to certain salaries within the judicial branch. Prohibits issuance of bonus pay for judicial branch and other state employees. In House Appropriations Committee.

[Iowa SSB 1211](#) Provides for 2% increases to certain salaries within the judicial branch. Prohibits issuance of bonus pay for judicial branch and other state employees. In Senate Appropriations Committee.

[Minnesota HB 1647](#) Revises judicial and other state employee retirement plans statutory salary scale and payroll growth actuarial assumptions. In House Government Operations and Elections Committee.

[Minnesota SB 1369](#) Revises judicial and other state employee retirement plans statutory salary scale and payroll growth actuarial assumptions. In Senate State Government Innovation and Veterans Committee.

[New York AB 7325](#) Allows for a justice court to use money collected through a surcharge to provide for additional security equipment and personnel. In Assembly Judiciary Committee.

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[New York SB 5177](#) Allows for a justice court to use money collected through a surcharge to provide for additional security equipment and personnel. In Senate Judiciary Committee.

[North Carolina HB 927](#) Adjusts retirement benefits for those becoming judges/justices or court employees after August 1, 2011. In House Committee on State Personnel.

Salary and Budget: Floor and Committee Activity

[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 full House 5/2/11. Approved by full Senate 5/3/11. To Governor for approval.

[Florida HB 5405](#) CONFERENCE REPORT: Redirect moneys generated from filing fees from the state courts' Mediation and Arbitration Trust Fund to the State Courts Revenue Trust Fund. Provides moneys credited to the trust fund include fees for trial and appellate proceedings, filing fees from any civil action, suit, or proceeding in county court, clerk of district court filing fees, and a filing fee of \$1 on all proceedings in the circuit or county courts. House and Senate approve conference report 5/6/11. To Governor for approval.

[Florida SB 1314](#) CONFERENCE REPORT: Requires judicial branch and each state agency provide certain contract information in its Legislative Budget Request when granting a concession contract. Requires judicial branch and state agencies identify the specific appropriation in the contract that will be used to make payment for the first year of the contract with a \$5 million threshold, unless the Legislature specifically authorizes otherwise. House and Senate approve conference report 5/6/11. To Governor for approval.

[Florida SB 2116](#) CONFERENCE REPORT: Authorizes the regional conflict counsels to establish a Direct Support Organization to benefit the offices and further their mission. Makes property title and vehicle searches for indigency determination optional by the clerk of court. Requires that payments for attorney fees in criminal conflict cases ordered by the court to be first paid from funds appropriated to the Justice Administrative Commission. Provides after those funds are exhausted, additional payments ordered by the court shall come from funds appropriated to the state court system. Requires an agreement between counties and the Statewide Guardian Ad Litem Office when counties provide staff to local Guardian Ad Litem programs. Requires the Clerks of Court Operations Corporation to collect and summarize reports to the Legislature on a local surcharge on traffic tickets used to fund court facilities. House and Senate approve conference report 5/7/11. To Governor for approval.

[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. Approved by full Senate 5/2/11. House concurs with Senate amendments 5/4/11. To Governor for approval.

[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. House concurs with Senate amendments 5/5/11. To Governor for approval.

[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. House and Senate approve conference report 5/3/11. To Governor for approval.

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[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. House concurs with Senate amendments 5/5/11. To Governor for approval.

[Hawaii SB 1073](#) AMENDED: Increases the amount of surcharges for indigent legal fees. Requires biennial review and report by fund administrator. House and Senate approve conference report 5/3/11. To Governor for approval.

[Illinois HB 3346](#) AS AMENDED: Provides that the Director of State Police may direct the use of an additional fee paid by a defendant in any felony, traffic, misdemeanor, local ordinance, or conservation case upon a judgment of guilty or grant of supervision for homeland security purposes by quarterly transferring these fees into the ILEAS Fund. Provides that, subject to the approval of the ILEAS Executive Board, the amounts transferred from the additional fees into the Fund shall be allocated as follows: (i) 66.6% for homeland security initiatives and (ii) 33.3% for airborne operations. Approved by Senate State Government and Veterans Affairs Committee 5/6/11.

[Iowa SB 533](#) AS AMENDED: Directs department of administrative services to consult with and explore opportunities with the judicial branch relative to the providing of information technology services to the branch. Provides for no increases to certain salaries within the judicial branch. Prohibits issuance of bonus pay for judicial branch and other state employees. Approved by full Senate 5/3/11.

[Kansas HB 2393](#) Eliminates longevity bonus for judicial employees and others. Rejected by House Committee of the Whole 5/6/11.

[Kansas SB 97](#) ORIGINAL: Extends the Judicial Branch surcharge through FY 2012. AMENDED: Same, but defers increase in Court of Appeals to 13 judges until 2012 and to 14 judges until 2013. Increases the Judicial Branch Surcharge 25% in FY 2012. Approved as amended by full House 4/29/11. Senate concurs with House amendments 5/4/11. To Governor for approval.

[Louisiana HB 270](#) AS AMENDED: Requires clerk or employee be employed and a member of the La. Clerks' of Court Retirement and Relief Fund for at least 12 years prior to retirement in order to elect to continue insurance coverage. Approved by full House 5/5/11.

[Louisiana HB 553](#) AS AMENDED: Requires each court having criminal jurisdiction to utilize a uniform fines and costs assessment form, approved by the supreme court, to record all fines, fees, costs, and assessments imposed on each criminal defendant. Requires the person or agency responsible for receiving these funds to distribute them monthly with an itemized detail of the source of the funds. Approved by full House 5/5/11.

[Louisiana HB 556](#) AS AMENDED: Increases the special court costs which shall be assessed from \$2 to \$3 for the implementation of an integrated juvenile justice information system. Approved by full House 5/5/11.

[Maine SB 337](#) Allows the judicial branch to contract with state agencies or private debt collection services to collect overdue fines and fees. Approved by Joint Committee on Judiciary 5/2/11.

[Missouri HB 116](#) HOUSE AMENDED: 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

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to the department by a court. SENATE AMENDED: Removes all references to above items. Approved with Senate amendment by full Senate 5/2/11.

[New Hampshire HB 150](#) AS AMENDED: Clarifies that for judicial branch employees who transfer without a break in service from the judicial branch to state service in the executive branch or the legislative branch, the rate of accrual of annual and sick leave shall be according to continuous years worked and, upon the employee's transfer, the rate of accrual shall be the rate of accrual of the receiving branch. Approved by full Senate 5/4/11. To Governor for approval.

[New Hampshire HB 299](#) ORIGINAL: Allows the annual contribution for unfunded accrued liability of the judicial retirement plan to be calculated over a 30-year period or the maximum period allowed, whichever is less. AMENDED: Same, but requires judicial plan actuary recompute various contribution rates. Approved as amended by Senate Executive Departments and Administration Committee 5/5/11.

[North Carolina SB 131](#) Expands methods for collection of court fines, fees, costs, and restitution. Permits county in which collection assistance fee is collected to retain fee, Approved by Senate Judiciary I Committee 5/2/11.

[Oklahoma HB 1010](#) AS AMENDED: Modifies provisions related to normal retirement age for members entering the Uniform Retirement System for Justices and Judges (URSJJ) on or after January 1, 2012. Eliminates the provision whereby a member with 8 years of judicial service may retire when the sum of their age and years of service equals or exceeds 80. Decreases the multiplier used to calculate the retirement benefit for members entering URSJJ on or after January 1, 2012 from 4% to 2%. House concurs with Senate amendments 5/3/11. 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. House concurs with Senate amendments 5/3/11. To Governor for approval.

[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 full House 5/4/11.

[Texas HB 3790](#) 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 full House 5/9/11.

[Texas SB 1059](#) Expands existing program for collection of court costs, fees, and fines to all counties (currently applies only in counties with population over 50,000). Approved by full Senate 5/3/11.

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[Texas SB 1582](#) Grants authority to consolidate any reports or publications judiciary is required to make and/or publish electronically. Encourages use of internet/email communication. Establishes that an active, former, or retired visiting judge or justice is not entitled to an amount from the state for expenses, per diem, travel, or salary that exceeds the amount authorized for those purposes by the General Appropriations Act. Establishes that a local administrative district judge is not entitled to a salary from the state that exceeds the amount authorized for that salary by the General Appropriations Act. Establishes that an active district judge is not entitled to travel expenses in an amount that exceeds the amount authorized for those expenses by the General Appropriations Act. Establishes that a judge, justice, or prosecuting attorney is not entitled to an amount from the state for a salary, a salary supplement, office expenses or reimbursement of office expenses, or travel that exceeds the amount authorized for those purposes by the General Appropriations Act. Establishes that a county is not entitled to state contributions for salaries or supplements under provisions of law relating to statutory and constitutional county courts in an amount that exceeds the amounts appropriated for those purposes in the General Appropriations Act. Establishes that the judicial and court personnel training fund is an account in the general revenue fund, rather than created in the state treasury, and limits the appropriation of money in the fund to the Texas Court of Criminal Appeals for the uses authorized under law. Removes a requirement that the court of criminal appeals administer such money and a requirement that, at the end of each state fiscal year, any unexpended balance in the fund in excess of \$500,000 be transferred to the general revenue fund. Approved by full Senate 4/29/11.

[Texas SB 1811](#) Establishes that the judicial and court personnel training fund is an account in the general revenue fund, rather than created in the state treasury, and limits the appropriation of money in the fund to the Texas Court of Criminal Appeals for the uses authorized under law. Removes a requirement that the court of criminal appeals administer such money and a requirement that, at the end of each state fiscal year, any unexpended balance in the fund in excess of \$500,000 be transferred to the general revenue fund. Approved by full Senate 4/29/11.

[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. Approved by full Senate 5/3/11. Approved by House Ways and Means Committee 5/5/11.

Selection: Newly Introduced

[New York SB 5190 \(Constitutional Amendment\)](#) Allows for recall elections for judges. In Senate Judiciary Committee.

Selection: Floor and Committee Activity

[California AB 126](#) AS AMENDED: Requires each member of the designated agency of the State Bar responsible for evaluating judicial candidates to complete a minimum of two hours of training annually in the areas of fairness and bias in the judicial appointments process. Requires the governor to post on his or her official website the names of all persons, except employees of the governor, for whom the governor or his or her representatives have provided judicial application materials on candidate(s) for judicial office for purposes of determining whether the application should be submitted to the State Bar for evaluation or the candidate should be appointed following evaluation by the State Bar. Requires the State Bar and the Administrative Office of the Courts (AOC), with respect to statewide demographic data on all judicial applicants and on justices and judges, to use specified ethnic and racial categories, as defined for the 2010 U.S. Census. Approved as amended by Assembly Judiciary Committee 5/3/11.

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[Connecticut SB 1010](#) Transfers Judicial Selection Commission to Executive Branch's the Department of Administrative Services (DAS). Provides commission "shall have independent decision-making authority." Provides DAS is to provide staff support for the commission. Reported Out of Legislative Commissioners' Office 5/5/11.

Structure Changes: Newly Introduced

NONE

Structure Changes: Floor and Committee Activity

[California AB 201](#) Authorizes superior courts to develop and implement veterans courts. Approved by full Assembly 5/5/11.

[Massachusetts HB 3395](#) Reorganizes state's judicial system. Alters numerous powers of chief justice of the trial court, chief administrative justice(s), court administrator(s), chief justice for administration and management, supreme judicial court, etc. Approved by Joint Committee on Judiciary 5/5/11.

[Texas HB 984](#) Allows municipalities contiguous to one another to establish concurrent jurisdiction of their municipal courts. Approved with Senate amendments by full Senate 5/5/11. House concurs with Senate amendments 5/6/11. To Governor for approval.

Other: Newly Introduced

[Maine HB 1132](#) Provides that if a county elects to have its court security services provided by its qualified deputy sheriffs, the State Court Administrator shall contract with that county sheriff's office for the performance of court security related functions and services. In Joint Committee on Judiciary.

[Missouri HB 3102](#) Articles of impeachment against St. Louis Circuit Judge John A. Ross for his decision(s) in *Buchek v. Washington*, et.al. and related cases. In House (no committee).

[North Carolina HB 900](#) Establishes Courts Commission to study organization of state's judiciary, focusing on the sentencing, workloads, case backlogs, and other issues relevant to the effective and efficient administration of justice and determine whether the current organization and operation of the State court system is in need of revision or adjustment in order to better serve the interests of justice. In House Committee on Rules, Calendar, and Operations of the House.

[Ohio HB 216](#) Requires random assignment of cases where there multiple judges in a court or division of a court. In House Judiciary & Ethics Committee.

[Texas HB 1921](#) Requires Department of Information Resources develop, host, and manage all software for all state agencies and courts. In House Government Organization Committee.

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Other: Floor and Committee Activity

[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 Senate Judiciary Committee 5/2/11.

[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. Approved by Senate Governance & Finance Committee 5/4/11.

[Colorado HB 1282](#) ORIGINAL: 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. AMENDED: Same, but adds member of press and general public to advisory board. Specifies the reason for public access is "so that the public is able to monitor the conduct of the judicial branch of government." Rejected by Senate Committee on Judiciary 5/4/11.

[Delaware HB 64](#) Provides for courts in state "Law clerks hold major, non-tenured advisory positions for the [judges/justices of courts]. The [court] may appoint and remove at pleasure such judicial law clerks as shall be necessary for the proper operation of the Court." Approved by House Judiciary Committee 5/4/11.

[Florida HJR 7111 \(Constitutional Amendment\)](#) AS AMENDED: Selection: Retains judicial nomination commissions but requires for Supreme Court justices only nominees selected by the governor be subject to senate confirmation. Rule Making: Allows legislature able to repeal any rule adopted by the Supreme Court by a majority vote (currently, requires two-thirds of legislature). Allows court to readopt the rule, so long as it was in conformance with the expressed policy expressed in the repeal bill or resolution. Provides if rule is repealed a second time, the Supreme Court could not readopt it without legislative permission. Other: Removes the power of the Supreme Court and District Courts of Appeal to name its Clerks and Marshals. Removes the Governor's power to ask the judicial qualifications commission for all information investigations/complaints against judges. Provides commission would still be obligated to turn such information over, on request, to the House of Representatives. provides all information so turned over would remain confidential during any investigation and until such information is used in the pursuit of any impeachment. Approved with Senate amendment by full Senate 4/12/11. House concurs with Senate amendment 5/3/11. To appear on November 2012 ballot.

[Florida SB 1398](#) Repeals statutes related to regular terms of court for the Florida Supreme Court, compensation of the Florida Supreme Court marshal, commissions for taking a census of the population of judicial circuits, term of the circuit courts, a judge's attendance at the first day of a term, a judge's stated reason for nonattendance, the penalty for nonattendance of a judge, adjournment of court upon nonattendance of a judge, calling the docket at end of a term, identification of the sheriff as the executive officer of the circuit court, requiring the clerk of circuit court, or his or her deputy clerk, to reside at the county seat or within two miles of the county seat, regular terms of court for the district courts of appeal, compensation of the marshals for the district courts of appeal, and guardians of incapacitated world war veterans. Approved by full Senate 5/5/11.

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[Florida SB 170](#) 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 full House 5/4/11. To Governor for approval.

[Hawaii SB 11](#) ORIGINAL: 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. AMENDED: Creates a task force to determine whether a new Department of the Sheriff is needed, and if its establishment is feasible and needed, to begin the planning process. Senate concurs with House amendments 4/29/11. To Governor for approval.

[Kansas HB 2396](#) Abolishes the commission on judicial performance. Approved by House Committee on Appropriations 5/2/11.

[Maine HB 531](#) ORIGINAL: Specifies duties of sheriff include court services. AMENDED: Removes language regarding court services/duties of sheriff. Approved as amended by full House 5/5/11.

[Missouri HB 111](#) HOUSE AMENDED: 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. Increases from 75 to 78 mandatory retirement age for municipal judges. Requires city, county, or the State of Missouri to pay civil filing fee if they are the prevailing party in case (currently, not required to pay, win or lose). SENATE AMENDED: Removes all references to above items. Approved with Senate amendments by Senate Judiciary and Civil and Criminal Jurisprudence Committee 5/5/11.

[Missouri SB 60](#) AS AMENDED: 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. Requires city, county, or the State of Missouri to pay civil filing fee if they are the prevailing party in case (currently, not required to pay, win or lose). Approved with House amendment by House Rules Committee 5/4/11. Approved by House Fiscal Review Committee 5/5/11.

[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 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 Senate 5/4/11. To Governor for approval.

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[Tennessee HB 1198](#) 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. Approved by House Judiciary Committee 5/3/11.

[Tennessee HB 2039](#) Authorizes judges who complete certain firearms training to carry a weapon in courtrooms. Approved by full House 5/2/11.

[Texas HB 2372](#) Revises laws relating to the recusal or disqualification of a statutory probate court judge and subsequent assignment of another judge. Approved by House Judiciary & Civil Jurisprudence Committee 4/28/11.

[Washington HB 1371](#) Transfers most functions of the Sentencing Guidelines Commission to the Department of Corrections and the Administrative Office of the Courts. Reapproved by House Committee on Ways & Means 5/2/11. Approved by full House 5/2/11.

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