

# Gavel to Gavel

A review of state legislation affecting the courts

Week ending May 13, 2011

Volume 5, Issue 20

## **Jurisdiction: Newly Introduced**

NONE

## **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 Finance Committee 5/9/11.

[Texas HB 1240](#) AS AMENDED: Declares ““foreign or international law or doctrine” means a law, rule, legal code, or principle of a jurisdiction outside the legal traditions of the states and territories of the United States, including international laws, that do not have a binding effect on this state or the United States...A court, arbitrator, or administrative adjudicator may not base a ruling or decision on a foreign or international law or doctrine or a prior ruling or decision that was based on a foreign or international law or doctrine.” Requires court “uphold and apply the Constitution of the United States, the constitution of this state, federal laws, and the laws of this state, including the doctrine that is derived from the First Amendment to the United States Constitution and known as the church autonomy doctrine, which in part requires courts to refrain from involvement in religious doctrinal interpretation or application.” Approved as amended by House Select Committee on State Sovereignty 5/9/11.

## **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. Postponed indefinitely by Senate Committee on State, Veterans & Military Affairs 5/11/11.

[Louisiana HCR 79](#) Urges and requests the Louisiana Supreme Court to implement mandatory continuing education for judges. Approved by full House 5/10/11.

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

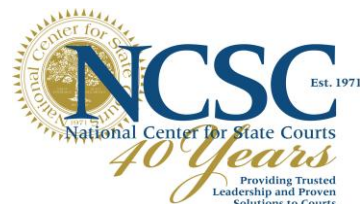
NONE



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## Rule Making Authority: Floor and Committee Activity

[California SB 326](#) AS AMENDED: Requires the Judicial Council, in consultation with stakeholder groups, and within 18 months of the date of enactment of this act, to adopt a rule of court to require courts that have fully implemented the California Case Management System to provide timely the public, to the extent possible and practicable, with same-day access to case-initiating civil and criminal court records, as defined. Approved as amended by Senate Committee on Judiciary 5/9/11.

[Ohio HB 5](#) Consolidates references to costs and fees, other than attorney fees, that apply in courts of record, generally organizes costs and fees according to the courts in which they apply, and cross-references the Revised Code sections that create the costs and fees. Requires the Ohio Judicial Conference to adjust each dollar amount set forth in the provision of law that specifies the amount of various types of property that is exempt from execution, garnishment, attachment, or sale to reflect the change in the consumer price index or other generally available comparable index. Requires the Ohio Judicial Conference to prepare a memorandum specifying those adjusted dollar amounts and to transmit that memorandum to the Director of the Legislative Service Commission who must publish that memorandum in the Register of Ohio. Allows the Ohio Judicial Conference to publish that memorandum in any other manner it concludes will be reasonably likely to inform persons who are affected by its adjustment of the dollar amounts. Approved by Senate Judiciary - Civil Justice Committee 5/12/11.

[Oklahoma HB 1234](#) Authorizes district courts to use videoconferencing between a courtroom and a correctional or juvenile detention facility to conduct proceedings. Requires a waiver from the defendant or juvenile of the right to be present in the courtroom for a hearing is prior to conducting such proceedings. Provides for the promulgation of rules and procedures by the Administrative Office of the Courts. House concurs with Senate amendment 5/11/11. To Governor for approval.

[Texas HB 1559](#) AS AMENDED: Prohibits state courts from destroying a document filed with, presented to, or produced by the court before January 1, 1951 unless allowed by rules adopted by the Texas State Library and Archives Commission. Approved by Senate Jurisprudence Committee 5/12/11.

## Salary and Budget: Newly Introduced

[Nebraska LR 210](#) Directs interim study of public employees retirement systems administered by the Public Employees Retirement Board, including Judges' Retirement System. In Senate Executive Board.

## Salary and Budget: Floor and Committee Activity

[California AB 1208](#) AS AMENDED: Requires the Legislature, based on the information submitted in the Governor's proposed budget, and prior to the allocation of funds to each local trial court in accordance with the allocation schedule adopted by the Judicial Council, to specify, in each annual Budget Act, the funding amounts to be allocated for programs of statewide concern from the total funds appropriated for trial court operations by the Legislature. Prohibits the Judicial Council, or its designee, from withholding or expending any portion of the total funds appropriated for trial court operations by the Legislature for any statewide information technology or administrative infrastructure program that was not identified in the annual Budget Act, unless the Judicial Council, or its designee, first obtains the written approval of 66 2/3% of a proportional representation of all local trial courts. Approved as amended by Assembly Committee on Judiciary 5/9/11.

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[California SB 384](#) Requires the payment of a single complex case fee on behalf of all plaintiffs in a civil case. Approved as amended by Senate Committee on Judiciary 5/9/11.

[California SB 503](#) Allows a judge to make a one-time written election, prior to retirement, to purchase service credit in the Judge's Retirement System II (JRS II) for any number of whole years a judge served as a full-time subordinate judicial officer. Approved by full Senate 5/9/11.

[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 House Appropriations Committee 5/10/11.

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

[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 full House 5/11/11. To Governor for approval.

[Michigan HB 4484](#) AS AMENDED: Provides distributions from employer contributions made under Judges Retirement Act and earnings on those contributions, and distributions from employee contributions made under Judges Retirement Act and earnings on those employee contributions would be subject to state tax, as of January 1, 2012. (Currently, they are exempt from state, county, municipal, or other local taxes.) Requires an employer to contribute four percent of salary to a participant's Tier 2 (defined contribution system) account. Allows an employee to contribute up to three percent of salary to the account and requires the employer to match the amount contributed by the employee. Approved by Senate Reforms, Restructuring and Reinventing Committee 5/12/11. Approved by full Senate 5/12/11. To Governor for approval.

[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 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 Senate Committee on Judiciary 5/9/11. Rejected by full Senate (two-thirds required) 5/11/11.

[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 full Senate 5/11/11. House does not concur with Senate amendments.

[Oklahoma HB 2174](#) Authorizes the Administrative Director of the Courts use the State Judicial Revolving Fund for all expenses related to the district courts, Court of Civil Appeals and the Supreme Court. (Currently fund is restricted to specified expenses.) Approved by full House 5/13/11.

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[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. Postponed until July by House 5/12/11.

[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 House Appropriations Committee 5/13/11.

## **Selection: Newly Introduced**

[Minnesota HB 1666 \(Constitutional Amendment\)](#) Establishes retention elections for judges. Expands terms of office from six to eight years. Creates a judicial performance commission. Commission must issue in year judge seeks retention evaluation of “well-qualified,” “qualified,” or “unqualified”. In House Government Operations and Elections Committee.

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

[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. Approved by Joint Committee on Judiciary 5/11/11.

## **Structure Changes: Newly Introduced**

NONE

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## Structure Changes: Floor and Committee Activity

[California SB 848](#) Creates 7th Court of Appeals district made up for the counties of San Bernardino, Inyo, and Riverside (i.e. 4th District, Division Two). Transfers existing judges of 4th District, Division Two to the new district. Rejected by Senate Committee on Judiciary 5/3/11.

[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 full House 5/11/11.

[Nebraska LB 699](#) Alters Supreme Court districts. Approved by Senate Redistricting Committee 5/5/11.

[Nevada SJR 14 \(Constitutional Amendment\)](#) Creates intermediate appellate court. Approved by Assembly Committee on Legislative Operations and Elections 5/11/11. Approved by full Assembly 5/13/11. Must be approved by legislature elected in 2012 to appear on ballot.

[Rhode Island SB 117](#) ORIGINAL: Redistricts state district court. Reduces number of divisions of the district court from 6 to 4. HOUSE AMENDED: Same, but alters towns/cities in each district. Approved as amended by House Judiciary Committee 5/10/11.

[Texas HB 2635](#) Redistricts First, Tenth, and Fourteenth Courts of Appeals Districts. Approved by House Judiciary & Civil Jurisprudence Committee 5/9/11.

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

## Other: Newly Introduced

NONE

## Other: Floor and Committee Activity

[Alabama SJR 122](#) Requests Congress enact legislation that adds unpaid court-ordered restitution, fines, fees, and costs to delinquent obligations that can be intercepted through the U.S. Department of Treasury Offset Program. Approved by full Senate 5/5/11.

[California AB 1102](#) For purposes of audits conducted by the State Auditor, specifies "state agency" includes the Supreme Court, a Court of Appeal, a superior court, and the Administrative Office of the Courts. Approved by Assembly Appropriations Committee 5/12/11.

[California AB 618](#) AS AMENDED: Enacts California Language Access Bill of Rights. States the intent of the Legislature to clarify the circumstances in which a person who is unable to understand English, and who is charged with a crime, has the right to a determination 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, there is good cause to question whether the continued use of the interpreter in the proceeding may prejudice the rights of any person such that it would not be in the interest of justice or efficiency for the interpreter to continue. Prohibits a noninterpreter

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staff person of the court, or the sheriff, probation department, prosecutor, jail, or corrections department of the prosecuting city or county from providing interpreter services during a proceeding. Permits the rights provided pursuant to these provisions only to be waived expressly by the person charged if the waiver is affirmatively shown to be intelligent and voluntary. Sets forth legislative findings and declarations relating to ensuring an adequate supply of court interpreters without sacrificing essential standards for certification. Approved as amended by Assembly Judiciary Committee 5/9/11.

[California AB 810](#) Authorizes the clerk of the court to employ as many foreign language interpreters as may be necessary to interpret cases in the superior court, and to translate documents as specified. Requires the clerk of the court to assign interpreters when needed to interpret in criminal and juvenile delinquency cases in the superior court, and in civil cases if an assignment can be made without causing the court to be unable to perform its obligations in criminal proceedings. Deletes the authorization for the collection of a fee, and would state that these provisions are declarative of existing law. Approved by Assembly Judiciary Committee 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 full House 5/10/11.

[Illinois HB 148](#) AS FLOOR AMENDED: Creates the Family and Personal Protection Act. Provides that the Department of State Police shall issue a license to carry a loaded or unloaded handgun to an applicant that meets specified qualifications, has provided the application and specified documentation, and has submitted the requisite fees. Provides specific, general prohibition on carrying on firearms in courthouse or any room designated a courtroom by a court. Floor amended in House 5/5/11.

[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 Senate 5/10/11. To Governor for approval.

[Minnesota HB 1607](#) Permits State Patrol to provide security and protection to Supreme Court justices for a limited period and within the limits of existing resources, in response to a credible threat on the individual's life or safety. Approved as amended by House Government Operations and Elections Committee 5/9/11.

[Minnesota SB 1283](#) Permits State Patrol to provide security and protection to Supreme Court justices for a limited period and within the limits of existing resources, in response to a credible threat on the individual's life or safety. Approved by Senate State Government Innovation and Veterans Committee 5/9/11. Approved by Senate Rules and Administration Committee 5/9/11.

[Nebraska LB 17](#) AS AMENDED: Changes provisions with respect to record on appeal or judgment. Permits clerk to make record from either papers or via state's electronic case management system. Requires such electronic documents meet permanency standards prescribed by the State Records Administrator. Defines complete record as including documents “maintained either in paper form or on the state's electronic case management system and either paper or microfilm”. Approved by full Senate 5/11/11. To Governor for approval.

[Nebraska LB 669](#) AS AMENDED: Expands supreme court's options for funding sources from which to compensate interpreters used by the court. 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. Provides for the creation of the new position of Judicial Hearing Officer. Authorizes Supreme Court

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to appoint judicial hearing officer(s) as needed in county courts sitting as separate juvenile courts or separate juvenile courts to preside in, hear and determine cases initiated under the juvenile code. Provides greater flexibility for scheduling the administrative offices of the courts by requiring that court services must be available on all days except weekends, the holidays mentioned in statute and those days specifically designated by the Supreme Court. Repeals statute providing for divisions of a county court to be at a location other than the county seat and required certain cases to be filed with the county court clerk in the county seat. Approved as amended by Senate Judiciary Committee 5/9/11.

[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 Senate 5/10/11. To Governor for approval.

[New York AB 7629](#) Establishes the chief administrator of the courts shall submit annually a report on the administration, function and effectiveness of the Drug Treatment Court Program during the preceding year. In Assembly Judiciary Committee.

[New York SB 2143](#) Establishes the crimes of menacing, assault and aggravated assault on a judge or a district attorney. Amended on Senate floor 5/9/11.

[New York SB 464](#) Establishes the crime of aggravated harassment of court officers, law enforcement, and others. Approved by Senate Codes Committee 5/10/11.

[Texas HB 1754](#) AS AMENDED BY SENATE: 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 with Senate amendment by Senate Criminal Justice Committee 5/12/11.

[Texas HB 3475](#) Authorizes a party in a hearing or trial in a municipal court, including a municipal court of record, to file with the clerk of the court a motion stating grounds for the recusal or disqualification of the municipal judge. Requires separate judge hear motion. Approved by full House 5/11/11.

[Texas HB 720](#) Requires Office of Court Administration post online list of all persons declared vexatious litigants. Approved by full House 5/13/11.

[Texas SB 1242](#) Provides magistrates enjoy same judicial immunity as judges. Approved by full House 5/13/11. To Governor for approval.

[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

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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 House Judiciary & Civil Jurisprudence Committee 5/5/11.

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