

# Gavel to Gavel

A review of state legislation affecting the courts

Week ending April 29, 2011

Volume 5, Issue 18

## Jurisdiction: Newly Introduced

[Wisconsin AB 101](#) Increases small claims jurisdiction from \$5,000 to \$10,000. In Assembly Judiciary and Ethics Committee

## Jurisdiction: Floor and Committee Activity

[Hawaii HB 1333](#) CONFERENCE COMMITTEE AMENDED: Increases small claims jurisdiction from \$3,500 to \$5,000. Approved by conference committee 4/29/11.

[Missouri SB 308](#) Defines ““foreign law, legal code, or system” means any law, legal code, or system of a jurisdiction outside of any state or territory of the United States, including but not limited to, international organizations and tribunals, and applied by that jurisdiction's courts, administrative bodies, or other formal or informal tribunals...Any court, arbitration, tribunal, or administrative agency ruling or decision shall violate the public policy of this state and be void and unenforceable if the court, arbitration, tribunal, or administrative agency bases its rulings or decisions in the matter at issue in whole or in part on any foreign law, legal code, or system that would not grant the parties affected by the ruling or decision the same fundamental liberties, rights, and privileges granted under the United States and Missouri constitutions.” Approved by Senate Judiciary and Civil and Criminal Jurisprudence Committee 4/28/11.

[Nevada AB 261](#) AS AMENDED: Increases small claims cases from \$5,000 to \$7,500. Approved by Senate Committee on Judiciary 4/27/11.

[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, General Subcommittee 4/27/11.

## Qualifications and Terms: Newly Introduced

[Wisconsin AB 101](#) Requires a municipal judge to be a licensed Wisconsin attorney. In Assembly Judiciary and Ethics Committee

## 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 House Committee on Judiciary 4/26/11. Approved by House Committee on Appropriations 4/29/11.



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[Florida SJR 140 \(Constitutional Amendment\)](#) AS AMENDED: Increases to 8 years the period of time that a person must be a member of The Florida Bar before becoming eligible for the offices of circuit court (currently, 5 years) or county court (currently, need only be bar member) judge. Allows any judge serving as of January 9, 2013 (effective date of amendment, if approved) to remain and be re-elected to the same office. Approved as amended by Senate Budget Committee 4/26/11.

[Indiana SB 463](#) Repeals or otherwise removes all provisions that establish a mandatory retirement age for superior court and county court judges. House and Senate concur in conference report 4/28/11. To Governor for approval.

[Oregon SJR 14 \(Constitutional Amendment\)](#) ORIGINAL: Provides person serving as an Oregon judge may be employed by the Oregon National Guard for the purpose of performing military service or may be employed by the State Board of Higher Education or a school board for the purpose of teaching, and the employment does not prevent the person from serving as a judge. AMENDED: Drops references to national guard/military service. Approved as amended by Veterans' and Military Affairs Committee 4/22/11.

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

[Minnesota HB 1568](#) Removes all judges and lawyers from the state's judicial disciplinary board (the Board on Judicial Standards). Replaces Board with 4 House and 4 Senate members. Strips the Supreme Court of the power to suspend temporarily a judge during an investigation and transfers it to the Board exclusively. Strips the Supreme Court of the power to "retire" permanently a judge and transfers it to the Board exclusively. Allows the newly constituted Board to open any prior complaint against any judge "for any reason." Gives the Board the power to enforce a new Code of Judicial Conduct. Establishes a new, statutory, Code of Judicial Conduct. In House Judiciary Policy and Finance Committee.

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

[Florida SJR 2084 \(Constitutional Amendment\)](#) ORIGINAL: Reduces from two-thirds to three-fifths the vote threshold required for the Legislature to enact a law repealing a rule of court and to prohibit the Supreme Court from readopting a rule repealed by the Legislature for a prescribed period. AMENDED: See [Florida HJR 7111](#). Replaced by HJR 7111 4/28/11.

[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. Approved with Senate amendment by full Senate 4/26/11. To House to concur with Senate amendment.

[Tennessee HB 1363](#) Provides that rules adopted by the court of the judiciary may not be inconsistent or in conflict with the statutory provisions establishing the court. Approved by House Judiciary Committee, General Subcommittee 4/27/11.

[Tennessee HB 1366](#) Changes burden of proof necessary to cause investigation of a judge for misconduct from a reasonable person believing there is a substantial probability that misconduct occurred to probable cause that the misconduct occurred. Approved by House Judiciary Committee, General Subcommittee 4/27/11.

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[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 full House 4/26/11.

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

NONE

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

[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 Senate Budget Committee 4/25/11.

[Indiana HB 1004](#) Requires creation of website that lists all state and local expenditures and fund balances, include the judicial branch and courts. House and Senate concur in conference report 4/29/11. 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 as amended by House Judiciary Committee 4/28/11.

[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 as amended by House Judiciary Committee 4/28/11.

[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 as amended by House Judiciary Committee 4/28/11.

[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 House Committee on Tax Policy 4/27/11. Approved by full House 4/28/11.

[Nevada AB 276](#) Requires State Controller post all expenditures and revenues of the state "including, without limitation, the operation of the courts of this State." Approved by full Assembly 4/26/11.

[Nevada SB 436](#) Transfers the responsibility to deposit certain money for the purpose of paying pension benefits to justices of the Supreme Court or district judges from the State of Nevada to the Court Administrator. Approved by Senate Committee on Finance 4/26/11. Approved by full Senate 4/26/11.

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[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 Senate Executive Departments and Administration Committee 4/28/11.

[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%. Approved by full Senate 4/26/11. To House to concur with Senate amendments.

[Oklahoma HB 1415](#) Requires the Attorney General, instead of the Supreme Court and the Administrative Director of the Courts, to oversee the Legal Services Revolving Fund. Approved by full Senate 4/25/11. To Governor for approval.

[Oregon HB 3525](#) AS AMENDED: Establishes Courthouse Capital Improvement Trust Fund. Appropriates moneys in the account to Oregon Department of Administrative Services, and limit uses of those moneys to payment of costs of capital improvements to county courthouses. Provides that 10 percent of amount awarded as punitive damages under verdict in civil action is payable to Attorney General for deposit in Courthouse Capital Improvement Trust Fund. Approved by House Judiciary Committee 4/28/11.

[Oregon HB 2653](#) AS AMENDED: Expands collection mechanisms that Collections Unit of Department of Revenue may use to collect judgments in criminal actions assigned to unit by justice courts. Provides that justice court assigning judgments to Collections Unit that will be subject of expanded collection mechanisms must submit report to Legislative Fiscal Office each fiscal year that describes status of justice court's liquidated and delinquent accounts, and efforts made by court to collect liquidated and delinquent accounts during previous fiscal year. Approved by House Judiciary Committee 4/28/11.

[Oregon SB 488](#) Increases from \$100 to \$200 amount judge may charge for solemnization of marriage. Approved by Senate General Government, Consumer and Small Business Protection Committee 4/26/11. Rejected by House 4/27/11. Motion to reconsider vote approved, bill sent to Senate Rules Committee.

[Pennsylvania SB 105](#) Establishes searchable budget database-driven Internet website detailing certain information concerning State expenditures by judicial and other agencies. Approved by full Senate 4/26/11.

[Texas HB 1261](#) Increases court costs imposed on conviction and deposited to the municipal court technology fund. Approved by full House 4/26/11.

[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 4/29/11.

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[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 Senate Criminal Justice Committee 4/27/11.

[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 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 Senate Finance Committee 4/26/11.

## **Selection: Newly Introduced**

NONE

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

[Florida SB 2170](#) Provides for the Attorney General, rather than the Board of Governors of The Florida Bar, to submit nominees for certain positions on judicial nominating commissions. Provides for the termination of terms of all current members of judicial nominating commissions. Provides for staggered terms of newly appointed members. Approved by Senate Judiciary Committee 4/25/11. Approved by Senate Rule Committee 4/27/11.

[Nevada AB 81](#) Increases filing fees to run for judicial and other offices. Provides for placement of supreme court candidates on ballot. Approved as amended by Assembly Committee on Legislative Operations and Elections 4/26/11. Approved by full Assembly 4/26/11.

[Tennessee SJR 183 \(Constitutional Amendment\)](#) Unequivocally authorizes the general assembly, by statute, to establish a system of merit-based appointments with retention elections for appellate court judges. Approved by Senate Judiciary Committee 4/26/11.

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## Structure Changes: Newly Introduced

[Louisiana HR 13](#) Requests the House Committee on House and Governmental Affairs to review the issue of the redistricting of courts particularly as it relates to the domicile and residency requirements of judges and judicial candidates. In House Committee on House and Governmental Affairs.

[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. In Joint Committee on Judiciary.

[Nebraska LB 699](#) Alters Supreme Court districts. In Senate Redistricting Committee.

## Structure Changes: Floor and Committee Activity

[Indiana HB 1153](#) Expands the types of persons that may participate in court established alcohol and drug services programs. Establishes procedures to be used by a problem solving court to terminate an individual's participation in a problem solving court program. Specifies that a city or town user fee fund or county user fee fund includes problem solving court fees collected by the clerk of the court. House concurs with Senate amendments 4/26/11. To Governor for approval.

[Rhode Island SB 117](#) Redistricts state district court. Reduces number of divisions of the district court from 6 to 4. Approved by full Senate 4/28/11.

[Texas HB 984](#) Allows municipalities contiguous to one another to establish concurrent jurisdiction of their municipal courts. Approved with Senate amendments by Senate Jurisprudence Committee 4/27/11.

## Other: Newly Introduced

[Alabama SB 448](#) 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 Committee on Judiciary.

[Louisiana HB 14](#) Allows judges and justices of federal courts domiciled in state to carry firearms at the same times and places as state judges. In House Committee on Administration of Criminal Justice.

[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. In House Government Operations and Elections Committee.

[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. In Senate Transportation Committee.

[South Carolina SB 852](#) Requires magistrate and municipal courts dispose of criminal cases within 6 months of arrest. In Senate Committee on Judiciary.

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## Other: Floor and Committee Activity

[Alabama SB 146](#) Creates crime of threatening harm or violence against a judicial system officer or employee or his or her immediate family. Allows the death penalty to be imposed upon a person who commits murder of a judicial system officer or employee or his or her immediate family under certain conditions. Includes threatening harm or violence against a judicial system officer or employee as an aggravating circumstance relating to a capital offense. Approved by House Judiciary Committee 4/27/11.

[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 Business, Professions and Consumer Protection Committee 4/26/11.

[Florida HB 1379](#) Repeals provisions relating to regular terms of Supreme Court and circuit courts. Allows Supreme Court to set terms of court for Supreme Court, district courts of appeal & circuit courts. Approved by House Judicial Committee 4/21/11.

[Indiana HB 1266](#) Makes numerous changes to laws related to judiciary. Changes the expiration date of the commission on courts from June 30, 2011, to June 30, 2015. Provides that all circuit courts, superior courts, and probate courts have: (1) original and concurrent jurisdiction in all civil cases and in all criminal cases; (2) de novo appellate jurisdiction of appeals from city and town courts; and (3) in Marion County, de novo appellate jurisdiction of appeals from township small claims courts. Makes conforming amendments. Repeals the law concerning the establishment and operation of county courts. (Since January 1, 2009, no county court exists in Indiana.) Makes conforming amendments. Repeals or otherwise removes all provisions that establish a mandatory retirement age for superior court and county court judges. Makes conforming amendments. Establishes a unified circuit court for Clark County by combining the current judge of the Clark circuit court and the three judges of the Clark superior court into a unified circuit court with four judges. Specifies that the Clark superior court judges serving on December 31, 2011, serve as judges of the unified circuit court beginning January 1, 2012. Transfers all cases and other matters pending in the Clark superior court at the close of business on December 31, 2011, to the unified circuit court on January 1, 2012. Repeals provisions concerning the establishment and operation of the Clark superior court. Establishes a unified circuit court for Madison County by combining the current judge of the Madison circuit court and the five judges of the Madison superior court into a unified circuit court with six judges. Specifies that the Madison superior court judges serving on June 30, 2011, serve as judges of the unified circuit courts beginning July 1, 2011. Transfers all cases and other matters pending in the Madison superior court at the close of business on June 30, 2011, to their respective circuit courts on July 1, 2011. Repeals provisions concerning the establishment and operation of the Madison superior court. Establishes a unified circuit court for Henry County by combining the current judge of the Henry circuit court and the two judges of the Henry superior court into a unified circuit court with three judges. Specifies that the Henry superior court judges serving on June 30, 2011, serve as judges of the unified circuit court beginning July 1, 2011. Transfers all cases and other matters pending in the Henry superior court at the close of business on June 30, 2011, to the circuit court on July 1, 2011. Repeals provisions concerning the establishment and operation of the Henry superior court. Provides for the four judges of the Lake superior court county division to be: (1) nominated by the Lake County superior court judicial nominating commission and appointed by the governor; and (2) subject to the question of retention or rejection by the Lake County electorate every six years. (Current law provides that the judges of the Lake superior court county division are elected by the electorate of Lake County every six years.) Repeals provisions concerning elected

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judges of the county division. Makes conforming amendments. House concurs with Senate amendments 4/25/11. To Governor for approval.

[Missouri SB 90](#) 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 Judiciary Committee 4/20/11.

[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 as amended by Senate Judiciary Committee 4/28/11.

[Oregon HB 2691](#) AS AMENDED: Streamlines consolidation of probation violation proceedings. Allows Chief Justice to designate any circuit court judge to serve as acting presiding judge. Allows Chief Justice to establish reasonable subscription fees, and other user and transaction fees, for remote access to case information, and other Judicial Department forms, reports and services, that are available in electronic form. Provides for mandatory participation in appellate mediation program and imposition of fees by Court of Appeals for mediator's services. Authorizes offsetting debt imposed by state courts with amounts owed to debtor by state or federal agency or state or federal tax refunds. Approved as amended by House Judiciary Committee 4/27/11.

[Oregon HB 3102](#) Transfers authority over court appointed special advocates and CASA Volunteer Programs from State Commission on Children and Families to judicial branch. Approved as amended by House Human Services Committee 4/25/11.

[Oregon SB 360](#) ORIGINAL: Repeals obsolete provision relating to jury trials in county courts. AMENDED: Provides that prohibition on justice of the peace district including portion of city that is county seat, or portion of city in which circuit court regularly holds court, does not prevent justice of the peace from conducting arraignment for person in custody in city if accusatory instrument for offense was filed in justice court and offense was committed within boundaries of justice of the peace district. Approved as amended by Senate Judiciary Committee 4/29/11.

[Pennsylvania HB 1026](#) Allows retired or senior judges to take oaths. Approved by House Judiciary Committee 4/26/11.

[Pennsylvania SB 104](#) Requires judiciary and other agencies/branches list online all those issued state owned cars. Approved by Senate Appropriations Committee 4/26/11.

[Rhode Island SB 738](#) Adds a representative from the traffic tribunal to the commission on judicial tenure and discipline. Approved by Senate Judiciary Committee 4/28/11.

[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

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counsel must retain a special counsel to investigate any such complaint. Approved by House Judiciary Committee, General Subcommittee 4/27/11.

[Tennessee HB 1362](#) Provides that if complaint filed against a judge and the judge is not reelected, resigns or retires before disposition of the complaint, the court of the judiciary must make the complaint and allegations contained therein public. Approved by House Judiciary Committee, General Subcommittee 4/27/11.

[Texas HB 1771](#) Creates Specialty Courts Advisory Council in the governor's criminal justice division to assist with the review and prioritization of grant applications from specialty courts. Approved by full House 4/26/11.

[Texas HB 3443](#) Provides magistrates enjoy same judicial immunity as judges. Approved by House Judiciary & Civil Jurisprudence Committee 4/14/11.

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