

Gavel to Gavel

A review of state legislation affecting the courts

Week ending June 10, 2011

Volume 5, Issue 24

Jurisdiction: Newly Introduced

NONE

Jurisdiction: Floor and Committee Activity

[Maine HB 757](#) Transfers the jurisdiction over traffic infractions from the District Court to the Secretary of State, effective January 1, 2014. Rejected by Joint Committee on Judiciary 6/8/11. Rejected by full House 6/10/11.

Qualifications and Terms: Newly Introduced

NONE

Qualifications and Terms: Floor and Committee Activity

[New Hampshire HB 511](#) AS AMENDED: Clarifies that retired judges over 70 years of age shall not serve as judges in any judicial capacity except as judicial referees. House concurs with Senate amendment 6/8/11. To Governor for approval.

Rule Making Authority: Newly Introduced

NONE

Rule Making Authority: Floor and Committee Activity

[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 full Senate with Senate amendment 6/7/11. House concurs with Senate amendment 6/8/11. To Governor for approval.



ADVANCED GOVERNMENT SOLUTIONS
Intelligence Analysis Investigative Screening & Identity Verification Research Case Management Digital Asset Management

Legislative tracking provided by LexisNexis

Indicates featured legislation



Salary and Budget: Newly Introduced

[Pennsylvania SB 1074](#) Suspends for 2012 and 2013 automatic cost of living adjustments for judicial and other salaries. In Senate State Government Committee.

Salary and Budget: Floor and Committee Activity

[Alabama HB 414](#) CONFERENCE COMMITTEE REPORT: Reduces employer contribution rates into the Judicial Retirement Fund (JRF). Provides for all pay dates beginning on or after October 1, 2011, the contribution to be paid by the justices and judges shall be eight and one-quarter percent (8.25%) of their salary. For all pay dates beginning on or after October 1, 2012, the rate of contribution to be paid by the justices and judges shall be eight and one-half percent (8.5%) of their salary. Senate concurs with Conference Committee Report 6/9/11. To Governor for approval.

[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 Assembly Committee on Public Employees, Retirement and Social Security Committee 6/8/11.

[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 Senate Committee on Judiciary A 6/7/11.

[Louisiana HB 530](#) ORIGINAL: 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. AMENDED: Same but removes more restrictive "anti-spiking" provisions. Approved as amended by full House 6/6/11.

[Louisiana HB 553](#) ORIGINAL: 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. AS AMENDED BY SENATE: Removes all references to uniform fines and costs assessment form. Approved with Senate amendment by full Senate 6/8/11.

[Nevada AB 259](#) Transfers fees collected for transfer of cases between courts and recording of documents to legal services programs. Approved by full Senate 6/6/11. Assembly concurs with Senate amendment 6/8/11. To Governor for approval.

[North Carolina HB 927](#) Adjusts retirement benefits for those becoming judges/justices or court employees after August 1, 2011. Approved by House Committee on State Personnel 6/8/11. Approved by full House 6/9/11.

[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 Committee on Finance 6/8/11. Approved by full Senate 6/8/11.

Indicates featured legislation

Subscribe: <http://www.ncsc.org/newsletters>

Online: www.ncsconline.org/D_Research/gaveltogavel/

All or any parts of *Gavel to Gavel* may be reproduced and distributed, for nonprofit educational purposes, with attribution to the National Center for State Courts, Research Division.

[Texas HB 30 \(Special Session\)](#) Authorizes and permits unpaid furlough days for any "Agency" within judicial or other branches. Approved as amended by House Government Efficiency and Reform Committee 6/6/11.

[Texas SB 1 \(Special Session\)](#) Changes the classification of the Judicial and Court Personnel Training Fund to a dedicated account within the General Revenue Fund. Approved by full Senate 6/3/11. Approved with House amendments by full House 6/10/11. Senate does not concur with House amendments.

Selection: Newly Introduced

[Pennsylvania HB 1634](#) Allows judicial and other candidates to get on the ballot via declaration of candidacy plus payment of fee in lieu of signature petitions. In House State Government Committee.

[Rhode Island HB 6242](#) Makes any individual whose name was publicly submitted to the governor by the judicial nominating commission, eligible for subsequent nomination by the governor until June 30, 2012. In House Judiciary Committee.

Selection: Floor and Committee Activity

[North Carolina HB 452](#) ORIGINAL: Ends public financing for judicial races. Eliminates instant runoff voting for judicial offices when late vacancies occur and replaces with win-by-plurality. AS AMENDED: Removes references to public financing repeal. Returns judicial races to partisan elections but provides straight-party voting is NOT to apply to judicial races. Alters filing fee amount for running for judicial office. Eliminates instant runoff voting for judicial offices when late vacancies occur and replaces with win-by-plurality. Approved as amended by full House 6/7/11.

[North Carolina SB 47](#) Returns judicial elections to partisan ones. Approved by Senate Judiciary I Committee 6/7/11. Approved by full Senate 6/8/11

Structure Changes: Newly Introduced

[Louisiana HCR 161](#) Urges and requests the Louisiana Supreme Court to conduct an examination of the court system in this state to determine if the existing structure of the judiciary is the most appropriate use of judicial resources, to develop a formula the legislature may use in determining the appropriate number of judges in each geographic region in this state, and to report its findings and recommendations to the legislature prior to February 1, 2012. In House Committee on Judiciary.

Structure Changes: Floor and Committee Activity

[Louisiana HCR 143](#) ORIGINAL: Requests that the Supreme Court conduct a comprehensive study of the caseload data and the number of judges of each appellate court, district court, parish court, city court, mayor's court, and justice of the peace court in Louisiana to determine changes necessary to the existing structure of the judiciary to provide the most efficient use of judicial resources and to report its findings and recommendations to the legislature prior to Feb. 15, 2012. Approved as amended by full House 6/9/11.

Indicates featured legislation

Subscribe: <http://www.ncsc.org/newsletters>

Online: www.ncsconline.org/D_Research/gaveltogavel/

All or any parts of *Gavel to Gavel* may be reproduced and distributed, for nonprofit educational purposes, with attribution to the National Center for State Courts, Research Division.

[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. Approved by House Committee on House and Governmental Affairs 6/8/11.

[Nevada SB 349](#) Creates community court pilot project to provide an alternative to sentencing for misdemeanor offenders. Approved by Senate Committee on Finance 6/8/11. Approved by full Senate 6/8/11.

[North Carolina HB 112](#) Partial realignment of superior court districts. Approved by Senate Committee on Judiciary I 6/9/11.

Other: Newly Introduced

[Delaware SB 116](#) Grants bailiffs, judicial assistants and court security officers powers incident to a peace officer exercisable in any courthouse or property maintained or used as a courthouse within the state. In Senate Judiciary Committee.

[South Carolina SB 4357 \(Constitutional Amendment\)](#) Modifies the prohibition on public officers gambling or betting on games of chance. Provide an exception that allows participation in lotteries conducted by the State of South Carolina by most judges and other officeholders. Restriction would remain on supreme court and court of appeals judges and other specified officials. In House Judiciary Committee.

[New York SB 5635](#) Specifies courts and types of actions in which pilot programs will be authorized to permit use of electronic means to commence an action or special proceeding. In Senate Judiciary Committee.

Other: Floor and Committee Activity

[California AB 102](#) ORIGINAL: Requires Judicial Council report on California Case Management System annually until the completion and full implementation of the project. Requires Council hire outside reviewer to examine program. Creates California Judicial Branch Contract Law, which would apply specified provisions of the Public Contract Code applicable to state agencies and departments to specified contracts initially entered into or amended by judicial branch entities, as defined, on or after October 1, 2011, as provided. Requires contracts to be subject to review by the Bureau of State Audits and all administrative and infrastructure information technology projects of the Judicial Council to be subject to review by the California Technology Agency, as specified. Requires Judicial Council audits of trial courts determine compliance with the California Judicial Branch Contract Law. Keeps \$40 fine in criminal proceedings for court security in place until 2013 when it would be reduced to \$30. Deletes provisions allowing for additional decrease to \$20 in future. AS AMENDED: Removes all reference to courts and judiciary and replaces with Healthy Families Program and Medi-Cal changes. Approved with Senate amendment by full Senate 6/10/11. To Assembly to concur with Senate amendment.

[California AB 116](#) Requires report on judicial procurements to be submitted by Judicial Council to the Joint Legislative Budget Committee also be made to the State Auditor. AS AMENDED: Requires commencing no earlier than July 1, 2011, and no later than December 15, 2012, the State Auditor establish a pilot program to audit 6 trial courts, and based on the results of the pilot program, on or before December 15, 2013, commence audits of all trial courts, as provided. Requires that on or before December 15, 2013, and biennially thereafter, the State Auditor audit the Administrative Office of the Courts, the Habeas Corpus Resource Center, and the appellate courts. Provides

Indicates featured legislation

Subscribe: <http://www.ncsc.org/newsletters>

Online: www.ncsconline.org/D_Research/gaveltogavel/

All or any parts of *Gavel to Gavel* may be reproduced and distributed, for nonprofit educational purposes, with attribution to the National Center for State Courts, Research Division.

these audits are in lieu of statutory requirement that the State Auditor on his or her assessment of the implementation of certain contracting provisions by the judicial branch. Amended on Senate floor 6/8/11.

[Connecticut HB 6438](#) Changes numerous provisions of probate court and its operations. Provides workers' compensation coverage for probate judges. Establishes a fee structure of twenty dollars per day when an individual copies probate court records with a hand-held scanner. Permits the Probate Court Administrator to establish a fee structure for electronic access to data processing systems. Approved as amended by full Senate 6/7/11.

[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 as amended by full Senate 6/7/11.

[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. Approved by full House 6/7/11.

[Louisiana SCR 44](#) Requests the chief justice of the Louisiana Supreme Court to create a Families in Need of Services Commission that will study and issue recommendations regarding the governance, structure, target population, and necessary legislation. Approved by Senate Health & Welfare Committee 6/8/11. Approved by full Senate 6/9/11.

[Michigan SCR 15](#) Requests Michigan Supreme Court to issue an opinion on the constitutionality of the provisions of 2011 PA 38 allowing the taxation of certain pension income. Approved by full Senate 6/9/11.

[Nevada AB 195](#) AS AMENDED: Requires that, before a court record is destroyed by the Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court or a deputy clerk of a district court, the clerk must place an image of the record on microfilm or save the image in an electronic recordkeeping system. Provides a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record pursuant to a schedule for the retention and disposition of court records established by the Supreme Court without placing an image of the record on microfilm or saving the image in an electronic recordkeeping system. Details specifications for microfilm or recordkeeping systems. Approved as amended by Assembly Committee on Ways and Means 6/6/11. Approved by full Assembly 6/6/11. Approved by full Senate 6/8/11. To Governor for approval.

[New York SB 1712](#) Requires the Office of Court Administration to transmit to the Legislature and Governor, every four years starting November 1 after enactment, a report on the adequacy and allocation of judgeships among the nine state-paid trial courts. Provides such reports and their recommendations must be without regard to partisanship but based on the administration of justice in and among the courts and broader justice system, taking into consideration current and projected dockets. Provides reports would include the objective basis for any recommendations. Approved by full Senate 6/7/11.

[North Carolina HB 778](#) AS AMENDED: Provides where there is significant evidence of prosecutorial misconduct in a case, the Chair of the Innocence Commission may request the Attorney General appoint a special prosecutor (currently, Director of the Administrative Office of the Courts appoints). Approved as amended by full House 6/3/11.

[North Carolina HB 859](#) ORIGINAL: Clarifies AOC is the custodian of court records, that court records are public records and are available upon request to a third party upon payment of "reasonable" reproduction costs. Prohibits

Indicates featured legislation

Subscribe: <http://www.ncsc.org/newsletters>

Online: www.ncsconline.org/D_Research/gaveltogavel/

All or any parts of *Gavel to Gavel* may be reproduced and distributed, for nonprofit educational purposes, with attribution to the National Center for State Courts, Research Division.

withholding of records unless expressly permitted by statute. AS AMENDED: Refers issue of AOC as the custodian of court records to Legislative Research Commission. Approved as amended by House Committee on Judiciary Subcommittee A 6/8/11.

[North Carolina SB 580](#) Changes numerous provisions of law related to judiciary. Requires Director is the Administrative Officer of the Courts' annual report include the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases, the average age of pending cases, and the annual expenditures for the prior fiscal year. Permits director to Prescribe policies and procedures for the assignment and compensation of magistrates performing temporary duty outside their county of residence during an emergency. Permits director to issue photographic identification cards to appropriate Judicial Department employees and officials authorizing those employees and officials to travel to and from, enter, and work in court and court-related locations for the conduct or support of essential court operations in preparation for, during, or in the aftermath of emergency situations, including, but not limited to, catastrophic conditions. Permits director to prescribe policies and procedures and establish and operate systems for the exchange of criminal and civil information from and to the Judicial Department and local, State, and federal governments and the Eastern Band of Cherokee Indians. Permits director to transfer equipment and supply funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. Allows director to set transportation per-mile rates below those set by IRS. Approved as amended by Senate Judiciary I Committee 6/7/11. Approved by full Senate 6/8/11. Approved by House Committee on Judiciary A 6/8/11.

[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. Passed with Senate amendment by full House 6/8/11. To Governor for approval.

[Oregon SB 409](#) AS HOUSE AMENDED: Requires judge to appoint stenographic reporter for proceedings in aggravated murder trials. Requires that record of proceedings in aggravated murder trials be made by means of mechanical or electronic typing device. Requires office of State Court Administrator to pay costs of stenographic reporting services. Provides a shorthand reporter may be certified to perform stenographic reporting, voice-writing reporting or both. Approved with House amendment by House Judiciary Committee 6/8/11.

[Rhode Island HB 6026](#) Adds a representative from the traffic tribunal to the commission on judicial tenure and discipline. Approved by House Judiciary Committee 6/7/11. Approved by full House 6/9/11.

Indicates featured legislation

Subscribe: <http://www.ncsc.org/newsletters>

Online: www.ncsconline.org/D_Research/gaveltogavel/

All or any parts of *Gavel to Gavel* may be reproduced and distributed, for nonprofit educational purposes, with attribution to the National Center for State Courts, Research Division.