

# Gavel to Gavel

A review of state legislation affecting the courts

Week ending June 24, 2011

Volume 5, Issue 26

## **Jurisdiction: Newly Introduced**

NONE

## **Jurisdiction: Floor and Committee Activity**

[California SB 221](#) Increases small claims from \$7,500 (generally) to \$10,000 (generally). Approved by Senate Judiciary Committee 6/21/11.

## **Qualifications and Terms: Newly Introduced**

[New York SB 5729 \(Constitutional Amendment\)](#) Authorizes retired judges and justices to serve as justice of Supreme Court until age 80 (Note: In New York, the state's supreme court is the trial court of general jurisdiction). In Senate Rules Committee.

## **Qualifications and Terms: Floor and Committee Activity**

[New York AB 8469 \(Constitutional Amendment\)](#) Authorizes retired supreme court justices (in New York, the court of general jurisdiction is the supreme court) to serve as justice of supreme court until age 80. Provides that judges of the court of appeals need not retire until the end of the year in which they turn 80. Prohibits the appointment of any person over age 70 to the court of appeals. Replaced by SB 5827.

[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 full Senate 6/22/11.

[New York SB 5729 \(Constitutional Amendment\)](#) Authorizes retired judges and justices to serve as justice of supreme court until age 80. Approved by full Senate 6/22/11.

[New York SB 5827 \(Constitutional Amendment\)](#) Authorizes retired supreme court justices) in New York, the court of general jurisdiction is the supreme court) to serve as justice of supreme court until age 80. Provides that judges of the court of appeals need not retire until the end of the year in which they turn 80. Prohibits the appointment of any person over age 70 to the court of appeals. Approved by full Senate 6/22/11. Approved by full Assembly 6/23/11. Requires re-adoption by 2013-2014 legislature before submission to public vote.

[Ohio HJR 1 \(Constitutional Amendment\)](#) Increases judicial retirement age from 70 to 75. Approved by Senate Judiciary - Civil Justice Committee 6/23/11.



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## Rule Making Authority: Newly Introduced

NONE

## 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 by Assembly Judiciary Committee 6/21/11.

[California SB 731](#) Clarifies that the vexatious litigant statute also applies to the Courts of Appeal and that the presiding justice or presiding judge is authorized to designate another justice or judge to act on his or her behalf in exercising the authority and responsibilities under the statute. Authorizes the presiding justice or presiding judge, or his or her designee, to order the clerk to give notice of a vexatious litigant's status if the clerk mistakenly files the litigation without a pre-filing order. Permits a vexatious litigant to file an application to vacate a pre-filing order and remove his or her name from the Judicial Council's list of vexatious litigants, if certain procedural requirements are met. Approved by full Senate 6/20/11. To Governor for approval.

## Salary and Budget: Newly Introduced

[New Jersey AB 4149](#) Makes various changes to the manner in which the Judicial Retirement System (JRS) operates and to the benefits provisions of the system. In Assembly State Government Committee.

[Pennsylvania HB 1676](#) Creates new retirement system for judges and judicial employees entering service after January 2012. In House State Government Committee.

[Pennsylvania SB 1157](#) Providing for attachment of income, for State income tax intercept, and for lottery winnings intercept to pay court fees and fines. In Senate Judiciary Committee.

## Salary and Budget: Floor and Committee Activity

[California AB 973](#) AS AMENDED: Provides a trial court that proposes to close any courtroom or close or reduce hours of the clerks' office, in the required 60-day advance written notice, to include how the public may provide written comments on the court's closure or reduction plan. Requires the court to review and consider all public comments received, but does not obligate the court to provide responses to comments. Requires the court, if its closure or reduction plan changes as a result of the comments received, to immediately provide notice to the public by posting the revised plan, as provided. Provides that any change in the plan pursuant to the comments does not require additional notification. Requires each trial court, prior to adopting a budget plan for the fiscal year, to provide the public with notice of, and an opportunity for input on, the trial court's proposed budget. Requires that public input be allowed by submission of written comments, and by holding a public hearing, which must allow for public comment and must be conducted in a reasonably accessible location for residents of the county. Does not require the court to provide responses to comments received. Allows the hearing to be conducted at the county courthouse. Requires that at least 10 court days prior to the public hearing, notice of the hearing be given, as

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provided. Requires that, at least three court days prior to the public hearing, the proposed budget be made available to the public, as provided. Approved by Senate Judiciary Committee 6/23/11.

[Louisiana HB 522](#) Provides deadlines for submission of court cost proposals to the Judicial Council and provides that the review process for court costs and fees shall not apply to mayor's courts, magistrate courts, or justice of the peace courts. Approved by full Senate 6/20/11. To Governor for approval.

[Louisiana HB 553](#) CONFERENCE COMMITTEE: Requires the person or agency responsible for receiving court fines, fees, costs, assessments, and forfeitures to distribute them monthly with an itemized detail of the source of the funds. House and Senate approve conference report 6/23/11. To Governor for approval.

[Louisiana HR 149](#) Directs the state and statewide retirement systems to study the nature of irrevocable decisions in Clerks' of Court Retirement and Relief Fund and similar programs and to provide the legislature with proposals for allowing members and retirees to revoke certain elections under certain circumstances. Approved by full House 6/23/11. No further approvals required.

[New Hampshire HB 299](#) CONFERENCE COMMITTEE: 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. House and Senate approve conference report 6/22/11. To Governor for approval.

[New Jersey AB 4133](#) Makes various changes to the manner in which the Judicial Retirement System (JRS) operates and to the benefits provisions of the system. Replaced by SB 2937.

[New Jersey SB 2937](#) Makes various changes to the manner in which the Judicial Retirement System (JRS) operates and to the benefits provisions of the system. Approved by full Senate 6/20/11. Approved by full Assembly 6/23/11. To Governor for approval.

[New York AB 8007](#) Provides that any grant or gift of money to the unified court system shall be disposed of by the chief administrator of the courts in the manner provided by law. Approved by full Senate 6/16/11. To Governor for approval.

[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. Senate concurs with House amendment 6/17/11. To Governor for approval.

[Oregon HB 3525](#) 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 full House 6/23/11.

[Oregon SB 676](#) ORIGINAL: Directs Governor and Chief Justice to report to Legislative Assembly on plan to implement continuous improvement strategies. AMENDED: Directs Governor and Chief Justice to report to Legislative Assembly on plan to implement outcomes-based strategies. Approved by full House 6/20/11. To Governor for approval.

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[Pennsylvania HB 15](#) AS AMENDED: Establishes searchable budget database-driven Internet website detailing certain information concerning taxpayer expenditures and investments by judicial and other agencies. Approved as amended by Senate Finance Committee 6/22/11.

[Pennsylvania HB 61](#) Allows private collection agency to pursue fees or costs owed the court for 48 months (currently limited to 180 days). Approved by House Appropriations Committee 6/23/11. Approved by full House 6/24/11.

## **Selection: Newly Introduced**

NONE

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

[California SB 182](#) AS AMENDED: Adds gender identity and orientation to the list of demographic data provided by judicial applicants, nominees, appointees, justices, and judges required to be collected and released by the Governor, the Commission on Judicial Nominees Evaluation (JNE Commission) of the State Bar, and the Administrative Office of the Courts (AOC). Approved by Senate Judiciary Committee 6/21/11.

[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. Held for further study by House Judiciary Committee 6/22/10.

[Rhode Island SB 686](#) 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. Approved by full Senate 6/23/11.

## **Structure Changes: Newly Introduced**

NONE

## **Structure Changes: Floor and Committee Activity**

[Louisiana HCR 143](#) AS SENATE AMENDED: 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, and city court, in Louisiana to determine changes necessary to the existing structure of the judiciary to provide the most efficient use of judicial resources. Requests report of findings and recommendations regarding the courts of appeals and parish courts by February 15, 2012 and regarding the district courts and city courts by February 15, 2014. House concurs with Senate amendments 6/21/11. No further approvals required.

[Louisiana HCR 161](#) ORIGINAL: 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. AMENDED: Same, but adds diversity to the list of factors to be studied. Approved as amended by full House 6/21/11.

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[Oregon HJR 44 \(Constitutional Amendment\)](#) Redefines "judicial department" and as "judicial branch". Approved by full Senate 6/22/11. To appear on 2012 ballot.

[Rhode Island SB 738](#) Adds a representative from the traffic tribunal to the commission on judicial tenure and discipline. Approved by full House 6/22/11. To Governor for approval.

## **Other: Newly Introduced**

[Texas HCR 22 \(Special Session\)](#) Commends the members of the Texas Supreme Court for their actions in support of legal aid services and honoring them for their work in promoting access to justice for the state's most vulnerable citizens. In House Rules Committee.

## **Other: Floor and Committee Activity**

[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 Senate Judiciary Committee 6/23/11.

[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. Approved by House Judiciary Committee 6/22/11.

[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 Senate 6/19/11. To Governor for approval.

[Louisiana SCR 44](#) ORIGINAL: 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. AMENDED: specifies Commission will end December 31, 2012. Approved as amended by full House 6/21/11. Senate concurs with House amendments 6/22/11.

[New York AB 8368](#) 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. Approved by full Assembly 6/20/11. Returned to Assembly and re-passed with amendment 6/23/11. Approved by full Senate as amended 6/23/11. To Governor for approval.

[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. Replaced by AB 8368.

[North Carolina HB 773](#) Permits Legislative Research Commission to study various topics, including Designating the Director of the Administrative Office of the Courts as a Custodian of Court Records and Making Court Records Public Records and Available to Third Parties Upon Request and Payment of Reproduction Costs (HB 859/SB

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557). Permits Joint Legislative Oversight Committee on Justice and Public Safety to study various topics, including use and expansion of drug and mental health courts. Permits North Carolina Courts Commission to study various topics, including Organization of the General Court of Justice (HB 900). Directs Administrative Office of the Courts (i) study issues related to the sale of court records and how best to ensure the accuracy of the information available to the customer and to protect a citizen's right to have his or her record expunged (ii) review the State's statutes relating to a person's "criminal record" and make recommendations on defining the term "criminal record" by statute (iii) whether the State constitutional provision that the senior resident superior court judge shall appoint magistrates from nominations by the Clerk of Superior Court should continue as the method for appointment of magistrates, or whether an amendment to the State Constitution to provide for a different method would be both practical in light of the current responsibilities of officers of the court and lead to better efficiencies in the administration of justice. House declined to concur with Senate amendments 6/18/11. Conference committee appointed.

[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. Senate does not concur with House amendment 6/17/11. Conference committee appointed

[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 Ways and Means Committee 6/24/11.

[Pennsylvania HB 1026](#) Allows retired or senior judges to take oaths. Approved by full House 6/22/11.

[Rhode Island HB 6026](#) Adds a representative from the traffic tribunal to the commission on judicial tenure and discipline. Approved by full Senate 6/23/11. To Governor for approval.

[Texas HB 79 \(Special Session\)](#) Alters 75+ sections of law related to the Alternative Dispute Resolution for Criminal Matters, Appellate Court Provisions, Associate Judges (Statutory Probate Court Associate Judges, Juvenile Matters Associate Judges, Civil Associate Judges, and Criminal Associate Judges), Court Administration, Court Costs, General Provisions for District Courts, Grant Programs, Inmate Litigation, Provisions Related to Exempting Certain Judicial Officers from Certain Concealed Handgun Licensing Requirements, Provisions Relating to Justice and Small Claims Courts, Statutory County Courts, Study by Office of Court Administration of Texas Judicial System, Suits Affecting the Parent-Child Relationship, and Vexatious Litigants. Approved by full House 6/22/11.

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[Wisconsin SB 93](#) Adds general prohibition against carrying weapons into any portion of a building that is a county, state, or federal courthouse OR any portion of a building that is a municipal courtroom if court is in session. Allows a weapon in a courthouse if a judge who is a licensee is carrying the weapon, or if another licensee or out-of-state licensee, whom a judge has permitted in writing to carry a weapon, is carrying the weapon. Allows a weapon in a courthouse or courtroom if a district attorney, or an assistant district attorney, who is a licensee is carrying the weapon. Approved with Assembly amendments by full Assembly 6/21/11. Senate concurs with Assembly amendments 6/21/11. To Governor for approval.

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