Focus: Codified, Anticipatory Impeachment Threats

2011 is record setting in terms of the number of articles of impeachment filed against state judges with 14 bills filed in 7 states against numerous judges. One resolution, New Hampshire’s [HR 7](#), authorized an impeachment investigation of all 18 judges of the state’s Superior Court because of the decisions of a marital master that displeased some parties in the cases.

All of these impeachment threats or investigations are retrospective, however state legislators in several states have struck on a new formulation; *anticipatory* impeachment threats placed into law.

### 2011

**Arizona HB 2582** Prohibits use or citation of religious sectarian law or foreign law. Usage or citation declared to be grounds for impeachment. Approved by House Judiciary Committee 2/17/11. Died in House Rules Committee.

**New Hampshire HB 314** Specifies method for person to be appointed by a court (such as an administrator, an administrator de bonis non, a special administrator, a guardian ad litem, an auditor, an appraiser, a referee, or a master), part or all of whose compensation is to be paid by one or more parties to an action pending before the court. Specifies “a knowing violation of this section shall constitute an impeachable offense.” Rejected by House Judiciary Committee 3/9/11. Rejected by full House 3/16/11.

**New Hampshire HB 315** Declares an “impeachable offense” cases where a judge, marital master, or judicial officer appoints an attorney or commits public funds for an attorney in connection with the representation of any person, whether indigent or not, except as specifically authorized by the New Hampshire constitution, federal or state law, or mandate of the New Hampshire supreme court. Provides such appointment shall be made only upon application of the person making the request and consistent with rules adopted by the New Hampshire supreme court. Prohibits appointment in any court other than the court in which the appointment is made, except to the extent necessary to preserve or perfect an appeal as mandated by the New Hampshire supreme court. Retained in House Judiciary Committee 3/3/11. Executive session scheduled 10/25/11.

**Virginia HB 2269** Provides that criminal records are exempt from the mandatory provisions of FOIA prior to judicial proceedings, but pertinent records or pertinent information from records that are otherwise unlawful to disclose shall be disclosed in any judicial proceeding where such records or information is requested in the interest of transparency of government, except where disclosure of any pertinent record or information is specifically prohibited by law. A denial without legal grounds of pertinent records or information disclosure or a failure upon appeal to remand a case back to the court where there had been a denial without legal grounds of pertinent records or information disclosure by any judge is grounds for impeachment. Tabled in House Committee on General Laws, Subcommittee on FOIA/Procurement.
2010

Arizona **HB 2379 / SB 1026** Prohibits use or citation of religious sectarian law or foreign law. Usage or citation declared to be grounds for impeachment. House version: Died in House Judiciary Committee. Senate version: Died in Senate Judiciary Committee.

**Iowa HB 2313** Prohibits judges from using “judicial precedent, case law, penumbras, or international law as a basis for rulings.” Requires judges use only the U.S. and Iowa Constitutions and the Code of Iowa in making decisions. Permits use of the Federalist papers and other writings of the founding fathers, but only “if such source material is used in full context.” Prohibits any court from reviewing the legislation. Deems any violation of the act grounds for impeachment. Died in House Judiciary Committee.

2009

**Florida SB 1142** Redefines “official misconduct” for state ethics purposes to include a judicial officer's “Render[ing] any ruling, opinion, action, or inaction adverse to the doctrines of stare decisis, binding precedent, or the supremacy clause of the United States Constitution when he or she is clearly apprised of evidence, unless he or she has the authority to overrule or recede from the rule of law, or distinguishes the rule of law or sets forth some other intervening or superseding evidence, and does so by the ruling, opinion, action, or inaction.” Requires state attorneys and law enforcement “strictly enforce without discretion” the provision. Died in Senate Committee on Ethics and Elections.

**Jurisdiction: Newly Introduced**
NONE

**Jurisdiction: Floor and Committee Activity**
NONE

**Qualifications and Terms: Newly Introduced**
NONE

**Qualifications and Terms: Floor and Committee Activity**
NONE

**Rule Making Authority: Newly Introduced**
NONE

**Rule Making Authority: Floor and Committee Activity**
NONE

**Salary and Budget: Newly Introduced**
NONE

Indicates featured legislation
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, KIS Division.
Salary and Budget: Floor and Committee Activity

Missouri HB 2 (Special Session) Specifies that any “State agency”, including “any state or municipal court”, may refer to the Department of Revenue for collection debts owed to them and that the department may provide collection services on debts referred to the department by a state agency. Approved by Senate Ways and Means and Fiscal Oversight committee 9/14/11.

Selection: Newly Introduced

Kentucky HB 47 (2012) Establishes clean judicial elections fund for use in races for Supreme Court, Court of Appeals, Circuit Court, Family Court, or District Court. Permits the Supreme Court to require members of the Kentucky Bar Association to submit an annual fixed amount not to exceed $25 to be dedicated to the clean judicial elections fund. Prefiled (no committee).

Selection: Floor and Committee Activity
NONE

Structure Changes: Newly Introduced
NONE

Structure Changes: Floor and Committee Activity
NONE

Other: Newly Introduced
NONE

Other: Floor and Committee Activity

North Carolina SB 580 Changes numerous provisions of law related to judiciary. Requires Director of the Administrative Office 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. Conference committee report approved 9/14/11. To Governor for approval.