

Recusal Reform in the States: 2009 Trends and Initiatives

<u>State</u>	<u>Issue</u>	<u>Forum</u>	<u>Proposal or Initiative</u>	<u>Current Practice</u>	<u>Status</u>	<u>Information</u>
CA	Campaign conduct; public accountability and education	Commission for Impartial Courts, reporting to the Judicial Council of California	Proposals include: <ul style="list-style-type: none"> • Add provision to canon of judicial ethics for disqualification of sitting judge who has made public statement while campaigning that a reasonable person would believe predisposes judge to biased ruling in pending case • Trial judges will be required to disclose in court all contributions of \$100 or more • Judges automatically disqualify themselves in cases involving parties whose contributions exceeded specific threshold levels 	<ul style="list-style-type: none"> • Currently, Provision 3E(2) of the Judicial Code of Conduct makes no mention of disqualification on grounds either of a judge's public statements or the receipt of campaign contributions • Provision 3E(2) does not currently require any disclosure based received contributions 	<ul style="list-style-type: none"> • Public comment period on commission report ended July 10, 2009 	<ul style="list-style-type: none"> • Final Report (8/2009) • Consolidated Proposals (8/2009) • Related Press: Ventura County Star (6/10/2009) • California Judicial Code of Conduct
MI	Disqualification	Michigan Supreme Court	3 proposals are under consideration concerning the disqualification rules for Supreme Court justices. Among the specific proposals are: <ul style="list-style-type: none"> • Insert language calling for disqualification when a judge's "impartiality might objectively and reasonably be questioned" • Require a justice to publish his or her reasons for a ruling on a party's motion for disqualification • Allow for a court-wide review of a justice's denial of motion for his or her disqualification 	<ul style="list-style-type: none"> • Judges decide on motions concerning their own disqualification • Judges are not required to issue reason for denial of such motions • Michigan has not formally adopted the ABA's general disqualification standard, Rule 2.11(A) of the Model Code 	<ul style="list-style-type: none"> • Proposals open to public comment through August 1, 2009 	<ul style="list-style-type: none"> • Proposals (3/18/2009) • Related Press: Grand Rapids Press (6/13/2009)
MT	Disqualification	State House	<ul style="list-style-type: none"> • LC 2027: Requires recusal of a justice of the supreme court if he or she received campaign contribution in excess of \$250 	<ul style="list-style-type: none"> • List of grounds for recusal in state code does not include campaign contributions 	<ul style="list-style-type: none"> • 4/28/2009: Bill died in draft process 	<ul style="list-style-type: none"> • LC2027 • Bill history

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NV	Disqualification	Commission on the Amendment to the Nevada Code of Judicial Conduct, reporting to Supreme Court	<ul style="list-style-type: none"> Commission recommends disqualification in the event that a judge receives campaign contributions of \$50,000 or more from a party appearing before judge; these benchmarks vary in smaller districts where less aggregate money is spent on elections 	<ul style="list-style-type: none"> Nevada has adopted ABA's general disqualification standard, Rule 2.11(A) of the Model Code 	<ul style="list-style-type: none"> Committee issued its report on disqualification on July 20, 2009 	<ul style="list-style-type: none"> Related Press: Las Vegas Review Journal (6/23/2009) Las Vegas Journal (7/21/2009)
TX	Disqualification	State House	<ul style="list-style-type: none"> H.B. 4548: States that a justice of the supreme court or judge of the court of criminal appeals shall recuse him/herself from any case in which he/she has accepted political contributions totaling \$1,000 over preceding 4 years from party to case 	<ul style="list-style-type: none"> Disqualification provision of Government Code does not consider campaign contributions made to judges 	<ul style="list-style-type: none"> 4/20/2009: Bill died in committee 	<ul style="list-style-type: none"> H.B. 4548
WA	Disqualification	Judicial Conduct Task Force, reporting to Supreme Court	<ul style="list-style-type: none"> 2 proposals: One proposal designates twice the state contribution limit (\$1,600) as benchmark for recusal; second proposal based on higher multiple of contribution limit (exact language of proposal does not yet exist) 	<ul style="list-style-type: none"> Washington has adopted ABA's general disqualification standard, Rule 2.11(A) of the Model Code 	<ul style="list-style-type: none"> Task force meeting set for 8/28/2009 to discuss disqualification proposals 	<ul style="list-style-type: none"> Supreme Court Code of Judicial Conduct Task Force
WI	Disqualification	Petition to Supreme Court filed by the League of Women Voters of Wisconsin Education Fund	<ul style="list-style-type: none"> Petition to amend the Code of Judicial Conduct; proposed rule would require recusal of a judge when a party to a case contributed \$1,000 or more to campaign 	<ul style="list-style-type: none"> Campaign contributions are not among the grounds for recusal as enumerated in state code of judicial conduct 	<ul style="list-style-type: none"> Wisconsin Supreme Court tentatively scheduled public hearing for 10/28/2009 	<ul style="list-style-type: none"> Petition (5/2009) Fact Sheet (League of Women Voters) Related Press: OnMilwaukee.com (7/8/2009)

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WV	Disqualification; judicial selection; funding of judicial elections	Independent Commission on Judicial Reform	<ul style="list-style-type: none"> Commission will address, in addition to disqualification, issues of judicial selection and funding of judicial elections 	<ul style="list-style-type: none"> West Virginia has adopted ABA's general disqualification standard, Rule 2.11(A) of the Model Code West Virginia imposes \$1,000 limit on contributions made directly to a judge's campaign 	<ul style="list-style-type: none"> Governor announced commission members on 6/15/2009 	<ul style="list-style-type: none"> Related Press: Charleston Daily Mail (6/17/2009)