

JAIL4Judges, JAIL clones and similar efforts: An Update

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JAIL-clone: language copied from JAIL4Judges initiative

JAIL-backed: JAILers in state supporting or pushing

JAIL-like: Language differs from JAIL4Judges initiative, but several elements (e.g. grand juries/"special" grand juries) similar.

Legislation

Connecticut HB 6289 (2007) "An Act Concerning Transparency, Accessibility, and Accountability in the Judicial Branch"

JAIL-clone. Creates an Inspector General for the judiciary (language identical to 2005/2006 Congressional version) with the power to convene a grand jury at any time against any judge. The IG could personally grant the writ of habeas corpus. In handing down decisions, judges required to state an authority of law on which the judgment is based, in particular order(s) for denial or dismissal if no written finding was available. The IG may impanel a grand jury with the power of jury nullification and the grand jury has the right to take it upon itself to judge the law as applied ethically and constitutionally by a judge as well as the facts in controversy surrounding a judge's decision.

Minnesota HF 1261/ SF 2079 (2007) "A bill for an act relating to courts; modifying the composition and powers of the Board of Judicial Standards"

JAIL-backed. Replaces Board on Judicial Standards with eight people randomly selected from a list of applicants that submitted their own names to the Secretary of State. Eight would then name a member of the House and Senate to sit with them. Removes the Supreme Court's power to set rules, practice and procedure not only for the Board but for the courts in general.

Initiatives

Arizona: Yes on Judicial Reform (C-02-2008)

JAIL-like. Judge automatically suspended on filing of complaint. Retroactive. Complainant entitled to state-funded lawyer, defendant judge is not. Threshold requirement is "some evidence" of wrongdoing to remove judge from office and ban from office holding for life.

Arizona: Governmental Employee Accountability and Honesty (C-03-2008)

JAIL-like. Almost identical to "Yes on Judicial Reform". Removes all immunities for all employees, but specifically mentions judges. Threshold requirement is "slight evidence that the allegations are true". Retroactive.

Arizona: Preservation of Constitutional Government (I-08-2008)

JAIL-like: Strips Supreme Court of disciplinary power over State Bar and hands it to a Legislative "Registrar of Lawyer Licensing." In complaints, the respondent and the State Bar will bear the cost of investigation.

*Initiatives (cont'd)***Arkansas:** The Comprehensive Legal Reform Amendment of 2008 (no number assigned)

JAIL-like. Strips Supreme Court of all disciplinary and supervisory power over the State Bar and hands it to the Legislature, which is prohibited from delegating the authority. An end to judicial and all other immunities and “To that end, civil action by persons or entities in a court of competent jurisdiction is hereby authorized as a matter of right under this amendment and no immunity shall apply.” Reduces judicial terms in office to 2 years and allows judges to serve only 2 terms (i.e. maximum 4 years). Failed to be approved as to form by Attorney General.

California: Honest and Fair Government Accountability Amendment (06-0036)

JAIL-like. Failed to meet circulation deadline (6/4/07)

Colorado: Judicial Accountability Act of 2008 (not yet filed)

JAIL-clone. Requires local DA and Attorney General investigate and report on their website every complaint filed against a judge for “willful misconduct.” Uses JAIL definitions of misconduct.

Colorado: Colorado Judicial Accountability Act (not filed)

JAIL-clone. One main proponent currently fugitive for refusal to pay income taxes. Other, Rick Stanley, taken into custody while appealing conviction for threatening judges with arrest by his “Mutual Defense Pact Militia”.

Florida: JAIL4Judges (modified language)

Almost identical to South Dakota version. Major changes in definition of who is covered. Specifies judges and judges only. Drops phrase “judicial immunity.” Defines “Corporate litigant” (i.e. those who would be subject to special filing fees to pay for the Special Grand Juries) as “A party holding a corporate charter, as distinguished from a business license.” Actively gathering signatures.

Idaho: ORIGINAL Public Employee Accountability Act (no number assigned)

JAIL-clone; former JAILer proponent. Redefines malfeasance. Applies to any government officer, including and especially all members of the judicial branch of government and prosecutors. Specifically exempts witnesses, jurors, the governor and state legislators. Ends judicial immunity, quasi-judicial immunity or any absolute immunity from civil liability if they commit an act of malfeasance as defined by the Act. Allows people to directly present evidence of a “crime” to a grand jury if the local prosecutor refuses to do so. Local prosecutor must convene grand jury if one not already sitting. Grand jury may direct police investigation. Prohibits judges from hearing any cases involving the grand jury’s activities. Grand jury may force legislature to commence impeachment proceedings and legislature must commence them within 15 days of Grand Jury vote and cannot refer the matter to the Judicial Council. Grand jury is entitled to unlimited funds; if the county treasurer does not give the funds fast enough he or she is guilty of a misdemeanor.

Idaho: CIRCULATING Public Employee Accountability Act (08init02)

JAIL-like; former JAILer proponent. Same as original, but eliminates any reference to grand juries or grand jury proceedings.

*Initiatives (cont'd)***North Dakota:** Family Law Reform Initiative (no number assigned)

JAIL-like. Ends immunity for any official with respect to decisions relating to children and families; permits proceedings under this lack of immunity for cases for 10 years prior; requires jury trial for matters relating to children and families; requires judge to issue all decisions and judgments; automatically disbars for at least one year any lawyer or judge who "promotes false or frivolous claims of domestic abuse"; eliminates immunity for judges who "refuse" to enforce visitation orders; specifies in detail requirements and standards in domestic violence cases, custody cases and child removal cases. Collected at least 3,000 signatures. Proponent is rewording Initiative and will resubmit for 2008.

*Other***Florida:** The Florida State Bar Association, Inc.

JAIL-backed. Registered corporation with FL Secretary of State. Possible intended use to mail/distribute material in order to confuse due to similar sounding name.

Florida: "Notice of Distress"/Lien

JAIL-backed. FL JAILer-in-Chief facing 28 counts of unlicensed practice of law. Filed against Judge, prosecutors and others involved in her criminal cases. Wording of "notice of distress" contains elements from Montana Freemen and similar militia-groups liens from the 1990s.

Florida: Suit against State Bar

Petition to Florida Supreme Court to enjoin State Bar from mentioning JAIL4Judges. Demands equal time after bar journal wrote piece on South Dakota JAIL. Demands all members of the Florida Supreme Court recuse from case. FL Supreme Court ruled against petition, but noted "[a]ny member of The Florida Bar in good standing may question the propriety of any legislative position taken by the Board of Governors by filing a timely petition with this Court." Motion to reconsider filed. Federal lawsuit being drafted, will name Florida Supreme Court as defendants and cite to Florida JAILer-in-Chiefs prosecution for unlicensed practice of law (above) as "retaliatory."

South Dakota: No activity

JAIL-backed. Still claims that their own "polls" show election was rigged, but they have never released them. Hired Zogby prior to election for poll, touted results showing they were leading. Rehired Zogby after election to disprove election results. When Zogby poll confirmed 90-10 loss, claimed Zogby was now part of a conspiracy against them. Promised lawsuits and criminal arrests never materialized. SD JAILer-in-Chief discussed immediately after election plans to reintroduce JAIL or introduce new initiative to change composition of Judicial Qualifications Commission and replace with randomly selected people (see **Minnesota** HF 1261/ SF 2079 above). Told *Argus Leader* he will not pursue in 2008.