



Federal Bar Association

CONGRESS SHOULD PROVIDE SUPPLEMENTAL FUNDING TO THE FEDERAL COURTS TO MITIGATE SEQUESTRATION

The Federal Bar Association supports an emergency supplemental appropriation for the Federal Judiciary to lessen the devastating impact of sequestration on the operations of the federal courts. WE ASK YOU TO SUPPORT THIS SUPPLEMENTAL REQUEST.

The Judiciary will soon ask the Office of Management and Budget to transmit the FY 2013 emergency supplemental request to Congress. This will assure that the Constitutional obligations of the Federal courts are met. Supplemental funding is needed to assure the uninterrupted delivery of defender, probation and pretrial services, sustain staffing and preserve court security.

Impact of Sequestration on the Federal Courts

Sequestration has reduced Judiciary funding overall by nearly \$350 million below FY 2012 levels. The Judiciary has almost no flexibility to absorb such large cuts.

Funding for Defender Services has been hardest hit, with a shortfall of \$51 million below minimum requirements. This funding provides for Federal Defender Office attorneys and pays for Criminal Justice Act (CJA) appointments of private attorneys to represent indigent defendants in federal criminal cases.

Federal Defender Offices already have laid off and furloughed staff, as well as drastically cut essential services. Sequestration will trigger furloughs for up to 15 days between now and September 30. These cutbacks, along with the potential for fewer private attorneys accepting CJA appointments because of sequester-caused late payments, are causing delay because defender organizations do not have the staff necessary to continue their representation of the defendant or the funds to pay for experts or other case costs. These consequences are creating a serious impact on our justice system. Lawsuits challenging the satisfaction of the Speedy Trial Act, as well as the defendant's right to representation under the Sixth Amendment, could be triggered. (Ironically, this year marks the 50th anniversary of the Supreme Court's landmark decision in *Gideon v. Wainwright*, which established the right to effective assistance of counsel.)

Sequester-caused cuts in court staffing also will result in the slower processing of civil and bankruptcy cases. Delays in these cases will harm individuals, small businesses and corporations. This in turn will harm regional and the national economies.

Sequestration also will compromise the safety of local communities. It has reduced funding for probation and pretrial officer staffing, which means less deterrence, detection and response to a possible resumed criminal activity by federal defendants and offenders in the community. In addition, law enforcement funding to support GPS and other electronic monitoring of potentially dangerous defendants and offenders has been cut by 20%. Equivalent cuts to funding for drug testing, substance abuse and mental health treatment of federal defendants and offenders have also been made, increasing further the risk to public safety.

Funding for court security systems and equipment has been cut 25% and court security officers' hours have been reduced. These reductions come at a time of heightened security resulting from the prosecutor murders in Texas and the Boston bombings. A high level of security of judges, prosecutors, defense counsel, jurors and litigants must be maintained in all federal courthouses.

The Federal Judiciary has no control over its rising workload, but has continued to contain costs and do more with less, despite rising caseloads. Nationwide, federal district courts have experienced a 38 percent growth in caseload over the past two decades. The courts cannot step away from the hundreds of thousands of lawsuits filed by individuals, businesses and the Executive Branch. The Constitution and federal laws mandate the Federal Judiciary to perform certain core government functions. Unlike most Executive Branch entities, the Judiciary has little flexibility to move funds between appropriations accounts to reduce the effects of sequestration. Nor does it possess lower-priority programs whose funding it could transfer to other accounts.

Foremost, the Federal Judiciary is a co-equal branch of our government. While total funding for the federal court system is relatively minute, its impact upon the administration of justice in America is profoundly large. Total funding for the Judicial Branch in FY 2012 amounted to \$6.97 billion, within a total federal budget of \$3.7 trillion. That means that for every taxpayer dollar, only two-tenths of one penny went toward funding the entire Federal Judiciary, a co-equal third branch of our government.

WE ASK YOU TO SUPPORT THE FEDERAL JUDICIARY'S SUPPLEMENTAL REQUEST TO ASURE THE JUDICIAL BRANCH IS ABLE TO PERFORM ITS IMPORTANT CONSTITUTIONAL RESPONSIBILITIES.

About the FBA

The Federal Bar Association is the foremost national bar association devoted exclusively to the practice and jurisprudence of federal law and the vitality of the United States federal court system. More than 16,000 lawyers and judges belong to the Federal Bar Association.

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