



# Federal Bar Association

## 2018 Public Policy Priorities

### **Our Federal Courts Need Adequate Funding**

The Federal Bar Association supports the Federal Judiciary's FY 2019 budget request and urges Congress to provide sufficient funding to permit the Judiciary to fulfill their Constitutional and statutory responsibilities.

The Judiciary's FY 2019 budget request of \$ 7.2 billion in discretionary appropriations reflects an increase of 3.2 percent above the fiscal year 2018 appropriation. The funding will maintain current services across the Judiciary, and sustain ongoing initiatives, including cybersecurity improvement.

Funding for the Federal Judiciary, a coordinate branch of our Federal government, represents less than two-tenth of one penny of a taxpayer's dollar.

### **Judicial Vacancies and the Need for Prompt Action in Filling Them**

There are historically high levels of vacancies on the Federal appellate and district court bench that require prompt attention by the President and the Senate. As of mid-April 2018, there were 149 Article III vacancies, including 19 appeals and 122 district court vacancies.

High numbers of vacancies on the Federal bench harm the delivery of justice, the economic interests of litigants before the courts, and public respect for the efficiency of our judicial system.

The Federal Bar Association calls upon the President and Congress to act promptly and responsibly in nominating and confirming nominees to the Federal appellate and district courts. The President and the Senate have a Constitutional obligation to assure that the Federal courts are staffed with sufficient numbers of judges to promptly administer justice.

The Federal Bar Association also invites home-state Senators to call upon FBA chapters in their states to assist in appropriate ways to identify well-qualified candidates to the federal bench.

### **Growing Caseloads in our Federal Courts Require More Judgeships**

The Federal Bar Association supports the recommendations of the Judicial Conference of the United States, with the addition of five permanent judgeships in the courts of appeals, 52 permanent judgeships in the district courts and the conversion of eight temporary district judgeships to permanent status.

Since the last comprehensive judgeship legislation was enacted in 1990, almost 30 years ago, the number of cases filed in the courts of appeals has increased by 40 percent and the number of cases filed in the district courts has increased by 38 percent. Civil filings have increased by 38 percent and criminal filings by 39 percent. During this period there has been only a four percent increase in judgeships, the last permanent judgeships having been created in 2002.

The situation has created enormous difficulties for many federal courts across the country. Five district courts continue to struggle with extraordinarily high and sustained workloads. The severity of conditions in the Eastern District of Texas, the Eastern District of California, the Southern District of Indiana, the Western District of Texas and the Southern District of Florida require immediate action. The Federal Bar Association urges Congress to establish, as soon as possible, judgeships in those districts.

### **Congress Should Establish an Article I Immigration Court**

Since 2013 the Federal Bar Association has urged Congress to establish an Article I “United States Immigration Court” to replace the Executive Office for Immigration Review (EOIR) in the U.S. Department of Justice as the principal adjudicatory forum under title II of the Immigration and Nationality Act. The federal courts in the United States include the courts established in and under Article III of the Constitution, as well as the adjudicative entities established by Congress under its Article I legislative powers. The FBA has drafted model legislation to create an Article I immigration court and welcomes the opportunity to discuss the proposal with Congress and stakeholders.

There is broad consensus that our system for adjudicating immigration claims is broken and deserves systemic overhaul. Hiring more immigration judges, while urgent, will not address the longstanding management and operational inefficiencies within EOIR. The June 2017 Government Accountability Office (GAO) report documented EOIR case backlogs of epic size, costly and ineffective case management, and reliance on outdated technologies and reported that a majority of immigration court experts and stakeholders interviewed favored EOIR replacement with an independent Article I immigration court. Establishing an Article I court would substitute for an overstuffed, bloated bureaucracy a new structure, modeled on the federal courts, their case management expertise, and their demonstrated record for delivering prompt, effective justice. Cheaper, faster, better justice is possible through an Article I immigration court.

### **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. Nearly 20,000 lawyers and judges belong to the Association. The Federal Bar Association as a matter of policy takes no position on the credentials or qualifications of specific nominees to the Federal bench. The FBA’s foremost interest lies in the assurance of prompt, dispositive action by the President in nominating federal judicial candidates and the Senate in confirming (or not confirming) them.

### **For Further Information:**

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