



# Federal Bar Association

## 2020 Public Policy Priorities

*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, which believes the following priorities deserve attention.*

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

The Federal Bar Association supports the Federal Judiciary's FY 2021 budget request and urges Congress to provide sufficient funding to permit the Judiciary to fulfill their Constitutional and statutory responsibilities. The Judiciary's FY 2020 budget request of \$7.8 billion in discretionary appropriations reflects an increase of 4.4 percent above the Judiciary's FY 2020 enacted appropriation. The request includes funding to keep pace with increased criminal prosecutions, new judicial appointments, and the increased need for probation supervision of offenders released from prison. Funding for the Federal Judiciary, a coordinate branch of our Federal government, represents only two-tenths of one penny of a taxpayer's dollar.

### **Set a Higher 302(b) Budget Allocation for FSGG Funding**

The FBA also urges Congress and its appropriations committees to set a higher 302(b) budget allocation for the Financial Services and General Government (FSGG) Appropriations Subcommittee, whose jurisdiction includes, among others, the Judiciary and General Services Administration (GSA) and its revolving Federal Buildings Fund. The Judiciary rents space in nearly 800 courthouses and pays \$1.1 billion in rent annually into the FBF; however, an increasing number of courthouse repair projects remain unfunded due to FBF funding shortfalls. During most of the past decade, Congress appropriated an average of \$1 billion per year less than FBF rents collected, leading to FBF funding shortfalls and major deferred maintenance problems. Many Federal courthouses are suffering from water intrusion issues, mold, broken elevators, broken HVAC systems, deteriorating exterior façades and seismic retrofit issues. A higher 302(b) budget allocation for the Subcommittee will permit courthouse repairs and renovations to proceed and better assure the safety of the public and courthouse employees and the judicial process.

### **The Need for Prompt Action in Filling District Court Vacancies**

A significant number of district judge vacancies remain, despite substantial progress in filling appeals court vacancies. In late February 2020, there were 70 district court vacancies, including 42 vacancies whose duration and workload constitute a "judicial emergency," as defined by the Administrative Office of the U.S. Courts. District courts are the trial courts of the federal court system. When district vacancies remain unfilled, increased caseloads delay the prompt delivery of justice, harm the economic interests of litigants,

and erode public respect for the courts. The Federal Bar Association calls upon the President and Congress to act promptly and responsibly in nominating and confirming well-qualified nominees to the Federal courts.

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

Maintenance of the appropriate number and distribution of judicial officers throughout the federal courts is critical to the effective administration of justice. Congress has not approved comprehensive judgeship legislation since 1990, thirty years ago. In March 2019 the Judicial Conference transmitted a request to Congress for five new circuit judgeships, 65 new district judgeships, and the conversion of eight temporary district judgeships and 10 temporary bankruptcy judgeships to permanent status. Meanwhile, cases filings in the district courts and courts of appeals have significantly increased. The Federal Bar Association urges Congress to approve the Judicial Conference's judgeships request. More immediately the FBA urges Congress to extend for one year eight temporary district judgeships that meet the Judicial Conference's standard for conversion to permanent status. These temporary judgeships are in the following districts: Arizona, California-Central, Florida-Southern, Kansas, Missouri-Eastern, New Mexico, North Carolina-Western, and Texas-Eastern. Without these requested extensions, the administration of justice in the affected districts will be disrupted and delayed.

### **Congress Should Establish an Independent Immigration Court**

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 deficiencies within the Executive Office for Immigration Review (EOIR) in the Department of Justice. Since 2013 the Federal Bar Association has urged Congress to replace EOIR with and establish an independent "United States Immigration Court" to serve as the principal adjudicatory forum under title II of the Immigration and Nationality Act. The June 2017 Government Accountability Office (GAO) report reported that a majority of immigration court experts and stakeholders favored EOIR replacement with an independent Article I immigration court. Establishing a specialty court would replace an overstuffed, bloated bureaucracy with a new structure, modeled on the federal courts, their case management expertise, and demonstrated record for delivering prompt, effective justice.

### **Support for Foundation of the Federal Bar Association Charter Amendments Legislation**

The FBA urges the Senate to pass the bipartisan Foundation of the Federal Bar Association Charter Amendments Act, H.R. 1663, as approved by the House on November 18, 2019. The measure would make technical changes in the federal charter of the Foundation of the Federal Bar Association, as granted by Congress in 1954. It would permit the Foundation to better fulfill its role as the only institution chartered by Congress to promote the federal administration of justice, the advancement of federal jurisprudence and the practice of law in the federal courts.

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