



Government Relations Update

The Latest on Public Policy and Advocacy Developments from the Federal Bar Association

February 2022

Advocacy Update

FBA's sustained advocacy in support of reforms to the U.S. immigration adjudication system reached a significant milestone on February 3, when Rep. Zoe Lofgren (D-Calif), Chair of the House Judiciary Subcommittee on Immigration and Citizenship, filed the Real Courts, Rule of Law Act ([H.R. 6577](#)), that would use Congress' Article I authority to move the immigration adjudication system out of the Department of Justice into an independent court system. The FBA played a key role in drafting a proposed bill, much of which was included in the version filed by Rep. Lofgren. Two FBA members [testified](#) in support of the proposed reform at a House Immigration and Citizenship Subcommittee hearing on January 20. Former Immigration Section Chair Elizabeth Stevens and the Hon. Mimi Tsankov, current President of the National Association of Immigration Judges (NAIJ) and a member of the FBA Board of Directors, described the problems with the current system, discussed the alternatives for reform, and explained why an Article I court system is the best solution. The FBA will continue to work with stakeholders, members of Congress, and Congressional staff as the language of the bill is debated and revised.

Legislative Update

1. Progress on FBA Foundation Charter Legislation

The FBA is working to resolve some recently discovered concerns among Republican Senators about language in the Foundation of the Federal Bar Association Charter Amendments Act of 2021 ([H.R. 2679](#)) that limits political activity by members of the Foundation Board. After productive meetings with key Senate staff, FBA is optimistic that the concerns will be resolved, clearing the path for the Senate to approve the bill by unanimous consent.

2. Judicial Security Legislation Still Awaiting Senate Vote and House Consideration

The bipartisan Daniel Aderl Judicial Security and Privacy Act ([S. 2340](#)), remains on the Senate Floor calendar, awaiting either a roll call vote by the full Senate or passage by unanimous consent, but the companion bill ([H.R. 4436](#)) has not yet been considered by the House Judiciary Committee. Named after the son of New Jersey District Court Judge Esther Salas, murdered at his parents' home by a gunman dressed as a delivery driver, the legislation is intended to improve the safety and



**Federal Bar
Association**

1220 North Fillmore St., Suite 444, Arlington, VA 22201
(571) 481-9100 F: (571) 481-9090 fba@fedbar.org www.fedbar.org

security of the federal judiciary by prohibiting data brokers and other businesses from disclosing the personally identifiable information of federal judges and their families.

3. No Action by Senate Committee on House-Passed Financial Disclosures Bill

The Senate Homeland Security and Governmental Affairs Committee has yet to take up the Courthouse Ethics and Transparency Act ([S. 3059](#)). The bill's bipartisan sponsors include John Cornyn (R-TX), Christopher Coons (D-DE), Senate Judiciary Committee Chairman Dick Durbin (D-IL), Ranking Judiciary Member Chuck Grassley (R-IA), Sheldon Whitehouse (D-RI), John Kennedy (R-LA), Ted Cruz (R-TX), and Jon Ossoff (D-GA). The House overwhelmingly approved the companion bill ([H.R. 5720](#)) on December 1 by a vote of 422-4. The legislation would amend the Ethics in Government Act of 1978 to require judges to submit securities transactions reports as do other federal officials and would require the Administrative Office of the U.S. Courts to create a searchable public online database of judicial financial disclosure forms and to post forms within 90 days of their filing.

4. Educating Congress About the Need for Additional Judgeships

The FBA continues grassroots advocacy with members of Congress about the urgent need to relieve our overburdened federal courts by creating additional federal judgeships. The FBA has not endorsed a particular bill or proposed solution but is urging members of both the Senate and the House Judiciary Committees to work in a bipartisan way to fashion a solution to this pressing problem.

5. No Shutdown Expected, but FY 2021 Spending Levels Still in Place

On February 9, the House approved another continuing resolution (CR), this time to fund the federal government at FY 2021 levels through March 11, as key appropriators and congressional leaders report substantial progress toward an agreement on spending legislation for FY 2022. The Senate is expected to pass the new CR before the current one expires on February 18.

Judiciary Update

1. Proposed Amendments to Federal Rules of Practice and Procedure

On June 22, 2021, the Judicial Conference Committee on Rules of Practice and Procedure (Standing Committee) approved publication of [proposed amendments](#) to the Appellate, Bankruptcy, Civil, Criminal, and Evidence Rules. On February 11, the FBA submitted a public [comment](#) in support of all of the proposed amendments.

2. SCOTUS Vacancy

On January 27, 2022, Supreme Court Justice Stephen Breyer announced that he will retire when the Court begins its recess this summer, “assuming [his] successor has been nominated and confirmed.” The President has reiterated his campaign promise to nominate an African American female to the seat and has said he intends to do so by the end of February. A number of possible candidates have

been suggested in media reports, including South Carolina FBA Chapter Board member and federal District Court Judge J. Michelle Childs.

3. Judicial Vacancies, Nominations, and Confirmations

Overall, [forty-eight](#) of President Biden's judicial nominees have been confirmed, while [eighty](#) Article III vacancies remain. Here are the current vacancies:

Current Article III Vacancies – As of February 14, 2022

According to the Administrative Office of the U.S. Courts

Court	Vacancies	Nominees Pending
Supreme Court	0	0
Courts of Appeal	4	1
District Courts	72	28
US Ct of International Trade	2	0
Total	78	29

[Seventy-eight](#) of 890 active federal judicial positions, including the United States Court of Federal Claims and the United States territorial courts, are vacant. Thirty-seven more judicial vacancies are [expected](#) by mid-2022, with seven nominees named in advance.

[Thirty-three judicial emergencies](#) in vacancies remain, based on caseload and/or the length of the vacancy, according to the Administrative Office of the U.S. Courts. One emergency is in the 11th Circuit, five are in the New York district courts, and fifteen are in the California district courts.

Judicial Nominations: On January 19, the President [named](#) eight federal judicial nominees, and on February 2, the President [named](#) one more.

Nominee	Judicial/District Court	Nomination Date
Nusrat Jahan Choudhury	Eastern District of New York	January 19, 2022
Natasha C. Merle	Eastern District of New York	January 19, 2022
Jennifer H. Rearden	Southern District of New York	January 19, 2022
Ana Isabel de Alba	Eastern District of California	January 19, 2022
Robert Steven Huie	Southern District of California	January 19, 2022
Tiffany M. Cartwright	Western District of Washington	January 19, 2022
Arianna J. Freeman	3 rd Circuit	January 19, 2022
Nina Nin-Yuen-Wang	District of Colorado	January 19, 2022
Stephanie Davis Dawkins	6 th Circuit	February 2, 2022

Judicial Confirmations: The Senate has [confirmed](#) five nominees since January 15.

Nominee	Judicial/District Court	Confirmation Date
Holly A. Thomas	9 th Circuit	January 20, 2022
Bridget Meehan Brennan	Northern District of OH	February 1, 2022
Charles Esque Fleming	Northern District of OH	February 1, 2022
David Augustin Ruiz	Northern District of OH	February 1, 2022
Leonard Philip Stark	Federal Circuit	February 9, 2022