



Government Relations Update

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

April 2022

Legislative Update

1. Article I Immigration Courts Legislation Gains Momentum

The Real Courts, Rule of Law Act (H.R. 6577), filed by Rep. Zoe Lofgren (D-CA), was listed on the agenda for an April 5 markup in the House Judiciary Committee. The bill would accomplish reforms long advocated by the FBA by moving the immigration adjudication system out of the Department of Justice into an independent court system. Unfortunately, the markup lasted through April 6, 2022 and concluded without the Committee's having reached H.R. 6577. The GRC expects the bill to be included on another markup after Congress returns from the current recess. If the Committee votes to approve the bill, next steps will include a Floor vote in the House and consideration by the Senate. Building support for H.R. 6577 will be a principal focus of the FBA's Capitol Hill Day, scheduled for the week of April 25, 2022.

2. Congress Finally Agrees to \$1.5T FY 2022 Spending Package, Including a Funding Boost for Judicial Security

Almost six months into FY 2022, Congress finally reached an agreement and President Biden signed a \$1.5 trillion spending package. The legislation provides \$7.99 billion for the Federal Judiciary, which is \$267 million more than the FY21 enacted level, though slightly lower than the Judiciary's requested \$8.1 billion. The topline includes \$704.8 million in funding for court security, a 6.1% increase from FY 2021. The additional funding may be used for "security systems and equipment for United States courthouses and other facilities housing Federal court or Administrative Office of the United States Courts operations, building ingress-egress control, inspection of mail and packages, directed security patrols, perimeter security, basic security services provided by the Federal Protective Service, and other similar activities." \$20 million is set aside for the United States Marshals Service, to be used for administering the Judicial Facility Security Program.

The Judiciary's supplemental request for an additional \$515.5 million for "urgent" security and cybersecurity needs remains pending.



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

The security funding provided in the recently-approved FY 2022 appropriations legislation includes money to fund a program to identify and pursue the voluntary removal of judges' personal information from the internet. This is a start, but the bipartisan Daniel Anderl Judicial Security and Privacy Act (S. 2340), which the FBA supports, would strengthen such a program by prohibiting data brokers and other businesses from disclosing the personally identifiable information of federal judges and their families. The status of the bill remains unchanged since February, however. It remains on the Senate Floor calendar, awaiting either a roll call vote by the full Senate or passage by unanimous consent, while the companion bill (H.R. 4436) has not yet been considered by the House Judiciary Committee.

4. Judiciary Financial Disclosures Bill Expected to Become Law Soon

Although not advocating for or against the Courthouse Ethics and Transparency Act, the FBA has been tracking its progress. On February 18, the Senate approved its version of the bill (S. 3059) without amendment, by voice vote. The Senate version has been sent to the House, which had already approved a companion bill and therefore is expected to approve and send the legislation to the President for his signature soon.

5. FBA Foundation Charter Legislation

The FBA continues to press for Senate passage of the Foundation of the Federal Bar Association Charter Amendments Act of 2021 (H.R. 2679). Having worked to address some concerns recently raised by Republican Senators, the FBA believes the path is clearing for the Senate to approve the bill by unanimous consent.

6. Judgeships Legislation Stalled in Both Houses

The FBA continues to work to educate members of Congress about the need to relieve our overburdened federal courts by creating additional federal judgeships. One bill is pending before the Senate Judiciary Committee (S. 2535), and two bills are pending before the House Judiciary Committee (H.R. 4885 and H.R. 4886), but neither Committee has taken any action. 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.

Judiciary Developments

1. SCOTUS Vacancy

On January 26, 2022, Supreme Court Associate Justice Stephen Breyer announced that he will retire at the end of the Court's term in June, and on February 25, President Biden nominated District of Columbia Circuit Court of Appeals Judge Ketanji Brown Jackson to fill the coming vacancy. The Senate Judiciary Committee's hearing on Judge Jackson's nomination took place from March 21-24.

On April 4, the Senate Judiciary Committee began debating Judge Jackson's nomination. At the conclusion of the debate, the Committee deadlocked on the vote to advance Judge Jackson's nomination, forcing the Senate Majority Leader to call for a vote to discharge Jackson's nomination from the Committee. That vote passed, 53-47, and Judge Jackson was confirmed on April 7 by a 53-47 vote, with the support of all Democrats and three Republicans -- Susan Collins (ME), Lisa Murkowski (AK), and Mitt Romney (UT).

2. Judicial Vacancies, Nominations and Confirmations

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

Current Article III Vacancies – As of April 15, 2022

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

Court	Vacancies	Nominees Pending
Supreme Court	0	0
Courts of Appeal	5	1
District Courts	66	18
US Ct of International Trade	2	0
Total	73	19

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

[Twenty-eight 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, four are in the New York district courts, and fourteen are in the California district courts.

Judicial Nominations: Since finalizing the confirmation of Ketanji Brown Jackson as Supreme Court Justice on April 7th, the President has [announced](#) six Judicial nominations:

Nominee	Judicial/District Court	Nomination Date
John Z. Lee	Seventh Circuit CCA	April 13, 2022
Salvador Mendoza Jr.	Ninth Circuit CCA	April 13, 2022
Stephen H. Locher	Southern District of IA	April 13, 2022
Nancy L. Maldonado	Northern District of IL	April 13, 2022
Gregory B. Williams	District Court of DE	April 13, 2022

Judicial Confirmations: Since March 17th Senate has [confirmed](#) thirteen nominees:

Nominee	Judicial/District Court	Confirmation Date
Jacqueline Scott Corley	Northern District of CA	March 17, 2022
Fred W. Slaughter	Central District of CA	March 17, 2022
Victoria Marie Calvert	Northern District of GA	March 22, 2022
Ruth B. Montenegro	Southern District of CA	March 22, 2022
John H. Chun	Western District of WA	March 23, 2022
Anne Rachel Traum	District Court of NV	March 23, 2022
Cristina D. Silva	District Court of NV	March 23, 2022
Julie Rebecca Rubin	District Court of MD	March 23, 2022
Hector Gonzalez	Eastern District of NY	March 23, 2022
Alison J. Nathan	Central District of CA	March 23, 2022
Sarah E. Geraghty	Northern District of GA	March 31, 2022
Georgette Castner	District Court of NJ	March 31, 2022
Ketanji Brown Jackson	Supreme Court	April 7, 2022