



Government Relations Update

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

September 2022

Advocacy Update

In the past month, FBA advocates have expanded their advocacy in support of the bipartisan Daniel A. Brinkley Judicial Security and Privacy Act ([S. 2340](#)) and ([H.R. 4436](#)). FBA GRC members and outside counsel are collaborating with the FBA's Judiciary Division Committee for U.S. District Judges, the Federal Judges Association, the Federal Magistrate Judges Association, the National Conference of Bankruptcy Judges, as well as other stakeholders, to highlight the urgent need for judicial security legislation. FBA and outside counsel also are continuing to work to secure passage of the FBA Foundation Charter Amendments Act of 2021 ([H.R. 2679](#)).

Legislative Update

1. Article I Immigration Courts Legislation Suffers Summer Slowdown

The Real Courts, Rule of Law Act ([H.R. 6577](#)) was approved by the House Judiciary Committee on May 11, but continues to await a vote by the full House. It is beginning to appear doubtful that Senator Kirsten Gillibrand (D-NY) will introduce a Senate companion bill during this Congress. This effort will likely need to be begun again in the 118th Congress, which begins on January 3, 2023.

2. FY 2023 Appropriations Process is Underway

The House Appropriations Committee on June 24 approved the FY23 Financial Services and General Government (FSGG) appropriations bill, which includes funding for the federal courts. The [bill](#) and the approved [Committee Amendments](#) appropriate \$8.6 billion in discretionary spending for the courts, consistent with the request from the Administrative Office of the U.S. Courts. This amount includes \$128 million for judicial security, cybersecurity, and IT modernization. Section 306 of the bill also extends several temporary judgeships. On July 20, the FSGG bill was passed by the full House as part of a 6-bill package ([H.R. 8294](#)), on a 220 to 207 vote. On July 28, 2022, the Senate Appropriations Committee released a [draft](#) of its FY 2023 FSGG appropriations bill, which would provide \$8.476 billion for the judiciary, including funding for more security, IT modernization, and cybersecurity priorities. We do not expect any final action on the FY23 appropriations bills until late this year during a lame duck session.



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3. FBA Foundation Charter Legislation Still Awaiting Senate Passage

Although the House passed the Federal Bar Association Charter Amendments Act ([H.R. 2679](#)) over a year ago, the bill has been stalled for months in the Senate. However, after several months of extended discussions with staff for several Senators who serve on the Judiciary Committee and the bill sponsors, outside counsel for the FBA have recently learned that the concerns of the Senators who have been holding the bill might be addressed by a minor amendment. Amending the bill in the Senate would require the House to approve the bill again in its amended form, but the FBA believes the bill has sufficient support in the House to pass again. Outside counsel are now working with the Senate Judiciary Committee and the bill sponsors to amend the Senate bill and secure its passage before the end of this Congress.

4. Judgeships Legislation Unlikely to Pass this Congress

There is no change in the status of any of the pending legislation ([S. 2535](#), [H.R. 4885](#), [H.R. 4886](#)) to create additional judgeships. The FBA has not endorsed a particular bill or proposed solution but urges members of both the Senate and the House Judiciary Committees to craft a bipartisan solution to relieve our overburdened courts. Unfortunately, despite substantial encouragement from the FBA, this issue does not appear to be high on either Judiciary Committee's list of priorities this Congress.

Judiciary Updates

Overall, [eighty-two](#) of President Biden's judicial nominees have been confirmed, and [eighty-two](#) of 890 active federal judicial positions, including the United States Court of Federal Claims and the United States territorial courts, are vacant. Thirty-five more judicial vacancies are [expected](#) by mid-2023, with fifteen nominees named in advance.

Current Article III Vacancies – As of September 14, 2022

[According to the Administrative Office of the U.S. Courts](#)

Court	Vacancies	Nominees Pending
Supreme Court	0	0
Courts of Appeal	9	6
District Courts	69	37
US Ct of International Trade	2	0
Total	82	43

There are [twenty-four judicial vacancy emergencies](#), 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, three are in the New York district courts, three are in the Florida district courts, and nine are in the California district courts.

Judicial Confirmations: Since mid-August, the Senate has [confirmed](#) four judicial nominees:

Nominee	Judicial/District Court	Nomination Date
John Z. Lee	7 th Circuit Court of Appeals	September 7, 2022
Jennifer H. Rearden	Southern District of NY	September 8, 2022
Andre B. Mathis	6 th Circuit Court of Appeals	September 8, 2022
Salvador Mendoza, Jr.	9 th Circuit Court of Appeals	September 12 2022

Judicial Nominations: Since mid-August, President Biden has [announced](#) 8 new judicial nominations:

Nominee	Judicial/District Court	Confirmation Date
Anthony Johnstone	9 th Circuit Court of Appeals	September 2, 2022
Charnelle Marie Bjelkengren	Eastern District of WA	September 2, 2022*
Gordon Gallagher	District of CO	September 2, 2022
Jonathan J.C. Grey	Eastern District of MI	September 2, 2022
Colleen Lawless	Central District of IL	September 2, 2022
Orelia Merchant	Eastern District of NY	September 2, 2022
P. Casey Pitts	Northern District of CA	September 2, 2022
Ramon Reyes	Eastern District of NY	September 2, 2022

*(intent to nominate)