



Government Relations Update

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

October 2022

Advocacy Update

FBA advocates have moved the Senate closer to passing the Federal Bar Association Charter Amendments Act ([H.R. 2679](#)). There was a flurry of activity behind the scenes right before Congress adjourned in late September, but it appears that a couple of procedural hurdles still must be overcome. The Senate is in recess until after the November elections; meanwhile, we are working to identify and resolve any remaining issues so that the bill can be ready for passage when the members return on November 14.

With a few minor differences, the provisions in the bipartisan Daniel Aderl Judicial Security and Privacy Act ([S. 2340](#)) have been added to an [amended Senate version](#) of the National Defense Authorization Act (NDAA) (H.R. 7900), which will be taken up by the full Senate upon its return in November. This language is not included in the NDAA as already approved by the House. Consequently, the FBA and other stakeholders are working to build support for the amended bill's passage by the Senate and, when the two versions of the bill are reconciled by the Conference Committee, will urge House leadership to agree to retain the Senate judicial security provisions in the final version.

Legislative Update

1. Article I Immigration Courts Legislation

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. Sen. Kirsten Gillibrand, D-N.Y., reportedly has been working with Sen. Lindsey Graham, R-S.C., to draft a Senate companion bill to introduce before the 117th Congress ends on Jan. 3, 2023. FBA members have contacted Sen. Graham expressing their support for the bill. Although it is highly unlikely that the bills would pass both houses in the lame-duck sessions after the November elections, even a late-session introduction of the Senate companion bill could give the legislation some momentum going into the next Congress.

2. Fiscal Year 2023 Appropriations for the Judiciary

Having failed to agree on a budget for fiscal year 2023, on September 30 (the last day of fiscal year 2022), Congress passed and President Biden signed a continuing resolution (CR) extending the fiscal



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year 2022 spending levels until December 16. The CR did provide an additional \$112.5 million in emergency funds for necessary security improvements at U.S. courthouses and federal court facilities. Between now and December 16, the House and Senate Appropriations Committees hope to come to an agreement on the top line defense and non-defense spending numbers as well as all the line item budget numbers. The Administrative Office of the U.S. Courts (AO) has requested \$8.6 billion, which is included in the House-approved spending bill. The Senate Appropriations Committee has released, but not yet voted to approve, a draft bill that would provide \$8.476 billion for the judiciary. The FBA has conveyed to Congress its support for fully funding the AO's request.

3. 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. 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, 86 of President Biden's judicial nominees have been confirmed, and [87](#) of 890 active federal judicial positions, including the U.S. Court of Federal Claims and the U.S. territorial courts, are vacant. Thirty-one additional judicial vacancies are [expected](#) through the end of 2023, with 12 nominees named in advance.

Current Article III Vacancies – As of Oct. 14, 2022

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

Court	Vacancies	Nominees Pending
U.S. Supreme Court	0	0
Courts of Appeal	9	5
District Courts	74	39
U.S. Court of International Trade	2	0
Total	87	44

There are [27 judicial vacancy emergencies](#), based on caseload and/or the length of the vacancy, according to the AO, including one in the Fifth Circuit and one in the Eleventh Circuit.

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

Nominee	Judicial/District Court	Nomination Date
Lara E. Montecalvo	First Circuit Court of Appeals	Sept. 14, 2022
Sara A. Merriam	Second Circuit Court of Appeals	Sept. 15, 2022
Florence Y. Pan	D.C. Circuit Court of Appeals	Sept. 20, 2022
Arianna J. Freeman	Third Circuit Court of Appeals	Sept. 29, 2022

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

Nominee	Judicial/District Court	Confirmation Date
Charnelle Marie Bjelkengren	Eastern District of WA	Sept. 19, 2022
Todd E. Edelman	D.C. District Court	Sept. 27, 2022