



# Government Relations Update

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

November 2022

## Advocacy Update

Now that the Senate is back in session, FBA advocates hope to be able to resolve any remaining issues with the Foundation of the Federal Bar Association Charter Amendments Act ([H.R. 2679](#)) and to secure its passage before the end of the year.

Since the Democrats have retained their Senate majority, the agenda for floor consideration of legislation is in flux. Though the provisions in the bipartisan Daniel Aderl Judicial Security and Privacy Act ([S. 2340](#)) are included in the [Managers' version](#) of the National Defense Authorization Act (NDAA) ([H.R. 7900](#)) that is awaiting full Senate consideration, it is possible that the Senate will not hold a floor vote on their version of the NDAA as previously anticipated, but will simply negotiate a final version with the House. It is a good sign that in recent days, House Judiciary Committee Chairman Jerrold Nadler (D-NY) has engaged with the Aderl bill's sponsors and House and Senate leadership in negotiating some changes to the language in the Senate bill. FBA advocates are continuing to urge that the Aderl provisions remain in the final bill and that the protections for judges and their families remain strong.

## Legislative Update

### **1. Article I Immigration Courts Legislation**

Senator Kirsten Gillibrand (D-NY) reportedly has been working with Senator Lindsey Graham (R-SC) to draft a Senate companion bill to the Real Courts, Rule of Law Act ([H.R. 6577](#)), which was approved by the House Judiciary Committee on May 11, but has not yet received a vote by the full House. FBA members have contacted Sen. Graham expressing their support and will continue to do so now that the Senate is back in session. 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 could give the legislation some momentum going into the next Congress.

### **2. FY 2023 Appropriations for the Judiciary**

Now that Congress is back from the October recess and until the current Continuing Budget Resolution expires on December 16, the House and Senate Appropriations Committees will be working to come to an agreement on the top line defense and non-defense spending numbers, as



**Federal Bar  
Association**

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

well as all the line item budget numbers for Fiscal Year 2023. 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, none of these bills is likely to pass this Congress.

### Judiciary Updates

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

#### Current Article III Vacancies – As of Nov. 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	76	40
U.S. Court of International Trade	2	0
<b>Total</b>	<b>89</b>	<b>45</b>

There are [twenty-eight judicial vacancy emergencies](#), based on caseload and/or the length of the vacancy, according to the Administrative Office of the U.S. Courts, including one in the 5<sup>th</sup> Circuit and one in the 11<sup>th</sup> Circuit.

**Judicial Confirmations:** Since mid-October, the Senate has not confirmed any judicial nominees.

**Judicial Nominations:** In October, President Biden [announced](#) 1 new judicial nomination:

Nominee	Judicial/District Court	Confirmation Date
Scott Colom	Northern District of MS	Oct. 14, 2022