



Federal Bar Association

2021 Legislative Priorities

The Federal Bar Association is the foremost national bar association devoted exclusively to the practice of federal law and the vitality of the United States federal court system. Our legislative priorities are devoted toward better courts and better laws to improve the administration of justice. Our federal courts constitute an equal, coordinate branch of our government and deserve Congressional support.

Greater Security for Federal Judges and Courthouses

The Federal Bar Association supports the adoption of greater security measures to protect the federal judiciary and all federal courthouses. The safety of all federal judicial personnel and the physical security of all federal courthouses throughout the country is critical to the preservation of the rule of law. The July 2020 murder of the son of U.S. District Court Judge Esther Salas has renewed the need for improved security for the federal Judiciary. Threats against judges and court officials have greatly multiplied in recent years, from 926 in 2015 to 4,449 in 2019, according to the U.S. Marshals Service. We extend our appreciation to Congress for its appropriation late last year of FY2021 funding to upgrade security monitoring systems at judges' homes and hire additional officers at the U.S. Marshals Service.

Congress should approve the "Daniel Aderl Judicial Security and Privacy Act" legislation that will help keep judges' personally identifying information off the internet. Bills in the Senate (S 4711) and the House (HR 8591) were introduced late in the 116th Congress. We also urge Congress to provide adequate funding, as requested by the Judiciary and the General Services Administration, to improve the security and protection of federal judicial facilities.

More Judgeships for our Federal Courts

The Federal Bar Association urges Congress to approve the Judicial Conference's recent request for two new court of appeals judgeships and 77 new district judgeships, and the conversion of nine temporary district judgeships to permanent status. Congress has the authority to establish the appropriate number and distribution of judicial officers throughout the federal courts. Congressional exercise of that authority is critical to the effective administration of justice. Congress has not approved comprehensive judgeship legislation since 1990. Case filings in the district courts and courts of appeals have significantly increased since then. According to the Administrative Office of the U.S. Courts, from 1990 through 2020 district court caseloads rose 47 percent, with civil cases up by 41 percent and criminal filings up by 72 percent. Weighted filings were above 500 per judgeship in 17 of the 26 courts in which the Judicial Conference has recommended additional judgeships or permanentizing current temporary judgeships. Weighted case filings exceeded 600 per judgeship in 14 of these courts, 700 per judgeship in six courts, and 900 per judgeship in two courts. Weighted case filings are a measure that the Judiciary uses to account for the varying level of resources cases require.

Responsible Federal Court Case Records Reform

The House of Representatives late last year approved legislation (The Open Courts Act, HR 8235) that would require a complete overhaul of the federal courts' electronic platform (Case Management/Electronic Case Filing or "CM/ECF") for online filing in the appellate, district and bankruptcy courts. The legislation also would terminate charges for non-commercial users of the federal courts' Public Access to Court Electronic Records (PACER) system, which allows users to access documents in current and recently closed federal cases. The Federal Bar Association has raised concerns about the necessity and cost of a federal court records overhaul and remains opposed to increases in litigant fees to finance the initiative. In contemplating changes to CM/ECF, Congress should also take into account the assurance of greater protection and funding against cybersecurity breaches. The recent SolarWinds attack may have compromised highly-sensitive, sealed documents contained within CM/ECF.

Adequate Funding for Our Federal Courts

The Federal Bar Association supports the federal Judiciary's FY 2022 budget request and urges Congress to provide sufficient funding to permit the Judiciary to fulfill their Constitutional and statutory responsibilities. The Judiciary's budget request of \$8.12 billion in discretionary appropriations includes funding to maintain current services and fund priority initiatives, including responses to growing security threats against judges and court facilities, both physical and cyber, as well as more magistrate judges and additional videoconferencing capabilities. This appropriation to the Judiciary, a coordinate branch of our federal government, represents less than 2 percent of one penny of a taxpayer's dollar. Civil unrest in the past year resulted in damage to over 53 courthouses, necessitating the Judiciary's planned submission of a supplemental funding request to Congress that addresses existing vulnerabilities at courthouses.

Establish an Independent Immigration Court

Since 2013 the Federal Bar Association has urged Congress to replace the Executive Office for Immigration Review (EOIR) in the Department of Justice with an independent "United States Immigration Court" to serve as the principal adjudicatory forum under title II of the Immigration and Nationality Act. There is broad consensus that our system for adjudicating immigration claims is broken and deserves systemic overhaul. Hiring more immigration judges, while urgent, will not address the longstanding management and operational deficiencies within EOIR.

Foundation of the Federal Bar Association Charter Amendments

The Federal Bar Association urges Congress to pass the Foundation of the Federal Bar Association Charter Amendments Act (H.R. 2679). This bipartisan legislation would make technical changes to the federal charter of the Foundation of the Federal Bar Association, as granted by Congress in 1954. The measure was previously approved by the House of Representatives in 2017 and 2019.

Contact Bruce Moyer, Counsel for Government Relations to the Federal Bar Association
Email: grc@fedbar.org Phone: 301-452-1111