

JUDGES & THE COURTS

FACT SHEET

The Vacancy Crisis in the Federal Judiciary: What's At Stake for Women

There are currently 96 vacancies on the federal district and appellate courts.¹ With over 850 authorized judicial seats, this represents an eleven percent vacancy rate. This alarmingly high vacancy rate has persisted for over four years; indeed, the nonpartisan Congressional Research Service recently determined that we are in the longest period of historically high vacancy rates in 35 years.² In addition, over 38 percent of the existing vacancies (39) are in courts so overburdened that they have been designated "judicial emergencies" by the Administrative Office of the U.S. Courts.³ Millions of people live in jurisdictions with judicial emergencies.⁴

The number of vacancies on the federal bench has a huge impact on people all around the country, including women, particularly as the number of civil lawsuits and appeals continues to rise.

When the federal courts aren't fully staffed, individuals and businesses must wait longer for their claims to be resolved. When federal judgeships sit empty, people around the country must wait for justice. The need is particularly acute for the millions of people living in a jurisdiction that has been declared a judicial emergency.⁵ Accordingly, jurists across the country – including Supreme Court Chief Justice John Roberts⁶ – have urged the United States Senate to act expeditiously on pending judicial nominations.

Despite the vacancy crisis, the Senate has consistently failed to make meaningful progress on judicial nominations.

There are currently 63 nominees, 27 of whom are women. Some of these nominees were nominated years ago but have not yet had hearings before the Senate Judiciary Committee. If all the pending

nominees were confirmed, two-thirds of the existing judicial vacancies would be filled.

In addition, if the Senate were to confirm the pending judicial nominees, it would also increase the diversity of the federal bench, including by adding many new female judges.

When our federal courts are diverse, they are more reflective of the diverse population of this nation. When our courts are diverse, people around the country may have more confidence that the court understands the real-world implications of its rulings.

- Unfortunately, although women make up half the population and, for almost twenty-five years, close to half of law students, approximately one-third of federal judges are women – and many fewer are women of color.
- On the federal appeals courts right now, there is only one active woman judge on the Tenth Circuit, although two women have been nominated to fill vacancies on the Tenth Circuit.⁷
- There are seven federal courts of appeals where

there is not one woman of color sitting as an active judge.

If the 27 pending female judicial nominees were confirmed, the number of women on the Third, Ninth, Tenth, and Eleventh Circuits and district courts in Arizona, California, D.C., Florida, Georgia, Illinois, Massachusetts, Michigan, New York, North Carolina, South Carolina, Tennessee, and Virginia would increase. Other nominees would add other kinds of sorely-needed diversity to the bench as well.

You can make a difference in our nation's courts.

Get the facts about women in the federal judiciary:

<http://www.nwlc.org/resource/women-federal-judiciary-still-long-way-go-1>

Make your voice heard in Washington:

<http://www.nwlc.org/action/tell-your-senators-vote-judicial-nominees>

- 1 Federal Judicial Center, U.S. Courts, *Current Judicial Vacancies*, www.uscourts.gov/JudgesAndJudgeships/JudicialVacancies/CurrentJudicialVacancies.aspx (last visited Feb. 11, 2013).
- 2 Denis Steven Rutkus & Susan Navarro Smelcer, Cong. Research Serv., R41942, *Vacancies on Article III District and Circuit Courts, 1977-2011: Data, Causes, and Implications* 5 (2011).
- 3 U.S. Courts, *Judicial Emergencies*, <http://www.uscourts.gov/JudgesAndJudgeships/JudicialVacancies/JudicialEmergencies.aspx> (last visited Oct. 18, 2013).
- 4 Sally J. Kenney, *Blue-Slip Blues Keep Female Judges Stuck at 30%*, Women's E-News (June 19, 2014), www.womensenews.org/story/in-the-courts/140119/blue-slip-blues-keep-female-judges-stuck-at-30#.Uvpz2zcYa70.
- 5 Ctr. for American Progress, *Federal Judicial Emergencies* (updated May 2013) http://www.americanprogress.org/issues/2011/09/federal_judicial_emergencies.html (last visited Oct. 18, 2013).
- 6 Chief Justice John G. Roberts, *Statement on 2012 Year-End Report on the Federal Judiciary* (2012), available at <http://www.supremecourt.gov/publicinfo/year-end/2012year-endreport.pdf>.
- 7 Federal Judicial Center, *Current Judicial Vacancies*, *supra* note 1.