

JUDGES & THE COURTS

FACT SHEET

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

There are currently 88 vacancies on the federal district and appellate courts.¹ With over 850 authorized judicial seats, this represents over a 10 percent vacancy rate. This alarmingly high vacancy rate has persisted for over two 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, nearly one-third of the existing vacancies (31) are in courts so overburdened that they have been designated "judicial emergencies" by the Administrative Office of the U.S. Courts.³

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.⁴ Accordingly, jurists across the country – including Supreme Court Chief Justice John Roberts⁵ – 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 35 nominees, 17 of whom are women. Some of these nominees were approved by the Senate Judiciary Committee last year but did not receive a vote before the full Senate despite waiting

for months, some have not yet had hearings. If all the pending nominees were confirmed, nearly one-fifth of the existing judicial vacancies would be filled. As Senator Patrick Leahy recently stated, over 150 million people live in jurisdictions where judicial vacancies would be filled by the confirmation of currently pending nominees – including California, Pennsylvania, and Florida.⁶

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, the Eighth Circuit and the Tenth Circuit have only one active woman judge each,⁷ although a nominee to the Eighth Circuit is pending.
- There are seven federal courts of appeals where there is not one woman of color sitting as a judge.

If the 17 pending judicial nominees were confirmed, the number of women on the Third, Eighth, and Eleventh Circuits and district courts in Arizona, California, Florida, Louisiana, Nevada, New York, Pennsylvania, and D.C. 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 Alliance for Justice, *Judicial Selection Snapshot 1*, <http://www.afj.org/judicial-selection/judicial-selection-snapshot.pdf> (last visited Feb. 26, 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 Judicial Emergencies, U.S. Courts, <http://www.uscourts.gov/JudgesAndJudgeships/JudicialVacancies/JudicialEmergencies.aspx> (last visited Feb. 26, 2013).
- 4 Federal Judicial Emergencies, Ctr. for American Progress, http://www.americanprogress.org/issues/2011/09/federal_judicial_emergencies.html (last visited Feb. 26, 2013).
- 5 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>.
- 6 Press Release, Sen. Patrick Leahy, Statement of Senator Patrick Leahy on the Nominations of Jacqueline Nguyen, Kristine Baker, and John Lee (May 8, 2012), http://www.leahy.senate.gov/press/press_releases/release/?id=291CA148-FAA0-4095-A590-DE844D084B03.
- 7 Nat'l Women's Law Ctr., *Women in the Federal Judiciary: Still a Long Way to Go*, available at <http://www.nwlc.org/resource/women-federal-judiciary-still-long-way-go-1> (last visited Feb. 26, 2013).