

ROLL CALL

Congress Wants More Immigration Judges, and Fast Appropriators want Justice Department to pick up the pace

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Sen. Richard Shelby's Appropriations subcommittee wants more immigration judges on the bench.
(Tom Williams/CQ Roll Call)

Congress wants to fund more judges to tackle the growing backlog of deportation and other immigration cases, even as lawmakers are hammering the Justice Department for not hiring them fast enough.

Both House and Senate Commerce-Justice-Science spending bills would fund an additional 65 immigration judges and support staff in fiscal 2018, on top of 10 new judges provided for in the fiscal 2017 omnibus spending bill. But appropriators in both chambers included language in bill reports questioning the Justice Department's efforts to fill those positions.

Congress also already had funded an additional 55 immigration judges in fiscal 2016 back when there were 480,000 pending cases in the immigration system, but Senate appropriators concluded that the agency's hiring process is cumbersome and lethargic.

The backlog now has grown to record numbers in a deepening crisis in a crucial enforcement part of the nation's immigration system.

"Over the last eight years, dozens of these immigration judge positions have gone unfilled while the backlog of immigration cases has grown to a staggering number of over 600,000," Sen. Richard C. Shelby, R-Ala., chairman of the Senate Commerce-Justice-Science Appropriations Subcommittee, said at a markup Thursday.

Such a backlog means some of those facing deportation cases aren't scheduled to have their day in court for more than five years — or until President Donald Trump's four-

year term is over, according to the Transactional Records Access Clearinghouse at Syracuse University.

The Justice Department added 79 new immigration judges since November 2015, TRAC reported. The Justice Department said that includes 11 new judges in June that brought the total nationwide to 326. But policies in the Trump administration — such as ending the discretion of prosecutors to close cases — have helped to slow the pace of immigration judges closing cases and meant there hasn't been a dent in the backlog, TRAC reported.

The Government Accountability Office concluded in a June report that the agency's Executive Office of Immigration Review "does not have efficient practices for hiring new immigration judges." GAO found that it took an average of 742 days to hire new judges from 2011 through August 2016.

The agency is developing an expedited hiring process for new immigration judges, but the Senate appropriators say in a spending bill report that they are "troubled" that key details of the plan haven't been shared with them.

Senate appropriators want to require the agency submit a streamlined hiring plan, as well as describe how many judges are being reassigned to the Southwest border to reduce the largest backlogs and how those judges' regular caseloads will be covered.

"Left unanswered are questions regarding the applicant pool for new hires and the means by which candidate vetting will be accelerated while remaining thorough," the committee report approved last week states.

The courts' pace of handling cases affects the immigration system and those whose future is at stake. A delay often benefits undocumented immigrants who may have weak cases, since they can stay in the country and go about their lives as their cases languish in the courts, building the roots that might make it harder to deport them later.

Meanwhile, undocumented immigrants with good reasons to stay can see their cases fall apart while waiting for a judge if evidence goes stale, witnesses lose contact, a minor in their care turns 21 years old or a sick relative in their care dies.

In the report approved Thursday, Senate appropriators also wrote they were "alarmed" by the recent cancelation of continued training and education courses for immigration judges.

"This training helps to ensure they have the most up-to-date information on not only rules and regulations, but how to best handle cases with vulnerable populations, such as children, as well as ethics courses," the Senate Appropriations Committee report states.

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