

U.S. District and Circuit Court Vacancies: Overview and Comparative Analysis

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This Insight provides data related to U.S. circuit and district court vacancies that existed as of [December 1 of President Obama's seventh year in office](#). It also provides [historical data](#) related to circuit and district court vacancies that existed on December 1 of each of President Obama's seven years in office, as well as a comparative analysis of vacancies on December 1 during each year of the presidencies of his two immediate predecessors, Presidents George W. Bush and Clinton. Vacancies typically arise when a judge voluntarily retires or resigns, but can also occur as a result of a judge dying while in office, being [impeached and removed from office](#), or when [new judgeships are authorized by Congress](#).

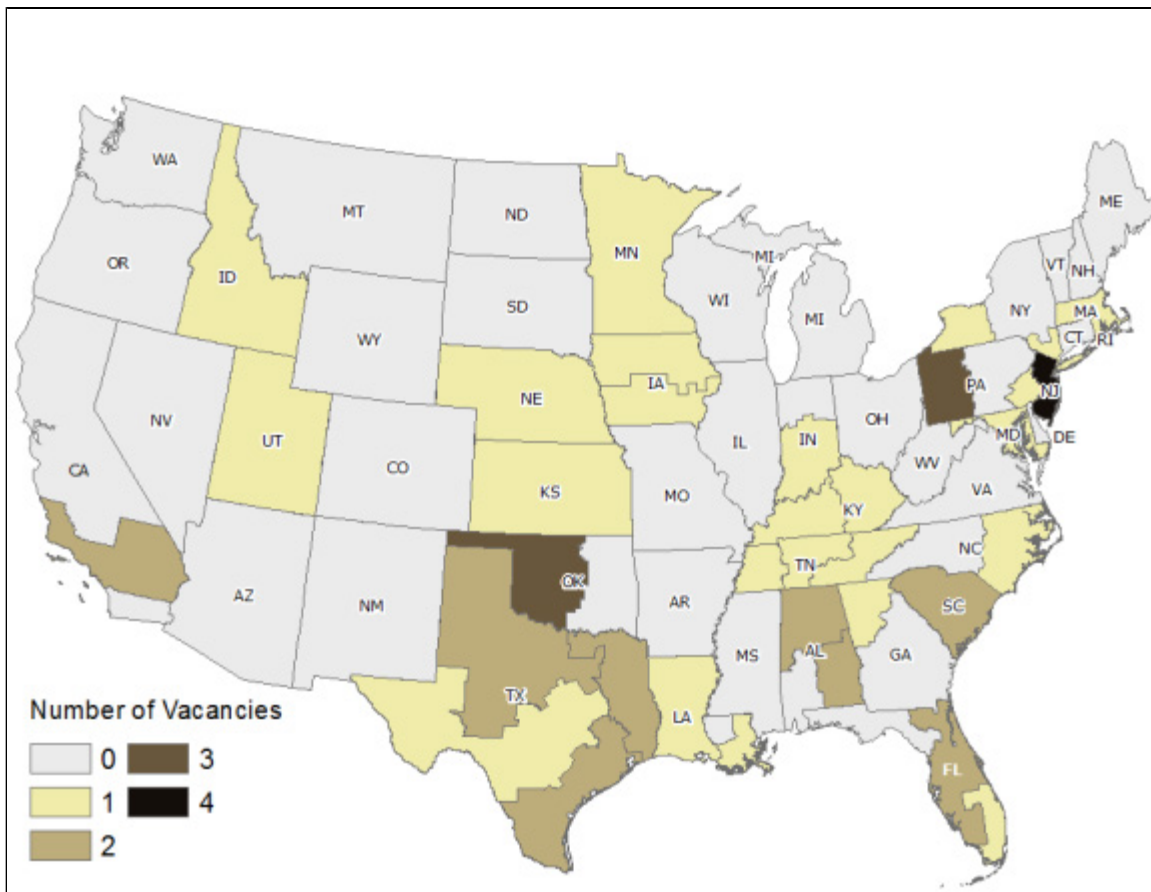
Vacancies Existing on December 1 of President Obama's Seventh Year in Office

U.S. District Courts

As of December 1, 2015, there were 53 U.S. district court vacancies across 38 (or 42%) of the nation's 91 judicial districts (not including territorial courts). [Figure 1](#) shows the location of these vacancies, as well as the 11 judicial districts with more than 1 vacancy. As shown by the figure, multiple vacancies exist in the Districts of New Jersey, Western Pennsylvania (Pittsburgh), South Carolina, Eastern Texas (Tyler), Northern Texas (Dallas), Southern Texas (Houston), Central California (Los Angeles), Western Oklahoma (Oklahoma City), Middle Alabama (Montgomery), Northern Alabama (Birmingham), and Middle Florida (Tampa).

Of the 53 vacancies, 9 vacancies have a nominee pending before the [Senate Judiciary Committee](#), 13 vacancies have a nominee pending on the [Senate Executive Calendar](#), and 31 of the vacancies have not yet had a nominee submitted to the Senate. For background information and analysis on the roles of the President and of home state Senators in the selection of U.S. district court nominees, see [CRS Report RL34405, Role of Home State Senators in the Selection of Lower Federal Court Judges](#).

Figure 1. U.S. District Court Vacancies (as of December 1, 2015)



Source: Congressional Research Service

Notes: The District of Hawaii, not represented in the figure, currently has one U.S. district court vacancy. At present, there are no U.S. district court vacancies in the Districts of Alaska or Puerto Rico.

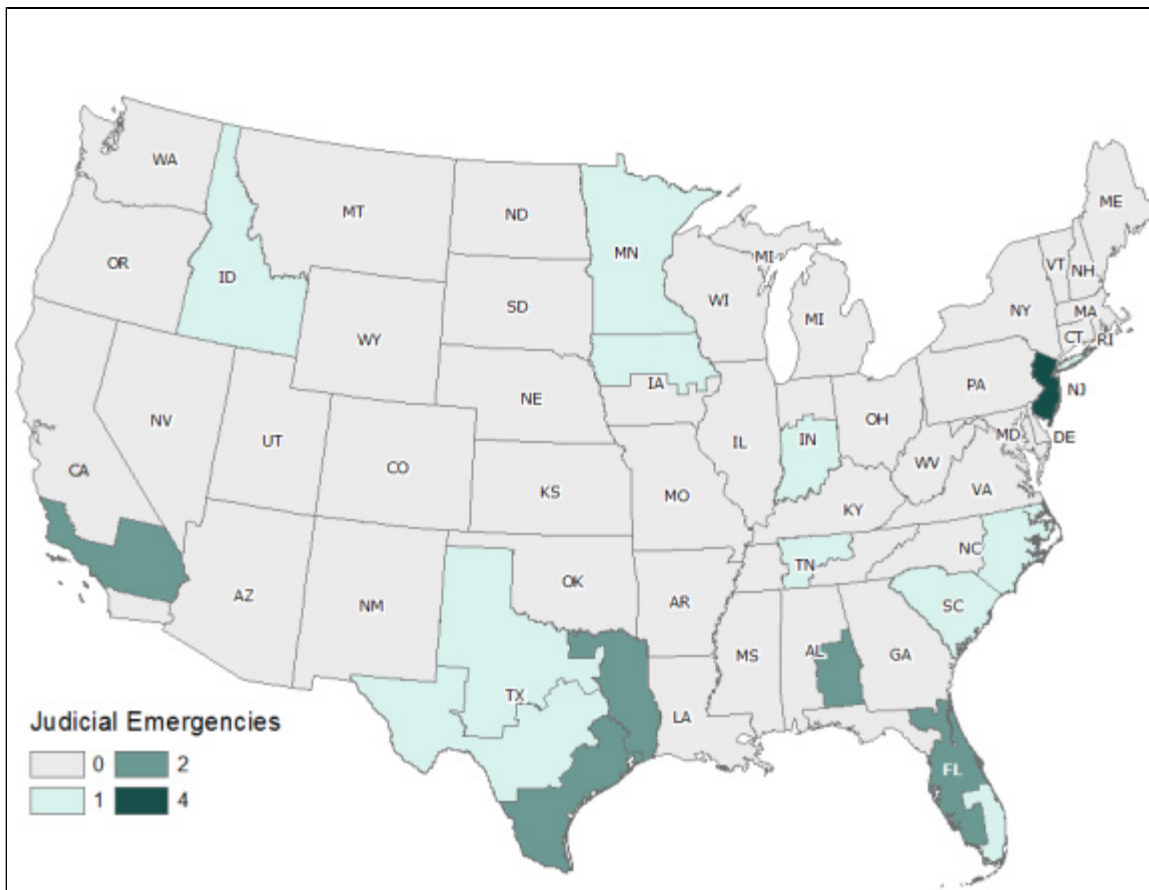
Judicial Emergencies

Figure 2 shows the location of vacancies considered judicial emergencies. [As of December 1, 2015](#), 25 (or 47%) of the existing 53 vacancies are classified by the Administrative Office of U.S. Courts as "judicial emergencies." This is the highest percentage of vacancies deemed judicial emergencies on December 1 of any year since at least 2001 (and ranks fourth during this period—after December 1 in 2010, 2012, and 2013—in terms of the number of vacancies deemed emergencies).

District and circuit court vacancies are classified as judicial emergencies [based on various criteria](#), including case filings and the length of time a particular vacancy has existed. At present, multiple judicial emergencies exist in six districts—New Jersey, Eastern Texas, Southern Texas, Central California, Middle Alabama, and Middle Florida.

Of the 25 vacancies considered judicial emergencies, 1 vacancy has a nominee pending before the Senate Judiciary Committee, 8 vacancies have a nominee pending on the *Executive Calendar*, and 16 of the vacancies have not yet had a nominee submitted to the Senate.

Figure 2. U.S. District Court Vacancies Classified as Judicial Emergencies (as of December 1, 2015)



Source: Congressional Research Service

Notes: The District of Hawaii, not represented in the figure, currently has one U.S. district court vacancy (which is not classified, at this time, as a judicial emergency). At present, there are no U.S. district court vacancies in the Districts of Alaska or Puerto Rico.

U.S. Circuit Courts

As of December 1, 2015, there are 9 vacancies across 6 of the country's 13 [circuit courts of appeal](#). A single vacancy exists in each of the Sixth, Eighth, and Eleventh Circuits. Two vacancies exist in each of the Third, Fifth, and Seventh Circuits.

Of the nine vacancies, one vacancy (for the Third Circuit) has a nominee pending on the [Senate Executive Calendar](#), and eight of the vacancies have not yet had a nominee submitted to the Senate. For background information and analysis on the roles of the President and of home state Senators in the selection of U.S. circuit court nominees, see [CRS Report RL34405, Role of Home State Senators in the Selection of Lower Federal Court Judges](#).

Judicial Emergencies

[As of December 1, 2015](#), 5 (or 56%) of the current vacancies are classified as "judicial emergencies." This is below both the average number and percentage of circuit court vacancies considered emergencies on December 1 of each of the 15 years since 2001 (which reached a high of 81% on December 1, 2006).

At present, multiple vacancies considered judicial emergencies exist in a single circuit—[the Fifth](#) (comprised of Texas, Louisiana, and Mississippi).

Of the five vacancies considered judicial emergencies, one vacancy has a nominee pending on the *Executive Calendar*, and four of the vacancies have not yet had a nominee submitted to the Senate (including both vacancies for the Fifth Circuit).

Historical Vacancy Data on December 1 of Each Year During Select Presidencies

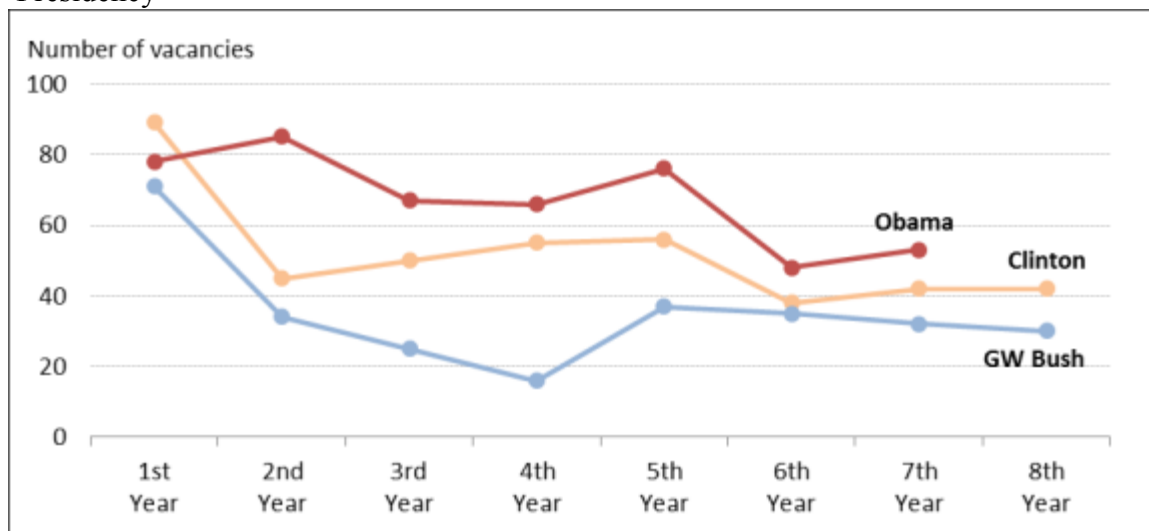
U.S. District Courts

Figure 3 shows the number of vacancies that existed on December 1 during the first through eighth years of the George W. Bush and Clinton presidencies (and for the Obama presidency, through the seventh year).

President Obama's presidency had, compared to the other two presidencies, the most district court vacancies on December 1 of his second through seventh years in office. This includes December 1, 2014—President Obama's sixth year in office, [during which a relatively large number of district court nominees were confirmed](#).

As of December 1, 2015 (President Obama's seventh year in office), there were 53 district court vacancies. In contrast, on December 1, 2007 (President George W. Bush's seventh year), there were 32 vacancies and on December 1, 1999 (President Clinton's seventh year), there were 42 vacancies.

Figure 3. U.S. District Court Vacancies on December 1 on Years 1 Through 8 of Presidency



Source: Congressional Research Service

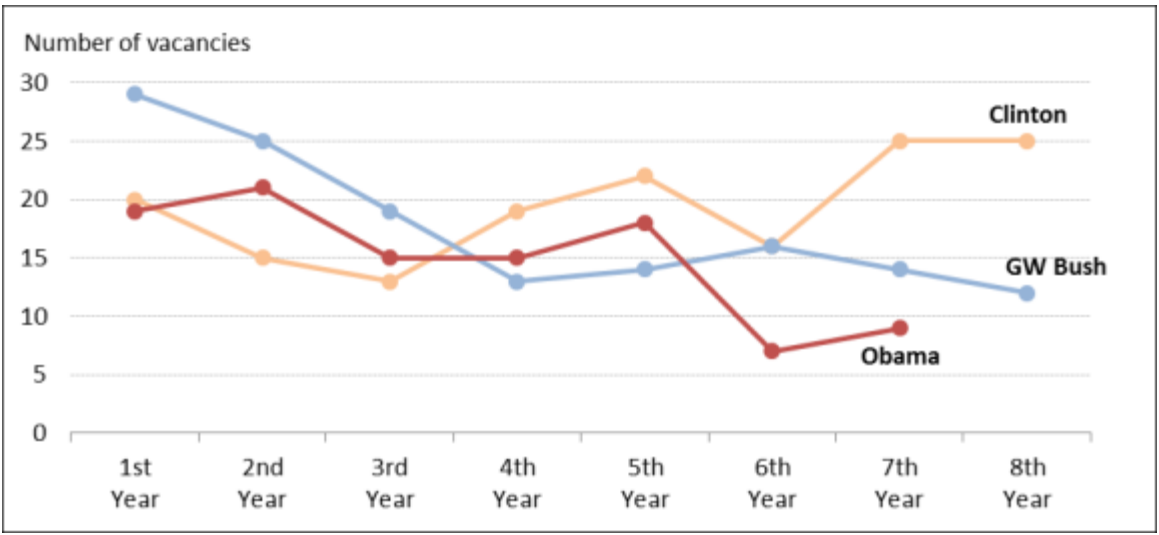
U.S. Circuit Courts

Figure 4 shows the number of vacancies that existed on December 1 during the first through eighth years of the George W. Bush and Clinton presidencies (and for the Obama presidency, through the seventh year).

When compared to the number of circuit court vacancies that existed on December 1 of the corresponding years of the Bush and Clinton presidencies, President Obama had the fewest number of circuit court vacancies on December 1 of his first, sixth, and seventh years in office (and was in the middle of the three Presidents during his second, third, fourth, and fifth years in office).

As of December 1, 2015 (President Obama's seventh year in office), there were nine circuit court vacancies. In contrast, on December 1, 2007 (President George W. Bush's seventh year), there were 14 vacancies and on December 1, 1999 (President Clinton's seventh year), there were 25 vacancies.

Figure 4. U.S. Circuit Court Vacancies on December 1 on Years 1 Through 8 of Presidency



Source: Congressional Research Service