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Expediting Cases and Setting Deadlines for Court Actions

Federal court litigation is subject to various deadlines. Often, statutes or procedural rules set time limits for actions by the litigants. For instance, statutes of limitations require cases to be filed within a certain time after the conduct at issue. Once a case is filed, generally applicable court rules and case-by-case scheduling decisions may set deadlines for the parties to file motions and briefs and argue the case.

Less commonly, statutes may require prompt action by courts themselves. Some such statutes require courts to expedite proceedings without setting exact time limits for action. Others impose specific deadlines by which courts must take certain actions. This In Focus provides an overview and examples of both types of statutes, then discusses selected considerations for Congress related to setting deadlines for court actions.

Expediting Proceedings

Expediting a court proceeding means that the court handles the matter more quickly than ordinary procedures would provide, including giving the matter priority over matters that are not expedited.

28 U.S.C. § 1657(a), a provision within the title of the U.S. Code that governs courts and court procedures, generally gives courts discretion to determine the order in which civil cases should be considered. It requires expedition of petitions for writs of habeas corpus under chapter 153 of Title 28, proceedings to confine a recalcitrant witness under 28 U.S.C. § 1826, claims for temporary or preliminary injunctive relief, or “or any other action if good cause therefor is shown.”

Multiple other federal statutes provide for courts to expedite certain matters without setting specific deadlines. Congress can require courts to expedite certain matters, can set standards for deciding whether to expedite, or can encourage courts to resolve certain disputes quickly. Examples include the following:

- 2 U.S.C. § 1412(b) provides, in appeals in cases involving the constitutionality of the Congressional Accountability Act: “The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal ... , advance the appeal on the docket, and expedite the appeal to the greatest extent possible.”
- 8 U.S.C. § 1252(e)(3)(D) requires federal courts at all levels “to advance on the docket and to expedite to the greatest possible extent the disposition of any case considered under this paragraph” involving orders of removal under 8 U.S.C. § 1225(b).

- 16 U.S.C. § 6516 governs judicial review of certain hazardous fuel reduction projects on federal lands. It does not require but rather “encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.”
- 18 U.S.C. § 3509(j) seeks to “minimize the length of time [a] child must endure the stress of involvement with the criminal process.” It provides that, when a child is called to give testimony in a criminal case, “on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance,” and then “expedite the proceeding and ensure that it takes precedence over any other.”
- 42 U.S.C. § 2000a-5(b) provides that, upon receipt of a request from the Attorney General for certain civil rights cases to be heard by a three-judge panel, “it shall be the duty of the chief judge of the circuit or the presiding circuit judge ... to designate immediately three judges in such circuit ... to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date ... and to cause the case to be in every way expedited.”
- 52 U.S.C. § 10701 governs Attorney General suits to enforce the Twenty-Sixth Amendment and provides in part: “It shall be the duty of the judges designated to hear the case ... to cause the case to be in every way expedited.”

Setting Time Limits for Court Actions

Other federal statutes set specific deadlines by which courts must take certain actions. One example is the Speedy Trial Act, which seeks to ensure that criminal defendants are brought to trial promptly as required by the Sixth Amendment. One provision of the act states:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

Certain periods of delay are excluded from the calculation of time elapsed, but unexcluded delays by both prosecutors

and courts can cause violations of the act. If a defendant is not brought to trial within the applicable time limit, [the act provides](#) that the “information or indictment shall be dismissed on motion of the defendant.”

Other examples of federal statutes that set deadlines for specific court actions include the following:

- [12 U.S.C. § 5390\(j\)](#) provides that appeals in certain cases brought by the Federal Deposit Insurance Corporation shall be heard within 120 days and “shall be decided not later than 180 days after the date of the notice of appeal.” It also requires the court to expedite the consideration of such cases. The statute allows the court to modify the schedule and time limitations on a case-by-case basis, “based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.”
- [18 U.S.C. § 2339B\(f\)\(5\)\(B\)](#), which governs criminal charges of providing material support to terrorism, provides, “If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals ... shall hear argument on such appeal not later than 4 days after the adjournment of the trial, excluding intermediate weekends and holidays; [and] shall render its decision not later than 4 days after argument on appeal, excluding intermediate weekends and holidays[.]”
- [28 U.S.C. § 2244\(b\)\(3\)\(D\)](#) governs second or successive applications for a writ of habeas corpus and provides, “The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.”
- [28 U.S.C. § 2266\(c\)](#) governs habeas petitions in capital cases. It provides, “A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.” However, Section 2266(c)(4) provides that the “failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.”
- [29 U.S.C. § 3247\(a\)\(2\)](#) applies to petitions for review of certain decisions of the Secretary of Labor related to awards of financial assistance, providing, “Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.”

Considerations for Congress

As the non-exhaustive lists of examples above show, Congress has different ways that it may choose to direct

courts to act promptly, including generally requiring expedition and setting specific time limits. These mechanisms are part of Congress’s significant legal authority to legislate to set procedures for the federal courts. However, legislation that governs the timing of court proceedings may raise various legal and practical challenges.

In evaluating legislation that sets specific deadlines for court proceedings, legislators may consider whether it is feasible—or desirable—for courts and parties to meet the deadlines. Litigation can be time-consuming. The parties may need to gather evidence, file various motions, brief the legal issues presented, and prepare for witness testimony or oral argument. Courts may need time to schedule and hear cases and to decide them after they are presented. [Statistics from the U.S. district courts](#) indicate that, in the 12-month period ending in December 2023, federal felony cases took a median of 11 months from filing to disposition. Civil cases took a median of 6.9 months, but civil cases that went to trial took a median of 35.6 months from filing to trial.

Courts and litigants have some ability to speed up litigation timelines, but short time limits may not be possible to meet or may limit the parties’ ability to present a case properly or the court’s opportunity to consider it fully. The Speedy Trial Act accounts for this consideration by setting a minimum time before trial as well as a maximum to avoid rushing cases to trial before the defense can fully prepare. Other statutes set deadlines but give courts discretion to extend the limits in the interest of justice.

Another consideration for Congress when setting deadlines for court action is what happens if the court does not meet a deadline. Most of the statutes listed above do not impose specific consequences if a deadline is not met. The exception is the Speedy Trial Act, which allows the defendant to move for dismissal if a criminal trial is improperly delayed. By contrast, [28 U.S.C. § 2266\(c\)](#) enumerates certain forms of relief that are not available if a court fails to meet a deadline.

More generally, when deciding whether to require courts to expedite certain matters, Congress may consider the practical effects of expedition for courts and litigants. For instance, expediting some cases may require courts to deprioritize others, causing delay for litigants whose cases are not expedited. On one hand, legislation requiring expedition leaves courts more discretion to set schedules than legislation imposing specific deadlines for court action. On the other hand, it may burden parties and counsel who must prepare for litigation on a condensed timeline, as well as judges and other court staff who handle expedited matters.

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