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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To provide for the modernization of electronic case management systems,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. JOHNSON of Georgia (for himself and Mr. ISSA) introduced the following
bill; which was referred to the Committee on

A BILL

To provide for the modernization of electronic case
management systems, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open Courts Act of
5 2021”.

1 **SEC. 2. MODERNIZATION OF ELECTRONIC COURT RECORDS**
2 **SYSTEMS.**

3 (a) CONSOLIDATION.—Not later than the date speci-
4 fied in subsection (e), the Director of the Administrative
5 Office of the United States Courts, in coordination with
6 the Administrator of General Services, shall develop, de-
7 liver, and sustain, consistent with the requirements of this
8 section and section 3, one system for all public court
9 records.

10 (b) REQUIREMENTS OF SYSTEM.—The system de-
11 scribed under subsection (a) shall comply with the fol-
12 lowing requirements:

13 (1) The system shall provide search functions,
14 developed in coordination with the Administrator of
15 General Services, for use by the public and by par-
16 ties before the court.

17 (2) The system shall make public court records
18 automatically accessible to the public upon filing.

19 (3) Any information made available through a
20 website established pursuant to section 205 of the
21 E–Government Act of 2002 shall be included in the
22 system.

23 (4) Any website for the system shall substan-
24 tially comply with the requirements under sub-
25 sections (b) and (c) of section 205 of the E–Govern-
26 ment Act of 2002.

1 (5) To the extent practicable, external websites
2 shall be able to link to documents on the system.
3 Each website established pursuant to section 205 of
4 the E-Government Act of 2002 shall contain a link
5 to the system.

6 (6) To the extent practicable, the system shall
7 enable courts to automatically generate and submit,
8 in a computer-readable format, the reports required
9 by sections 2519(1) and 3103a(d)(1) of title 18,
10 United States Code.

11 (c) DATA STANDARDS.—

12 (1) ESTABLISHMENT OF DATA STANDARDS.—
13 The Director of the Administrative Office of the
14 United States Courts, in coordination with the Ad-
15 ministrator of General Services and the Archivist of
16 the United States, shall establish data standards for
17 the system established under subsection (a).

18 (2) REQUIREMENTS.—The data standards es-
19 tablished under paragraph (1) shall, to the extent
20 reasonable and practicable—

21 (A) incorporate widely accepted common
22 data elements;

23 (B) incorporate a widely accepted, non-
24 proprietary, full text searchable, platform-inde-
25 pendent computer-readable format; and

1 (C) be capable of being continually up-
2 graded as necessary.

3 (3) DEADLINES.—Not later than 6 months
4 after the date of enactment of this Act, the Director
5 of the Administrative Office of the United States
6 Courts shall issue guidance to all Federal courts on
7 the data standards established under this section.

8 (d) USE OF TECHNOLOGY.—In carrying out the du-
9 ties under subsection (a), the Director shall use modern
10 technology in order—

11 (1) to improve security, data accessibility, data
12 quality, affordability, and performance; and

13 (2) to minimize the burden on pro se litigants.

14 (e) DATE SPECIFIED.—The date specified in this
15 subsection is the date that is 2 years after the date of
16 the enactment of this Act, unless the Administrator of
17 General Services certifies to Congress, by not later than
18 90 days after such date of enactment, that an additional
19 period of time is required. If the Administrator so cer-
20 tifies, the date specified in this subsection is the date that
21 is 3 years after the date of enactment of this Act.

22 (f) FUNDS FOR ESTABLISHMENT, OPERATION, AND
23 MAINTENANCE OF MODERNIZED COURT RECORDS SYS-
24 TEM.—

1 (1) SHORT TERM ACCESS FEES TO FUND ES-
2 TABLISHMENT OF MODERNIZED COURT RECORDS
3 SYSTEM.—

4 (A) IN GENERAL.—Section 303 of the Ju-
5 diciary Appropriations Act, 1992 (title III of
6 Public Law 102–140; 105 Stat. 807) (28
7 U.S.C. 1913 note) is amended—

8 (i) in subsection (a), by inserting
9 “The Judicial Conference shall prescribe a
10 schedule of additional fees for any person
11 other than a government agency who ac-
12 crues such fees for access in an amount of
13 \$25,000 or greater in any quarter. All fees
14 collected shall be deposited as offsetting
15 collections to the Judiciary Information
16 Technology Fund pursuant to section
17 612(c)(1)(A) of title 28, United States
18 Code, to reimburse expenses incurred in
19 carrying out section 2 of the Open Courts
20 Act of 2021.” before “The Director of the
21 Administrative Office of the United States
22 Courts”; and

23 (ii) in subsection (b), by striking “All
24 fees hereafter” and inserting “Except as

1 otherwise provided in this section, all fees
2 hereafter”.

3 (B) EXCESS FEES.—Amounts deposited in
4 the Judiciary Information Technology Fund
5 pursuant to the amendments made by subpara-
6 graph (A) and not used to reimburse expenses
7 incurred in carrying out section 2 of this Act
8 may be used pursuant to section 612(a) of title
9 28, United States Code.

10 (C) EFFECTIVE DATE.—The amendment
11 made by subparagraph (A) shall take effect on
12 the date of enactment of this Act.

13 (2) FILING FEES TO FUND OPERATION AND
14 MAINTENANCE OF MODERNIZED COURT RECORDS
15 SYSTEM.—

16 (A) IN GENERAL.—Section 303 of the Ju-
17 diciary Appropriations Act, 1992 (title III of
18 Public Law 102–140; 105 Stat. 807) (28
19 U.S.C. 1913 note) is amended by striking sub-
20 sections (a) and (b), and inserting the fol-
21 lowing:

22 “(a) To cover the costs of carrying out section 2 of
23 the Open Courts Act of 2021, the Judicial Conference
24 may, only to the extent necessary, prescribe schedules of
25 reasonable filing fees, pursuant to sections 1913, 1914,

1 1926, 1930, and 1932 of title 28, United States Code,
2 which—

3 “(1) shall be based on the extent of use of the
4 system described under such section 2 for purposes
5 of such action;

6 “(2) shall in addition be based on factors in-
7 cluding the nature of the action and claim for relief,
8 the amount of damages demanded, the estimated
9 complexity of the type of action, and the interests of
10 justice;

11 “(3) may be prescribed for the filing of a coun-
12 terclaim;

13 “(4) shall not apply in the case of a pro se liti-
14 gant or litigant who certifies their financial hard-
15 ship; and

16 “(5) shall not be a basis for denying access to
17 the courts of the United States.

18 “(b) The Judicial Conference and the Director shall
19 transmit each schedule of fees prescribed under subsection
20 (a) to Congress at least 90 days before the schedule be-
21 comes effective. All fees collected under subsection (a)
22 shall be deposited as offsetting collections to the Judiciary
23 Information Technology Fund pursuant to section
24 612(c)(1)(A) of title 28, United States Code, to reimburse

1 expenses incurred in carrying out section 2 of the Open
2 Courts Act of 2021.

3 “(c) The Judicial Conference shall review a schedule
4 of fees prescribed under subsection (a) three years after
5 it becomes effective and every three years thereafter to
6 ensure that the fees meet the requirements of this section.
7 If the fees do not meet the requirements of this section,
8 the Judicial Conference shall prescribe a new schedule of
9 fees pursuant to subsection (a) and submit the new sched-
10 ule of fees to Congress pursuant to subsection (b).

11 “(d) Amounts deposited to the Judiciary Information
12 Technology Fund pursuant to this section and not used
13 to reimburse expenses incurred in carrying out section 2
14 of the Open Courts Act of 2021 may be used pursuant
15 to section 612(a) of title 28, United States Code.”.

16 (B) EFFECTIVE DATE.—The amendment
17 made by subparagraph (A) shall take effect on
18 the date specified in subsection (e).

19 **SEC. 3. PUBLIC ACCESS TO ELECTRONIC COURT RECORDS**
20 **SYSTEM REQUIREMENT.**

21 (a) IN GENERAL.—Not later than the date specified
22 in subsection (d), the Director of the Administrative Office
23 of the United States Courts, in coordination with the Ad-
24 ministrator of General Services, shall make all materials

1 in the system established under section 2 publicly acces-
2 sible, free of charge.

3 (b) USE OF TECHNOLOGY.—In providing public ac-
4 cess under subsection (a), the Director shall, in coordina-
5 tion with the Administrator of General Services, use mod-
6 ern technology in order—

7 (1) to improve security, data accessibility, ease
8 of public access, affordability, and performance; and

9 (2) to minimize the burden on pro se litigants.

10 (c) DATE SPECIFIED.—The date specified in this
11 subsection is the date that is 2 years after the date of
12 the enactment of this Act, unless the Administrator of
13 General Services certifies to Congress, by not later than
14 90 days after such date of enactment, that an additional
15 period of time is required. If the Administrator so cer-
16 tifies, the date specified in this subsection is the date that
17 is 3 years after the date of enactment of this Act.

18 (d) FUNDING FOR PUBLIC ACCESS TO MODERNIZED
19 ELECTRONIC COURT RECORDS SYSTEM.—

20 (1) IN GENERAL.—Section 303 of the Judiciary
21 Appropriations Act, 1992 (title III of Public Law
22 102–140; 105 Stat. 807) (28 U.S.C. 1913 note) is
23 amended by adding at the end the following:

24 “(c)(1) To cover the costs of ensuring the public ac-
25 cessibility, free of charge, of all materials in the system

1 described under sections 2 and 3 of the Open Courts Act
2 of 2021 in accordance with section 3 of such Act, the Judi-
3 cial Conference shall collect an annual fee from Federal
4 agencies equal to the Public Access to Court Electronic
5 Records access fees paid by those agencies in 2018, as
6 adjusted for inflation. All fees collected under this sub-
7 section shall be deposited as offsetting collections to the
8 Judiciary Information Technology Fund pursuant to sec-
9 tion 612(c)(1)(A) of title 28, United States Code, to reim-
10 burse expenses incurred in providing services in accord-
11 ance with section 3 of the Open Courts Act of 2021.

12 “(2) To cover any additional marginal costs of ensur-
13 ing the public accessibility, free of charge, of all materials
14 in the system described under sections 2 and 3 of the
15 Open Courts Act of 2021 in accordance with section 3 of
16 such Act, the Judicial Conference may prescribe schedules
17 of reasonable filing fees, pursuant to sections 1913, 1914,
18 1926, 1930, and 1932 of title 28, United States Code.

19 The schedules—

20 “(A) shall be based on the extent of use of the
21 system described under such section 2;

22 “(B) shall, in addition, be based on factors in-
23 cluding the nature of the type of action and claim
24 for relief, the amount of damages demanded, the es-

1 timated complexity of the type of action, and the in-
2 terests of justice;

3 “(C) may be prescribed for the filing of a coun-
4 terclaim;

5 “(D) shall not apply to a pro se litigant or a
6 litigant who certifies their financial hardship; and

7 “(E) shall not be a basis for denying access to
8 the courts of the United States.

9 “(3)(A) The Judicial Conference and the Director
10 shall transmit each schedule of fees prescribed under this
11 subsection to Congress at least 90 days before the sched-
12 ule becomes effective. All fees collected under this sub-
13 section shall be deposited as offsetting collections to the
14 Judiciary Information Technology Fund pursuant to sec-
15 tion 612(c)(1)(A) of title 28, United States Code, to reim-
16 burse expenses incurred in providing services in accord-
17 ance with section 3 of the Open Courts Act of 2021.

18 “(B) The Judicial Conference shall review a schedule
19 of fees prescribed under this paragraph three years after
20 it becomes effective and every three years thereafter to
21 ensure that the fees meet the requirements of this para-
22 graph. If the fees do not meet the requirements of this
23 paragraph, the Judicial Conference shall prescribe a new
24 schedule of fees pursuant to this paragraph and submit

1 the new schedule of fees to Congress pursuant to subpara-
2 graph (A).

3 “(C) Amounts deposited to the Judiciary Information
4 Technology Fund pursuant to this subsection and not used
5 to reimburse expenses incurred in carrying out section 3
6 of the Open Courts Act of 2021 may be used to reimburse
7 expenses incurred in carrying out section 2 of the Open
8 Courts Act of 2021. Amounts not used to reimburse ex-
9 penses incurred in carrying out section 2 of the Open
10 Courts Act of 2021 may be used pursuant to section
11 612(a) of title 28, United States Code.”.

12 (2) EFFECTIVE DATE.—The amendment made
13 by paragraph (1) shall take effect beginning on the
14 date specified in subsection (d).

15 **SEC. 4. RULE OF CONSTRUCTION.**

16 Nothing in this Act, or the amendments made by this
17 Act, shall be construed to—

18 (1) affect the filing fees or other filing proce-
19 dures for prisoners; or

20 (2) abrogate, limit, or modify the requirements
21 described in section 1915 of title 28, United States
22 Code.

23 **SEC. 5. DIGITAL ACCESSIBILITY STANDARDS.**

24 The system described under sections 2 and 3 of this
25 Act or the amendments made by such sections shall com-

1 ply with relevant digital accessibility standards established
2 pursuant to section 508 of the Rehabilitation Act of 1973.

3 **SEC. 6. GAO REVIEW.**

4 (a) IN GENERAL.—Not later than 180 days after the
5 date of enactment of this Act, and quarterly thereafter,
6 the Comptroller General of the United States shall notify
7 Congress whether the Director of the Administrative Of-
8 fice of United States Courts has—

9 (1) produced additional usable functionality of
10 the system described under sections 2 and 3 of this
11 Act;

12 (2) held live, publicly accessible demonstrations
13 of software in development; and

14 (3) allowed the Comptroller General or a des-
15 ignee to attend all sprint reviews held during the ap-
16 plicable period.

17 (b) AUDIT.—Not later than 180 days after the date
18 of the enactment of this Act, and annually thereafter, the
19 Comptroller General of the United States shall—

20 (1) conduct an audit of the system established
21 under this Act, including the compliance of vendors
22 with the quality assessment surveillance plan, code
23 quality, and whether the system is meeting the needs
24 of users; and

1 (2) shall submit to Congress a report that con-
2 tains—

3 (A) the results of the audit required under
4 paragraph (1); and

5 (B) any recommendations to improve the
6 system established under this Act.