

Open Courts Act (H.R. 8235)
Section-by-Section Explanation

Sec. 1: Short Title

- Establishes the title as the “Open Courts Act of 2020.”

Sec. 2: Consolidating and Updating Electronic Case Management Systems

- Requires the Director of the Administrative Office of the United States Courts to work with the General Services Administration to develop a centralized court records system.
- Requires the establishment of certain standards for the consolidated system, including standards for security, searchability, accessibility and data standards.
- Provides funding for the modernized courts records system by authorizing the courts to increase fees on a graduated schedule until Jan. 1, 2025 (extendable to Jan. 1, 2026) for high-volume users of PACER, by giving courts discretion, subject to safeguards, to charge for-profit entities for limited types of high-volume access to the modernized system, and by giving the courts discretion to study and use their existing fee-setting authorities to establish user fees, subject to certain safeguards, and ultimately, if those sources are not sufficient, allowing the courts to marginally increase filing fees so long as those fees do not harm access to justice.

Sec. 3: Modernizing Public Access to Court Electronic Records (PACER)

- Makes court records freely available to the public; eliminates the pay wall and user registration requirement currently established by PACER.
- Ensures that the public can easily search for and access court records, similar to the requirements under Section 2 of this Act.
- Provides funding for eliminating the PACER paywall by allowing the Judicial Conference to annually collect from federal agencies an amount equal to that which those agencies paid in PACER fees in 2018, adjusted for inflation.

Sec. 4: Ensuring Modern Development Standards

- Clarifies that the modern IT system described in sections 2 and 3 must be developed in accordance with best industry practices for iterative, user-centered software development practices and procurement.
- Requires the Director of the Administrative Offices to work with the Administrator of General Services to conduct regular analyses at each stage of the development process to ensure compliance with user and judiciary needs and applicable laws.
- Requires the Director of the Administrative Offices to publish an initial report after 6 months on the state of the current system and plan for development, after consultation with the Office of Technology Transformation Services of the General Services Administration and the United States Digital Service. Requires the Government Accountability Office to provide a yearly report on the status of the modernization efforts.

- Requires the Director of the Administrative Offices to report to Congress on progress on the development of the system, improvements achieved, and risks that have arisen, and the Comptroller General to certify progress on new functionality, on a quarterly basis after the first 6 months.

Sec. 5: Review and Publication of User Fees

- Provides that the Judicial Conference shall review the schedule of fees every three years.
- Establishes a process to create or modify any fees to be charged under this Act, which includes a period for public comment and Congressional review.
- Provides for the Judicial Conference to study and propose alternative sources of fees or appropriations to cover the expenses of this Act. Allows the Judicial Conference to use its existing fee-setting authority to establish new fees in accordance with this Act after such a study.

Sec. 6: Reporting and Certification to Congress on Finances

- Requires the Director of the Administrative Offices to submit a report to Congress at the start of each fiscal year on the financial status of IT modernization, plans for new fee proposals or adjustments, and any foreseeable need to modify the scope of IT modernization to remain financially solvent.
- Provides that, starting in fiscal year 2023, the Director of the Administrative Office may certify a foreseeable deficit in funds and the need to modify or temporarily delay the implementation of IT modernization. Such modifications shall become effective after an in-person meeting with the Chairs and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate concerning the certification, and its supporting documentation and analysis.
- Upon such certification, the GAO must conduct and publish an analysis of the certification with recommendations for an appropriate response, to which the Director of the Administrative Offices must respond.

Sec. 7: Rule of Construction

- Provides that the Act shall not be construed to affect the rules governing proceedings *in forma pauperis* proceedings and by prisoners.

Sec. 8: Digital Accessibility Standards

- Asserts that all consolidation, updating and modernization to the electronic case management and PACER systems comply with accessibility standards under Section 508 of the Rehabilitation Act of 1973.

Sec. 9: Determination of Budgetary Effects

- Establishes that the budgetary effects of this bill shall be determined by the statement printed by the Chairman of the House Budget Committee.