

116TH CONGRESS  
2D SESSION

# H. R. 8235

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2020

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

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## 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 2020”.

6 **SEC. 2. MODERNIZATION OF ELECTRONIC COURT RECORDS**  
7 **SYSTEMS.**

8 (a) CONSOLIDATION.—Not later than the date speci-  
9 fied in subsection (e), the Director of the Administrative  
10 Office of the United States Courts, in coordination with

1 the Administrator of General Services, shall establish,  
2 maintain, and operate, consistent with the requirements  
3 of this section and section 3, one system for all public  
4 court records.

5 (b) REQUIREMENTS OF SYSTEM.—The system devel-  
6 oped under subsection (a) shall comply with the following  
7 requirements:

8 (1) The system shall provide search functions,  
9 developed in coordination with the Administrator of  
10 General Services, for use by the public and by par-  
11 ties before the court.

12 (2) Any information that is prohibited from  
13 public disclosure by law or court order shall be re-  
14 dacted.

15 (3) Any information made available through a  
16 website established pursuant to section 205 of the  
17 E–Government Act of 2002 shall be included in the  
18 system.

19 (4) Any website for the system shall substan-  
20 tially comply with the requirements under sub-  
21 sections (b) and (c) of section 205 of the E–Govern-  
22 ment Act of 2002.

23 (5) To the extent practicable, external websites  
24 shall be able to link to documents on the system.  
25 Each website established pursuant to section 205 of

1 the E-Government Act of 2002 shall contain a link  
2 to the system.

3 (c) DATA STANDARDS.—

4 (1) ESTABLISHMENT OF DATA STANDARDS.—

5 The Director of the Administrative Office of the  
6 United States Courts, in coordination with the Ad-  
7 ministrator of General Services and the Archivist of  
8 the United States, shall establish data standards for  
9 the system established under subsection (a).

10 (2) REQUIREMENTS.—The data standards es-  
11 tablished under paragraph (1) shall, to the extent  
12 reasonable and practicable—

13 (A) incorporate widely accepted common  
14 data elements;

15 (B) incorporate a widely accepted, non-  
16 proprietary, full text searchable, platform-inde-  
17 pendent computer-readable format; and

18 (C) be capable of being continually up-  
19 graded as necessary.

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

1 (d) USE OF TECHNOLOGY.—In developing the system  
2 under subsection (a), the Director shall use modern tech-  
3 nology in order—

4 (1) to improve security, data accessibility, af-  
5 fordability, and performance; and

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

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

15 (f) FUNDS FOR ESTABLISHMENT, OPERATION, AND  
16 MAINTENANCE OF MODERNIZED COURT RECORDS SYS-  
17 TEM.—

18 (1) SHORT TERM ACCESS FEES TO FUND ES-  
19 TABLISHMENT OF MODERNIZED COURT RECORDS  
20 SYSTEM.—

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

1 (i) in subsection (a), by inserting  
2 “The Judicial Conference shall prescribe a  
3 schedule of additional fees for any person  
4 who accrues such fees for access in an  
5 amount of \$25,000 or greater in any quar-  
6 ter. All fees collected shall be deposited as  
7 offsetting collections to the Judiciary In-  
8 formation Technology Fund pursuant to  
9 section 612(c)(1)(A) of title 28, United  
10 States Code, to reimburse expenses in-  
11 curred in carrying out section 2 of the  
12 Open Courts Act of 2020.” before “The  
13 Director of the Administrative Office of  
14 the United States Courts”; and

15 (ii) in subsection (b), by striking “All  
16 fees hereafter” and inserting “Except as  
17 otherwise provided in this section, all fees  
18 hereafter”.

19 (B) EXCESS FEES.—Amounts deposited in  
20 the Judiciary Information Technology Fund  
21 pursuant to the amendments made by subpara-  
22 graph (A) and not used to reimburse expenses  
23 incurred in carrying out section 2 of this Act  
24 may be used pursuant to section 612(a) of title  
25 28, United States Code.

1 (C) EFFECTIVE DATE.—The amendment  
2 made by subparagraph (A) shall take effect on  
3 the date of enactment of this Act.

4 (2) FILING FEES TO FUND OPERATION AND  
5 MAINTENANCE OF MODERNIZED COURT RECORDS  
6 SYSTEM.—

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

13 “(a) To cover the costs of carrying out section 2 of  
14 the Open Courts Act of 2020, the Judicial Conference  
15 may, only to the extent necessary—

16 “(1) prescribe reasonable filing fees, pursuant  
17 to sections 1913, 1914, 1926, 1930, and 1932 of  
18 title 28, United States Code, for collection by the  
19 courts under those sections, which—

20 “(A) shall be based on the extent of the  
21 use by the person filing of the system estab-  
22 lished under such section 2 for purposes of such  
23 action;

24 “(B) shall in addition be adjusted based on  
25 factors including the nature of the action and

1 claim for relief, the amount of damages de-  
2 manded, the estimated complexity of the type of  
3 action, and the interests of justice;

4 “(C) may be prescribed for the filing of a  
5 counterclaim; and

6 “(D) shall not apply in the case of a pro  
7 se litigant or litigant who certifies their finan-  
8 cial hardship; and

9 “(2) prescribe a reasonable fee for the filing of  
10 a proof of claim or interest under Rule 3002 and  
11 Rule 3003 of the Rules of Bankruptcy Procedure,  
12 which may be adjusted proportionately to the  
13 amount of the claim, the status of the claim, and the  
14 type of proceeding in which the claim is filed, and  
15 interests of justice.

16 “(b) The Judicial Conference and the Director shall  
17 transmit each schedule of fees prescribed under subsection  
18 (a) to Congress at least 90 days before the schedule be-  
19 comes effective. All fees collected under subsection (a)  
20 shall be deposited as offsetting collections to the Judiciary  
21 Information Technology Fund pursuant to section  
22 612(c)(1)(A) of title 28, United States Code, to reimburse  
23 expenses incurred in carrying out section 2 of the Open  
24 Courts Act of 2020.

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

9           “(d) Amounts deposited to the Judiciary Information  
10 Technology Fund pursuant to this section and not used  
11 to reimburse expenses incurred in carrying out section 2  
12 of the Open Courts Act of 2020 may be used pursuant  
13 to section 612(a) of title 28, United States Code.”.

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

17 **SEC. 3. PUBLIC ACCESS TO ELECTRONIC COURT RECORDS**  
18 **SYSTEM REQUIREMENT.**

19           (a) IN GENERAL.—Not later than the date specified  
20 in subsection (d), the Director of the Administrative Office  
21 of the United States Courts, in coordination with the Ad-  
22 ministrator of General Services, shall make all materials  
23 in the system established under section 2 publicly acces-  
24 sible, free of charge.

1           (b) AUTHORITY FOR SHORT TERM DELAYS OF PUB-  
2 LIC ACCESS TO CERTAIN RECORDS.—The Judicial Con-  
3 ference, after appropriate public notice and opportunity  
4 for comment, may designate categories of records which  
5 are not automatically made publicly accessible under sub-  
6 section (a). Any such category shall be no broader than  
7 necessary, based on a determination of a specific and sub-  
8 stantial interest in restricting the public right of access  
9 to court records, and subject to no more than a 5-day  
10 delay before being made publicly accessible under sub-  
11 section (a). Any such designation shall expire after 3 years  
12 unless renewed pursuant to the requirements of this sub-  
13 section.

14           (c) USE OF TECHNOLOGY.—In providing public ac-  
15 cess under subsection (a), the Director shall, in coordina-  
16 tion with the Administrator of General Services, use mod-  
17 ern technology in order—

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

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

21           (d) DATE SPECIFIED.—The date specified in this  
22 subsection is the date that is 2 years after the date of  
23 the enactment of this Act, unless the Administrator of  
24 General Services certifies to Congress, by not later than  
25 90 days after such date of enactment, that an additional

1 period of time is required. If the Administrator so cer-  
2 tifies, the date specified in this subsection is the date that  
3 is 3 years after the date of enactment of this Act.

4 (e) FUNDING FOR PUBLIC ACCESS TO MODERNIZED  
5 ELECTRONIC COURT RECORDS SYSTEM.—

6 (1) IN GENERAL.—Section 303 of the Judiciary  
7 Appropriations Act, 1992 (title III of Public Law  
8 102–140; 105 Stat. 807) (28 U.S.C. 1913 note) is  
9 amended by adding at the end the following:

10 “(c)(1) To cover the costs of ensuring the public ac-  
11 cessibility, free of charge, of all materials in the system  
12 established under section 2 of the Open Courts Act of  
13 2020 in accordance with section 3 of such Act, the Judi-  
14 cial Conference shall collect an annual fee from the De-  
15 partment of Justice equal to the Public Access to Court  
16 Electronic Records access fees paid by the Department of  
17 Justice in 2018, as adjusted for inflation. All fees collected  
18 under this subsection shall be deposited as offsetting col-  
19 lections to the Judiciary Information Technology Fund  
20 pursuant to section 612(c)(1)(A) of title 28, United States  
21 Code, to reimburse expenses incurred in providing services  
22 in accordance with section 3 of the Open Courts Act of  
23 2020.

24 “(2) To cover any additional marginal costs of ensur-  
25 ing the public accessibility, free of charge, of all materials

1 in the system established under section 2 of the Open  
2 Courts Act of 2020 in accordance with section 3 of such  
3 Act, the Judicial Conference may prescribe reasonable fil-  
4 ing fees, pursuant to sections 1913, 1914, 1926, 1930,  
5 and 1932 of title 28, United States Code, for collection  
6 by the courts under those sections. The filing fees—

7           “(A) shall be based on the extent of the use by  
8           the person filing of the system established under  
9           such section 2 for purposes of such action;

10           “(B) shall be adjusted based on factors includ-  
11           ing the nature of the action and claim for relief, the  
12           amount of damages demanded, the estimated com-  
13           plexity of the type of action, and the interests of jus-  
14           tice;

15           “(C) may be prescribed for the filing of a coun-  
16           terclaim; and

17           “(D) shall not apply to a pro se litigant or a  
18           litigant who certifies their financial hardship.

19           “(3)(A) The Judicial Conference and the Director  
20 shall transmit each schedule of fees prescribed under this  
21 subsection to Congress at least 90 days before the sched-  
22 ule becomes effective. All fees collected under this sub-  
23 section shall be deposited as offsetting collections to the  
24 Judiciary Information Technology Fund pursuant to sec-  
25 tion 612(c)(1)(A) of title 28, United States Code, to reim-

1 burse expenses incurred in providing services in accord-  
2 ance with section 3 of the Open Courts Act of 2020.

3 “(B) The Judicial Conference shall review a schedule  
4 of fees prescribed under this paragraph three years after  
5 it becomes effective and every three years thereafter to  
6 ensure that the fees meet the requirements of this para-  
7 graph. If the fees do not meet the requirements of this  
8 paragraph, the Judicial Conference shall prescribe a new  
9 schedule of fees pursuant to this paragraph and submit  
10 the new schedule of fees to Congress pursuant to subpara-  
11 graph (A).

12 “(C) Amounts deposited to the Judiciary Information  
13 Technology Fund pursuant to this subsection and not used  
14 to reimburse expenses incurred in carrying out section 3  
15 of the Open Courts Act of 2020 may be used to reimburse  
16 expenses incurred in carrying out section 2 of the Open  
17 Courts Act of 2020. Amounts not used to reimburse ex-  
18 penses incurred in carrying out section 2 of the Open  
19 Courts Act of 2020 may be used pursuant to section  
20 612(a) of title 28, United States Code.”.

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

1 **SEC. 4. RULE OF CONSTRUCTION.**

2 Nothing in this Act, or the amendments made by this  
3 Act, shall be construed to—

4 (1) affect the filing fees or other filing proce-  
5 dures for prisoners; or

6 (2) abrogate, limit, or modify the requirements  
7 described in section 1915 of title 28, United States  
8 Code.

9 **SEC. 5. DIGITAL ACCESSIBILITY STANDARDS.**

10 The systems established under sections 2 and 3 of  
11 this Act or the amendments made by such sections shall  
12 comply with relevant digital accessibility standards estab-  
13 lished pursuant to section 508 of the Rehabilitation Act  
14 of 1973.

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