

Calendar No. 307

117TH CONGRESS
2D SESSION

S. 2614

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

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2021

Mr. PORTMAN (for himself, Mr. WYDEN, Mr. DURBIN, Mr. HAWLEY, Mr. GRASSLEY, Mr. LEAHY, Mrs. FEINSTEIN, Mr. WHITEHOUSE, Mr. KENNEDY, Mr. COONS, Mr. BLUMENTHAL, Ms. HIRONO, Mr. BOOKER, Mr. PADILLA, and Mr. OSSOFF) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MARCH 15, 2022

Reported by Mr. DURBIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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(e)(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

otherwise provided in this section, all fees hereafter”.

(B) ~~EXCESS FEES.~~—Amounts deposited in the Judiciary Information Technology Fund pursuant to the amendments made by subparagraph (A) and not used to reimburse expenses incurred in carrying out section 2 of this Act may be used pursuant to section 612(a) of title 28, United States Code.

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

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

(A) ~~IN GENERAL.~~—Section 303 of the Judiciary Appropriations Act, 1992 (title III of Public Law 102–140; 105 Stat. 807) (28 U.S.C. 1913 note) is amended by striking subsections (a) and (b), and inserting the following:

“(a) To cover the costs of carrying out section 2 of the Open Courts Act of 2021, the Judicial Conference may, only to the extent necessary, prescribe schedules of 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 “(e) 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 ae-
 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 ae-
 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.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Open Courts Act of*
 9 *2021”.*

10 **SEC. 2. MODERNIZATION OF ELECTRONIC FEDERAL COURT**
 11 **RECORDS SYSTEMS.**

12 (a) *CONSOLIDATION.*—*Not later than the date specified*
 13 *in subsection (e), the Director of the Administrative Office*
 14 *of the United States Courts, in coordination with the Ad-*
 15 *ministrator of General Services, shall develop, deliver, and*
 16 *sustain, consistent with the requirements of this section and*
 17 *section 3, one system for all public Federal court records.*

18 (b) *REQUIREMENTS OF SYSTEM.*—*The system de-*
 19 *scribed under subsection (a) shall comply with the following*
 20 *requirements:*

21 (1) *The system shall provide search functions,*
 22 *developed in coordination with the Administrator of*
 23 *General Services, for use by the public and by parties*
 24 *before the court.*

1 (2) *The system shall make public Federal court*
2 *records automatically accessible to the public upon*
3 *filing.*

4 (3) *The home page for public access to the system*
5 *shall include a notice displayed to first-time visitors,*
6 *as determined through a mechanism that does not re-*
7 *quire registration or impose a fee, that users will not*
8 *use the system for an unlawful purpose. Access to doc-*
9 *uments through other means, including under para-*
10 *graph (6), may not be conditioned upon acknowl-*
11 *edging such notice.*

12 (4) *Any information made available through a*
13 *website established pursuant to section 205 of the E-*
14 *Government Act of 2002 (44 U.S.C. 3501 note) shall*
15 *be included in the system.*

16 (5) *Any website for the system shall substantially*
17 *comply with the requirements under subsections (b)*
18 *and (c) of section 205 of the E-Government Act of*
19 *2002 (44 U.S.C. 3501 note).*

20 (6) *To the extent practicable, external websites*
21 *shall be able to link to documents on the system. Each*
22 *website established pursuant to section 205 of the E-*
23 *Government Act of 2002 (44 U.S.C. 3501 note) shall*
24 *contain a link to the system.*

1 (7) *To the extent practicable, the system shall en-*
 2 *able courts to automatically generate and submit, in*
 3 *a computer-readable format, the reports required by*
 4 *sections 2519(1) and 3103a(d)(1) of title 18, United*
 5 *States Code.*

6 (c) *DATA STANDARDS.—*

7 (1) *ESTABLISHMENT OF DATA STANDARDS.—The*
 8 *Director of the Administrative Office of the United*
 9 *States Courts, in coordination with the Administrator*
 10 *of General Services and the Archivist of the United*
 11 *States, shall establish data standards for the system*
 12 *established under subsection (a).*

13 (2) *REQUIREMENTS.—The data standards estab-*
 14 *lished under paragraph (1) shall, to the extent reason-*
 15 *able and practicable—*

16 (A) *incorporate widely accepted common*
 17 *data elements;*

18 (B) *incorporate a widely accepted, non-*
 19 *proprietary, full text searchable, platform-inde-*
 20 *pendent computer-readable format; and*

21 (C) *be capable of being continually up-*
 22 *graded as necessary.*

23 (3) *DEADLINES.—Not later than 270 days after*
 24 *the date of enactment of this Act, the Director of the*
 25 *Administrative Office of the United States Courts*

1 *shall issue guidance to all Federal courts on the data*
 2 *standards established under this subsection.*

3 *(d) USE OF TECHNOLOGY.—In carrying out the duties*
 4 *under subsection (a), the Director of the Administrative Of-*
 5 *fice of the United States Courts shall use modern tech-*
 6 *nology—*

7 *(1) to improve security, data accessibility, data*
 8 *quality, affordability, and performance; and*

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

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

18 *(f) FUNDS FOR ESTABLISHMENT, OPERATION, AND*
 19 *MAINTENANCE OF MODERNIZED COURT RECORDS SYS-*
 20 *TEM.—*

21 *(1) SHORT TERM ACCESS FEES TO FUND ESTAB-*
 22 *LISHMENT OF MODERNIZED COURT RECORDS SYS-*
 23 *TEM.—*

24 *(A) IN GENERAL.—Section 303 of the Judi-*
 25 *ciary Appropriations Act, 1992 (title III of Pub-*

1 *lic Law 102–140; 105 Stat. 807) (28 U.S.C.*
 2 *1913 note) is amended—*

3 *(i) in subsection (a), by inserting “The*
 4 *Judicial Conference shall prescribe, after*
 5 *providing public notice and an opportunity*
 6 *for public comment, a schedule of additional*
 7 *fees for any person other than a government*
 8 *agency that accrues such fees for access in*
 9 *an amount of \$25,000 or greater in any*
 10 *quarter. All fees collected under the pre-*
 11 *ceding sentence shall be deposited as offset-*
 12 *ting collections to the Judiciary Informa-*
 13 *tion Technology Fund pursuant to section*
 14 *612(c)(1)(A) of title 28, United States Code,*
 15 *to reimburse expenses incurred in carrying*
 16 *out sections 2 and 3 of the Open Courts Act*
 17 *of 2021.” before “The Director of the Ad-*
 18 *ministrative Office of the United States*
 19 *Courts”; and*

20 *(ii) in subsection (b), in the second*
 21 *sentence, by striking “All” and inserting*
 22 *“Except as otherwise provided in this sec-*
 23 *tion, all”.*

24 *(B) EXCESS FEES.—Amounts deposited in*
 25 *the Judiciary Information Technology Fund*

1 *pursuant to the amendments made by subpara-*
 2 *graph (A) may only be used for purposes of this*
 3 *Act.*

4 (C) *EFFECTIVE DATE.*—*The amendments*
 5 *made by subparagraph (A) shall take effect on*
 6 *the date of enactment of this Act.*

7 (2) *FILING FEES TO FUND OPERATION AND MAIN-*
 8 *TENANCE OF MODERNIZED COURT RECORDS SYS-*
 9 *TEM.*—

10 (A) *IN GENERAL.*—*Section 303 of the Judi-*
 11 *ciary Appropriations Act, 1992 (title III of Pub-*
 12 *lic Law 102–140; 105 Stat. 807) (28 U.S.C.*
 13 *1913 note) is amended by striking subsections*
 14 *(a) and (b), and inserting the following:*

15 “(a) *To cover the costs of carrying out section 2 of the*
 16 *Open Courts Act of 2021, the Judicial Conference may,*
 17 *after providing public notice and an opportunity for public*
 18 *comment and only to the extent necessary to cover such costs*
 19 *not otherwise provided by appropriations, prescribe sched-*
 20 *ules of reasonable filing fees, pursuant to sections 1913,*
 21 *1914, 1926, 1930, and 1932 of title 28, United States Code,*
 22 *which—*

23 “(1) *shall be based on the extent of use of the sys-*
 24 *tem described under such section 2 for purposes of*
 25 *carrying out such section 2;*

1 “(2) shall be based on factors to ensure that such
 2 schedules are graduated, including the cause of action
 3 and claim for relief, the status of the filer in the ac-
 4 tion and the financial hardship an additional fee
 5 would place on the filer, the amount of damages de-
 6 manded, the estimated complexity of the type of ac-
 7 tion, and the interests of justice;

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

10 “(4) shall not apply in the case of a pro se liti-
 11 gant, a first time litigant who is an individual, or
 12 a litigant who certifies their financial hardship; and

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

15 “(b)(1) The Judicial Conference and the Director of
 16 the Administrative Office of the United States Courts (in
 17 this section referred to as the ‘Director’) shall transmit each
 18 schedule of fees prescribed under subsection (a) to Congress
 19 at least 90 days before the schedule becomes effective. All
 20 fees collected under subsection (a) shall be deposited as off-
 21 setting collections to the Judiciary Information Technology
 22 Fund pursuant to section 612(c)(1)(A) of title 28, United
 23 States Code, to reimburse expenses incurred in carrying out
 24 section 2 of the Open Courts Act of 2021.

1 “(2) *The Judicial Conference shall review a schedule*
 2 *of fees prescribed under subsection (a) 3 years after the*
 3 *schedule becomes effective and every 3 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, the*
 6 *Judicial Conference shall, after providing public notice and*
 7 *an opportunity for public comment, prescribe a new sched-*
 8 *ule of fees pursuant to subsection (a) and submit the new*
 9 *schedule of fees to Congress pursuant to this subsection.*

10 “(c) *A court, upon motion, may waive any fee imposed*
 11 *under subsection (a) in the interest of justice.”.*

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

15 (g) *REPORT.*—*Not later than 90 days after the date*
 16 *of enactment of this Act, the Director of the Administrative*
 17 *Office of the United States Courts shall submit to the Com-*
 18 *mittee on the Judiciary of the Senate and the Committee*
 19 *on the Judiciary of the House of Representatives a report*
 20 *on the amount of appropriations necessary to carry out sub-*
 21 *sections (a) through (d).*

22 **SEC. 3. PUBLIC ACCESS TO ELECTRONIC FEDERAL COURT**
 23 **RECORDS SYSTEM REQUIREMENT.**

24 (a) *IN GENERAL.*—*Not later than the date specified*
 25 *in subsection (c), the Director of the Administrative Office*

1 *of the United States Courts, in coordination with the Ad-*
 2 *ministrator of General Services, shall make all materials*
 3 *in the system established under section 2 publicly accessible,*
 4 *free of charge, and without requiring registration.*

5 (b) *USE OF TECHNOLOGY.—In providing public access*
 6 *under subsection (a), the Director of the Administrative Of-*
 7 *fice of the United States Courts shall, in coordination with*
 8 *the Administrator of General Services, use modern tech-*
 9 *nology—*

10 (1) *to improve security, data accessibility, ease*
 11 *of public access, affordability, and performance; and*
 12 (2) *to minimize the burden on pro se litigants.*

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

21 (d) *FUNDING FOR PUBLIC ACCESS TO MODERNIZED*
 22 *ELECTRONIC COURT RECORDS SYSTEM.—*

23 (1) *IN GENERAL.—Section 303 of the Judiciary*
 24 *Appropriations Act, 1992 (title III of Public Law*
 25 *102–140; 105 Stat. 807) (28 U.S.C. 1913 note), as*

1 *amended by section 2(f)(2)(A) of this Act, is amended*
 2 *by adding at the end the following:*

3 *“(d)(1) To cover the costs of ensuring the public acces-*
 4 *sibility, free of charge, of all materials in the system de-*
 5 *scribed under sections 2 and 3 of the Open Courts Act of*
 6 *2021 in accordance with section 3 of such Act, the Adminis-*
 7 *trative Office of the United States Courts shall collect an*
 8 *annual fee from Federal agencies equal to the Public Access*
 9 *to Court Electronic Records access fees paid by those agen-*
 10 *cies in 2021, as adjusted for inflation. For any Federal*
 11 *agency that did not pay Public Access to Court Electronic*
 12 *Records access fees in fiscal year 2021, the Administrative*
 13 *Office of the United States Courts may collect fees based*
 14 *on a standard annual fee determined by the Judicial Con-*
 15 *ference. All fees collected under this subsection shall be de-*
 16 *posited as offsetting collections to the Judiciary Informa-*
 17 *tion Technology Fund pursuant to section 612(c)(1)(A) of*
 18 *title 28, United States Code, to reimburse expenses incurred*
 19 *in providing services in accordance with section 3 of the*
 20 *Open Courts Act of 2021.*

21 *“(2) To cover any additional marginal costs of ensur-*
 22 *ing the public accessibility, free of charge, of all materials*
 23 *in the system described under sections 2 and 3 of the Open*
 24 *Courts Act of 2021 in accordance with section 3 of such*
 25 *Act, the Judicial Conference may, after providing public*

1 *notice and an opportunity for public comment and only*
 2 *to the extent necessary to cover such costs not otherwise pro-*
 3 *vided by appropriations, prescribe schedules of reasonable*
 4 *filing fees, pursuant to sections 1913, 1914, 1926, 1930, and*
 5 *1932 of title 28, United States Code, which—*

6 “(A) *shall be based on the extent of use of the*
 7 *system described under such section 2;*

8 “(B) *shall, in addition, be based on factors to en-*
 9 *sure that such schedules are graduated, including the*
 10 *cause of action and claim for relief, the status of the*
 11 *filer in the action and the financial hardship an ad-*
 12 *ditional fee would place on the filer, the amount of*
 13 *damages demanded, the estimated complexity of the*
 14 *type of action, and the interests of justice;*

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

17 “(D) *shall not apply to a pro se litigant, a first*
 18 *time litigant who is an individual, or a litigant who*
 19 *certifies their financial hardship; and*

20 “(E) *shall not be a basis for denying access to*
 21 *the courts of the United States.*

22 “(3)(A) *The Judicial Conference and the Director shall*
 23 *transmit each schedule of fees prescribed under this sub-*
 24 *section to Congress at least 90 days before the schedule be-*
 25 *comes effective. All fees collected under this subsection shall*

1 *be deposited as offsetting collections to the Judiciary Infor-*
 2 *mation Technology Fund pursuant to section 612(c)(1)(A)*
 3 *of title 28, United States Code, to reimburse expenses in-*
 4 *curring in providing public access in accordance with sec-*
 5 *tion 3 of the Open Courts Act of 2021.*

6 “(B) *The Judicial Conference shall review a schedule*
 7 *of fees prescribed under this subsection 3 years after the*
 8 *schedule becomes effective and every 3 years thereafter to*
 9 *ensure that the fees meet the requirements of this subsection.*
 10 *If the fees do not meet the requirements of this subsection,*
 11 *the Judicial Conference shall prescribe a new schedule of*
 12 *fees pursuant to this subsection and submit the new schedule*
 13 *of fees to Congress pursuant to subparagraph (A).*

14 “(C) *Amounts deposited to the Judiciary Information*
 15 *Technology Fund pursuant to this subsection and not used*
 16 *to reimburse expenses incurred in carrying out section 3*
 17 *of the Open Courts Act of 2021 may be used to reimburse*
 18 *expenses incurred in carrying out section 2 of that Act and*
 19 *not for any other purpose.”.*

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

23 **SEC. 4. DIGITAL ACCESSIBILITY STANDARDS.**

24 *The system described under sections 2 and 3 of this*
 25 *Act shall comply with relevant digital accessibility stand-*

ards established pursuant to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

SEC. 5. GAO REVIEW.

(a) *IN GENERAL.*—Not later than 1 year after the date of enactment of this Act, and quarterly thereafter, the Comptroller General of the United States shall notify Congress whether the Director of the Administrative Office of United States Courts has—

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

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

(3) allowed the Comptroller General or a designee to attend all sprint reviews held during the applicable period.

(b) *AUDIT.*—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Comptroller General of the United States shall—

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

(2) submit to Congress a report that contains—

1 (A) the results of the audit; and

2 (B) any recommendations to improve the
3 system established under this Act.

4 **SEC. 6. CYBERSECURITY REVIEW.**

5 *The Judicial Conference and the Administrative Office*
6 *of the United States Courts, as applicable, shall ensure the*
7 *cybersecurity of the system described under sections 2 and*
8 *3 of this Act, in coordination with the relevant cybersecu-*
9 *rity expert agencies in the executive branch and consistent*
10 *with the relevant cybersecurity standards that would apply*
11 *if the system would be operated by an agency in the execu-*
12 *tive branch.*

13 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

14 *There are authorized to be appropriated such sums as*
15 *may be necessary to carry out sections 2 and 3 of this Act.*

16 **SEC. 8. RULE OF CONSTRUCTION.**

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

19 (1) *affect the filing fees or other filing procedures*
20 *for prisoners; or*

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

Calendar No. 307

117TH CONGRESS
2D Session

S. 2614

A BILL

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

MARCH 15, 2022

Reported with an amendment