

Supreme Court of Vermont
Office of State Court Administrator

PATRICIA GABEL, ESQ., State Court Administrator

patricia.gabel@vermont.gov

Mailing Address:

Office of Court Administrator
109 State Street

Montpelier, VT 05609-0701

Telephone: (802) 828-3278

FAX: (802) 828-3457



www.vermontjudiciary.org

GREGG MOUSLEY, Chief of Finance & Administration

gregg.mousley@vermont.gov

JEFFERY LOEWER, Chief Information Officer

jeffery.loewer@vermont.gov

SCOTT GRIFFITH

scott.griffith@vermont.gov

TARI SCOTT, Chief of Trial Court Operations

theresa.scott@vermont.gov

TO: Representative Michael Marcotte, Chair
House Committee on Commerce and Economic Development

FROM: Patricia Gabel, Esq., State Court Administrator

RE: S. 110, an act relating to data privacy and consumer protection

DATE: April 4, 2019

Thank you for the opportunity to speak to the proposed legislation set forth in S. 110. My comments will focus principally on the provision in Section 1 of the bill, the so-called "Privacy Audit." That section would require the Chief Data Officer within the executive branch Digital Services Agency as well as the Chief Records Officer with State Archives to submit, by January 15, 2020, a report to the Legislature "concerning the three branches of government and management of personally identifiable information."

The Vermont judiciary fully supports the concept of a privacy audit to provide the Legislature with a thorough understanding of the complex array of statutes, rules, and governmental practices affecting personally identifiable information of Vermonters.

For purposes of providing this information from the judicial branch, however, it is the responsibility of the State Court Administrator, along with the Judiciary's Chief Information Officer and Director for Research and Information Services (RIS), to conduct this study. The reasons for this are as follows.

As a constitutionally separate and independent branch of state government, the Vermont judiciary oversees a complex and comprehensive case records management and information services system. Consistent with its unique mission of providing the broadest possible public access to justice and public oversight while simultaneously enforcing significant privacy interests mandated by law, the Vermont judiciary administers a robust set of Rules for Public Access to Court Records and Rules Governing Dissemination of Electronic Case Records. While incorporating certain provisions of the Public Records Act which governs the other branches of government, the

judiciary's Rules operate independently and contain numerous detailed provisions unique to the court system.

Just as our Rules for Public access follow a parallel but separate path from the Public Records Act, so too does our information services branch—RIS—operate separately from the Agency for Digital Services. Indeed, the seminal legislation establishing the Agency of Digital Services explicitly confines its principal responsibilities to the Executive Branch. See 22 V.S.A. § 901(b) (“As used in this section, ‘State Government’ means the agencies of the Executive Branch of State government.”). In contrast, the judicial branch Director of RIS is intimately familiar with our Rules for Public Access and in particular those rules concerning personally identifiable information, the security of that information under our existing case management system, and importantly the material changes affecting that data that will occur under the Next Generation Case Management System slotted to roll out over the next several years.

For all of these reasons, the Vermont judiciary believes that the privacy audit called for under S.110 should be performed by RIS under the direction of the Court Administrator, and therefore requests that Section 1 of S.110 be amended as follows:

- (1) In the first sentence, substitute “the Executive and Legislative” for “the three”
- (2) At the end of subsection (1)(3), delete the language “all three branches of”
- (3) At the end of Section 1, add the following sentence: “On or before January 15, 2020, the State Court Administrator shall submit a report containing the same information as set forth above as applicable to the Judiciary.”

cc: Liz First Raddock, Committee Assistant

