

Supreme Court of Vermont
Office of State Court Administrator



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TO: Sen. Jeanette K. White, Chair
Senate Government Operations Committee

FROM: Patricia Gabel, Esq., State Court Administrator

DATE: January 22, 2020

RE: S. 244 – State Building Safety and Security Board

Dear Senator White,

I am writing on behalf of the Vermont Judiciary to raise a number of significant concerns about the bill numbered S.244, which purports to create a Vermont State Building Security Board to examine the establishment of a State Building Safety and Security Police Department to supplant the current safety and security responsibilities of the Vermont Supreme Court, the Capitol Police, and the Department of Buildings and General Services.

It is important to emphasize two points at the outset: First, coordination among the security managers for the Court Administrator, the Capitol Police, and the Department of Buildings and General Services is a critical goal which we fully endorse, actively pursue, and strive continually to improve. Second, providing security for the courts of Vermont is the constitutional responsibility of the Supreme Court, which cannot be parsed, delegated or divided by statute. Vt. Const., ch. II, § 30. The Legislature has previously acknowledged this authority in providing that security in State-owned or leased buildings which house a court “shall be under the jurisdiction of the Supreme Court,” 29 V.S.A. § 171, and in tasking the Court Administrator with the duty to “provide appropriate security services for each court in the State.” 4 V.S.A. § 30.

Nevertheless, the bill under consideration proposes to establish a State Building Safety and Security Board “to oversee the safety and security of worksites for Vermont State employees and the employees of the Judiciary,” to make a recommendation on whether to create a State Building Safety and Security Police Department to provide “security and law enforcement services for State buildings, facilities and courthouses,” and to recommend how this new Police Department would “coordinate or supplant” the safety and security responsibilities of BGS, the Capitol Police, and the Supreme Court. (Emphasis added).

As noted, we fully endorse the principle of cooperation among the State's security services and work continually to implement and improve the level of coordination among the services. Significant constitutional concerns involving separation of powers and the authority and independence of the Judiciary are raised, however, by the provisions of S.244 which purport to assign "oversight" authority for court security to an agency other than the Vermont Supreme Court and which purport to authorize such an agency to "supplant" the responsibilities of the Supreme Court for court security.

In addition to these constitutional concerns, it is also important to understand the practical concerns which arise from the bill. Court security is essentially a hybrid; our court officers perform some responsibilities that are specifically law enforcement in nature, such as checking for weapons or dealing with safety threats, but also many that are unique to the courts, such as dealing with juries, operating various types of courtroom electronic systems, working with judges on a variety of tasks, and providing information on court operations to litigants and the public. The training, supervision, and daily operations of our court security officers therefore do not lend themselves to control by a single, overarching Building and Safety Police Department.

As noted, we remain committed to the goals of cooperation and coordination among the security services but must oppose the approach set forth in the provisions of S.244.

Sincerely,



Patricia Gabel, Esq.
State Court Administrator

cc. Gregg Mousley, Chief of Finance and Administration
Sen. Anthony Pollina, Vice Chair
Sen. Christopher Bray
Sen. Alison Clarkson, Clerk
Sen. Brian Collamore
Rebecca Wasserman, Legislative Counsel
Gail Carrigan, Committee Assistant