

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: February 4, 2020

RE: S. 304 - An act relating to an Interbranch Cybersecurity Task Force

Dear Senator White,

I am writing on behalf of the Judiciary to express some concerns about the provisions of S.304, which establishes an Interbranch Cybersecurity Taskforce and calls for an annual risk assessment audit.

The Judicial Branch fully endorses the goal of enhancing cybersecurity standards across State government. Judicial branch records contain especially sensitive confidential information which makes cybersecurity a crucial component of our mission. In fact, last spring, I convened a tri-branch task force regarding cybersecurity and invited John Quinn, the Secretary of the Agency of Digital Services (“ADS,”) and Kevin Moore, Director of Legislative Information Technology, to a meeting. We had a productive meeting on the topic of cybersecurity, and that was followed by another good meeting several months later. The Judicial Branch and the Executive Branch have since been collaborating well on cybersecurity issues through their respective employees who have been charged with this mission.

In light of the fact that we are already doing what this bill anticipates, I’m not sure why the bill is being proposed at this time as the sponsors have not discussed it with me.

Precisely because the protection of judicial branch records is such an important part of our core mission, any group, whether formal or informal, that is designed to improve cybersecurity of judicial-

branch records must also be carefully and explicitly limited in its powers so as not to unduly infringe upon or undermine the Supreme Court's constitutional responsibilities to administer the Judiciary and to maintain the integrity of its records. A recent Supreme Court decision has reaffirmed that it is the Judiciary that has responsibility for judicial branch records.

The Judiciary is a customer of ADS with respect to certain technology infrastructure and services that are shared across the Judicial and Executive Branches. It is because of this enterprise relationship that we have voluntarily undertaken to collaborate with the Executive Branch on certain cybersecurity initiatives. I am awaiting John Quinn's comments on a proposed MOU I drafted and sent to him last summer to describe how we can best work together. At the same time, the Judiciary has also engaged third party cybersecurity experts, and we are collaborating with the other Northern New England states on cybersecurity initiatives that are tailored to state court systems.

We would be pleased if the Committee recognized that a bill is not needed to mandate something that is already happening.

If, nonetheless, the Committee would like to move forward with a bill, we request that the bill be reframed as one that recognizes our commitment to interbranch cooperation and the enhancement of cybersecurity standards, and acknowledges that the responsibility for advancing these goals rests with the three branches individually and in concert. We see no benefit to adding an additional layer of oversight in the form of a mandated annual assessment by the State Auditor of Accounts, and therefore request the elimination of this provision in the bill.

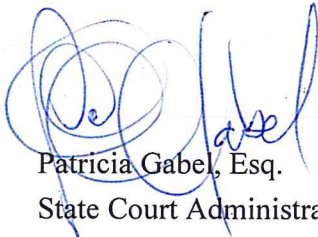
In addition, we would request the following changes be made to the bill:

- (1) An express affirmation of the Supreme Court's core constitutional authority to administer the Judiciary and maintain strong administrative control over the internal security and integrity of its records.
- (2) Provisions requiring that no other branch of state government or any other party may seek to gain access to or to provide third parties access to Judicial Branch records without prior notice to and consent of the State Court Administrator.
- (3) Provisions requiring any Task Force or third party who has access to Judicial Branch records as a result of the operation of this bill to maintain the security and confidentiality of any judicial branch records or information accessed in the course of its operations or security assessments on the terms typically set by the State Court Administrator for such access

- (4) A reframing of the Task Force as a communication body among three co-equal branch of state government.
- (5) A change for the Judiciary representative from "CIO" to "State Court Administrator's designee."

Thank you as always for the opportunity to comment on this bill, and I look forward to working with you in achieving our shared goals.

Sincerely,



Patricia Gabel, Esq.
State Court Administrator

cc. Sen. Anthony Pollina, Vice Chair
Sen. Christopher Bray
Sen. Alison Clarkson, Clerk
Sen. Brian Collamore
Gail Carrigan, Committee Assistant