

To: House Committee on Government Operations
From: Teri Corsones, VBA Executive Director
Re: S. 39
Date: April 20, 2021

Thank you for the opportunity to comment on S.39 as introduced, which proposes “to require the Judiciary to include any fees associated with electronic filing and any proposals related to fees associated with electronic filing in its consolidated Judicial Branch fee report, as required by 32 V.S.A. §605a.”

I apologize that I have a prior conflict at the time of the scheduled testimony but hope to be able to connect before the end of the time slot for the testimony. Below is a brief summary of the VBA position regarding S. 39 that we hope is helpful to the discussion.

E-Filing Fees. When the new Odyssey e-filing system first rolled out in the Windham, Windsor and Orange Units in April 2020, it included a “per envelope” e-filing fee. The fee was \$5.25 plus processing charges each time an envelope of documents was e-filed. In response in part to numerous concerns about the per envelope model, the Legislature passed H. 961 which was signed into law on June 30, 2020 and became known as Act 120. Act 120 required the Judiciary to meet with court users to examine alternatives to the e-filing charges, and to report to the Joint Fiscal Committee and the Joint Legislative Oversight Committee by October 30, 2020. Act 120 also provided that CARES monies would be used to fund a grant to cover e-filing fees through December 30, 2020. That deadline was extended to March 31, 2021. A new “per case” fee of \$14 per filer or firm was implemented effective April 1, 2021, and the per envelope fee was eliminated.

Fee Report: The purpose of the Consolidated Judicial Branch Fee Report outlined in 32 VSA §605a is to provide a mechanism for the Legislature to review and approve court fees. Specifically, the Judiciary is to submit a fee report every three years to the House Committee on Ways and Means, the Senate Committee on Finance, and the House and Senate Committees on Government Operations. The fee report is to include for each court fee the revenues derived from the fee, and for each request to set a new fee or adjust an existing fee information justifying the rate. The information provided is to include such factors as the cost of the service, inflationary pressures, budget adequacy, comparable fees in other jurisdictions, policies that may affect the acceptance or the viability of the fee amount, and other considerations.

VBA Position. We believe that e-filing fees should be treated the same as any other court fees charged to the public. Similar to a court filing fee that’s charged when a new case is initiated, e-filing fees are charged upon the first e-filing by an e-filer in the new e-filing system. As such, we believe that e-filing fees should benefit from the same legislative review and oversight as do

other court fees. Legislative review and oversight would, in our opinion, ensure transparency and accountability. It would also allow input from court users and ideally result in e-filing fees that are thoroughly vetted and that are fair and reasonable to Vermonters utilizing the court system.

The bar appreciates the need for an updated case management and e-filing system to permit efficiencies for court users and the Judiciary. It is also very grateful to the Legislature for funding the implementation of a modern case management system integrated with an electronic filing system. We appreciate the Legislature's efforts to ensure that e-filing fees that are charged to Vermonters utilizing the new electronic filing court system are fair and reasonable, and support S. 39 towards that goal. Thank you again for the opportunity to comment.