

Supreme Court of Vermont
Office of State Court Administrator

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To: Sen. Dick Sears, Chair
Senate Judiciary Committee

FROM: Patricia Gabel, Esq., State Court Administrator

DATE: February 18, 2021

RE: S. 39

Dear Senator Sears:

Thank you for the opportunity to comment on S.39, the proposed amendment to 32 V.S.A. § 605a. For reasons explained below, I do not believe the proposed amendment achieves the Committee's objectives.

The purpose of 32 V.S.A. § 605a is to gather information about "fees" every few years from the Judicial Branch through a consolidated "Judicial Branch fee report." The statute contains a very specific definition of the type of "fees" to be included in the report. It states: "For the purposes of the review and report, a 'fee' shall mean any source of State revenue classified by the Department of Finance and Management accounting system as 'fees.'" (Emphasis added).

As the underscored language shows, the report is designed to include all revenue from Judicial Branch fees going to the State, in other words, the type of fees typically authorized by the Legislature to raise revenue under its tax and spend authority. This is readily apparent not only by the definition of "fees," but also by the requirements that the report include the fee's statutory authorization, the "revenues derived," and the "fund into which its revenues are deposited."

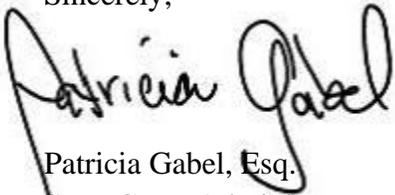
The proposed amendment to section 605a would require that the report include "any fees associated with electronic filing and any proposals related to fees associated with electronic filing." As I have discussed with the Committee on several occasions over the past months, however, revenues from the electronic filing use fee charged in association with the Tyler

Technologies File and Serve service do not go to the State but rather to the vendor, Tyler Technologies, which provides electronic filing services to attorneys and others who use the File and Serve service. This electronic filing use fee differs fundamentally from standard legislative filing fees; it was not imposed by statute but instituted pursuant to a contract duly entered into by the Judiciary under its constitutional authority to administer all the courts of the state and to regulate attorneys. The fee does not provide “State revenue,” and therefor is categorically excluded from the definition of “fees” under the statute, which remains unchanged.

The Legislature’s interest in obtaining current and future information about the electronic filing use fee paid by users of the Tyler File and Serve service and proposals related to such fees is understandable, but the fee report under section 605a is not the appropriate vehicle. I would, however, be happy to discuss other means by which to provide the Legislature with regular updates about the current and future operation of the e-filing service.

Thank you again for the opportunity to submit these comments. I look forward to discussing this and related matters with the Committee in the near future.

Sincerely,

A handwritten signature in black ink that reads "Patricia Gabel". The signature is written in a cursive, flowing style.

Patricia Gabel, Esq.
State Court Administrator

cc. Sen. Phillip Baruth, Vice Chair
Sen. Joe Benning
Sen. Alice W. Nitka
Sen. Jeanette K. White
Peggy Delaney, Committee Assistant