

Department of Planning and Budget 2018 Fiscal Impact Statement

1. **Bill Number:** SB980E

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Obenshain

3. **Committee:** Senate Committee for Courts of Justice

4. **Title:** Certain identifying information confidential; separate addendum required;
secure remote access.

5. **Summary:** The proposed legislation would make the following changes related to certain identifying information:

- Beginning July 1, 2019, the social security number of any party, or of any minor child of any party, or any identifying financial information of any party cannot be reflected on any petition, pleading, motion, order, or decree filed in a civil case in a circuit court, except as otherwise provided by law;
- In cases where it is required by law, the attorney or party in such civil case must include identifying information in a separate addendum file;
- The bill further requires each circuit clerk to establish and operate a system for electronic filing. Current law provides that any such clerk may establish and operate such a system. The bill provides that, in any civil case filed on or after July 1, 2019, clerks of the circuit courts shall maintain all non-confidential documents in electronic form and make such documents available through secure remote access and searchable by name and case number across all circuit courts that use the Office of the Executive Secretary's electronic imaging system;
- The bill directs the Executive Secretary of the Supreme Court (OES) to administer a paid subscription service that provides access to all electronic records maintained by the clerks who use such electronic imaging system for civil cases filed on or after July 1, 2019. Such subscription service shall be on an annual basis, with an annual fee to be established by the Judicial Council of Virginia. Any sums collected pursuant to such subscription must be deposited into the state treasury to the credit of the Courts Technology Fund.
- The bill directs the Virginia Information Technologies Agency to update its document entitled "Security Standard for Restricted Remote Access to Documents on Court-Controlled Websites" consistent with the provisions of the bill by July 1, 2019. The requirement that the Virginia Information Technologies Agency update such document

becomes effective in due course but the remaining provisions of the bill become effective on July 1, 2019.

6. Budget Amendment Necessary: Yes, Item 38

7. Fiscal Impact Estimates: Preliminary (see Item 8)

8. Fiscal Implications:

This bill provides that non-confidential documents in civil cases filed in circuit court on or after July 1, 2019, must be maintained in electronic form. The circuit clerk must make such documents available through secure remote access and searchable by name and case number across all circuit courts that use the Office of the Executive Secretary's (OES) electronic imaging system. The bill directs the Executive Secretary of the Supreme Court to administer a paid subscription service that provides access to all electronic records maintained by the clerks who use such electronic imaging system for civil cases filed on or after July 1, 2019. The bill also provides that any sums collected pursuant to such subscription is to be deposited into the state treasury to the credit of the Courts Technology Fund.

Based upon the breakdown highlighted below, the proposed legislation has a fiscal impact of one-time start-up costs of \$422,000, and an ongoing annual operating costs of \$518,000, which includes positions to support this initiative, for a total first year cost of \$940,000. It is anticipated that after the second year, the anticipated revenue from the subscription service would cover the \$518,000 ongoing annual operating expenses.

Description of service	FY 2019	FY2020 and beyond
Purchase and install hardware in 25 courts that don't have compatible electronic imaging systems	\$269,000	
Develop connectivity between OCRA and VJEFS	\$85,000	
Develop automated and paperless user registration process	\$68,000	
Two record management services personnel	\$126,000	\$126,000
Two technical support personnel	\$126,000	\$126,000
Semi-annual system training	\$10,000	\$10,000
Two development contractors	\$256,000	\$256,000
Totals	\$940,000	\$518,000

Currently, 25 circuit courts either do not have an imaging system in place or do not use an electronic imaging system that is compatible with systems maintained by OES. The one-time cost to purchase and install hardware for these 25 courts is approximately \$269,000.

Currently the Officer of the Court Remote Access (OCRA) service enables subscribers to remotely view electronic documents for individual participating circuit courts. According to OES, it would be beneficial to link OCRA and the Virginia Judiciary Electronic Filing System (VJESF), so that subscribers, who have had access to OCRA, can continue to view the electronic records for cases filed before the July 1, 2019. Accordingly, the estimated cost to develop connectivity between OCRA and VJESF is approximately \$85,000.

Additionally, persons seeking to gain secure remote access to electronic court documents (filed after July 1, 2019) within the system maintained by OES would be required to register for a paid subscription service. OES would need to create an electronic registration portal that does not require potential users to file paper applications or documents. The cost associated with creating the electronic registration portal includes the cost of programming and developing this electronic registration feature. The estimated cost to develop automated and paperless user registration process is approximately \$68,000.

According to OES, two additional record management services personnel would be needed to maintain oversight and assist users in their registration and use of the system. Currently, OCRA is supported by the individual participating circuit clerk office but it is expected, if the legislation is enacted that the support would be provided by OES since clerks will no longer receive registration fees. In addition, records management services personnel would provide support to court staff regarding document imaging as all case records would be available through the new system. The total estimated cost for record management services personnel is approximately \$126,000.

In addition, OES indicates two additional personnel would be needed to provide technical support to clerks and VJEFS users. Although VJEFS is currently supported by the individual participating circuit clerk's offices, availability of VJEFS statewide is expected to increase the need for assistance by OES. The total estimated cost for technical support personnel is approximately \$126,000.

OES believes that semi-annual training sessions to attorneys to demonstrate the system's capabilities and hopefully increase public usage of the system would be necessary. Circuit court personnel would also require training to increase their familiarity with the system and convey best practices. The OES estimates training cost to be approximately \$10,000.

Based on its experience with developing and maintaining applications similar in size and scope, OES indicates the need for two full-time development contractors to ensure a high level of security and performance of the application. The OES believes these dedicated resources are needed to maintain system security and integrity, ensure ongoing performance, and develop system enhancements. The estimated cost for two development contractors is approximately \$256,000.

According to the Virginia Information Technologies Agency (VITA), the proposed legislation creates only a nominal fiscal impact on the agency.

9. Specific Agency or Political Subdivisions Affected: Courts, VITA, Office of the Executive Secretary of the Virginia Supreme Court.

10. Technical Amendment Necessary: No

11. Other Comments: The bill contains a clause that the provisions of the bill do not become effective unless an appropriation is included in the general appropriation act passed in 2018 by the General Assembly becomes law.