



October 30, 2015

Judiciary Committee
Rep. Klint Kesto, Chair
Peter Lucido, Kurt Heise, Joel Johnson, Martin Howrylak,
Triston Cole, Jim Runestad, Jeff Irwin, Rose Mary Robinson,
Stephanie Chang and Vanessa Guerra
House Judiciary Committee
Anderson House Office Building
124 North Capitol Avenue
Lansing, MI 48909-7514

RE: Testimony on HB 5028-5030 scheduled for November 3, 2015

Dear Chairman Kesto and Judiciary Committee Members:

Please accept this letter as testimony for your discussions Tuesday, November 3, 2015 on funding an e-filing docket management system for Michigan courts. This is a good first step in the plan to create a statewide docket management system moving Michigan's court system into the 21st Century. We support this effort. But we have issues that we ask the Committee members to consider and address.

Most important and, as yet unanswered, is the issue of public access, transparency and accountability in the proposed statewide e-filing system and costs, if any, for the public to remotely access these files. Currently, anyone can walk into a circuit or district clerk's office and read full court documents, that are not under seal, without a fee. These are public records. How will this same transparency be provided for remote access by the public in an e-filing docket management system? What will it cost the public, if anything? Is Michigan going to model its system after the PACER system in the federal courts?

Any legislation needs to specifically address this omission. Historically, the courts have been very open and transparent. Our concerns stem from a movement towards less accountability and more secrecy in terms of court finances in the past several years.

Several states, some larger than Michigan, have tackled these issues. Texas is doing a gradual roll out of its system right now (<http://www.mystatesman.com/news/news/saving-paper-e-filing-court-system-goes-statewide/nng28/>). But the court system there is still reviewing how to handle public access.

Other omissions in the proposed bills that need to be addressed include: specifically requiring public accountability and transparency by the SCAO with regular reports to the Legislature and posted on its website for public access to show how much fee money has been collected from each circuit; how these fees are being spent; how much money is being allocated to each circuit and district court system; what is the process for determining how much funding is allocated the individual court systems around the state (if there is a formula, that should be public), etc.

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It is also important for efficiency and consistency, we believe, that the state adopt a **unified docket management system**. Having a variety of docket management systems, then integrating them at the appellate levels would be complex, more expensive to launch and maintain and likely more error prone. Despite the inevitable objections of circuits that are operating under pilot systems and want to keep "their own," we believe it is better for the citizens of the state of Michigan to have a single, unified system. Most attorneys practice in multiple circuits and the Attorney General's assistants practice in all 57 circuits. **A unified system would also provide redundancy and assistance to smaller circuits.** We are a mobile society and the reach of the web is worldwide, so navigation of a standardized system throughout the state's 57 circuits in its 83 counties would be better for local court administrators, attorneys, litigants and the citizens of Michigan.

How this transition is financed and the e-filing system set-up, maintained and routinely updated are issues of major concern to a significant number of county clerks around the state. In 2013, the Michigan Coalition for Open Government (MiCOG) did a survey of all 57 circuits to learn their concerns. Most clerks responded. Though many were in favor of e-filing (though a surprisingly large number were unfamiliar with e-filing and unaware the SCAO was considering this at that time), a large number of clerks (and judges) in smaller circuits in less populated areas were very concerned about what many termed "yet another unfunded mandate" from the Supreme Court Administrator's Office (SCAO).

Some of these issues will be resolved in the proposed legislation, but important questions remain unanswered: How will the fees collected be allocated? What will be the financial burden, if any, to the local circuit and district courts? to name just two of those questions.

Please consider addressing these issues we have raised and make appropriate amendments to these bills. The Michigan Coalition for Open Government is a tax exempt, Michigan nonprofit corporation founded to promote and protect transparency and accountability in the governments of the people, by the people and for the people at the local, state and federal levels.

Thank you for your time. If you have questions or concerns on this and would like to discuss the matter further, please feel free to contact me at 248-330-9626. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads 'Jane Briggs-Bunting'. The signature is fluid and cursive, with a large loop at the end.

Jane Briggs-Bunting, J.D.
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