

May 9, 2022

Representative Aaron Michlewitz, Chair
Representative Ann-Margaret Ferrante, Vice-Chair
House Committee on Ways and Means
State House Room 243
Boston, MA 02133

RE: Letter in support of H.4499, *An Act to improve and modernize the information technology systems and capacities of the judiciary*

Dear Chair Michlewitz, Vice-Chair Ferrante, and Honorable Members of the Committee:

The following undersigned individuals respectfully submit this letter in support of H.4499, *An Act to improve and modernize the information technology systems and capacities of the Judiciary* and strongly urge the Committee to give the bill a favorable report.

An Act to improve and modernize the information technology systems and capacities of the judiciary is a bill intended to update the Massachusetts Trial Court's severely outdated IT structure. While the pandemic has shifted almost all court activity to a virtual setting in the short-term, a significant investment is needed to strengthen the Trial Court's capacity to sustain such innovation for the long-term. H.4499 calls for a \$164 million dollar investment in the Trial Court to ensure the implementation of 1) Digital Courthouses and Courtrooms, 2) a Modern and Secure Judiciary, and 3) Modern Court Operations.

The access to justice implications of this bill to support those who cannot afford to hire an attorney in civil court (i.e., "Self-Represented Litigants" or "SRLs") cannot be overstated. SRLs make up about half of all civil litigants in Massachusetts but make up an even higher percentage when it comes to family, housing, and consumer law. For example, in Housing Court right now 90% of tenants facing eviction are unrepresented, yet 81% of landlords do have legal representation.¹ In the Probate and Family Court, according to data from 2019, at least one party lacks counsel in the majority of cases, and in consumer debt cases, less than 1.5% of defendants are represented by a lawyer.²

These disparities are primarily a result of financial considerations. While low-income litigants may be eligible for legal aid, there remains a dearth of legal aid attorneys able to represent all litigants that may qualify for their services. Furthermore, some SRLs have incomes too high to qualify for free legal aid, but too low to afford an attorney out of pocket. Whatever the reason, without representation, most SRLs encounter significant obstacles in their efforts to manage their own cases, all of which lead to SRLs receiving less favorable outcomes when compared to litigants who are represented.³ Self-represented litigants are continually thrown into a confusing legal system unaware of their fundamental rights, leading to a two-tiered civil legal system where represented

¹ Massachusetts Right to Counsel Coalition, "Why" <https://www.massrtc.org/why.html>

² Massachusetts Access to Justice Commission, *Annual Report on Activities 2020*, <https://massa2j.org/wp-content/uploads/2020/08/Access-to-Justice-Commission-Annual-Report-August-2020.pdf>

³ Massachusetts Appleseed Center for Law and Justice, *Turning on the Lights: How the Massachusetts Trial Court Could Deploy a Virtual Court Service Center to Assist Self-Represented Litigants*, p.14, 2019, <https://massappleseed.org/wp-content/uploads/2019/10/Court-Service-Center-Report-Final.pdf>

litigants receive favorable outcomes or at least fair treatment while those without representation cannot navigate the complexity of court processes, let alone exercise their legal rights.⁴

The technological updates H.4499 prescribes under the category of “digital courthouses and courtrooms” could serve to significantly support SRLs and other low-income litigants navigating the court system on their own. These provisions of the bill would provide all court users with electronic access to their case information and the ability to file documents, forms, and evidence online using a tool the court intends to build called an “Access to Justice Portal” (“A2J Portal.”) As envisioned by the courts, this A2J Portal will allow SRLs to prepare for their hearing either at home or at work, rather than being forced to visit the court in person, which often requires taking time off work or coordinating childcare. This tool could also streamline SRLs access to resources like self-help videos and guided interviews (interactive web surveys that automatically populate complicated court forms) and allow SRLs to digitally chat with court staff to answer questions they may have. An Access to Justice Portal would allow the Trial Court to centralize and expand existing self-help resources and support SRLs in an unprecedented way.

In addition, the “digital courthouses and courtrooms” section of the bill mandates the implementation of free Wi-Fi for all court users. Usage of cellphones has recently been allowed within all courthouses in Massachusetts, and with the help of this legislation SRLs would be able to 1) send and receive messages to friends, family, or their workplace while in court, 2) research legal terms or obtain other legal information, and 3) access potential evidence stored online, all without paying cellular data charges while at the courthouse.

Two other exciting access to justice initiatives would also be funded through this section of the bill. First, a remote video interpreting system would be instituted, allowing for increased speed, efficacy, and capacity that would greatly benefit limited English proficient court users. This system would allow interpreters in remote locations to provide language services all across the state, eliminating what are currently hours-long delays as interpreters travel between multiple jurisdictions. Second, funds would be allocated for digital signage across all courthouses, to help users physically navigate what are often unintuitive buildings. Similar to the digital signage that exists at airports, these advancements would include screens with a map of the court and the cases on the docket for the day and associated courtroom, and could be presented in multiple languages.

Too many litigants in Massachusetts are forced to navigate our complicated legal system alone. Without key information about their rights throughout this process, SRLs are unable to receive fair and equitable access to justice, and the Commonwealth will continue to allow grave miscarriages of justice to occur. H.4499 represents an opportunity to substantially address this disparity by bringing accessible and interactive self-help resources and increased language access services directly to SRLs. By funding these essential technological improvements, the legislature will significantly increase access to justice within the Commonwealth. For all of these reasons, the undersigned individuals strongly urge you to issue a favorable report for H.4499.

Respectfully submitted,

⁴ Ibid., 11.

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