

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C., 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary
United States Senate
Washington, D.C., 20510

June 15, 2026

Dear Chairman Grassley and Ranking Member Durbin:

We write in support of the Open Courts Act of 2026, a bill to modernize the federal courts' case management and electronic records system that Sens. Kennedy and Wyden introduced earlier this month.¹ We ask that you and your colleagues on the Senate Judiciary Committee cosponsor the legislation and that you, Chairman Grassley, bring it up for a markup before the August recess.

The bill would require the Administrative Office of the U.S. Courts to develop a modern, centralized replacement for the outdated CM/ECF and PACER systems. According to estimates by the CBO,² the new system would result in tens of millions in dollars of annual taxpayer savings once implemented. Further, this bill responds to the major hacks of 2019-20 and 2025³ by strengthening cybersecurity protections for court records. Once and for all, it would remove the PACER paywall that unjustifiably takes \$150 million from American taxpayers each year.⁴ And we agree with the Kennedy-Wyden assessment⁵ that all of this is possible without new appropriations.

We appreciate that the bipartisan tandem has revived the earlier bill's critical elements, noted above, while bolstering its cybersecurity and cost containment measures and adding user-centered requirements with stakeholders in mind, from attorneys to self-represented litigants to members of the media.

As you'll recall, an earlier version of this bill⁶ unanimously passed the Senate Judiciary Committee twice in the 117th Congress, first⁷ during a Dec. 2021 business meeting and again in Dec. 2022, when it was run through a hotline ahead of floor consideration. Unfortunately, time was not on our side, and the finish line was not reached before the session ended.

¹ The bill text is available at <https://tinyurl.com/OCA2026text>.

² The cost and savings estimate from the CBO is available at <https://cbo.gov/system/files/2022-09/s2614.pdf>.

³ See John Sakellariadis and Josh Gerstein, "Federal court filing system hit in sweeping hack," *Politico*, Aug. 6, 2025, available at <https://www.politico.com/news/2025/08/06/federal-court-filing-system-pacer-hack-00496916>.

⁴ Per a recently published AO budget document, titled "Appendix 2 — Electronic Public Access Program" and available at https://www.uscourts.gov/sites/default/files/document/appendix_02_-_epa_fy2027.pdf, the judiciary brought in \$154.1 million from PACER fees in FY25, the last year for which data is available.

⁵ See "Kennedy, Wyden introduce bipartisan bill to modernize federal court records system," June 2, 2026, available at <https://www.kennedy.senate.gov/public/press-releases?ID=66D43852-68A8-4529-ABDB-7BE429F0E689>.

⁶ S. 2614, the Open Courts Act of 2021, was introduced in the 117th Congress by Sens. Portman and Wyden and is available at <https://www.congress.gov/bill/117th-congress/senate-bill/2614/text>.

⁷ See Nate Raymond, "Free PACER? Bill to end fees for online court records advances in Senate," Reuters, Dec. 9, 2021 available at <https://www.reuters.com/legal/legalindustry/free-pacer-bill-end-fees-online-court-records-advances-senate-2021-12-09>.

As in 2021-22, we expect the judiciary to push back against this effort.⁸ This is unfortunate, so we want to explain why we believe Congress is best suited to take the lead in setting the parameters for a modern court records system.⁹

The judiciary is an essential branch that performs essential functions every day. But software development and deployment on this scale is not one of those things; otherwise, the electronic court records system would have been modernized long ago. That means it's up to Congress, and not judiciary bureaucrats or IT consultants,¹⁰ to set the rules of the road by ensuring frequent deployments of new features and industry leading data standards and cybersecurity requirements — all with costs that are contained and deadlines that are achievable.

Without congressional leadership, there would be no guarantee that features that democratize access to and understanding of court records, like neutral citations and predictable URLs for filings, would be included. And there would be no requirement that usage fees would be eliminated, so PACER may not be dead after all.

The judiciary's work impacts the lives of every American, and we must do all we can to ensure that every American has complete access to its work. In that light, we hope you join us in supporting the Open Courts Act of 2026.

Sincerely,

American Governance Institute
American Society of Magazine Editors
Brechner Freedom of Information Project
Center for Democracy & Technology
Data Foundation
Demand Progress
Electronic Frontier Foundation
Fix the Court
Freedom of the Press Foundation
Free Government Information
Free Law Project
Government Information Watch
GovTrack.us
Legal Accountability Project

National Newspaper Association
National Press Photographers Association
National Security Counselors
Project On Government Oversight
Public Knowledge
Public.Resource.Org
R Street Institute
Radio Television Digital News Association
Reporters Committee for Freedom of the Press
Tully Center for Free Speech

⁸ See the Administrative Office's Nov. 29, 2021, letter to then-Chairman Durbin and then-Ranking Member Grassley, available at <https://fixthecourt.com/wp-content/uploads/2021/12/AO-ltr-to-Sen.-Jud.-Cmte.-re-OCA-11.29.21.pdf>.

⁹ On March 10, 2026, the AO issued a press release stating that in response to rising cybersecurity threats and operational needs, it was working on a replacement to CM/ECF and PACER; see <https://www.uscourts.gov/data-news/judiciary-news/2026/03/10/judges-outline-accelerated-modernization-case-management-system>. Our assumption is that the judiciary knew the Open Courts Act was close to introduction and sought to cut it off at the pass.

¹⁰ Though it is true the judiciary would hire outside consultants to perform much of the work described in the OCA, we do not believe that it would or should cost \$180 million, which what the AO told the CBO in 2022; see p. 5, of the S. 2614 CBO cost estimate, available at <https://www.cbo.gov/system/files/2022-09/s2614.pdf>.