

# CARES Act Funds Support Digital Access to Courts During the COVID-19 Pandemic



**Congress passed the \$2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020 to support individuals, businesses, and government organizations responding to the public health and economic impacts of COVID-19.**<sup>1</sup> Several state courts have tapped the CARES Act's largest program to directly help state and local governments, the Coronavirus Relief Fund (CRF), as well as some of the other CARES Act appropriated funds, including the Coronavirus Emergency Supplemental Funding Program (CESF), to help them with their pandemic response.



**New Hampshire and Kansas courts provide examples of successful proposals for state-administered CARES Act authorized awards from CRF and CESF to support access to justice in the courts,** enabling telework, remote proceedings, online document assembly, and the installation of computer terminals in courthouses and other public facilities for self-represented litigants (SRLs) and individuals without internet access in their homes.

## State Courts Respond to the COVID-19 Pandemic

Since courthouse doors closed around the country, court personnel have adopted short- and long-term solutions to their new normal. The seismic wave of people needing help with eviction, foreclosure, worsening domestic violence, debt collection, and other justice-related problems too often crashes on the courts. The resulting imperative for operational changes includes virtual proceedings, e-filing, additional web-based services and content, and more.

## Federal Funds That Can Help

In "normal" years, states receive a significant influx of federal funds to advance public policies and programs. Many opportunities to financially support access to justice in the courts flow from states' powers to administer these federal pass-through funds.<sup>2</sup> The CARES Act provided unprecedented financial relief that included pass-through funds for new programs, as well as supplemental funds to existing state-administered grant programs.

The largest new CARES Act program to help state, local, and tribal governments navigate the COVID-19 pandemic is the Coronavirus Relief Fund (CRF).<sup>3</sup> CRF provided a minimum \$1.25 billion in direct assistance to every state – the District of Columbia, territories, and tribes received smaller shares – and some large municipalities<sup>4</sup> to cover expenses that:<sup>5</sup>

- ▶ are necessary expenditures incurred due to the COVID-19 public health emergency;
- ▶ were not accounted for in the government's budget most recently approved as of March 27, 2020; and
- ▶ were incurred between March 1, 2020 and December 30, 2020.

Many governments chose to award CRF funds to support pandemic-related court needs. Courts also tapped the CARES Act-authorized Coronavirus Emergency Supplemental Funding Program (CESF).<sup>6</sup> Administered by the same agencies responsible for the Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) program, CESF funds are intended to assist states, local governments, and Tribes in preventing, preparing for, and responding to COVID-19.<sup>7</sup> Courts have always been eligible recipients of Byrne JAG funds, and are therefore well positioned to seek a portion of their state's share of the \$850 million for CESF. CESF project end dates must be no later than January 31, 2022.

Some CARES Act authorized funds may still be available in your state. In addition, Congress may make additional funds available to help state, local, and Tribal governments meet the myriad demands on courts well into 2021. The examples discussed here will hopefully inspire more courts to examine the potential for federal funds to advance digital equal access to justice for all.<sup>8</sup>

## New Hampshire Court Receives CRF Award



In May 2020, New Hampshire Supreme Court (NHSC) representatives initiated conversations with the Director of the Governor's Office for Emergency Relief and Recovery about the Judicial Branch's pandemic-related budgetary needs. To address the new financial challenges regarding what they called their "virtual" and "not-so-virtual" courthouse, the Supreme Court requested and received \$1.5 million to transition to a hybrid system that, for the first time, melded on-site and remote services.

The quick pivot to adopt innovations in technology and day-to-day operations meant that NH courts never closed. The successful CRF proposal covered essential costs for in-person proceedings, such as expanded sanitation and personal protective equipment (PPE), as well as hardware and software enabling staff to work remotely, and remote testing, transportation, and related services for drug court clients. The CRF-funded safety measures allowed for emergency matters related to domestic violence, abuse and neglect, and landlord-tenant disputes to be held in-person in the "not-so-virtual" courthouse. CRF also enabled the new "virtual" courthouse for all non-emergency matters, improving access to justice by providing:

- ▶ Webex for remote oral arguments and hearings, and to support a statewide grand jury;
- ▶ live streaming to ensure public access to jury trial proceedings; and
- ▶ equipment that transformed their brick-and-mortar Information Center to a remote model, enabling court staff to work from home to provide services from advising SRLs about hearing dates and times, assisting with e-filing, and secure case handling and staff workflow activities.

## Kansas Judicial Branch Receives CESF and CRF Awards



Conversations within the Kansas Judicial Branch about providing efficient, effective, and safe access to justice began soon after the courts limited their operations consistent with the Governor's stay-at-home orders. The Kansas Judicial Branch inventoried the many unexpected technology expenses required to provide Kansans with digital access to justice while courts restricted in-person operations. Compounded by the fact that many Kansas courts - about 57 percent - serve rural areas where reliable internet service is unavailable, the solutions required a multifaceted response.

In addition to expenditures associated with core operations (including enabling court staff to telework and a new centralized email system to safely transfer documents and data) the Kansas Judicial Branch used a portion of the \$1.6 million in their CESF award to develop new programs for SRLs seeking protection from abuse, including:

- ▶ a mobile friendly statewide web portal with guided interview questions so Kansans can prepare and file temporary orders of protection from anywhere in the state; and
- ▶ for SRLs without internet access, new computer terminals in courthouses and other public facilities to provide access to remote videoconference hearings and the new web portal.

The Kansas Judicial Branch also received \$3.52 million CRF funds to help district courts with PPE and remote technology, as well as projects launching in December, 2020, including:

- ▶ online marriage license application system;
- ▶ text notification system for parties and jurors; and
- ▶ access to virtual hearings statewide from the Kansas Judicial Branch website.

## Endnotes

1. See <https://home.treasury.gov/policy-issues/cares>

2. For a more complete list of federal block, formula, and open-end reimbursement funds potentially available to courts, see Grants Matrix on the National Center for State Courts website [https://www.ncsc.org/\\_data/assets/pdf\\_file/0022/28507/Grants-matrix.pdf](https://www.ncsc.org/_data/assets/pdf_file/0022/28507/Grants-matrix.pdf) and the companion *Tiny Chat 3: Federal Pass-Through Funding* at <https://www.ncsc.org/newsroom/public-health-emergency/tiny-chats>

3. See <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>

4. For Payments to States and Eligible Unites of Local Government see <https://home.treasury.gov/system/files/136/Payments-to-States-and-Units-of-Local-Government.pdf>

5. *Supra* note 3.

6. See <https://bja.ojp.gov/program/cesf/state-and-local-allocations>

7. See <https://bja.ojp.gov/program/jag/overview>

8. See *State Courts Seek Resources to Support Operations During COVID-19 Pandemic*, <https://www.pewtrusts.org/en/research-and-analysis/articles/2020/08/26/state-courts-see-resources-to-support-operations-during-covid-19-pandemic>. See also, *Civil Legal Aid Funding in the Time of COVID-19*, [https://www.american.edu/spa/jpo/toolkit/upload/mie\\_summer2020\\_funding-in-the-time-of-covid-19.pdf](https://www.american.edu/spa/jpo/toolkit/upload/mie_summer2020_funding-in-the-time-of-covid-19.pdf). Note that other pandemic-response funds such as supplemental Community Development Block Grant and Emergency Solutions Grant can also support court needs.