

**Constitution Revision Commission
Judicial Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 28

Relating to: JUDICIARY, Funding; Clerks of the circuit courts

Introducer(s): Commissioners Coxe and Martinez

Article/Section affected:

Date: January 30, 2018

	REFERENCE	ACTION
1.	<u>JU</u>	<u>Pre-meeting</u>
2.	<u>LO</u>	<u>Pre-meeting</u>

I. SUMMARY:

A proposal to amend Sections 14 and 16 of Article V of the Florida Constitution to require the state, rather than counties, to fund the cost of communications services for trial courts. Additionally, the clerk of the circuit court or county court will be designated as the official records custodian for court records.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, the Florida Constitution requires counties to fund the cost of communications services for trial courts, in addition to funding the same services for the public defenders' offices, states attorneys' offices, and the offices of the clerks of the circuit and county courts performing court related functions.¹ Communications services statutorily include, but are not limited to, telephone system infrastructure; computer networks, systems, and equipment; courier messenger and subpoena services; and auxiliary aids and services for disabled individuals.²

Florida clerks have experienced decreased revenue and increased operating costs in recent years.³ Trial courts have existing unmet technology needs.⁴ Florida statutes currently provide that the clerk of the circuit court of each county is designated the custodian of all court records. Court Rules give the Florida Court Technology

¹ Fla. Const. art. V, § 14.

² Fla. Stat. § 29.008.

³ See e.g., NORTH HIGHLAND CONSULTING, FLORIDA CLERKS OF COURTS WORKLOAD ANALYSIS REPORT 37 (2015).

⁴ Judicial Impact Statement from Office of the State Court Administrator on file with the CRC.

commission the authority to set standards and procedures for how clerks are “to receive, manage, maintain, use, secure and distribute court records by electronic means consistent with the technology policies established by the Supreme Court”.⁵

B. EFFECT OF PROPOSED CHANGES:

If the proposal is adopted, counties would continue to be responsible for funding clerk communication, including technology except for the trial courts.⁶ Communications services will be defined to include, but not be limited to, all “technology.” The legislature will need to determine the funding needs and a source of funding for the technology needs of the trial courts.⁷

Additionally, the clerk of the circuit or county court will become the constitutional official custodian for court record and must maintain them in accordance with the requirements of the Florida Supreme Court. This language removes the independent authority of clerks, who are the official keepers of court records, to determine how best to manage those records.⁸ The Clerks of Court also have concern about access to data from court records available to users of the Comprehensive Case Information System which is currently mandated by statute accessed by thousands of users outside the Florida courts.⁹

C. FISCAL IMPACT:

Indeterminate amount of fiscal impact.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.

⁵ Rule 2.236. Florida Rules of Judicial Administration.

⁶ Comments from the General to the Florida Court Clerks and Comptrollers on file with the CRC.

⁷ Judicial Impact Statement from Office of the State Court Administrator on file with the CRC.

⁸ Comments from the Clerks of Circuit Courts on file with the CRC

⁹ Comments from the Clerks of Circuit Courts on file with the CRC, Fla. Stat. § 28.24.