

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENT TO FLORIDA
RULES OF JUDICIAL
ADMINISTRATION

CASE NO.

Rule Proposal of the Florida Courts Technology Commission

The Florida Courts Technology Commission, through its chair, Eleventh Judicial Circuit Judge Judith L. Kreeger, petitions the Court to adopt a new rule of judicial administration to establish the Florida Courts Technology Commission as a standing committee with fixed and well-defined responsibilities and authority concerning the development and use of technology within the judicial branch.¹

In Re: Florida Courts Technology Commission, AOSC07-59 (November 19, 2007) authorized the commission to propose rules to the Court after coordination with the appropriate Florida Bar rules committee. The proposed rule concerns state court administration and, if adopted, would fall within Part II of the Rules of Judicial Administration. Under rule 2.140(g), Florida Rules of Judicial Administration, such rules generally will be considered and adopted by the Court without reference to or proposal from the Rules of Judicial Administration Committee. In an abundance of caution, the commission submitted the rule proposal to The Florida Bar Rules of Judicial Administration Committee for review. The committee on January 19 voted to support the proposal in concept.

I. Background

Since 1995, a court committee or commission has existed to assist the chief justice and the Court in the development of technology policies and procedures in the judicial branch. Beginning with the Court Technology Users Committee and continuing through the Florida Courts Technology Commission and the several committees that report to the commission,² these bodies have been created on an ad hoc basis through a series of administrative orders issued by a succession of chief

¹ The present commission's term expires June 30, 2010. In Re: Florida Courts Technology Commission, AOSC09-23 (June 1, 2009).

² The commission oversees the Appellate Court Technology Committee, the Trial Court Technology Committee, the Committee on Access to Court Records, and the E-Filing Committee.

justices. Under these circumstances, the commission's mission, authority, responsibilities and stature were subject to fluctuation.

The influence and role of technology has become critically important in the judicial branch. The strategic plan of the branch recognizes the value of information technology to improve court access and operations, and this Court's administrative orders recognize the risks that accompany the transition from a court system that relies on paper records to a system that relies on digital information.³ The policy and technical issues that accompany the expanded use of technology have proliferated to such a degree that there now is a compelling need for a permanent body to oversee and monitor the development, maintenance, management, implementation, and use of technology in the state trial and appellate courts, as well as to enforce the technology standards and requirements adopted by the Court. It is likely that the expanded use of technology in the judicial branch and elsewhere will continue into the foreseeable future, requiring careful management and planning. The state's recent severe revenue shortfalls highlight the need for conscientiously-developed technology policies and priorities. Moreover, as electronic filing of court records expands throughout the state, and implementation of a statewide electronic filing portal appears on the horizon, the need for a commission equipped to provide consistent oversight and direction could not be greater.

The purpose of the proposed rule therefore is to formalize a standing commission with clearly defined authority and responsibilities to assist the chief justice and the Court in the development of technology policies, procedures and priorities for the trial and appellate courts. The proposed rule would place the commission in a status equivalent to other standing judicial branch bodies, such as the Judicial Management Council, Trial Court Budget Commission and District Court of Appeal Budget Commission.

In order to properly focus its governance authority on the technology matters that affect trial and appellate courts, the proposed rule excludes The Florida Bar, the Florida Board of Bar Examiners, and the Judicial Qualifications Commission from its scope. Subdivision (b) defines the responsibilities of the Commission; operational procedures to carry out these responsibilities are contained in subdivision (c). Under subdivision (d), the Court may act on recommendations of the Commission in the manner the Court in its discretion thinks best.

³ AOSC06-20

The proposed rule expands the membership of the Commission to include institutional users of court technology, such as judges, court administrators, court technology officers and clerks of court, as well as non-court personnel, including practitioners, representatives of The Florida Bar, and members of the public at large. The rule requires members to have “experience in different divisions of the courts, in court operations, and in using technology in court for case processing, management, and administrative purposes.” The rule provides for selection of a chair, staggered terms, and a judiciary-centered membership.

Following is a summary of the commission’s responsibilities, procedures, membership and reporting requirements under the proposed rule:

II. Responsibilities

Proposed rule 2.236 charges the Florida Courts Technology Commission with responsibility for “overseeing, managing, and directing the development and use of technology within the judicial branch” under the direction of the Supreme Court. More specifically, the rule authorizes the commission to:

- Make recommendations to the Court on all matters of technology policy impacting the judicial branch
- Make recommendations to the Court about the relative priorities of branch technology projects; coordinate with the Trial Court Budget Commission and the District Court of Appeal Budget Commission and to secure funds for allocation of priorities;
- Direct and establish priorities for the work of all subordinate technology organizations, including the E-Filing Committee, the Appellate Court Technology Committee, and the Trial Court Technology Committee.
- Establish, review and update technical standards for current and future technology used to receive, manage, maintain, use, secure, and distribute court records by electronic means, consistent with policies established by the Court, in coordination with branch strategic plans, court rules, laws, and directions from the Court, and incorporating input from the public, clerks of court, court committees and commissions, and other groups involved in the application of current technology in the branch;
- Create procedures by which courts and clerks and other applicable entities can apply for approval of new systems, or modifications to existing systems that involve the application of technology to the receipt, management, maintenance, use, securing, and distribution of court records within the branch and between the public and the branch;

- Evaluate all applications for compliance with technology policies established by the Court and procedures and standards created pursuant to this rule; approve applications deemed to be effective and compliant;
- Develop and maintain security policies to ensure the integrity and availability of court technology systems and related data;
- Ensure accessibility principles are met for all technology projects;
- Ensure that technology utilized in the branch is capable of required integration;
- Periodically review and evaluate all approved branch technology for adherence to current technology policies and standards;
- Review annual and periodic reports on the status of court technology systems and proposals for technology improvements and innovation;
- Recommend statutory and rule changes relating to technology and the receipt, maintenance, management, use, securing, and distribution of court records by electronic means; and
- Identify technology issues that require attention in the branch upon
 - a) referral by the chief justice;
 - b) referral from the Court; or
 - c) identification by the FCTC on its own initiative based on recommendations from the public, commission members, judges, justice system partners, The Florida Bar, clerks of court, Florida Legislature, the Governor, the cabinet, or executive branch agencies.

III. Procedures

The rule directs the commission to establish procedures necessary to carry out its responsibilities, subject to final approval by the Court, including the following:

- A method for ensuring input from all interested constituencies;
- A method for monitoring development of new court technology projects, and reviewing reports on new technology project and annual reports;
- A method by which courts and clerks and other applicable entities can apply for approval of new technology systems or applications, or modifications to existing systems or applications, that affect the receipt, management, maintenance, use, securing and distribution of court records;
- A system to evaluate applications for new or modified technology systems for compliance with policies and technical standards established by the Court, procedures created pursuant to this rule, and that are otherwise appropriate;

- A process for making decisions on all applications for new or modified technology systems and communicating those decisions to interested parties. If an application is found to comply with relevant policies and standards, the commission may approve the application, and its written approval shall authorize the applicant to proceed. For all applications that are not approved, the commission will assist the applicant in remedying any deficiencies that the commission identifies;
- A method to monitor branch technology programs, systems, and applications for compliance with technology policies established by the court and technical standards established by the commission. The commission may ask any operator of a program, system or application to appear before it for examination as to whether a program, system, or application complies with branch technology policies and standards;
- A process to conduct the work of the commission through work groups that it may constitute from time to time. Work groups may make recommendations to the commission as a whole. The commission chair may appoint non-commission members to serve on workgroups.

The rule gives the Commission needed enforcement power, providing that if a program, system or application is found not to comply with the policies established by the Supreme Court or the commission, the commission may require that the program, system or application be terminated or modified, or be subject to such conditions as the commission deems appropriate.

The rule gives the chief justice or Court wide latitude to adopt commission recommendations or decisions in whole or in part, with or without conditions; refer specific issues or questions back to the commission for further study or alternative recommendations; or reject the recommendations or decision in whole or in part.

IV. Membership

The rule proposes a commission of 24 voting members appointed by the chief justice. The rule requires that members: (1) represent the interests of the public and state courts generally rather than the separate interests of any particular district, circuit, county, division or other organization; (2) possess experience in different divisions of courts, court operations and using technology in court for case processing, management, and administrative purposes; and (3) provide geographic, racial, ethnic, gender and other diversity. The rule proposes membership comprised of the following:

- 2 district court judges

- 5 circuit court judges, including 1 chief judge
- 2 county judges
- 3 court administrators
- 3 court technology officers
- 3 clerks of court, including 1 appellate court clerk
- 4 Florida Bar members, including 1 Board of Governors member; and
- 2 members of the public at large.

The rule states that judicial officer or court personnel members must constitute a majority of the commission, and must constitute a majority of any quorum at all commission meetings. The rule provides for appointment of a Supreme Court justice to serve as liaison to the commission. The rule requires staggered terms to ensure continuity and experience, with retention and appointment of members at the discretion of the chief justice, who will appoint a member to serve as chair.

The Office of the State Courts Administrator is to provide primary staff support to the commission. The rule provides that adequate staffing and resources shall be made available by the Office of the State Courts Administrator to ensure that the commission can fulfill its responsibilities.

V. Reporting

The rule requires the commission to prepare an annual report of its activities. The report is to include recommendations for: (1) changes or additions to policies or standards; (2) setting or changing priorities among programs within the responsibility of the commission, including assistance with budget resources available; and (3) changes to rules, statutes, or regulations that affect technology in the state courts and the work of the commission. The report is to be submitted to the Court on April 1 of each year.

Respectfully submitted,

Judith L. Kreeger, Chair

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CERTIFICATE OF COMPLIANCE

I hereby certify that this rule petition of the Florida Courts Technology Commission is submitted in Times New Roman 14-point font, in compliance with rule 9.210(a)(2), Florida Rules of Appellate Procedure.

Judith L. Kreeger

APPENDIX A

PROPOSED RULE

RULE 2.236. FLORIDA COURTS TECHNOLOGY COMMISSION

(a) Purpose. The purpose of this rule is to establish a Florida Courts Technology Commission with responsibility for overseeing, managing, and directing the development and use of technology within the judicial branch under the direction of the supreme court as specified in this rule. For the purpose of this rule, the term “judicial branch” does not include The Florida Bar, the Florida Board of Bar Examiners, or the Judicial Qualifications Commission.

(b) Responsibilities. The Florida Courts Technology Commission is charged with specific responsibility to:

(1) make recommendations to the supreme court on all matters of technology policy impacting the judicial branch to allow the supreme court to establish technology policy in the branch;

(2) make recommendations to the supreme court about the relative priorities of various technology projects within the judicial branch so that the supreme court can establish priorities. The commission should coordinate with the Trial Court Budget Commission and District Court of Appeal Budget Commission and to secure funds for allocation of those priorities;

(3) direct and establish priorities for the work of all subordinate technology organizations in the judicial branch, including the E-Filing Committee, the Appellate Court Technology Committee, and the Trial Court Technology Committee;

(4) establish, periodically review, and update technical standards for technology used and to be used in the judicial branch to receive, manage, maintain, use, secure, and distribute court records by electronic means, consistent with the technology policies established by the supreme court. These standards shall be coordinated with the strategic plans of the judicial branch, rules of procedure, applicable law, and directions from the supreme court, and shall incorporate input from the public, clerks of court, supreme court committees and commissions, and other groups involved in the application of current technology to the judicial branch;

- (5) create procedures whereby courts and clerks and other applicable entities can apply for approval of new systems, or modifications to existing systems, that involve the application of technology to the receipt, management, maintenance, use, securing, and distribution of court records within the judicial branch, and between the public and the judicial branch;
- (6) evaluate all such applications to determine whether they comply with the technology policies established by the supreme court and the procedures and standards created pursuant to this rule, and approve those applications deemed to be effective and found to be in compliance;
- (7) develop and maintain security policies that must be utilized to ensure the integrity and availability of court technology systems and related data;
- (8) ensure principles of accessibility are met for all court technology projects, with consideration and application of the requirements of the Americans with Disabilities Act of 1990 and any other applicable state or federal disability laws;
- (9) ensure that the technology utilized in the judicial branch is capable of required integration;
- (10) periodically review and evaluate all approved technology in the judicial branch to determine its adherence to current supreme court technology policies and standards;
- (11) review annual and periodic reports on the status of court technology systems and proposals for technology improvements and innovation throughout the judicial branch;
- (12) recommend statutory and rule changes or additions relating to court technology and the receipt, maintenance, management, use, securing, and distribution of court records by electronic means; and
- (13) identify technology issues that require attention in the judicial branch upon:
- (A) referral from the chief justice;
 - (B) referral from the supreme court; or

(C) identification by the Florida Courts Technology Commission on its own initiative based on recommendations of the public, commission members, judges, justice system partners, The Florida Bar, clerks of court, the Florida Legislature (either informally or through the passage of legislation), the Governor, the cabinet, or executive branch agencies.

If a program, system, or application is found not to comply with the policies established by the supreme court or the standards and procedures established by the commission, the commission may require that it be terminated or modified or subject to such conditions as the commission deems appropriate.

(c) Operational Procedures. The Florida Courts Technology Commission shall establish operating procedures necessary to carry out its responsibilities as outlined in subdivision (b), subject to final approval by the supreme court. These procedures shall include:

(1) a method for ensuring input from all interested constituencies in the state of Florida;

(2) a method for monitoring the development of new court technology projects, reviewing reports on new technology projects, and reviewing the annual reports;

(3) a method whereby courts and clerks and other applicable entities can apply for approval of new technology systems or applications, or modifications to existing systems or applications, that affect the receipt, management, maintenance, use, securing, and distribution of court records;

(4) a system to evaluate all applications for new or modified technology systems to determine whether they comply with the policies and technical standards established by the supreme court and the procedures created pursuant to this rule, and are otherwise appropriate to implement in the judicial branch;

(5) a process for making decisions on all applications for new or modified technology systems and communicating those decisions to interested parties. If an application is found to comply with technology policies and standards, the commission may approve the application and its written approval shall authorize the applicant to proceed. For all applications that are not approved, the commission shall assist the applicant in remedying any deficiencies that the commission identifies;

(6) a method to monitor all technology programs, systems, and applications used in the judicial branch to ensure that such programs, systems, and applications are operating in accordance with the technology policies established by the supreme court and technical standards established by the commission. The commission may ask any operator of a program, system, or application to appear before it for examination into whether the program, system, or application complies with technology policies and standards; and

(7) a process to conduct the work of the commission through work groups that it may constitute from time to time. Work groups may make recommendations to the commission as a whole. The chair of the commission may appoint non-commission members to serve on any work group.

(d) Action by Supreme Court or Chief Justice on Recommendations of or Decisions by Florida Courts Technology Commission. The supreme court or chief justice, as appropriate, may take any of the following actions on recommendations or decisions made by the Florida Courts Technology Commission:

(1) Adopt the recommendation or decision of the commission in whole or in part, with or without conditions.

(2) Refer specific issues or questions back to the commission for further study or alternative recommendations.

(3) Reject the recommendation or decision in whole or in part.

(e) Membership and Organization.

(1) The Florida Courts Technology Commission shall be composed of 24 voting members appointed by the chief justice. All members shall represent the interests of the public and of Florida courts generally rather than the separate interests of any particular district, circuit, county, division, or other organization. The membership shall include members who have experience in different divisions of courts, in court operations, and in using technology in court for case processing, management, and administrative purposes, and shall provide geographic, racial, ethnic, gender, and other diversity.

(2) The membership shall include 2 district court judges, 5 circuit court judges (1 of whom must be a chief judge), 2 county court judges, 3 court administrators, 3 court technology officers, 3 clerks of court (1 of whom must be a clerk of an appellate court), 4 members of The Florida Bar (1 of whom must be a member of the Board of Governors of The Florida Bar), and 2 members of the public at large.

(3) The members of the commission who are judicial officers, court technology officers, and court administrators must constitute a majority of the commission and must constitute a majority of any quorum at all meetings of the commission.

(4) A supreme court justice shall be appointed by the chief justice to serve as supreme court liaison to the commission.

(5) Each member will be initially appointed for a 1-, 2-, or 3-year term, with the terms staggered to ensure continuity and experience on the commission and for three year terms thereafter. Retention and reappointment of each member will be at the discretion of the chief justice.

(6) The chief justice shall appoint 1 member to serve as chair for a two-year term.

(f) Schedule of Reports. The Florida Courts Technology Commission shall prepare an annual report of its activities, which shall include its recommendations for changes or additions to the technology policies or standards of Florida courts, its recommendations for setting or changing priorities among the programs within the responsibility of the commission, and, to assist with budget resources available, its recommendations for changes to rules, statutes, or regulations that affect technology in Florida courts and the work of the commission. This report shall be submitted to the supreme court on April 1 of each year.

(g) Staff Support and Funding. The Office of the State Courts Administrator shall provide primary staff support to the Florida Courts Technology Commission. Adequate staffing and resources shall be made available by the Office of the State Courts Administrator to ensure that the commission is able to fulfill its responsibilities under this rule.