

1 A bill to be entitled
2 An act relating to criminal conflict and civil
3 regional counsels; amending s. 27.0065, F.S.;
4 specifying the responsibilities of regional counsels
5 regarding witness coordination; amending s. 27.341,
6 F.S.; revising legislative intent regarding electronic
7 filing and receipt of court documents; amending s.
8 27.51, F.S.; prohibiting the court from appointing a
9 regional counsel to represent a person who is not
10 indigent or represent a defendant who has retained
11 private counsel; providing an exception; amending s.
12 27.511, F.S.; removing the requirement that regional
13 counsel employees be governed by Justice
14 Administrative Commission classification and salary
15 and benefits plans; modifying procedures for the
16 Supreme Court Judicial Nominating Commission to
17 nominate candidates to the Governor for regional
18 counsel positions; specifying that the nomination and
19 appointment process applies retroactively; specifying
20 requirements for the manner of access to court
21 facilities for regional counsels; amending s. 27.53,
22 F.S.; revising requirements for the classification and
23 pay plan developed by the regional counsels; amending
24 s. 39.0132, F.S.; authorizing the release of certain
25 confidential information relating to proceedings

26 involving children to regional counsels under
27 specified circumstances; amending s. 92.153, F.S.;
28 providing a limitation on costs for documents produced
29 in response to a subpoena or records request by a
30 regional counsel; amending s. 112.19, F.S.; revising
31 the definition of the term "law enforcement,
32 correctional, or correctional probation officer" to
33 include regional counsel investigators for purposes of
34 eligibility for certain death benefits; amending s.
35 320.025, F.S.; authorizing criminal conflict and civil
36 regional counsel offices to obtain fictitious names
37 for motor vehicle and vessel plates or decals;
38 amending s. 393.12, F.S.; waiving an education
39 requirement for the appointment of attorneys from
40 regional counsel offices to represent a person with a
41 developmental disability; amending s. 394.916, F.S.;
42 requiring a court to appoint a regional counsel or
43 other counsel to represent an allegedly sexually
44 violent predator in the event of a conflict; amending
45 s. 744.331, F.S.; waiving a certain training
46 requirement for the appointment of attorneys from
47 regional counsel offices to represent an alleged
48 incapacitated person; amending s. 943.053, F.S.;
49 specifying that a regional counsel may not be charged
50 a fee for accessing certain criminal justice

51 information; requiring the Department of Law
 52 Enforcement to provide regional counsels online access
 53 to certain information; amending s. 945.10, F.S.;
 54 authorizing the release of certain records and
 55 information to regional counsels; amending s. 945.48,
 56 F.S.; authorizing the appointment of a regional
 57 counsel to represent an inmate subject to involuntary
 58 mental health treatment if certain conditions exist;
 59 amending s. 985.045, F.S.; requiring that regional
 60 counsels have access to official records of juveniles
 61 whom they represent; providing an effective date.

62

63 Be It Enacted by the Legislature of the State of Florida:

64

65 Section 1. Section 27.0065, Florida Statutes, is amended
 66 to read:

67 27.0065 Witness coordination.—Each state attorney, and
 68 public defender, and criminal conflict and civil regional
 69 counsel is ~~shall be~~ responsible for:

70 (1) Coordinating court appearances, including pretrial
 71 conferences and depositions, for all witnesses who are
 72 subpoenaed in criminal cases, including law enforcement
 73 personnel.

74 (2) Contacting witnesses and securing information
 75 necessary to place a witness on an on-call status with regard to

76 his or her court appearance.

77 (3) Contacting witnesses to advise them not to report to
78 court in the event the case for which they have been subpoenaed
79 has been continued or has had a plea entered, or in the event
80 there is any other reason why their attendance is not required
81 on the dates they have been ordered to report.

82 (4) Contacting the employer of a witness, when necessary,
83 to confirm that the employee has been subpoenaed to appear in
84 court as a witness.

85
86 In addition, the state attorney, ~~or~~ public defender, or criminal
87 conflict and civil regional counsel may provide additional
88 services to reduce time and wage losses to a minimum for all
89 witnesses.

90 Section 2. Subsection (2) of section 27.341, Florida
91 Statutes, is amended to read:

92 27.341 Electronic filing and receipt of court documents.—

93 (2) It is further the expectation of the Legislature that
94 each office of the state attorney consult with the office of the
95 public defender for the same circuit served by the office of the
96 state attorney, the office of criminal conflict and civil
97 regional counsel assigned to that circuit, the clerks of court
98 for the circuit, the Florida Court Technology Commission, and
99 any authority that governs the operation of a statewide portal
100 for the electronic filing and receipt of court documents.

101 Section 3. Subsection (2) of section 27.51, Florida
 102 Statutes, is amended to read:

103 27.51 Duties of public defender.—

104 (2) The court may not appoint the public defender or
 105 regional counsel to represent, even on a temporary basis, any
 106 person who is not indigent. If a defendant has retained private
 107 counsel, the court may not appoint the public defender or
 108 regional counsel to represent that defendant simultaneously on
 109 the same case. The court, however, may appoint private counsel
 110 or regional counsel in capital cases as provided in ss. 27.40
 111 and 27.5303.

112 Section 4. Subsections (2) and (3) of section 27.511,
 113 Florida Statutes, are amended, and subsection (10) is added to
 114 that section, to read:

115 27.511 Offices of criminal conflict and civil regional
 116 counsel; legislative intent; qualifications; appointment;
 117 duties.—

118 (2) Each office of criminal conflict and civil regional
 119 counsel shall be assigned to the Justice Administrative
 120 Commission for administrative purposes. The commission shall
 121 provide administrative support and service to the offices to the
 122 extent requested by each regional counsel within the available
 123 resources of the commission. The regional counsel and the
 124 offices are not subject to control, supervision, or direction by
 125 the commission in the performance of their duties, ~~but the~~

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126 ~~employees of the offices shall be governed by the classification~~
127 ~~plan and the salary and benefits plan for the commission.~~

128 (3)(a) Each regional counsel must be, and must have been
129 for the preceding 5 years, a member in good standing of The
130 Florida Bar. Each regional counsel shall be appointed by the
131 Governor and is subject to confirmation by the Senate. The
132 Supreme Court Judicial Nominating Commission, ~~in addition to the~~
133 ~~current regional counsel,~~ shall nominate ~~recommend~~ to the
134 Governor the currently serving regional counsel, if he or she
135 seeks reappointment, and may also nominate up to three not fewer
136 ~~than two or more than five~~ additional qualified candidates for
137 appointment to each of the five regional counsel positions for
138 consideration by the Governor. The Governor shall appoint the
139 regional counsel for the five regions from among the
140 commission's nominations ~~recommendations,~~ or, if it is in the
141 best interest of the fair administration of justice, the
142 Governor may reject the nominations and request that the Supreme
143 Court Judicial Nominating Commission submit three new nominees.
144 The regional counsel shall be appointed to a term of 4 years,
145 the term beginning on October 1, 2015, with each successive term
146 beginning on October 1 every 4 years thereafter. The nomination
147 and appointment process under this paragraph shall apply
148 retroactively to the term beginning on October 1, 2020.
149 Vacancies shall be filled in the manner provided in paragraph
150 (b).

151 (b) If for any reason a regional counsel is unable to
152 complete a full term in office, the Governor may immediately
153 appoint an interim regional counsel who meets the qualifications
154 to be a regional counsel to serve as regional counsel for that
155 region ~~district~~ until a new regional counsel is appointed in the
156 manner provided in paragraph (a). The ~~Florida~~ Supreme Court
157 Judicial Nominating Commission shall provide the Governor with a
158 list of nominees for appointment within 6 months after the date
159 of the vacancy. A temporary vacancy in office does not affect
160 the validity of any matters or activities of the office of
161 regional counsel.

162 (10) Each court shall allow for the ingress and egress to
163 its facilities for regional counsels and assistant regional
164 counsels in the same manner as is provided to public defenders
165 and assistant public defenders, subject to the security
166 requirements of each courthouse.

167 Section 5. Subsection (4) of section 27.53, Florida
168 Statutes, is amended to read:

169 27.53 Appointment of assistants and other staff; method of
170 payment.—

171 (4) The five criminal conflict and civil regional counsels
172 ~~counsel~~ may employ and establish, in the numbers authorized by
173 the General Appropriations Act, assistant regional counsels
174 ~~counsel~~ and other staff and personnel in each judicial district
175 pursuant to s. 29.006, who shall be paid from funds appropriated

176 for that purpose. Notwithstanding s. 790.01, s. 790.02, or s.
177 790.25(2)(a), an investigator employed by an office of criminal
178 conflict and civil regional counsel, while actually carrying out
179 official duties, is authorized to carry concealed weapons if the
180 investigator complies with s. 790.25(3)(o). However, such
181 investigators are not eligible for membership in the Special
182 Risk Class of the Florida Retirement System. The five regional
183 counsels ~~counsel~~ shall jointly develop a coordinated recommended
184 modifications to the classification and pay plan for submission
185 to ~~and the salary and benefits plan for~~ the Justice
186 Administrative Commission, the President of the Senate, and the
187 Speaker of the House of Representatives by January 1 of each
188 year. ~~The plan must recommendations shall be submitted to the~~
189 ~~commission, the office of the President of the Senate, and the~~
190 ~~office of the Speaker of the House of Representatives before~~
191 ~~January 1 of each year. Such recommendations shall~~ be developed
192 in accordance with policies and procedures of the Executive
193 Office of the Governor established in s. 216.181. Each assistant
194 regional counsel appointed by the regional counsel under this
195 section shall serve at the pleasure of the regional counsel.
196 Each investigator employed by the regional counsel shall have
197 full authority to serve any witness subpoena or court order
198 issued by any court or judge in a criminal case in which the
199 regional counsel has been appointed to represent the accused.

200 Section 6. Subsection (3) and paragraph (a) of subsection

201 (4) of section 39.0132, Florida Statutes, are amended to read:
 202 39.0132 Oaths, records, and confidential information.—

203 (3) The clerk shall keep all court records required by
 204 this chapter separate from other records of the circuit court.
 205 All court records required by this chapter shall not be open to
 206 inspection by the public. All records shall be inspected only
 207 upon order of the court by persons deemed by the court to have a
 208 proper interest therein, except that, subject to the provisions
 209 of s. 63.162, a child and the parents of the child and their
 210 attorneys, the guardian ad litem, criminal conflict and civil
 211 regional counsels, law enforcement agencies, and the department
 212 and its designees shall always have the right to inspect and
 213 copy any official record pertaining to the child. The Justice
 214 Administrative Commission may inspect court dockets required by
 215 this chapter as necessary to audit compensation of court-
 216 appointed attorneys. If the docket is insufficient for purposes
 217 of the audit, the commission may petition the court for
 218 additional documentation as necessary and appropriate. The court
 219 may permit authorized representatives of recognized
 220 organizations compiling statistics for proper purposes to
 221 inspect and make abstracts from official records, under whatever
 222 conditions upon their use and disposition the court may deem
 223 proper, and may punish by contempt proceedings any violation of
 224 those conditions.

225 (4) (a)1. All information obtained pursuant to this part in

226 | the discharge of official duty by any judge, employee of the
227 | court, authorized agent of the department, correctional
228 | probation officer, or law enforcement agent is confidential and
229 | exempt from s. 119.07(1) and may not be disclosed to anyone
230 | other than the authorized personnel of the court, the department
231 | and its designees, correctional probation officers, law
232 | enforcement agents, the guardian ad litem, criminal conflict and
233 | civil regional counsels, and others entitled under this chapter
234 | to receive that information, except upon order of the court.

235 | 2.a. The following information held by a guardian ad litem
236 | is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
237 | I of the State Constitution:

238 | (I) Medical, mental health, substance abuse, child care,
239 | education, law enforcement, court, social services, and
240 | financial records.

241 | (II) Any other information maintained by a guardian ad
242 | litem which is identified as confidential information under this
243 | chapter.

244 | b. Such confidential and exempt information may not be
245 | disclosed to anyone other than the authorized personnel of the
246 | court, the department and its designees, correctional probation
247 | officers, law enforcement agents, guardians ad litem, and others
248 | entitled under this chapter to receive that information, except
249 | upon order of the court.

250 | Section 7. Paragraph (a) of subsection (2) of section

251 92.153, Florida Statutes, is amended to read:

252 92.153 Production of documents by witnesses; reimbursement
253 of costs.—

254 (2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—

255 (a) In any proceeding, a disinterested witness shall be
256 paid for any costs the witness reasonably incurs either directly
257 or indirectly in producing, searching for, reproducing, or
258 transporting documents pursuant to a summons; however, the cost
259 of documents produced pursuant to a subpoena or records request
260 by a state attorney, a ~~or~~ public defender, or a criminal
261 conflict and civil regional counsel may not exceed 15 cents per
262 page and \$10 per hour for research or retrieval.

263 Section 8. Paragraph (b) of subsection (1) of section
264 112.19, Florida Statutes, is amended to read:

265 112.19 Law enforcement, correctional, and correctional
266 probation officers; death benefits.—

267 (1) As used in this section, the term:

268 (b) "Law enforcement, correctional, or correctional
269 probation officer" means any officer as defined in s. 943.10(14)
270 or employee of the state or any political subdivision of the
271 state, including any law enforcement officer, correctional
272 officer, correctional probation officer, state attorney
273 investigator, ~~or~~ public defender investigator, or criminal
274 conflict and civil regional counsel investigator, whose duties
275 require such officer or employee to investigate, pursue,

276 apprehend, arrest, transport, or maintain custody of persons who
277 are charged with, suspected of committing, or convicted of a
278 crime; and the term includes any member of a bomb disposal unit
279 whose primary responsibility is the location, handling, and
280 disposal of explosive devices. The term also includes any full-
281 time officer or employee of the state or any political
282 subdivision of the state, certified pursuant to chapter 943,
283 whose duties require such officer to serve process or to attend
284 a session of a circuit or county court as bailiff.

285 Section 9. Subsection (1) of section 320.025, Florida
286 Statutes, is amended to read:

287 320.025 Registration certificate and license plate or
288 decal issued under fictitious name; application.—

289 (1) A confidential registration certificate and
290 registration license plate or decal shall be issued under a
291 fictitious name only for a motor vehicle or vessel owned or
292 operated by a law enforcement agency of state, county,
293 municipal, or federal government; the Attorney General's
294 Medicaid Fraud Control Unit; ~~or~~ any state public defender's
295 office; or any criminal conflict and civil regional counsel
296 office. The requesting agency shall file a written application
297 with the department, on forms furnished by the department, which
298 includes a statement that the license plate or decal will be
299 used for certain activities by the Attorney General's Medicaid
300 Fraud Control Unit; any ~~or~~ law enforcement or ~~any~~ state public

301 defender's office; or a regional counsel which require the
302 ~~activities requiring~~ concealment of publicly leased or owned
303 motor vehicles or vessels and a statement of the position
304 classifications of the individuals who are authorized to use the
305 license plate or decal. The department may modify its records to
306 reflect the fictitious identity of the owner or lessee until
307 such time as the license plate or decal and registration
308 certificate are surrendered to it.

309 Section 10. Paragraph (a) of subsection (5) of section
310 393.12, Florida Statutes, is amended to read:

311 393.12 Capacity; appointment of guardian advocate.—

312 (5) COUNSEL.—Within 3 days after a petition has been
313 filed, the court shall appoint an attorney to represent a person
314 with a developmental disability who is the subject of a petition
315 to appoint a guardian advocate. The person with a developmental
316 disability may substitute his or her own attorney for the
317 attorney appointed by the court.

318 (a) The court shall initially appoint a private attorney
319 who shall be selected from the attorney registry compiled
320 pursuant to s. 27.40. Such attorney must have completed a
321 minimum of 8 hours of education in guardianship. The court may
322 waive this requirement for an attorney who has served as a
323 court-appointed attorney in guardian advocate proceedings or as
324 an attorney of record for guardian advocates for at least 3
325 years. This education requirement does not apply to a court-

326 appointed attorney who is employed by an office of criminal
 327 conflict and civil regional counsel.

328 Section 11. Subsection (3) of section 394.916, Florida
 329 Statutes, is amended to read:

330 394.916 Trial; counsel and experts; indigent persons;
 331 jury.-

332 (3) At all adversarial proceedings under this act, the
 333 person subject to this act is entitled to the assistance of
 334 counsel, and, if the person is indigent, the court shall appoint
 335 the public defender or, if a conflict exists, the court shall
 336 appoint a criminal conflict and civil regional counsel or other
 337 counsel to assist the person.

338 Section 12. Paragraph (d) of subsection (2) of section
 339 744.331, Florida Statutes, is amended to read:

340 744.331 Procedures to determine incapacity.-

341 (2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.-

342 (d) An attorney seeking to be appointed by a court for
 343 incapacity and guardianship proceedings must have completed a
 344 minimum of 8 hours of education in guardianship. A court may
 345 waive the initial training requirement for an attorney who has
 346 served as a court-appointed attorney in incapacity proceedings
 347 or as an attorney of record for guardians for not less than 3
 348 years. This training requirement does not apply to a court-
 349 appointed attorney who is employed by an office of criminal
 350 conflict and civil regional counsel.

351 Section 13. Paragraph (e) of subsection (3) and subsection
 352 (7) of section 943.053, Florida Statutes, are amended to read:

353 943.053 Dissemination of criminal justice information;
 354 fees.—

355 (3)

356 (e) The fee per record for criminal history information
 357 provided pursuant to this subsection and s. 943.0542 is \$24 per
 358 name submitted, except that the fee for the guardian ad litem
 359 program and vendors of the Department of Children and Families,
 360 the Department of Juvenile Justice, the Agency for Persons with
 361 Disabilities, and the Department of Elderly Affairs is ~~shall be~~
 362 \$8 for each name submitted; the fee for a state criminal history
 363 provided for application processing as required by law to be
 364 performed by the Department of Agriculture and Consumer Services
 365 is ~~shall be~~ \$15 for each name submitted; and the fee for
 366 requests under s. 943.0542, which implements the National Child
 367 Protection Act, is ~~shall be~~ \$18 for each volunteer name
 368 submitted. Neither an office ~~The state offices~~ of the public
 369 defender nor an office of criminal conflict and civil regional
 370 counsel may ~~shall not~~ be assessed a fee for Florida criminal
 371 history information or wanted person information.

372 (7) Notwithstanding any other provision of law, the
 373 department shall provide to each office of the public defender
 374 and each criminal conflict and civil regional counsel online
 375 access to criminal records of this state which are not exempt

376 from disclosure under chapter 119 or confidential under law.
377 Such access shall be used solely in support of the duties of a
378 public defender as provided in s. 27.51, a criminal conflict and
379 civil regional counsel as provided in s. 27.511, or ~~of~~ any
380 attorney specially assigned as authorized in s. 27.53 in the
381 representation of any person who is determined indigent as
382 provided in s. 27.52. The costs of establishing and maintaining
383 such online access must ~~shall~~ be borne by the office to which
384 the access has been provided.

385 Section 14. Paragraph (d) of subsection (2) of section
386 945.10, Florida Statutes, is amended to read:

387 945.10 Confidential information.—

388 (2) The records and information specified in paragraphs
389 (1)(a)-(i) may be released as follows unless expressly
390 prohibited by federal law:

391 (d) Information specified in paragraph (1)(b) to a public
392 defender or a criminal conflict and civil regional counsel
393 representing a defendant, except those portions of the records
394 containing a victim's statement or address, or the statement or
395 address of a relative of the victim. A request for records or
396 information pursuant to this paragraph need not be in writing.

397
398 Records and information released under this subsection remain
399 confidential and exempt from the provisions of s. 119.07(1) and
400 s. 24(a), Art. I of the State Constitution when held by the

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401 receiving person or entity.

402 Section 15. Subsection (3) of section 945.48, Florida
403 Statutes, is amended to read:

404 945.48 Rights of inmates provided mental health treatment;
405 procedure for involuntary treatment.-

406 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF INMATES.-

407 Involuntary mental health treatment of an inmate who refuses
408 treatment that is deemed to be necessary for the appropriate
409 care of the inmate and the safety of the inmate or others may be
410 provided at a mental health treatment facility. The warden of
411 the institution containing the mental health treatment facility
412 shall petition the circuit court serving the county in which the
413 mental health treatment facility is located for an order
414 authorizing the treatment of the inmate. The inmate shall be
415 provided with a copy of the petition along with the proposed
416 treatment; the basis for the proposed treatment; the names of
417 the examining experts; and the date, time, and location of the
418 hearing. The inmate may have an attorney represent him or her at
419 the hearing, and, if the inmate is indigent, the court shall
420 appoint the office of the public defender to represent the
421 inmate at the hearing. If the office of the public defender must
422 withdraw from the appointment due to a conflict, the court must
423 appoint the criminal conflict and civil regional counsel or
424 private counsel pursuant to s. 27.40(1) to represent the inmate
425 ~~at the hearing.~~ An attorney representing the inmate shall have

426 access to the inmate and any records, including medical or
427 mental health records, which are relevant to the representation
428 of the inmate.

429 Section 16. Subsection (2) of section 985.045, Florida
430 Statutes, is amended to read:

431 985.045 Court records.—

432 (2) The clerk shall keep all official records required by
433 this section separate from other records of the circuit court,
434 except those records pertaining to motor vehicle violations,
435 which shall be forwarded to the Department of Highway Safety and
436 Motor Vehicles. Except as provided in ss. 943.053 and
437 985.04(6)(b) and (7), official records required by this chapter
438 are not open to inspection by the public, but may be inspected
439 only upon order of the court by persons deemed by the court to
440 have a proper interest therein, except that a child and the
441 parents, guardians, or legal custodians of the child and their
442 attorneys, law enforcement agencies, the Department of Juvenile
443 Justice and its designees, the Florida Commission on Offender
444 Review, the Department of Corrections, and the Justice
445 Administrative Commission shall always have the right to inspect
446 and copy any official record pertaining to the child. Offices of
447 the public defender and criminal conflict and civil regional
448 counsel ~~offices~~ shall have access to official records of
449 juveniles on whose behalf they are expected to appear in
450 detention or other hearings before an appointment of

451 representation. The court may permit authorized representatives
452 of recognized organizations compiling statistics for proper
453 purposes to inspect, and make abstracts from, official records
454 under whatever conditions upon the use and disposition of such
455 records the court may deem proper and may punish by contempt
456 proceedings any violation of those conditions.

457 Section 17. This act shall take effect July 1, 2022.