

By the Committees on Appropriations; and Judiciary; and Senator Baxley

576-03395-22

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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 27.511, F.S.; removing the requirement that regional
9 counsel employees be governed by Justice
10 Administrative Commission classification and salary
11 and benefits plans; modifying procedures for the
12 Supreme Court Judicial Nominating Commission to
13 nominate candidates to the Governor for regional
14 counsel positions; specifying that the nomination and
15 appointment process applies retroactively; prohibiting
16 the court from appointing a regional counsel to
17 represent a defendant who has retained private
18 counsel; specifying requirements for the manner of
19 access to court facilities for regional counsels;
20 amending s. 27.53, F.S.; revising requirements for the
21 classification and pay plan jointly developed by the
22 regional counsels; amending s. 39.0132, F.S.;
23 authorizing regional counsels to access certain
24 confidential information relating to proceedings
25 involving children under specified circumstances;
26 authorizing the release to regional counsels of
27 certain confidential information relating to
28 proceedings involving children under specified
29 circumstances; amending s. 92.153, F.S.; providing a

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30 limit on costs for documents produced in response to a
31 subpoena or records request by a regional counsel;
32 amending s. 112.19, F.S.; revising the definition of
33 the term "law enforcement, correctional, or
34 correctional probation officer" to include regional
35 counsel investigators for purposes of eligibility for
36 certain death benefits; amending s. 320.025, F.S.;
37 authorizing regional counsel offices to obtain
38 fictitious names for motor vehicle and vessel plates
39 or decals; amending s. 393.12, F.S.; waiving an
40 education requirement for the appointment of attorneys
41 from regional counsel offices to represent a person
42 with a developmental disability; amending s. 394.916,
43 F.S.; requiring a court to appoint a regional counsel
44 or other counsel to represent an alleged sexually
45 violent predator in the event of a conflict; amending
46 s. 744.331, F.S.; waiving a certain training
47 requirement for the appointment of attorneys from
48 regional counsel offices to represent an alleged
49 incapacitated person; amending s. 943.053, F.S.;
50 specifying that a regional counsel office may not be
51 charged a fee for accessing certain criminal justice
52 information; requiring the Department of Law
53 Enforcement to provide regional counsel offices online
54 access to certain information; amending s. 945.10,
55 F.S.; authorizing the release of certain records and
56 information to regional counsels; amending s. 945.48,
57 F.S.; authorizing the appointment of a regional
58 counsel to represent an inmate subject to involuntary

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59 mental health treatment if certain conditions exist;
60 amending s. 985.045, F.S.; requiring that regional
61 counsel offices have access to official records of
62 juveniles whom they represent; reenacting ss.
63 110.123(4)(e) and 112.1912(1), F.S., relating to the
64 payment of health insurance premiums by state agencies
65 for certain employees and surviving spouses and death
66 benefits for education expenses for survivors of first
67 responders, respectively, to incorporate the amendment
68 made to s. 112.19, F.S., in references thereto;
69 providing effective dates.

70

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

72

73 Section 1. Section 27.0065, Florida Statutes, is amended to
74 read:

75 27.0065 Witness coordination.—Each state attorney, and
76 public defender, and criminal conflict and civil regional
77 counsel is ~~shall be~~ responsible for:

78 (1) Coordinating court appearances, including pretrial
79 conferences and depositions, for all witnesses who are
80 subpoenaed in criminal cases, including law enforcement
81 personnel.

82 (2) Contacting witnesses and securing information necessary
83 to place a witness on an on-call status with regard to his or
84 her court appearance.

85 (3) Contacting witnesses to advise them not to report to
86 court in the event the case for which they have been subpoenaed
87 has been continued or has had a plea entered, or in the event

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88 there is any other reason why their attendance is not required
89 on the dates they have been ordered to report.

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

93
94 In addition, the state attorney, ~~or~~ public defender, or criminal
95 conflict and civil regional counsel may provide additional
96 services to reduce time and wage losses to a minimum for all
97 witnesses.

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

100 27.341 Electronic filing and receipt of court documents.—

101 (2) It is further the expectation of the Legislature that
102 each office of the state attorney consult with the office of the
103 public defender for the same circuit served by the office of the
104 state attorney, the office of criminal conflict and civil
105 regional counsel assigned to that circuit, the clerks of court
106 for the circuit, the Florida Court Technology Commission, and
107 any authority that governs the operation of a statewide portal
108 for the electronic filing and receipt of court documents.

109 Section 3. Subsections (2), (3), and (7) of section 27.511,
110 Florida Statutes, are amended, and subsection (10) is added to
111 that section, to read:

112 27.511 Offices of criminal conflict and civil regional
113 counsel; legislative intent; qualifications; appointment;
114 duties.—

115 (2) Each office of criminal conflict and civil regional
116 counsel shall be assigned to the Justice Administrative

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117 Commission for administrative purposes. The commission shall
118 provide administrative support and service to the offices to the
119 extent requested by each regional counsel within the available
120 resources of the commission. The regional counsel and the
121 offices are not subject to control, supervision, or direction by
122 the commission in the performance of their duties, ~~but the~~
123 ~~employees of the offices shall be governed by the classification~~
124 ~~plan and the salary and benefits plan for the commission.~~

125 (3) (a) Each regional counsel must be, and must have been
126 for the preceding 5 years, a member in good standing of The
127 Florida Bar. Each regional counsel shall be appointed by the
128 Governor and is subject to confirmation by the Senate. The
129 Supreme Court Judicial Nominating Commission, ~~in addition to the~~
130 ~~current regional counsel,~~ shall nominate ~~recommend~~ to the
131 Governor the currently serving regional counsel, if he or she
132 seeks reappointment, and may also nominate up to three ~~not fewer~~
133 ~~than two or more than five~~ additional qualified candidates for
134 appointment to each of the five regional counsel positions for
135 consideration by the Governor. The Governor shall appoint the
136 regional counsel for the five regions from among the
137 commission's nominations ~~recommendations~~, or, if it is in the
138 best interest of the fair administration of justice, the
139 Governor may reject the nominations and request that the Supreme
140 Court Judicial Nominating Commission submit three new nominees.
141 The regional counsel shall be appointed to a term of 4 years,
142 the term beginning on October 1, 2015, with each successive term
143 beginning on October 1 every 4 years thereafter. The nomination
144 and appointment process under this paragraph shall apply
145 retroactively to the term beginning on October 1, 2019.

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146 Vacancies shall be filled in the manner provided in paragraph
147 (b).

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

159 (7) The court may not appoint the office of criminal
160 conflict and civil regional counsel to represent, even on a
161 temporary basis, any person who is not indigent, except to the
162 extent that appointment of counsel is specifically provided for
163 in chapters 390, 394, 415, 743, and 744 without regard to the
164 indigent status of the person entitled to representation. If a
165 defendant has retained private counsel, the court may not
166 appoint the office of criminal conflict and civil regional
167 counsel to represent that defendant simultaneously on the same
168 case.

169 (10) Each court shall allow for the ingress and egress to
170 its facilities for regional counsels and assistant regional
171 counsels in the same manner as is provided to public defenders
172 and assistant public defenders, subject to the security
173 requirements of each courthouse.

174 Section 4. Subsection (4) of section 27.53, Florida

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175 Statutes, is amended to read:

176 27.53 Appointment of assistants and other staff; method of
177 payment.-

178 (4) The five criminal conflict and civil regional counsels
179 ~~counsel~~ may employ and establish, in the numbers authorized by
180 the General Appropriations Act, assistant regional counsels
181 ~~counsel~~ and other staff and personnel in each judicial district
182 pursuant to s. 29.006, who shall be paid from funds appropriated
183 for that purpose. Notwithstanding s. 790.01, s. 790.02, or s.
184 790.25(2)(a), an investigator employed by an office of criminal
185 conflict and civil regional counsel, while actually carrying out
186 official duties, is authorized to carry concealed weapons if the
187 investigator complies with s. 790.25(3)(o). However, such
188 investigators are not eligible for membership in the Special
189 Risk Class of the Florida Retirement System. The five regional
190 counsels ~~counsel~~ shall jointly develop a coordinated recommended
191 ~~modifications to the classification and pay plan for submission~~
192 to and the salary and benefits plan for the Justice
193 Administrative Commission, the President of the Senate, and the
194 Speaker of the House of Representatives by January 1 of each
195 year. The plan must recommendations shall be submitted to the
196 ~~commission, the office of the President of the Senate, and the~~
197 ~~office of the Speaker of the House of Representatives before~~
198 ~~January 1 of each year. Such recommendations shall be developed~~
199 in accordance with policies and procedures of the Executive
200 Office of the Governor established in s. 216.181. Each assistant
201 regional counsel appointed by the regional counsel under this
202 section shall serve at the pleasure of the regional counsel.
203 Each investigator employed by the regional counsel shall have

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204 full authority to serve any witness subpoena or court order
205 issued by any court or judge in a criminal case in which the
206 regional counsel has been appointed to represent the accused.

207 Section 5. Subsection (3) and paragraph (a) of subsection
208 (4) of section 39.0132, Florida Statutes, are amended to read:

209 39.0132 Oaths, records, and confidential information.—

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

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

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

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

245 (I) Medical, mental health, substance abuse, child care,
246 education, law enforcement, court, social services, and
247 financial records.

248 (II) Any other information maintained by a guardian ad
249 litem which is identified as confidential information under this
250 chapter.

251 b. Such confidential and exempt information may not be
252 disclosed to anyone other than the authorized personnel of the
253 court, the department and its designees, correctional probation
254 officers, law enforcement agents, guardians ad litem, and others
255 entitled under this chapter to receive that information, except
256 upon order of the court.

257 Section 6. Paragraph (a) of subsection (2) of section
258 92.153, Florida Statutes, is amended to read:

259 92.153 Production of documents by witnesses; reimbursement
260 of costs.—

261 (2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—

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

270 Section 7. Paragraph (b) of subsection (1) of section
271 112.19, Florida Statutes, is amended to read:

272 112.19 Law enforcement, correctional, and correctional
273 probation officers; death benefits.—

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

275 (b) "Law enforcement, correctional, or correctional
276 probation officer" means any officer as defined in s. 943.10(14)
277 or employee of the state or any political subdivision of the
278 state, including any law enforcement officer, correctional
279 officer, correctional probation officer, state attorney
280 investigator, ~~or~~ public defender investigator, or criminal
281 conflict and civil regional counsel investigator, whose duties
282 require such officer or employee to investigate, pursue,
283 apprehend, arrest, transport, or maintain custody of persons who
284 are charged with, suspected of committing, or convicted of a
285 crime; and the term includes any member of a bomb disposal unit
286 whose primary responsibility is the location, handling, and
287 disposal of explosive devices. The term also includes any full-
288 time officer or employee of the state or any political
289 subdivision of the state, certified pursuant to chapter 943,
290 whose duties require such officer to serve process or to attend

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291 a session of a circuit or county court as bailiff.

292 Section 8. Contingent upon SB 598 or similar legislation
293 taking effect, subsection (1) of section 320.025, Florida
294 Statutes, is amended to read:

295 320.025 Registration certificate and license plate or decal
296 issued under fictitious name; application.—

297 (1) A confidential registration certificate and
298 registration license plate or decal shall be issued under a
299 fictitious name only for a motor vehicle or vessel owned or
300 operated by a law enforcement agency of state, county,
301 municipal, or federal government;; the Attorney General's
302 Medicaid Fraud Control Unit;;~~or~~ any state public defender's
303 office; or any criminal conflict and civil regional counsel
304 office. The requesting agency shall file a written application
305 with the department, on forms furnished by the department,
306 including ~~which includes~~ a statement that the license plate or
307 decal will be used for certain activities by the Attorney
308 General's Medicaid Fraud Control Unit; any ~~or~~ law enforcement or
309 any state public defender's office; or a criminal conflict and
310 civil regional counsel office which requires the activities
311 ~~requiring~~ concealment of publicly leased or owned motor vehicles
312 or vessels and a statement of the position classifications of
313 the individuals who are authorized to use the license plate or
314 decal. The department may modify its records to reflect the
315 fictitious identity of the owner or lessee until such time as
316 the license plate or decal and registration certificate are
317 surrendered to it.

318 Section 9. Paragraph (a) of subsection (5) of section
319 393.12, Florida Statutes, is amended to read:

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320 393.12 Capacity; appointment of guardian advocate.—

321 (5) COUNSEL.—Within 3 days after a petition has been filed,
322 the court shall appoint an attorney to represent a person with a
323 developmental disability who is the subject of a petition to
324 appoint a guardian advocate. The person with a developmental
325 disability may substitute his or her own attorney for the
326 attorney appointed by the court.

327 (a) The court shall initially appoint a private attorney
328 who shall be selected from the attorney registry compiled
329 pursuant to s. 27.40. Such attorney must have completed a
330 minimum of 8 hours of education in guardianship. The court may
331 waive this requirement for an attorney who has served as a
332 court-appointed attorney in guardian advocate proceedings or as
333 an attorney of record for guardian advocates for at least 3
334 years. This education requirement does not apply to a court-
335 appointed attorney who is employed by an office of criminal
336 conflict and civil regional counsel.

337 Section 10. Subsection (3) of section 394.916, Florida
338 Statutes, is amended to read:

339 394.916 Trial; counsel and experts; indigent persons;
340 jury.—

341 (3) At all adversarial proceedings under this act, the
342 person subject to this act is entitled to the assistance of
343 counsel, and, if the person is indigent, the court must ~~shall~~
344 appoint the public defender or, if a conflict exists, the court
345 must appoint a criminal conflict and civil regional counsel or
346 other counsel to assist the person.

347 Section 11. Paragraph (d) of subsection (2) of section
348 744.331, Florida Statutes, is amended to read:

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349 744.331 Procedures to determine incapacity.—

350 (2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.—

351 (d) An attorney seeking to be appointed by a court for
352 incapacity and guardianship proceedings must have completed a
353 minimum of 8 hours of education in guardianship. A court may
354 waive the initial training requirement for an attorney who has
355 served as a court-appointed attorney in incapacity proceedings
356 or as an attorney of record for guardians for not less than 3
357 years. This training requirement does not apply to a court-
358 appointed attorney employed by an office of criminal conflict
359 and civil regional counsel.

360 Section 12. Paragraph (e) of subsection (3) and subsection
361 (7) of section 943.053, Florida Statutes, are amended to read:

362 943.053 Dissemination of criminal justice information;
363 fees.—

364 (3)

365 (e) The fee per record for criminal history information
366 provided pursuant to this subsection and s. 943.0542 is \$24 per
367 name submitted, except that the fee for the guardian ad litem
368 program and vendors of the Department of Children and Families,
369 the Department of Juvenile Justice, the Agency for Persons with
370 Disabilities, and the Department of Elderly Affairs is ~~shall be~~
371 \$8 for each name submitted; the fee for a state criminal history
372 provided for application processing as required by law to be
373 performed by the Department of Agriculture and Consumer Services
374 is ~~shall be~~ \$15 for each name submitted; and the fee for
375 requests under s. 943.0542, which implements the National Child
376 Protection Act, is ~~shall be~~ \$18 for each volunteer name
377 submitted. An office ~~The state offices~~ of the public defender or

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378 an office of criminal conflict and civil regional counsel may
379 ~~shall~~ not be assessed a fee for Florida criminal history
380 information or wanted person information.

381 (7) Notwithstanding any other provision of law, the
382 department shall provide to each office of the public defender
383 and each office of criminal conflict and civil regional counsel
384 online access to criminal records of this state which are not
385 exempt from disclosure under chapter 119 or confidential under
386 law. Such access shall be used solely in support of the duties
387 of a public defender as provided in s. 27.51, a criminal
388 conflict and civil regional counsel as provided in s. 27.511, or
389 ~~of~~ any attorney specially assigned as authorized in s. 27.53 in
390 the representation of any person who is determined indigent as
391 provided in s. 27.52. The costs of establishing and maintaining
392 such online access must ~~shall~~ be borne by the office to which
393 the access has been provided.

394 Section 13. Paragraph (d) of subsection (2) of section
395 945.10, Florida Statutes, is amended to read:

396 945.10 Confidential information.—

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

400 (d) Information specified in paragraph (1) (b) to a public
401 defender or a criminal conflict and civil regional counsel
402 representing a defendant, except those portions of the records
403 containing a victim's statement or address, or the statement or
404 address of a relative of the victim. A request for records or
405 information pursuant to this paragraph need not be in writing.
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407 Records and information released under this subsection remain
408 confidential and exempt from the provisions of s. 119.07(1) and
409 s. 24(a), Art. I of the State Constitution when held by the
410 receiving person or entity.

411 Section 14. Subsection (3) of section 945.48, Florida
412 Statutes, is amended to read:

413 945.48 Rights of inmates provided mental health treatment;
414 procedure for involuntary treatment.—

415 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF INMATES.—

416 Involuntary mental health treatment of an inmate who refuses
417 treatment that is deemed to be necessary for the appropriate
418 care of the inmate and the safety of the inmate or others may be
419 provided at a mental health treatment facility. The warden of
420 the institution containing the mental health treatment facility
421 shall petition the circuit court serving the county in which the
422 mental health treatment facility is located for an order
423 authorizing the treatment of the inmate. The inmate shall be
424 provided with a copy of the petition along with the proposed
425 treatment; the basis for the proposed treatment; the names of
426 the examining experts; and the date, time, and location of the
427 hearing. The inmate may have an attorney represent him or her at
428 the hearing, and, if the inmate is indigent, the court must
429 ~~shall~~ appoint the office of the public defender to represent the
430 inmate at the hearing. If the office of the public defender
431 withdraws from the appointment due to a conflict, the court must
432 appoint a criminal conflict and civil regional counsel or
433 private counsel pursuant to s. 27.40(1) to represent the inmate
434 ~~at the hearing.~~ An attorney representing the inmate shall have
435 access to the inmate and any records, including medical or

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436 mental health records, which are relevant to the representation
437 of the inmate.

438 Section 15. Subsection (2) of section 985.045, Florida
439 Statutes, is amended to read:

440 985.045 Court records.—

441 (2) The clerk shall keep all official records required by
442 this section separate from other records of the circuit court,
443 except those records pertaining to motor vehicle violations,
444 which shall be forwarded to the Department of Highway Safety and
445 Motor Vehicles. Except as provided in ss. 943.053 and
446 985.04(6)(b) and (7), official records required by this chapter
447 are not open to inspection by the public, but may be inspected
448 only upon order of the court by persons deemed by the court to
449 have a proper interest therein, except that a child and the
450 parents, guardians, or legal custodians of the child and their
451 attorneys, law enforcement agencies, the Department of Juvenile
452 Justice and its designees, the Florida Commission on Offender
453 Review, the Department of Corrections, and the Justice
454 Administrative Commission shall always have the right to inspect
455 and copy any official record pertaining to the child. Offices of
456 the public defender and criminal conflict and civil regional
457 counsel ~~offices~~ shall have access to official records of
458 juveniles on whose behalf they are expected to appear in
459 detention or other hearings before an appointment of
460 representation. The court may permit authorized representatives
461 of recognized organizations compiling statistics for proper
462 purposes to inspect, and make abstracts from, official records
463 under whatever conditions upon the use and disposition of such
464 records the court may deem proper and may punish by contempt

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465 proceedings any violation of those conditions.

466 Section 16. For the purpose of incorporating the amendment
467 made by this act to section 112.19, Florida Statutes, in a
468 reference thereto, paragraph (e) of subsection (4) of section
469 110.123, Florida Statutes, is reenacted to read:

470 110.123 State group insurance program.—

471 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION
472 ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

473 (e) No state contribution for the cost of any part of the
474 premium shall be made for retirees or surviving spouses for any
475 type of coverage under the state group insurance program.
476 However, any state agency that employs a full-time law
477 enforcement officer, correctional officer, or correctional
478 probation officer who is killed or suffers catastrophic injury
479 in the line of duty as provided in s. 112.19, or a full-time
480 firefighter who is killed or suffers catastrophic injury in the
481 line of duty as provided in s. 112.191, shall pay the entire
482 premium of the state group health insurance plan selected for
483 the employee's surviving spouse until remarried, and for each
484 dependent child of the employee, subject to the conditions and
485 limitations set forth in s. 112.19 or s. 112.191, as applicable.

486 Section 17. For the purpose of incorporating the amendment
487 made by this act to section 112.19, Florida Statutes, in a
488 reference thereto, subsection (1) of section 112.1912, Florida
489 Statutes, is reenacted to read:

490 112.1912 First responders; death benefits for educational
491 expenses.—

492 (1) As used in this section, the term "first responder"
493 means:

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494 (a) A law enforcement, correctional, or correctional
495 probation officer as defined in s. 112.19(1) who is killed as
496 provided in s. 112.19(2) on or after July 1, 2019;

497 (b) A firefighter as defined in s. 112.191(1) who is killed
498 as provided in s. 112.191(2) on or after July 1, 2019; or

499 (c) An emergency medical technician or a paramedic, as
500 defined in s. 112.1911(1), who is killed as provided in s.
501 112.1911(2) on or after July 1, 2019.

502 Section 18. Except as otherwise expressly provided in this
503 act, this act shall take effect July 1, 2022.