

1 A bill to be entitled
2 An act relating to representation by counsel in
3 hearings on petitions for risk protection orders;
4 amending s. 790.401, F.S.; providing that a respondent
5 has the right to be represented by an attorney in a
6 risk protection order proceeding and the right to have
7 counsel appointed if he or she is indigent and desires
8 representation; authorizing a private attorney
9 appointed to represent the respondent in a risk
10 protection order to be compensated; requiring
11 specified notice to a respondent; amending s. 27.51,
12 F.S.; authorizing a public defender to represent a
13 person who is named as the respondent in a risk
14 protection order; amending s. 27.511, F.S.;
15 authorizing the office of criminal conflict and civil
16 regional counsel to represent a person who is named as
17 the respondent in a risk protection order in specified
18 circumstances; amending s. 27.5304, F.S.; specifying a
19 compensation limitation for private counsel appointed
20 to represent the respondent in a risk protection order
21 proceeding; amending s. 39.815, F.S.; conforming a
22 cross-reference; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
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26 **Section 1. Paragraphs (c) and (d) of subsection (2) and**
27 **paragraphs (a) and (d) of subsection (3) of section 790.401,**
28 **Florida Statutes, are amended to read:**

29 790.401 Risk protection orders.—

30 (2) PETITION FOR A RISK PROTECTION ORDER.—There is created
31 an action known as a petition for a risk protection order.

32 (c) The respondent has the right to be represented by an
33 attorney. If the respondent is indigent and desires
34 representation, the court shall appoint counsel as provided in
35 s. 27.40. However, such petition for a risk protection order
36 does not require either party to be represented by an attorney.
37 (d) Notwithstanding any other law, attorney fees may not
38 be awarded in any proceeding under this section. However, this
39 paragraph does not preclude a private attorney who is appointed
40 to represent an indigent respondent from being compensated as
41 provided in s. 27.5304.

42 (3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.—

43 (a) Upon receipt of a petition, the court must order a
44 hearing to be held no later than 14 days after the date of the
45 order and must issue a notice of hearing to the respondent for
46 the same. Such notice of hearing must inform the respondent of
47 his or her right to be represented by an attorney and inform the
48 respondent that if he or she is indigent and desires
49 representation, counsel will be appointed as provided in s.
50 27.40.

51 1. The clerk of the court shall electronically transmit
52 within 6 hours after the court issues an order and notice of
53 hearing a copy of the order, notice of hearing, and petition to
54 the appropriate law enforcement agency for service upon the
55 respondent as provided in subsection (5).

56 2. The court may, as provided in subsection (4), issue a
57 temporary ex parte risk protection order pending the hearing
58 ordered under this subsection. Such temporary ex parte order
59 must be served concurrently with the notice of hearing and
60 petition as provided in subsection (5).

61 3. The court may conduct a hearing by telephone pursuant
62 to a local court rule to reasonably accommodate a disability or
63 exceptional circumstances. The court must receive assurances of
64 the petitioner's identity before conducting a telephonic
65 hearing.

66 (d) A person, including an officer of the court, who
67 offers evidence or recommendations relating to the cause of
68 action either must present the evidence or recommendations in
69 writing to the court with copies to each party and his or her
70 attorney, if one is retained or appointed, or must present the
71 evidence under oath at a hearing at which all parties are
72 present.

73 **Section 2. Paragraphs (e) and (f) of subsection (1) of**
74 **section 27.51, Florida Statutes, are redesignated as paragraphs**
75 **(f) and (g), respectively, and a new paragraph (e) is added to**

76 **that subsection, to read:**

77 27.51 Duties of public defender.—

78 (1) The public defender shall represent, without
79 additional compensation, any person determined to be indigent
80 under s. 27.52 and:

81 (e) Named as the respondent in a petition filed before a
82 circuit court for a risk protection order under s. 790.401;

83 **Section 3. Paragraphs (e), (f), and (g) of subsection (5)**
84 **of section 27.511, Florida Statutes, are redesignated as**
85 **paragraphs (f), (g), and (h), respectively, subsection (8) is**
86 **amended, and a new paragraph (e) is added to subsection (5) of**
87 **that section, to read:**

88 27.511 Offices of criminal conflict and civil regional
89 counsel; legislative intent; qualifications; appointment;
90 duties.—

91 (5) When the Office of the Public Defender, at any time
92 during the representation of two or more defendants, determines
93 that the interests of those accused are so adverse or hostile
94 that they cannot all be counseled by the public defender or his
95 or her staff without a conflict of interest, or that none can be
96 counseled by the public defender or his or her staff because of
97 a conflict of interest, and the court grants the public
98 defender's motion to withdraw, the office of criminal conflict
99 and civil regional counsel shall be appointed and shall provide
100 legal services, without additional compensation, to any person

determined to be indigent under s. 27.52, who is:

(e) Named as the respondent in a petition filed before a circuit court for a risk protection order under s. 790.401;

(8) The public defender for the judicial circuit specified in s. 27.51(4) shall, after the record on appeal is transmitted to the appellate court by the office of criminal conflict and civil regional counsel which handled the trial and if requested by the regional counsel for the indicated appellate district, handle all circuit court and county court appeals authorized pursuant to paragraph (5) (g) ~~(5) (f)~~ within the state courts system and any authorized appeals to the federal courts required of the official making the request. If the public defender certifies to the court that the public defender has a conflict consistent with the criteria prescribed in s. 27.5303 and moves to withdraw, the regional counsel shall handle the appeal, unless the regional counsel has a conflict, in which case the court shall appoint private counsel pursuant to s. 27.40.

Section 4. Subsections (6) through (13) of section 27.5304, Florida Statutes, are renumbered as subsections (7) through (14), respectively, subsection (2) and paragraph (b) of subsection (11) are amended, and a new subsection (6) is added to that section, to read:

27.5304 Private court-appointed counsel; compensation; notice.—

(2) The Justice Administrative Commission shall review an

intended billing by private court-appointed counsel for attorney fees based on a flat fee per case for completeness and compliance with contractual and statutory requirements. The commission may approve the intended bill for a flat fee per case for payment without approval by the court if the intended billing is correct. An intended billing that seeks compensation for any amount exceeding the flat fee established for a particular type of representation, as prescribed in the General Appropriations Act, shall comply with subsections (12) and (13) ~~subsections (11) and (12)~~.

(6) The compensation for representation in a risk protection order proceeding under s. 790.401 may not exceed \$1,000.

(11) It is the intent of the Legislature that the flat fees prescribed under this section and the General Appropriations Act comprise the full and complete compensation for private court-appointed counsel. It is further the intent of the Legislature that the fees in this section are prescribed for the purpose of providing counsel with notice of the limit on the amount of compensation for representation in particular proceedings and the sole procedure and requirements for obtaining payment for the same.

(b) If court-appointed counsel is allowed to withdraw from representation prior to the full performance of his or her duties through the completion of the case and the court appoints

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151 a subsequent attorney, the total compensation for the initial
152 and any and all subsequent attorneys may not exceed the flat fee
153 established under this section and the General Appropriations
154 Act, except as provided in subsection (13) ~~(12)~~.

155
156 This subsection constitutes notice to any subsequently appointed
157 attorney that he or she will not be compensated the full flat
158 fee.

159 **Section 5. Subsection (1) of section 39.815, Florida**
160 **Statutes, is amended to read:**

161 39.815 Appeal.—

162 (1) Any child, any parent or guardian ad litem of any
163 child, any other party to the proceeding who is affected by an
164 order of the court, or the department may appeal to the
165 appropriate district court of appeal within the time and in the
166 manner prescribed by the Florida Rules of Appellate Procedure.
167 The district court of appeal shall give an appeal from an order
168 terminating parental rights priority in docketing and shall
169 render a decision on the appeal as expeditiously as possible.
170 Appointed counsel shall be compensated as provided in s.
171 27.5304(7) ~~s. 27.5304(6)~~.

172 **Section 6.** This act shall take effect July 1, 2026.