

By Senator Powell

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1 A bill to be entitled
2 An act relating to the representation provided by the
3 offices of criminal conflict and civil regional
4 counsel in child welfare matters; amending s. 27.511,
5 F.S.; authorizing the regional counsel to provide pre-
6 petition legal representation to indigent parents in
7 certain child welfare matters; authorizing the
8 regional counsel to initiate or appear in specified
9 civil actions; providing a mechanism for determining
10 indigency by a regional counsel; specifying procedures
11 to be used if a regional counsel determines that a
12 parent is not indigent; amending s. 39.301, F.S.;
13 requiring child protective investigators to provide
14 information regarding the right of certain persons to
15 representation by the regional counsel; requiring
16 child protective responders to know how to inform
17 parents and legal custodians about the right of
18 certain parents to representation by the office;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (d) of subsection (6) of section
24 27.511, Florida Statutes, is amended, and paragraph (e) is added
25 to that subsection, to read:

26 27.511 Offices of criminal conflict and civil regional
27 counsel; legislative intent; qualifications; appointment;
28 duties.—

29 (6)

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30 (d) Except as provided in paragraph (e), the regional
31 counsel may not represent any plaintiff in a civil action
32 brought under the Florida Rules of Civil Procedure, the Federal
33 Rules of Civil Procedure, or federal statutes, and may not
34 represent a petitioner in a rule challenge under chapter 120,
35 unless specifically authorized by law.

36 (e) In any child welfare matter, the regional counsel is
37 expressly authorized to provide preventative, pre-petition legal
38 representation to an indigent parent who is the subject of a
39 child protective investigation under s. 39.301. If the pre-
40 petition legal representation is related to the investigation
41 and to the efforts by the parents to safely maintain the care
42 and custody of their children, the regional counsel may appear
43 in, or initiate, any civil action, including requesting an
44 injunction to protect against domestic violence, to defend the
45 right to residential tenancy or housing, and to determine
46 parentage. In pre-petition matters, the regional counsel must
47 determine, within 5 days after initial contact by a parent who
48 is the subject of an investigation, whether the parent is
49 indigent, using the best available evidence. In determining
50 indigency, the regional counsel must use the application form
51 and indigency criteria used by the clerk of court under s. 27.52
52 and must maintain documentation of the determination in its
53 files. If, at any time after an initial determination of
54 indigency is made, the regional counsel determines that a parent
55 is not indigent, the regional counsel must cease to provide
56 representation to the nonindigent parent and must withdraw from
57 any legal action in which the regional counsel has appeared.

58 Section 2. Paragraph (a) of subsection (5) and paragraph

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59 (a) of subsection (10) of section 39.301, Florida Statutes, are
60 amended to read:

61 39.301 Initiation of protective investigations.-

62 (5) (a) Upon commencing an investigation under this part,
63 the child protective investigator shall inform any subject of
64 the investigation of the following:

65 1. The names of the investigators and identifying
66 credentials from the department.

67 2. The purpose of the investigation.

68 3. The right of any subject of the investigation to obtain
69 his or her own attorney. The investigator shall inform each
70 parent who is a subject of the investigation that any parent who
71 is unable to afford to hire an attorney may choose to be
72 represented by the office of criminal conflict and civil
73 regional counsel during the investigation, and the investigator
74 shall provide the contact information for the local regional
75 counsel office that offers pre-petition representation, if
76 locally available ~~and ways that the information provided by the~~
77 ~~subject may be used.~~

78 4. The possible outcomes and services of the department's
79 response.

80 5. The right of the parent or legal custodian to be engaged
81 to the fullest extent possible in determining the nature of the
82 allegation and the nature of any identified problem and the
83 remedy.

84 6. The duty of the parent or legal custodian to report any
85 change in the residence or location of the child to the
86 investigator and that the duty to report continues until the
87 investigation is closed.

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88 (10) (a) The department's training program for staff
89 responsible for responding to reports accepted by the central
90 abuse hotline must also ensure that child protective responders:

91 1. Know how to fully inform parents or legal custodians of
92 their rights and options, including opportunities for audio or
93 video recording of child protective responder interviews with
94 parents or legal custodians or children.

95 2. Know how and when to use the injunction process under s.
96 39.504 or s. 741.30 to remove a perpetrator of domestic violence
97 from the home as an intervention to protect the child.

98 3. Know how to explain to the parent, legal custodian, or
99 person who is alleged to have caused the abuse, neglect, or
100 abandonment the results of the investigation and to provide
101 information about his or her right to access confidential
102 reports in accordance with s. 39.202, prior to closing the case.

103 4. Know how to inform the parents or legal custodians of
104 their right to legal counsel and that indigent parents have the
105 right to be represented by the office of criminal conflict and
106 civil regional counsel, if locally available.

107 Section 3. This act shall take effect July 1, 2021.