

By Senator Baxley

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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 requirements for the  
15      manner of access to court facilities for regional  
16      counsels; amending s. 27.53, F.S.; revising  
17      requirements for the classification and pay plan  
18      developed by the regional counsels; amending s.  
19      39.0132, F.S.; authorizing the release of certain  
20      confidential information relating to proceedings  
21      involving children to regional counsels under  
22      specified circumstances; amending s. 92.153, F.S.;  
23      providing a limitation on costs for documents produced  
24      in response to a subpoena or records request by a  
25      regional counsel; amending s. 112.19, F.S.; redefining  
26      the term "law enforcement, correctional, or  
27      correctional probation officer" to include regional  
28      counsel investigators for purposes of eligibility for  
29      certain death benefits; amending s. 393.12, F.S.;

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30 waiving an education requirement for the appointment  
31 of attorneys from regional counsel offices to  
32 represent a person with a developmental disability;  
33 amending s. 394.916, F.S.; requiring a court to  
34 appoint a regional counsel or other counsel to  
35 represent an allegedly sexually violent predator in  
36 the event of a conflict; amending s. 744.331, F.S.;

37 waiving a certain training requirement for the  
38 appointment of attorneys from regional counsel offices  
39 to represent an alleged incapacitated person; amending  
40 s. 790.25, F.S.; providing exceptions from  
41 unauthorized uses of firearms and other weapons for  
42 regional counsel investigators who meet certain  
43 criteria; amending s. 943.053, F.S.; specifying that a  
44 regional counsel may not be charged a fee for  
45 accessing certain criminal justice information;  
46 requiring the Department of Law Enforcement to provide  
47 regional counsels online access to certain  
48 information; amending s. 945.10, F.S.; authorizing the  
49 release of certain records and information to regional  
50 counsels; amending s. 945.48, F.S.; authorizing the  
51 appointment of a regional counsel to represent an  
52 inmate subject to involuntary mental health treatment  
53 if certain conditions exist; amending s. 985.045,  
54 F.S.; requiring that regional counsels have access to  
55 official records of juveniles whom they represent;  
56 providing an effective date.

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

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

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

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

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

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

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

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

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

27.341 Electronic filing and receipt of court documents.—

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

96 Section 3. Subsections (2) and (3) of section 27.511,  
97 Florida Statutes, are amended, and subsection (10) is added to  
98 that section, to read:

99 27.511 Offices of criminal conflict and civil regional  
100 counsel; legislative intent; qualifications; appointment;  
101 duties.—

102 (2) Each office of criminal conflict and civil regional  
103 counsel shall be assigned to the Justice Administrative  
104 Commission for administrative purposes. The commission shall  
105 provide administrative support and service to the offices to the  
106 extent requested by each regional counsel within the available  
107 resources of the commission. The regional counsel and the  
108 offices are not subject to control, supervision, or direction by  
109 the commission in the performance of their duties, ~~but the~~  
110 ~~employees of the offices shall be governed by the classification~~  
111 ~~plan and the salary and benefits plan for the commission.~~

112 (3) (a) Each regional counsel must be, and must have been  
113 for the preceding 5 years, a member in good standing of The  
114 Florida Bar. Each regional counsel shall be appointed by the  
115 Governor and is subject to confirmation by the Senate. The  
116 Supreme Court Judicial Nominating Commission, ~~in addition to the~~

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117 ~~current regional counsel,~~ shall nominate ~~recommend~~ to the  
118 Governor the currently serving regional counsel, if he or she  
119 seeks reappointment, and may also nominate up to three not fewer  
120 ~~than two or more than five~~ additional qualified candidates for  
121 appointment to each of the five regional counsel positions for  
122 consideration by the Governor. The Governor shall appoint the  
123 regional counsel for the five regions from among the  
124 commission's nominations ~~recommendations~~, or, if it is in the  
125 best interest of the fair administration of justice, the  
126 Governor may reject the nominations and request that the Supreme  
127 Court Judicial Nominating Commission submit three new nominees.  
128 The regional counsel shall be appointed to a term of 4 years,  
129 the term beginning on October 1, 2015. Vacancies shall be filled  
130 in the manner provided in paragraph (b).

131 (b) If for any reason a regional counsel is unable to  
132 complete a full term in office, the Governor may immediately  
133 appoint an interim regional counsel who meets the qualifications  
134 to be a regional counsel to serve as regional counsel for that  
135 region ~~district~~ until a new regional counsel is appointed in the  
136 manner provided in paragraph (a). The ~~Florida~~ Supreme Court  
137 Judicial Nominating Commission shall provide the Governor with a  
138 list of nominees for appointment within 6 months after the date  
139 of the vacancy. A temporary vacancy in office does not affect  
140 the validity of any matters or activities of the office of  
141 regional counsel.

142 (10) Each court shall allow for the ingress and egress to  
143 its facilities for criminal conflict and civil regional counsels  
144 and assistant regional counsels in the same manner as is  
145 provided to public defenders and assistant public defenders,

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146 subject to the security requirements of each courthouse.

147 Section 4. Subsection (4) of section 27.53, Florida  
148 Statutes, is amended to read:

149 27.53 Appointment of assistants and other staff; method of  
150 payment.—

151 (4) The five criminal conflict and civil regional counsels  
152 ~~counsel~~ may employ and establish, in the numbers authorized by  
153 the General Appropriations Act, assistant regional counsel and  
154 other staff and personnel in each judicial district pursuant to  
155 s. 29.006, who shall be paid from funds appropriated for that  
156 purpose. Notwithstanding s. 790.01, s. 790.02, or s.  
157 790.25(2)(a), an investigator employed by an office of criminal  
158 conflict and civil regional counsel, while actually carrying out  
159 official duties, is authorized to carry concealed weapons if the  
160 investigator complies with s. 790.25(3)(o). However, such  
161 investigators are not eligible for membership in the Special  
162 Risk Class of the Florida Retirement System. The five regional  
163 counsels ~~counsel~~ shall jointly develop a coordinated recommended  
164 ~~modifications to the classification and pay plan for submission~~  
165 to and the salary and benefits plan for the Justice  
166 Administrative Commission, the President of the Senate, and the  
167 Speaker of the House of Representatives by January 1 of each  
168 year. The plan must ~~recommendations shall be submitted to the~~  
169 ~~commission, the office of the President of the Senate, and the~~  
170 ~~office of the Speaker of the House of Representatives before~~  
171 ~~January 1 of each year.~~ Such recommendations shall be developed  
172 in accordance with policies and procedures of the Executive  
173 Office of the Governor established in s. 216.181. Each assistant  
174 regional counsel appointed by the regional counsel under this

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175 section shall serve at the pleasure of the regional counsel.  
176 Each investigator employed by the regional counsel shall have  
177 full authority to serve any witness subpoena or court order  
178 issued by any court or judge in a criminal case in which the  
179 regional counsel has been appointed to represent the accused.

180 Section 5. Subsection (3) and paragraph (a) of subsection  
181 (4) of section 39.0132, Florida Statutes, is amended to read:

182 39.0132 Oaths, records, and confidential information.—

183 (3) The clerk shall keep all court records required by this  
184 chapter separate from other records of the circuit court. All  
185 court records required by this chapter shall not be open to  
186 inspection by the public. All records shall be inspected only  
187 upon order of the court by persons deemed by the court to have a  
188 proper interest therein, except that, subject to the provisions  
189 of s. 63.162, a child and the parents of the child and their  
190 attorneys, the guardian ad litem, criminal conflict and civil  
191 regional counsels, law enforcement agencies, and the department  
192 and its designees shall always have the right to inspect and  
193 copy any official record pertaining to the child. The Justice  
194 Administrative Commission may inspect court dockets required by  
195 this chapter as necessary to audit compensation of court-  
196 appointed attorneys. If the docket is insufficient for purposes  
197 of the audit, the commission may petition the court for  
198 additional documentation as necessary and appropriate. The court  
199 may permit authorized representatives of recognized  
200 organizations compiling statistics for proper purposes to  
201 inspect and make abstracts from official records, under whatever  
202 conditions upon their use and disposition the court may deem  
203 proper, and may punish by contempt proceedings any violation of

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204 those conditions.

205 (4)(a)1. All information obtained pursuant to this part in  
206 the discharge of official duty by any judge, employee of the  
207 court, authorized agent of the department, correctional  
208 probation officer, or law enforcement agent is confidential and  
209 exempt from s. 119.07(1) and may not be disclosed to anyone  
210 other than the authorized personnel of the court, the department  
211 and its designees, correctional probation officers, law  
212 enforcement agents, the guardian ad litem, criminal conflict and  
213 civil regional counsels, and others entitled under this chapter  
214 to receive that information, except upon order of the court.

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

218 (I) Medical, mental health, substance abuse, child care,  
219 education, law enforcement, court, social services, and  
220 financial records.

221 (II) Any other information maintained by a guardian ad  
222 litem which is identified as confidential information under this  
223 chapter.

224 b. Such confidential and exempt information may not be  
225 disclosed to anyone other than the authorized personnel of the  
226 court, the department and its designees, correctional probation  
227 officers, law enforcement agents, guardians ad litem, and others  
228 entitled under this chapter to receive that information, except  
229 upon order of the court.

230 Section 6. Paragraph (a) of subsection (2) of section  
231 92.153, Florida Statutes, is amended to read:

232 92.153 Production of documents by witnesses; reimbursement



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233 of costs.—

234 (2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—

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

243 Section 7. Paragraph (b) of subsection (1) of section  
244 112.19, Florida Statutes, is amended to read:

245 112.19 Law enforcement, correctional, and correctional  
246 probation officers; death benefits.—

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

248 (b) "Law enforcement, correctional, or correctional  
249 probation officer" means any officer as defined in s. 943.10(14)  
250 or employee of the state or any political subdivision of the  
251 state, including any law enforcement officer, correctional  
252 officer, correctional probation officer, state attorney  
253 investigator, ~~or~~ public defender investigator, or criminal  
254 conflict and civil regional counsel investigator, whose duties  
255 require such officer or employee to investigate, pursue,  
256 apprehend, arrest, transport, or maintain custody of persons who  
257 are charged with, suspected of committing, or convicted of a  
258 crime; and the term includes any member of a bomb disposal unit  
259 whose primary responsibility is the location, handling, and  
260 disposal of explosive devices. The term also includes any full-  
261 time officer or employee of the state or any political

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262 subdivision of the state, certified pursuant to chapter 943,  
263 whose duties require such officer to serve process or to attend  
264 a session of a circuit or county court as bailiff.

265 Section 8. Paragraph (a) of subsection (5) of section  
266 393.12, Florida Statutes, is amended to read:

267 393.12 Capacity; appointment of guardian advocate.—

268 (5) COUNSEL.—Within 3 days after a petition has been filed,  
269 the court shall appoint an attorney to represent a person with a  
270 developmental disability who is the subject of a petition to  
271 appoint a guardian advocate. The person with a developmental  
272 disability may substitute his or her own attorney for the  
273 attorney appointed by the court.

274 (a) The court shall initially appoint a private attorney  
275 who shall be selected from the attorney registry compiled  
276 pursuant to s. 27.40. Such attorney must have completed a  
277 minimum of 8 hours of education in guardianship. The court may  
278 waive this requirement for an attorney who has served as a  
279 court-appointed attorney in guardian advocate proceedings or as  
280 an attorney of record for guardian advocates for at least 3  
281 years. This education requirement does not apply to a court-  
282 appointed attorney who is employed by an office of criminal  
283 conflict and civil regional counsel.

284 Section 9. Subsection (3) of section 394.916, Florida  
285 Statutes, is amended to read:

286 394.916 Trial; counsel and experts; indigent persons;  
287 jury.—

288 (3) At all adversarial proceedings under this act, the  
289 person subject to this act is entitled to the assistance of  
290 counsel, and, if the person is indigent, the court shall appoint

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291 the public defender or, if a conflict exists, the court shall  
292 appoint a criminal conflict and civil regional counsel or other  
293 counsel to assist the person.

294 Section 10. Paragraph (d) of subsection (2) of section  
295 744.331, Florida Statutes, is amended to read:

296 744.331 Procedures to determine incapacity.—

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

298 (d) An attorney seeking to be appointed by a court for  
299 incapacity and guardianship proceedings must have completed a  
300 minimum of 8 hours of education in guardianship. A court may  
301 waive the initial training requirement for an attorney who has  
302 served as a court-appointed attorney in incapacity proceedings  
303 or as an attorney of record for guardians for not less than 3  
304 years. This requirement does not apply to a court-appointed  
305 attorney who is employed by an office of criminal conflict and  
306 civil regional counsel.

307 Section 11. Paragraph (o) of subsection (3) of section  
308 790.25, Florida Statutes, is amended to read:

309 790.25 Lawful ownership, possession, and use of firearms  
310 and other weapons.—

311 (3) LAWFUL USES.—The provisions of ss. 790.053 and 790.06  
312 do not apply in the following instances, and, despite such  
313 sections, it is lawful for the following persons to own,  
314 possess, and lawfully use firearms and other weapons,  
315 ammunition, and supplies for lawful purposes:

316 (o) Investigators employed by ~~the several~~ public defenders  
317 and criminal conflict and civil regional counsels of the state,  
318 while in the performance of actually carrying out official  
319 duties, if provided such investigators:

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- 320 1. Are employed full time;
- 321 2. Meet the official training standards for firearms
- 322 established by the Criminal Justice Standards and Training
- 323 Commission as provided in s. 943.12(5) and the requirements of
- 324 ss. 493.6108(1)(a) and 943.13(1)-(4); and
- 325 3. Are individually designated by an affidavit of consent
- 326 signed by the employing public defender or regional counsel and
- 327 filed with the clerk of the circuit court in the county in which
- 328 the employing public defender or regional counsel resides.

329 Section 12. Paragraph (e) of subsection (3) and subsection

330 (7) of section 943.053, Florida Statutes, are amended to read:

331 943.053 Dissemination of criminal justice information;

332 fees.—

333 (3)

334 (e) The fee per record for criminal history information

335 provided pursuant to this subsection and s. 943.0542 is \$24 per

336 name submitted, except that the fee for the guardian ad litem

337 program and vendors of the Department of Children and Families,

338 the Department of Juvenile Justice, the Agency for Persons with

339 Disabilities, and the Department of Elderly Affairs is ~~shall be~~

340 \$8 for each name submitted; the fee for a state criminal history

341 provided for application processing as required by law to be

342 performed by the Department of Agriculture and Consumer Services

343 is ~~shall be~~ \$15 for each name submitted; and the fee for

344 requests under s. 943.0542, which implements the National Child

345 Protection Act, is ~~shall be~~ \$18 for each volunteer name

346 submitted. Neither an office ~~The state offices~~ of the public

347 defender nor an office of criminal conflict and civil regional

348 counsel may ~~shall not~~ be assessed a fee for Florida criminal

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349 history information or wanted person information.

350 (7) Notwithstanding any other provision of law, the  
351 department shall provide to each office of the public defender  
352 and each criminal conflict and civil regional counsel online  
353 access to criminal records of this state which are not exempt  
354 from disclosure under chapter 119 or confidential under law.  
355 Such access shall be used solely in support of the duties of a  
356 public defender as provided in s. 27.51, a criminal conflict and  
357 civil regional counsel as provided in s. 27.511, or ~~of~~ any  
358 attorney specially assigned as authorized in s. 27.53 in the  
359 representation of any person who is determined indigent as  
360 provided in s. 27.52. The costs of establishing and maintaining  
361 such online access must ~~shall~~ be borne by the office to which  
362 the access has been provided.

363 Section 13. Paragraph (d) of subsection (2) of section  
364 945.10, Florida Statutes, is amended to read:

365 945.10 Confidential information.-

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

369 (d) Information specified in paragraph (1)(b) to a public  
370 defender or a criminal conflict and civil regional counsel  
371 representing a defendant, except those portions of the records  
372 containing a victim's statement or address, or the statement or  
373 address of a relative of the victim. A request for records or  
374 information pursuant to this paragraph need not be in writing.

375

376 Records and information released under this subsection remain  
377 confidential and exempt from the provisions of s. 119.07(1) and

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378 s. 24(a), Art. I of the State Constitution when held by the  
379 receiving person or entity.

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

382 945.48 Rights of inmates provided mental health treatment;  
383 procedure for involuntary treatment.—

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

385 Involuntary mental health treatment of an inmate who refuses  
386 treatment that is deemed to be necessary for the appropriate  
387 care of the inmate and the safety of the inmate or others may be  
388 provided at a mental health treatment facility. The warden of  
389 the institution containing the mental health treatment facility  
390 shall petition the circuit court serving the county in which the  
391 mental health treatment facility is located for an order  
392 authorizing the treatment of the inmate. The inmate shall be  
393 provided with a copy of the petition along with the proposed  
394 treatment; the basis for the proposed treatment; the names of  
395 the examining experts; and the date, time, and location of the  
396 hearing. The inmate may have an attorney represent him or her at  
397 the hearing, and, if the inmate is indigent, the court shall  
398 appoint the office of the public defender to represent the  
399 inmate at the hearing. If the office of the public defender must  
400 withdraw from the appointment due to a conflict, the court must  
401 appoint the criminal conflict and civil regional counsel or  
402 private counsel pursuant to s. 27.40(1) to represent the inmate  
403 ~~at the hearing~~. An attorney representing the inmate shall have  
404 access to the inmate and any records, including medical or  
405 mental health records, which are relevant to the representation  
406 of the inmate.

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

409 985.045 Court records.—

410 (2) The clerk shall keep all official records required by  
411 this section separate from other records of the circuit court,  
412 except those records pertaining to motor vehicle violations,  
413 which shall be forwarded to the Department of Highway Safety and  
414 Motor Vehicles. Except as provided in ss. 943.053 and  
415 985.04(6)(b) and (7), official records required by this chapter  
416 are not open to inspection by the public, but may be inspected  
417 only upon order of the court by persons deemed by the court to  
418 have a proper interest therein, except that a child and the  
419 parents, guardians, or legal custodians of the child and their  
420 attorneys, law enforcement agencies, the Department of Juvenile  
421 Justice and its designees, the Florida Commission on Offender  
422 Review, the Department of Corrections, and the Justice  
423 Administrative Commission shall always have the right to inspect  
424 and copy any official record pertaining to the child. Offices of  
425 the public defender and criminal conflict and civil regional  
426 counsel ~~offices~~ shall have access to official records of  
427 juveniles on whose behalf they are expected to appear in  
428 detention or other hearings before an appointment of  
429 representation. The court may permit authorized representatives  
430 of recognized organizations compiling statistics for proper  
431 purposes to inspect, and make abstracts from, official records  
432 under whatever conditions upon the use and disposition of such  
433 records the court may deem proper and may punish by contempt  
434 proceedings any violation of those conditions.

435 Section 16. This act shall take effect July 1, 2021.