

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 developed by the regional
22 counsels; amending s. 39.0132, F.S.; authorizing the
23 release of certain confidential information relating
24 to proceedings involving children to regional counsels
25 under specified circumstances; amending s. 92.153,

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

51 to certain information; amending s. 945.10, F.S.;

52 authorizing the release of certain records and

53 information to regional counsels; amending s. 945.48,

54 F.S.; authorizing the appointment of a regional

55 counsel to represent an inmate subject to involuntary

56 mental health treatment if certain conditions exist;

57 amending s. 985.045, F.S.; requiring that regional

58 counsels have access to official records of juveniles

59 whom they represent; providing an effective date.

60

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

62

63 Section 1. Section 27.0065, Florida Statutes, is amended

64 to read:

65 27.0065 Witness coordination.—Each state attorney, ~~and~~

66 public defender, and criminal conflict and civil regional

67 counsel is shall be responsible for:

68 (1) Coordinating court appearances, including pretrial

69 conferences and depositions, for all witnesses who are

70 subpoenaed in criminal cases, including law enforcement

71 personnel.

72 (2) Contacting witnesses and securing information

73 necessary to place a witness on an on-call status with regard to

74 his or her court appearance.

75 (3) Contacting witnesses to advise them not to report to

76 | court in the event the case for which they have been subpoenaed
 77 | has been continued or has had a plea entered, or in the event
 78 | there is any other reason why their attendance is not required
 79 | on the dates they have been ordered to report.

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

83 |
 84 | In addition, the state attorney, ~~or~~ public defender, or criminal
 85 | conflict and civil regional counsel may provide additional
 86 | services to reduce time and wage losses to a minimum for all
 87 | witnesses.

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

90 | 27.341 Electronic filing and receipt of court documents.—

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

99 | Section 3. Subsections (2), (3), and (7) of section
 100 | 27.511, Florida Statutes, are amended, and subsection (10) is

101 added to that section, to read:

102 27.511 Offices of criminal conflict and civil regional
 103 counsel; legislative intent; qualifications; appointment;
 104 duties.—

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

115 (3) (a) Each regional counsel must be, and must have been
 116 for the preceding 5 years, a member in good standing of The
 117 Florida Bar. Each regional counsel shall be appointed by the
 118 Governor and is subject to confirmation by the Senate. The
 119 Supreme Court Judicial Nominating Commission, ~~in addition to the~~
 120 ~~current regional counsel,~~ shall nominate ~~recommend~~ to the
 121 Governor the currently serving regional counsel, if he or she
 122 seeks reappointment, and may also nominate up to three not fewer
 123 ~~than two or more than five~~ additional qualified candidates for
 124 appointment to each of the five regional counsel positions for
 125 consideration by the Governor. The Governor shall appoint the

126 regional counsel for the five regions from among the
127 commission's nominations ~~recommendations~~, or, if it is in the
128 best interest of the fair administration of justice, the
129 Governor may reject the nominations and request that the Supreme
130 Court Judicial Nominating Commission submit three new nominees.
131 The regional counsel shall be appointed to a term of 4 years,
132 the term beginning on October 1, 2015, with each successive term
133 beginning on October 1 every 4 years thereafter. The nomination
134 and appointment process under this paragraph shall apply
135 retroactively to the term beginning on October 1, 2019.
136 Vacancies shall be filled in the manner provided in paragraph
137 (b).

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

149 (7) The court may not appoint the office of criminal
150 conflict and civil regional counsel to represent, even on a

151 temporary basis, any person who is not indigent, except to the
 152 extent that appointment of counsel is specifically provided for
 153 in chapters 390, 394, 415, 743, and 744 without regard to the
 154 indigent status of the person entitled to representation. If a
 155 defendant has retained private counsel, the court may not
 156 appoint the office of criminal conflict and civil regional
 157 counsel to represent that defendant simultaneously on the same
 158 case.

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

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

166 27.53 Appointment of assistants and other staff; method of
 167 payment.—

168 (4) The five criminal conflict and civil regional counsels
 169 ~~counsel~~ may employ and establish, in the numbers authorized by
 170 the General Appropriations Act, assistant regional counsels
 171 ~~counsel~~ and other staff and personnel in each judicial district
 172 pursuant to s. 29.006, who shall be paid from funds appropriated
 173 for that purpose. Notwithstanding s. 790.01, s. 790.02, or s.
 174 790.25(2) (a), an investigator employed by an office of criminal
 175 conflict and civil regional counsel, while actually carrying out

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

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

199 39.0132 Oaths, records, and confidential information.—

200 (3) The clerk shall keep all court records required by

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

222 (4)(a)1. All information obtained pursuant to this part in
 223 the discharge of official duty by any judge, employee of the
 224 court, authorized agent of the department, correctional
 225 probation officer, or law enforcement agent is confidential and

226 exempt from s. 119.07(1) and may not be disclosed to anyone
 227 other than the authorized personnel of the court, the department
 228 and its designees, correctional probation officers, law
 229 enforcement agents, the guardian ad litem, criminal conflict and
 230 civil regional counsels, and others entitled under this chapter
 231 to receive that information, except upon order of the court.

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

235 (I) Medical, mental health, substance abuse, child care,
 236 education, law enforcement, court, social services, and
 237 financial records.

238 (II) Any other information maintained by a guardian ad
 239 litem which is identified as confidential information under this
 240 chapter.

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

247 Section 6. Paragraph (a) of subsection (2) of section
 248 92.153, Florida Statutes, is amended to read:

249 92.153 Production of documents by witnesses; reimbursement
 250 of costs.—

251 (2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—

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

260 Section 7. Paragraph (b) of subsection (1) of section
 261 112.19, Florida Statutes, is amended to read:

262 112.19 Law enforcement, correctional, and correctional
 263 probation officers; death benefits.—

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

265 (b) "Law enforcement, correctional, or correctional
 266 probation officer" means any officer as defined in s. 943.10(14)
 267 or employee of the state or any political subdivision of the
 268 state, including any law enforcement officer, correctional
 269 officer, correctional probation officer, state attorney
 270 investigator, ~~or~~ public defender investigator, or criminal
 271 conflict and civil regional counsel investigator, whose duties
 272 require such officer or employee to investigate, pursue,
 273 apprehend, arrest, transport, or maintain custody of persons who
 274 are charged with, suspected of committing, or convicted of a
 275 crime; and the term includes any member of a bomb disposal unit

276 | whose primary responsibility is the location, handling, and
 277 | disposal of explosive devices. The term also includes any full-
 278 | time officer or employee of the state or any political
 279 | subdivision of the state, certified pursuant to chapter 943,
 280 | whose duties require such officer to serve process or to attend
 281 | a session of a circuit or county court as bailiff.

282 | Section 8. Subsection (1) of section 320.025, Florida
 283 | Statutes, is amended to read:

284 | 320.025 Registration certificate and license plate or
 285 | decal issued under fictitious name; application.—

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

301 classifications of the individuals who are authorized to use the
302 license plate or decal. The department may modify its records to
303 reflect the fictitious identity of the owner or lessee until
304 such time as the license plate or decal and registration
305 certificate are surrendered to it.

306 Section 9. Paragraph (a) of subsection (5) of section
307 393.12, Florida Statutes, is amended to read:

308 393.12 Capacity; appointment of guardian advocate.—

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

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

325 Section 10. Subsection (3) of section 394.916, Florida

326 Statutes, is amended to read:

327 394.916 Trial; counsel and experts; indigent persons;
 328 jury.-

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

335 Section 11. Paragraph (d) of subsection (2) of section
 336 744.331, Florida Statutes, is amended to read:

337 744.331 Procedures to determine incapacity.-

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

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

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

350 943.053 Dissemination of criminal justice information;

351 fees.—

352 (3)

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

369 (7) Notwithstanding any other provision of law, the
 370 department shall provide to each office of the public defender
 371 and each criminal conflict and civil regional counsel online
 372 access to criminal records of this state which are not exempt
 373 from disclosure under chapter 119 or confidential under law.
 374 Such access shall be used solely in support of the duties of a
 375 public defender as provided in s. 27.51, a criminal conflict and

376 civil regional counsel as provided in s. 27.511, or of any
377 attorney specially assigned as authorized in s. 27.53 in the
378 representation of any person who is determined indigent as
379 provided in s. 27.52. The costs of establishing and maintaining
380 such online access must ~~shall~~ be borne by the office to which
381 the access has been provided.

382 Section 13. Paragraph (d) of subsection (2) of section
383 945.10, Florida Statutes, is amended to read:

384 945.10 Confidential information.—

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

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

394
395 Records and information released under this subsection remain
396 confidential and exempt from the provisions of s. 119.07(1) and
397 s. 24(a), Art. I of the State Constitution when held by the
398 receiving person or entity.

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

401 945.48 Rights of inmates provided mental health treatment;
 402 procedure for involuntary treatment.—

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

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

426 Section 15. Subsection (2) of section 985.045, Florida
 427 Statutes, is amended to read:
 428 985.045 Court records.—
 429 (2) The clerk shall keep all official records required by
 430 this section separate from other records of the circuit court,
 431 except those records pertaining to motor vehicle violations,
 432 which shall be forwarded to the Department of Highway Safety and
 433 Motor Vehicles. Except as provided in ss. 943.053 and
 434 985.04(6)(b) and (7), official records required by this chapter
 435 are not open to inspection by the public, but may be inspected
 436 only upon order of the court by persons deemed by the court to
 437 have a proper interest therein, except that a child and the
 438 parents, guardians, or legal custodians of the child and their
 439 attorneys, law enforcement agencies, the Department of Juvenile
 440 Justice and its designees, the Florida Commission on Offender
 441 Review, the Department of Corrections, and the Justice
 442 Administrative Commission shall always have the right to inspect
 443 and copy any official record pertaining to the child. Offices of
 444 the public defender and criminal conflict and civil regional
 445 counsel ~~offices~~ shall have access to official records of
 446 juveniles on whose behalf they are expected to appear in
 447 detention or other hearings before an appointment of
 448 representation. The court may permit authorized representatives
 449 of recognized organizations compiling statistics for proper
 450 purposes to inspect, and make abstracts from, official records

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451 | under whatever conditions upon the use and disposition of such
452 | records the court may deem proper and may punish by contempt
453 | proceedings any violation of those conditions.

454 | Section 16. This act shall take effect July 1, 2022.