

By the Committee on Judiciary; and 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 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; providing an effective
63 date.

64
65 Be It Enacted by the Legislature of the State of Florida:

66
67 Section 1. Section 27.0065, Florida Statutes, is amended to
68 read:

69 27.0065 Witness coordination.—Each state attorney, and
70 public defender, and criminal conflict and civil regional
71 counsel is ~~shall be~~ responsible for:

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

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

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

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

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

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

94 27.341 Electronic filing and receipt of court documents.—

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

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

106 27.511 Offices of criminal conflict and civil regional
107 counsel; legislative intent; qualifications; appointment;
108 duties.—

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

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117 ~~employees of the offices shall be governed by the classification~~
118 ~~plan and the salary and benefits plan for the commission.~~

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

142 (b) If for any reason a regional counsel is unable to
143 complete a full term in office, the Governor may immediately
144 appoint an interim regional counsel who meets the qualifications
145 to be a regional counsel to serve as regional counsel for that

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146 ~~region district~~ until a new regional counsel is appointed in the
147 manner provided in paragraph (a). The ~~Florida~~ Supreme Court
148 Judicial Nominating Commission shall provide the Governor with a
149 list of nominees for appointment within 6 months after the date
150 of the vacancy. A temporary vacancy in office does not affect
151 the validity of any matters or activities of the office of
152 regional counsel.

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

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

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

170 27.53 Appointment of assistants and other staff; method of
171 payment.—

172 (4) The five criminal conflict and civil regional counsels
173 ~~counsel~~ may employ and establish, in the numbers authorized by
174 the General Appropriations Act, assistant regional counsels

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

201 Section 5. Subsection (3) and paragraph (a) of subsection
202 (4) of section 39.0132, Florida Statutes, are amended to read:
203 39.0132 Oaths, records, and confidential information.-

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

226 (4) (a) 1. All information obtained pursuant to this part in
227 the discharge of official duty by any judge, employee of the
228 court, authorized agent of the department, correctional
229 probation officer, or law enforcement agent is confidential and
230 exempt from s. 119.07(1) and may not be disclosed to anyone
231 other than the authorized personnel of the court, the department
232 and its designees, correctional probation officers, law

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233 enforcement agents, the guardian ad litem, criminal conflict and
234 civil regional counsels, and others entitled under this chapter
235 to receive that information, except upon order of the court.

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

239 (I) Medical, mental health, substance abuse, child care,
240 education, law enforcement, court, social services, and
241 financial records.

242 (II) Any other information maintained by a guardian ad
243 litem which is identified as confidential information under this
244 chapter.

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

251 Section 6. Paragraph (a) of subsection (2) of section
252 92.153, Florida Statutes, is amended to read:

253 92.153 Production of documents by witnesses; reimbursement
254 of costs.—

255 (2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—

256 (a) In any proceeding, a disinterested witness shall be
257 paid for any costs the witness reasonably incurs either directly
258 or indirectly in producing, searching for, reproducing, or
259 transporting documents pursuant to a summons; however, the cost
260 of documents produced pursuant to a subpoena or records request
261 by a state attorney, a ~~or~~ public defender, or a criminal

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262 conflict and civil regional counsel may not exceed 15 cents per
263 page and \$10 per hour for research or retrieval.

264 Section 7. Paragraph (b) of subsection (1) of section
265 112.19, Florida Statutes, is amended to read:

266 112.19 Law enforcement, correctional, and correctional
267 probation officers; death benefits.—

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

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

286 Section 8. Subsection (1) of section 320.025, Florida
287 Statutes, is amended to read:

288 320.025 Registration certificate and license plate or decal
289 issued under fictitious name; application.—

290 (1) A confidential registration certificate and

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

311 Section 9. Paragraph (a) of subsection (5) of section
312 393.12, Florida Statutes, is amended to read:

313 393.12 Capacity; appointment of guardian advocate.—

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

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

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

332 394.916 Trial; counsel and experts; indigent persons;
333 jury.—

334 (3) At all adversarial proceedings under this act, the
335 person subject to this act is entitled to the assistance of
336 counsel, and, if the person is indigent, the court must ~~shall~~
337 appoint the public defender or, if a conflict exists, the court
338 must appoint a criminal conflict and civil regional counsel or
339 other counsel to assist the person.

340 Section 11. Paragraph (d) of subsection (2) of section
341 744.331, Florida Statutes, is amended to read:

342 744.331 Procedures to determine incapacity.—

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

344 (d) An attorney seeking to be appointed by a court for
345 incapacity and guardianship proceedings must have completed a
346 minimum of 8 hours of education in guardianship. A court may
347 waive the initial training requirement for an attorney who has
348 served as a court-appointed attorney in incapacity proceedings

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349 or as an attorney of record for guardians for not less than 3
350 years. This training requirement does not apply to a court-
351 appointed attorney employed by an office of criminal conflict
352 and civil regional counsel.

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

355 943.053 Dissemination of criminal justice information;
356 fees.—

357 (3)

358 (e) The fee per record for criminal history information
359 provided pursuant to this subsection and s. 943.0542 is \$24 per
360 name submitted, except that the fee for the guardian ad litem
361 program and vendors of the Department of Children and Families,
362 the Department of Juvenile Justice, the Agency for Persons with
363 Disabilities, and the Department of Elderly Affairs is ~~shall be~~
364 \$8 for each name submitted; the fee for a state criminal history
365 provided for application processing as required by law to be
366 performed by the Department of Agriculture and Consumer Services
367 is ~~shall be~~ \$15 for each name submitted; and the fee for
368 requests under s. 943.0542, which implements the National Child
369 Protection Act, is ~~shall be~~ \$18 for each volunteer name
370 submitted. An office ~~The state offices~~ of the public defender or
371 an office of criminal conflict and civil regional counsel may
372 ~~shall~~ not be assessed a fee for Florida criminal history
373 information or wanted person information.

374 (7) Notwithstanding any other provision of law, the
375 department shall provide to each office of the public defender
376 and each office of criminal conflict and civil regional counsel
377 online access to criminal records of this state which are not

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378 exempt from disclosure under chapter 119 or confidential under
379 law. Such access shall be used solely in support of the duties
380 of a public defender as provided in s. 27.51, a criminal
381 conflict and civil regional counsel as provided in s. 27.511, or
382 ~~of~~ any attorney specially assigned as authorized in s. 27.53 in
383 the representation of any person who is determined indigent as
384 provided in s. 27.52. The costs of establishing and maintaining
385 such online access must ~~shall~~ be borne by the office to which
386 the access has been provided.

387 Section 13. Paragraph (d) of subsection (2) of section
388 945.10, Florida Statutes, is amended to read:

389 945.10 Confidential information.—

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

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

399
400 Records and information released under this subsection remain
401 confidential and exempt from the provisions of s. 119.07(1) and
402 s. 24(a), Art. I of the State Constitution when held by the
403 receiving person or entity.

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

406 945.48 Rights of inmates provided mental health treatment;

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407 procedure for involuntary treatment.-

408 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF INMATES.-

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

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

433 985.045 Court records.-

434 (2) The clerk shall keep all official records required by
435 this section separate from other records of the circuit court,

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436 except those records pertaining to motor vehicle violations,
437 which shall be forwarded to the Department of Highway Safety and
438 Motor Vehicles. Except as provided in ss. 943.053 and
439 985.04(6)(b) and (7), official records required by this chapter
440 are not open to inspection by the public, but may be inspected
441 only upon order of the court by persons deemed by the court to
442 have a proper interest therein, except that a child and the
443 parents, guardians, or legal custodians of the child and their
444 attorneys, law enforcement agencies, the Department of Juvenile
445 Justice and its designees, the Florida Commission on Offender
446 Review, the Department of Corrections, and the Justice
447 Administrative Commission shall always have the right to inspect
448 and copy any official record pertaining to the child. Offices of
449 the public defender and criminal conflict and civil regional
450 counsel ~~offices~~ shall have access to official records of
451 juveniles on whose behalf they are expected to appear in
452 detention or other hearings before an appointment of
453 representation. The court may permit authorized representatives
454 of recognized organizations compiling statistics for proper
455 purposes to inspect, and make abstracts from, official records
456 under whatever conditions upon the use and disposition of such
457 records the court may deem proper and may punish by contempt
458 proceedings any violation of those conditions.

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