

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; specifying
16 requirements for the manner of access to court
17 facilities for regional counsels; amending s. 27.53,
18 F.S.; revising requirements for the classification and
19 pay plan developed by the regional counsels; amending
20 s. 39.0132, F.S.; authorizing the release of certain
21 confidential information relating to proceedings
22 involving children to regional counsels under
23 specified circumstances; amending s. 92.153, F.S.;
24 providing a limitation on costs for documents produced
25 in response to a subpoena or records request by a

26 regional counsel; amending s. 112.19, F.S.; redefining
27 the term "law enforcement, correctional, or
28 correctional probation officer" to include regional
29 counsel investigators for purposes of eligibility for
30 certain death benefits; amending s. 393.12, F.S.;
31 waiving an education requirement for the appointment
32 of attorneys from regional counsel offices to
33 represent a person with a developmental disability;
34 amending s. 394.916, F.S.; requiring a court to
35 appoint a regional counsel or other counsel to
36 represent an allegedly sexually violent predator in
37 the event of a conflict; amending s. 744.331, F.S.;
38 waiving a certain training requirement for the
39 appointment of attorneys from regional counsel offices
40 to represent an alleged incapacitated person; amending
41 s. 790.25, F.S.; providing exceptions from
42 unauthorized uses of firearms and other weapons for
43 regional counsel investigators who meet certain
44 criteria; amending s. 943.053, F.S.; specifying that a
45 regional counsel may not be charged a fee for
46 accessing certain criminal justice information;
47 requiring the Department of Law Enforcement to provide
48 regional counsels online access to certain
49 information; amending s. 945.10, F.S.; authorizing the
50 release of certain records and information to regional

51 counsels; amending s. 945.48, F.S.; authorizing the
 52 appointment of a regional counsel to represent an
 53 inmate subject to involuntary mental health treatment
 54 if certain conditions exist; amending s. 985.045,
 55 F.S.; requiring that regional counsels have access to
 56 official records of juveniles whom they represent;
 57 providing an effective date.
 58

59 Be It Enacted by the Legislature of the State of Florida:
 60

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

63 27.0065 Witness coordination.—Each state attorney, and
 64 public defender, and criminal conflict and civil regional
 65 counsel is shall be responsible for:

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

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

73 (3) Contacting witnesses to advise them not to report to
 74 court in the event the case for which they have been subpoenaed
 75 has been continued or has had a plea entered, or in the event

76 | there is any other reason why their attendance is not required
77 | on the dates they have been ordered to report.

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

81 |
82 | In addition, the state attorney, ~~or~~ public defender, or criminal
83 | conflict and civil regional counsel may provide additional
84 | services to reduce time and wage losses to a minimum for all
85 | witnesses.

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

88 | 27.341 Electronic filing and receipt of court documents.-

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

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

100 | 27.511 Offices of criminal conflict and civil regional

101 counsel; legislative intent; qualifications; appointment;
102 duties.—

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

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

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

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

147 (10) Each court shall allow for the ingress and egress to
148 its facilities for regional counsels and assistant regional
149 counsels in the same manner as is provided to public defenders
150 and assistant public defenders, subject to the security

151 requirements of each courthouse.

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

154 27.53 Appointment of assistants and other staff; method of
155 payment.—

156 (4) The five criminal conflict and civil regional counsels
157 ~~counsel~~ may employ and establish, in the numbers authorized by
158 the General Appropriations Act, assistant regional counsel and
159 other staff and personnel in each judicial district pursuant to
160 s. 29.006, who shall be paid from funds appropriated for that
161 purpose. Notwithstanding s. 790.01, s. 790.02, or s.

162 790.25(2)(a), an investigator employed by an office of criminal
163 conflict and civil regional counsel, while actually carrying out
164 official duties, is authorized to carry concealed weapons if the
165 investigator complies with s. 790.25(3)(o). However, such
166 investigators are not eligible for membership in the Special
167 Risk Class of the Florida Retirement System. The five regional
168 counsels ~~counsel~~ shall jointly develop a coordinated recommended
169 ~~modifications to the classification and pay plan for submission~~
170 ~~to and the salary and benefits plan for the Justice~~

171 Administrative Commission, the President of the Senate, and the
172 Speaker of the House of Representatives by January 1 of each
173 year. The plan must ~~recommendations shall be submitted to the~~
174 ~~commission, the office of the President of the Senate, and the~~
175 ~~office of the Speaker of the House of Representatives before~~

176 ~~January 1 of each year. Such recommendations shall~~ be developed
177 in accordance with policies and procedures of the Executive
178 Office of the Governor established in s. 216.181. Each assistant
179 regional counsel appointed by the regional counsel under this
180 section shall serve at the pleasure of the regional counsel.
181 Each investigator employed by the regional counsel shall have
182 full authority to serve any witness subpoena or court order
183 issued by any court or judge in a criminal case in which the
184 regional counsel has been appointed to represent the accused.

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

187 39.0132 Oaths, records, and confidential information.—

188 (3) The clerk shall keep all court records required by
189 this chapter separate from other records of the circuit court.
190 All court records required by this chapter shall not be open to
191 inspection by the public. All records shall be inspected only
192 upon order of the court by persons deemed by the court to have a
193 proper interest therein, except that, subject to the provisions
194 of s. 63.162, a child and the parents of the child and their
195 attorneys, the guardian ad litem, criminal conflict and civil
196 regional counsels, law enforcement agencies, and the department
197 and its designees shall always have the right to inspect and
198 copy any official record pertaining to the child. The Justice
199 Administrative Commission may inspect court dockets required by
200 this chapter as necessary to audit compensation of court-

201 appointed attorneys. If the docket is insufficient for purposes
202 of the audit, the commission may petition the court for
203 additional documentation as necessary and appropriate. The court
204 may permit authorized representatives of recognized
205 organizations compiling statistics for proper purposes to
206 inspect and make abstracts from official records, under whatever
207 conditions upon their use and disposition the court may deem
208 proper, and may punish by contempt proceedings any violation of
209 those conditions.

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

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

223 (I) Medical, mental health, substance abuse, child care,
224 education, law enforcement, court, social services, and
225 financial records.

226 (II) Any other information maintained by a guardian ad
 227 litem which is identified as confidential information under this
 228 chapter.

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

235 Section 6. Paragraph (a) of subsection (2) of section
 236 92.153, Florida Statutes, is amended to read:

237 92.153 Production of documents by witnesses; reimbursement
 238 of costs.—

239 (2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—

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

248 Section 7. Paragraph (b) of subsection (1) of section
 249 112.19, Florida Statutes, is amended to read:

250 112.19 Law enforcement, correctional, and correctional

251 probation officers; death benefits.—

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

253 (b) "Law enforcement, correctional, or correctional
 254 probation officer" means any officer as defined in s. 943.10(14)
 255 or employee of the state or any political subdivision of the
 256 state, including any law enforcement officer, correctional
 257 officer, correctional probation officer, state attorney
 258 investigator, ~~or~~ public defender investigator, or criminal
 259 conflict and civil regional counsel investigator, whose duties
 260 require such officer or employee to investigate, pursue,
 261 apprehend, arrest, transport, or maintain custody of persons who
 262 are charged with, suspected of committing, or convicted of a
 263 crime; and the term includes any member of a bomb disposal unit
 264 whose primary responsibility is the location, handling, and
 265 disposal of explosive devices. The term also includes any full-
 266 time officer or employee of the state or any political
 267 subdivision of the state, certified pursuant to chapter 943,
 268 whose duties require such officer to serve process or to attend
 269 a session of a circuit or county court as bailiff.

270 Section 8. Paragraph (a) of subsection (5) of section
 271 393.12, Florida Statutes, is amended to read:

272 393.12 Capacity; appointment of guardian advocate.—

273 (5) COUNSEL.—Within 3 days after a petition has been
 274 filed, the court shall appoint an attorney to represent a person
 275 with a developmental disability who is the subject of a petition

276 to appoint a guardian advocate. The person with a developmental
277 disability may substitute his or her own attorney for the
278 attorney appointed by the court.

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

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

291 394.916 Trial; counsel and experts; indigent persons;
292 jury.—

293 (3) At all adversarial proceedings under this act, the
294 person subject to this act is entitled to the assistance of
295 counsel, and, if the person is indigent, the court shall appoint
296 the public defender or, if a conflict exists, the court shall
297 appoint a criminal conflict and civil regional counsel or other
298 counsel to assist the person.

299 Section 10. Paragraph (d) of subsection (2) of section
300 744.331, Florida Statutes, is amended to read:

301 744.331 Procedures to determine incapacity.—

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

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

312 Section 11. Paragraph (o) of subsection (3) of section
 313 790.25, Florida Statutes, is amended to read:

314 790.25 Lawful ownership, possession, and use of firearms
 315 and other weapons.—

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

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

325 1. Are employed full time;

326 2. Meet the official training standards for firearms
327 established by the Criminal Justice Standards and Training
328 Commission as provided in s. 943.12(5) and the requirements of
329 ss. 493.6108(1)(a) and 943.13(1)-(4); and

330 3. Are individually designated by an affidavit of consent
331 signed by the employing public defender or regional counsel and
332 filed with the clerk of the circuit court in the county in which
333 the employing public defender or regional counsel resides.

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

336 943.053 Dissemination of criminal justice information;
337 fees.—

338 (3)

339 (e) The fee per record for criminal history information
340 provided pursuant to this subsection and s. 943.0542 is \$24 per
341 name submitted, except that the fee for the guardian ad litem
342 program and vendors of the Department of Children and Families,
343 the Department of Juvenile Justice, the Agency for Persons with
344 Disabilities, and the Department of Elderly Affairs is ~~shall be~~
345 \$8 for each name submitted; the fee for a state criminal history
346 provided for application processing as required by law to be
347 performed by the Department of Agriculture and Consumer Services
348 is ~~shall be~~ \$15 for each name submitted; and the fee for
349 requests under s. 943.0542, which implements the National Child
350 Protection Act, is ~~shall be~~ \$18 for each volunteer name

351 submitted. Neither an office ~~The state offices~~ of the public
352 defender nor an office of criminal conflict and civil regional
353 counsel may ~~shall not~~ be assessed a fee for Florida criminal
354 history information or wanted person information.

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

368 Section 13. Paragraph (d) of subsection (2) of section
369 945.10, Florida Statutes, is amended to read:

370 945.10 Confidential information.—

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

374 (d) Information specified in paragraph (1)(b) to a public
375 defender or a criminal conflict and civil regional counsel

376 representing a defendant, except those portions of the records
377 containing a victim's statement or address, or the statement or
378 address of a relative of the victim. A request for records or
379 information pursuant to this paragraph need not be in writing.

380

381 Records and information released under this subsection remain
382 confidential and exempt from the provisions of s. 119.07(1) and
383 s. 24(a), Art. I of the State Constitution when held by the
384 receiving person or entity.

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

387 945.48 Rights of inmates provided mental health treatment;
388 procedure for involuntary treatment.-

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

390 Involuntary mental health treatment of an inmate who refuses
391 treatment that is deemed to be necessary for the appropriate
392 care of the inmate and the safety of the inmate or others may be
393 provided at a mental health treatment facility. The warden of
394 the institution containing the mental health treatment facility
395 shall petition the circuit court serving the county in which the
396 mental health treatment facility is located for an order
397 authorizing the treatment of the inmate. The inmate shall be
398 provided with a copy of the petition along with the proposed
399 treatment; the basis for the proposed treatment; the names of
400 the examining experts; and the date, time, and location of the

401 hearing. The inmate may have an attorney represent him or her at
 402 the hearing, and, if the inmate is indigent, the court shall
 403 appoint the office of the public defender to represent the
 404 inmate at the hearing. If the office of the public defender must
 405 withdraw from the appointment due to a conflict, the court must
 406 appoint the criminal conflict and civil regional counsel or
 407 private counsel pursuant to s. 27.40(1) to represent the inmate
 408 ~~at the hearing.~~ An attorney representing the inmate shall have
 409 access to the inmate and any records, including medical or
 410 mental health records, which are relevant to the representation
 411 of the inmate.

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

414 985.045 Court records.—

415 (2) The clerk shall keep all official records required by
 416 this section separate from other records of the circuit court,
 417 except those records pertaining to motor vehicle violations,
 418 which shall be forwarded to the Department of Highway Safety and
 419 Motor Vehicles. Except as provided in ss. 943.053 and
 420 985.04(6)(b) and (7), official records required by this chapter
 421 are not open to inspection by the public, but may be inspected
 422 only upon order of the court by persons deemed by the court to
 423 have a proper interest therein, except that a child and the
 424 parents, guardians, or legal custodians of the child and their
 425 attorneys, law enforcement agencies, the Department of Juvenile

426 Justice and its designees, the Florida Commission on Offender
427 Review, the Department of Corrections, and the Justice
428 Administrative Commission shall always have the right to inspect
429 and copy any official record pertaining to the child. Offices of
430 the public defender and criminal conflict and civil regional
431 counsel ~~offices~~ shall have access to official records of
432 juveniles on whose behalf they are expected to appear in
433 detention or other hearings before an appointment of
434 representation. The court may permit authorized representatives
435 of recognized organizations compiling statistics for proper
436 purposes to inspect, and make abstracts from, official records
437 under whatever conditions upon the use and disposition of such
438 records the court may deem proper and may punish by contempt
439 proceedings any violation of those conditions.

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