

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.;
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.

57

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

59

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

62 27.0065 Witness coordination.—Each state attorney, and
 63 public defender, and criminal conflict and civil regional
 64 counsel is ~~shall be~~ responsible for:

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

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

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

76 | on the dates they have been ordered to report.

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

80 |

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

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

87 | 27.341 Electronic filing and receipt of court documents.—

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~~
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 regional counsels and assistant regional
 144 counsels in the same manner as is provided to public defenders
 145 and assistant public defenders, subject to the security
 146 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
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, are amended to read:

182 39.0132 Oaths, records, and confidential information.—

183 (3) The clerk shall keep all court records required by
184 this chapter separate from other records of the circuit court.
185 All 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
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
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
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
269 filed, the court shall appoint an attorney to represent a person
270 with a developmental disability who is the subject of a petition
271 to 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
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:

- 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
 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
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.

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

HB 685

2021

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.