

CHAPTER 2022-195

Committee Substitute for Committee Substitute for Senate Bill No. 596

An act relating to criminal conflict and civil regional counsels; amending s. 27.0065, F.S.; specifying the responsibilities of regional counsels regarding witness coordination; amending s. 27.341, F.S.; revising legislative intent regarding electronic filing and receipt of court documents; amending s. 27.511, F.S.; removing the requirement that regional counsel employees be governed by Justice Administrative Commission classification and salary and benefits plans; modifying procedures for the Supreme Court Judicial Nominating Commission to nominate candidates to the Governor for regional counsel positions; specifying that the nomination and appointment process applies retroactively; prohibiting the court from appointing a regional counsel to represent a defendant who has retained private counsel; specifying requirements for the manner of access to court facilities for regional counsels; amending s. 27.53, F.S.; revising requirements for the classification and pay plan jointly developed by the regional counsels; amending s. 39.0132, F.S.; authorizing regional counsels to access certain confidential information relating to proceedings involving children under specified circumstances; authorizing the release to regional counsels of certain confidential information relating to proceedings involving children under specified circumstances; amending s. 92.153, F.S.; providing a limit on costs for documents produced in response to a subpoena or records request by a regional counsel; amending s. 112.19, F.S.; revising the definition of the term “law enforcement, correctional, or correctional probation officer” to include regional counsel investigators for purposes of eligibility for certain death benefits; amending s. 320.025, F.S.; authorizing regional counsel offices to obtain fictitious names for motor vehicle and vessel plates or decals; amending s. 393.12, F.S.; waiving an education requirement for the appointment of attorneys from regional counsel offices to represent a person with a developmental disability; amending s. 394.916, F.S.; requiring a court to appoint a regional counsel or other counsel to represent an alleged sexually violent predator in the event of a conflict; amending s. 744.331, F.S.; waiving a certain training requirement for the appointment of attorneys from regional counsel offices to represent an alleged incapacitated person; amending s. 943.053, F.S.; specifying that a regional counsel office may not be charged a fee for accessing certain criminal justice information; requiring the Department of Law Enforcement to provide regional counsel offices online access to certain information; amending s. 945.10, F.S.; authorizing the release of certain records and information to regional counsels; amending s. 945.48, F.S.; authorizing the appointment of a regional counsel to represent an inmate subject to involuntary mental health treatment if certain conditions exist; amending s. 985.045, F.S.; requiring that regional counsel offices have access to official records of juveniles whom they represent; reenacting ss. 110.123(4)(e) and

112.1912(1), F.S., relating to the payment of health insurance premiums by state agencies for certain employees and surviving spouses and death benefits for education expenses for survivors of first responders, respectively, to incorporate the amendment made to s. 112.19, F.S., in references thereto; providing effective dates.

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

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

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

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

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

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

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

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

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

27.341 Electronic filing and receipt of court documents.—

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

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

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

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

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

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

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

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

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

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

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

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

39.0132 Oaths, records, and confidential information.—

(3) The clerk shall keep all court records required by this chapter separate from other records of the circuit court. All court records required by this chapter shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents of the child and their attorneys, the guardian ad litem, criminal conflict and civil regional counsels, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The Justice

Administrative Commission may inspect court dockets required by this chapter as necessary to audit compensation of court-appointed attorneys. If the docket is insufficient for purposes of the audit, the commission may petition the court for additional documentation as necessary and appropriate. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

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

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

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

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

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

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

92.153 Production of documents by witnesses; reimbursement of costs.

(2) REIMBURSEMENT OF A DISINTERESTED WITNESS.—

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

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

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

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

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

Section 8. Contingent upon SB 598 or similar legislation taking effect, subsection (1) of section 320.025, Florida Statutes, is amended to read:

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

(1) A confidential registration certificate and registration license plate or decal shall be issued under a fictitious name only for a motor vehicle or vessel owned or operated by a law enforcement agency of state, county, municipal, or federal government; the Attorney General’s Medicaid Fraud Control Unit; ~~or any state public defender’s office; or any criminal conflict and civil regional counsel office.~~ The requesting agency shall file a written application with the department, on forms furnished by the department, ~~including which includes~~ a statement that the license plate or decal will be used for certain activities by the Attorney General’s Medicaid Fraud Control Unit; ~~any~~ or law enforcement or ~~any~~ state public defender’s office; or a criminal conflict and civil regional counsel office which requires the activities requiring concealment of publicly leased or owned motor vehicles or vessels and a statement of the position classifications of the individuals who are authorized to use the license plate or decal. The department may modify its records to reflect the fictitious identity of the owner or lessee until such time as the license plate or decal and registration certificate are surrendered to it.

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

393.12 Capacity; appointment of guardian advocate.—

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

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

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

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

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

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

744.331 Procedures to determine incapacity.—

(2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.—

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

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

943.053 Dissemination of criminal justice information; fees.—

(3)

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

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

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

945.10 Confidential information.—

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

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

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

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

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

(3) PROCEDURE FOR INVOLUNTARY TREATMENT OF INMATES. Involuntary mental health treatment of an inmate who refuses treatment that is deemed to be necessary for the appropriate care of the inmate and the safety of the inmate or others may be provided at a mental health treatment facility. The warden of the institution containing the mental health treatment facility shall petition the circuit court serving the county in which the mental health treatment facility is located for an order authorizing the treatment of the inmate. The inmate shall be provided with a copy of the petition along with the proposed treatment; the basis for the proposed treatment; the names of the examining experts; and the date, time, and location of the hearing. The inmate may have an attorney represent him or her at the hearing, and, if the inmate is indigent, the court ~~must shall~~ appoint the office of the public defender to represent the inmate at the hearing. If the office of the public defender withdraws from the appointment due to a conflict, the court must appoint a criminal conflict and civil regional counsel or private counsel pursuant to s. 27.40(1) to represent the inmate ~~at the hearing~~. An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, which are relevant to the representation of the inmate.

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

985.045 Court records.—

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

Section 16. For the purpose of incorporating the amendment made by this act to section 112.19, Florida Statutes, in a reference thereto, paragraph (e) of subsection (4) of section 110.123, Florida Statutes, is reenacted to read:

110.123 State group insurance program.—

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

(e) No state contribution for the cost of any part of the premium shall be made for retirees or surviving spouses for any type of coverage under the state group insurance program. However, any state agency that employs a full-time law enforcement officer, correctional officer, or correctional probation officer who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.19, or a full-time firefighter who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.191, shall pay the entire premium of the state group health insurance plan selected for the employee’s surviving spouse until remarried, and for each dependent child of the employee, subject to the conditions and limitations set forth in s. 112.19 or s. 112.191, as applicable.

Section 17. For the purpose of incorporating the amendment made by this act to section 112.19, Florida Statutes, in a reference thereto, subsection (1) of section 112.1912, Florida Statutes, is reenacted to read:

112.1912 First responders; death benefits for educational expenses.—

(1) As used in this section, the term “first responder” means:

(a) A law enforcement, correctional, or correctional probation officer as defined in s. 112.19(1) who is killed as provided in s. 112.19(2) on or after July 1, 2019;

(b) A firefighter as defined in s. 112.191(1) who is killed as provided in s. 112.191(2) on or after July 1, 2019; or

(c) An emergency medical technician or a paramedic, as defined in s. 112.1911(1), who is killed as provided in s. 112.1911(2) on or after July 1, 2019.

Section 18. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022.

Approved by the Governor June 20, 2022.

Filed in Office Secretary of State June 20, 2022.