

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1186

INTRODUCER: Senators Baxley and Perry

SUBJECT: Criminal Judgments

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 1186 requires that a judgment of guilty or not guilty of petit theft or a felony or guilty judgment of any offense under ch. 796, F.S., be in a written or an *electronic* record, signed by the judge, and recorded by the clerk of the court.

The bill requires that an electronic record of a guilty judgment include electronically captured fingerprints of the defendant and certification by the judge that such fingerprints belong to the defendant. The bill provides that such certification, in a written or electronic record, of a guilty felony judgment, is admissible as prima facie evidence that the fingerprints on the judgment are those of the defendant.

The bill retains the requirement for the social security number of a defendant who is guilty of a felony to be taken and requires such number to be specified in the written or *electronic* judgment.

The bill permits, but does not require, the courts to implement an electronic fingerprinting and judgment process. However, circuits that wish to capture electronic fingerprints may incur costs associated with the implementation of new technology necessary for such a process. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Petit Theft and Felony Judgments

Current law requires every criminal judgment adjudicating a person guilty or not guilty of petit theft¹ or a felony must be in *writing*, signed by the judge, and recorded by the clerk of the circuit court.²

At the time the judgment of guilty is rendered, the fingerprints of the defendant must be taken and affixed beneath the judge's signature to such judgment. Beneath the fingerprints, the judge must certify and attest that such fingerprints belong to the defendant. Such judgment, with the certification, is admissible as prima facie evidence that the fingerprints are those of the defendant.³

For a guilty felony judgment, in addition to the defendant's fingerprints, the judge must also record the defendant's social security number and affix it to the written judgment. If the defendant is unable or unwilling to provide his or her social security number, the reason for its absence must be indicated on the written judgment.⁴

Criminal Judgments Under Ch. 796, F.S.

Chapter 796, F.S., governs prostitution and similar crimes. Every criminal judgment adjudicating a person guilty of a misdemeanor or felony offense governed by ch. 796, F.S., must be in *writing*, signed by the judge, and recorded by the clerk of the circuit court. Additionally, the fingerprints of the defendant must be taken and affixed beneath the judge's signature to such judgment. Beneath the fingerprints, the judge must certify and attest that such fingerprints belong to the defendant.⁵ Such judgment, with the certification, is admissible as prima facie evidence that the fingerprints are those of the defendant.⁶

Electronic Fingerprinting

Capturing legible fingerprint images is paramount to the administrative process. Failure to capture legible fingerprint images can lead to an increase in administrative burden and lengthy waiting periods. Increasing electronic fingerprint capture is one method that has been utilized in efforts to improve fingerprint image quality reject rates. Electronic live scan fingerprinting technology allows for the capture of sharper, clearer images, which helps to ensure that the images captured are legible prior to submission.⁷

¹ A person commits petit theft if he or she steals property that is valued between \$100 and \$300. Petit theft is punishable as a first degree misdemeanor. Section 812.014(2)(e), F.S.

² Sections 812.014(3)(d)1. and 921.241(2), F.S.

³ Sections 812.014(3)(d)2. and 921.241(2) and (3), F.S.

⁴ Section 921.241(4), F.S.

⁵ Section 921.242(1), F.S.

⁶ Section 921.242(2), F.S.

⁷ Federal Bureau of Investigation, *The National Crime Prevention and Privacy Compact Council's Civil Fingerprint Image Quality Strategy Guide*, (November 2018), pg. 2-3, available at <https://www.fbi.gov/file-repository/civil-fingerprint-image-quality-strategy-guide.pdf> (last visited March 19, 2019).

III. Effect of Proposed Changes:

Current law requires that a judgment of guilty or not guilty of petit theft, a felony, or a judgment of guilty for a misdemeanor under ch. 796, F.S., be in *writing*. The bill expands this, allowing such judgments to be made in a written *or electronic* record.

The bill retains the requirement for such judgments to be signed by the judge and recorded by the clerk of the court. If an electronic record is made, the bill requires such record to contain the judge's electronic signature, which is defined in s. 933.40, F.S., as any letters, characters, symbols, or process manifested by electronic or similar means and attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.⁸

Current law requires the fingerprints of a defendant with a guilty judgment of petit theft, a felony, or a misdemeanor under ch. 796, F.S., be taken and affixed to such judgment. For a written record, the bill requires such fingerprints be manually taken and affixed beneath the judge's signature. For an electronic record, the bill requires the fingerprints of the defendant be electronically captured and included in the judgment.

The bill provides that digital fingerprint records will be associated with a transaction control number, which is defined as the unique identifier comprised of numbers, letters, or other symbols for a digital fingerprint record which is generated by the device used to electronically capture the fingerprints. For an electronic record, the bill requires the judge to certify with the following language: "I hereby certify that the digital fingerprints record associated with the Transaction Control Number ... contains the fingerprints of the defendant, ..., which were electronically captured from the defendant in my presence, in open court, this the ... day of ..., ...(year)..."

Current law provides that the judge's certification of a written record of a judgment of guilty for petit theft, a felony, or a misdemeanor under ch. 796, F.S., is admissible as prima facie evidence that the fingerprints included in the judgment are those of the defendant. The bill provides that the judge's certification that the digital fingerprint record associated with the transaction control number that is included in an electronic record of a guilty felony judgment will be regarded in the same manner.

The bill retains the requirement for the social security number of a defendant who is found guilty of a felony to be taken and included in the written or *electronic* record. If the defendant is unable or unwilling to provide his or her social security number, the bill requires that the reason for its absence be specified in the written or electronic record.

The bill reenacts s. 775.084, F.S., to make conforming changes for the purposes of incorporating amendments made by the bill.

The bill is effective July 1, 2019.

⁸ Section 933.40(1)(d), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Currently, certain judgments are required to be in a written record. The bill provides that such judgments may alternatively be created in an electronic record. With that, the bill provides discretion to the clerk in determining the form in which the record will be created. Additionally, because any such costs incurred by the circuit courts resulting from the bill directly relate to persons who have been arrested or convicted of criminal offenses, under Article VII, subsection 18(d) of the Florida Constitution, it appears there is no unfunded mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill permits, but does not require, the courts to implement an electronic fingerprinting and judgment process. Therefore, the bill does not mandate a fiscal impact. Those circuits that wish to implement electronic recordkeeping will need to procure electronic Live Scan fingerprinting technology, which could provide for initial costs associated with implementing this electronic system. However, this may save money and

reduce the workload on the courts in the long run to the extent that it is less time consuming to create and maintain electronic criminal fingerprints and judgments.⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

Current law requires a judge to certify that the fingerprints included in a written record of a judgment of guilty of petit theft, any felony, or any offense under ch. 796, F.S., are those of the defendant. Such certification is admissible as prima facie evidence that the fingerprints in the record belong to the defendant. The bill, however, provides that a judge's certification that is included in a record of a felony judgment is admissible as prima facie evidence for the purpose of establishing that the fingerprints in the record are those of the defendant. It is unclear if the intent was to leave a judge's certification of the fingerprints included in guilty judgments of petit theft and misdemeanor offenses under ch. 796, F.S., outside the scope of what would be considered admissible as prima facie evidence.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.014, 921.241, and 921.242.

This bill reenacts section 775.084 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁹ Office of the State Courts Administrator, *2019 Judicial Impact Statement for SB 1186*, (March 21, 2019) (on file with the Senate Criminal Justice Committee).