

By the Committee on Criminal Justice; and Senators Baxley and Perry

591-03438-19

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1 A bill to be entitled
2 An act relating to criminal judgments; amending s.
3 812.014, F.S.; requiring that judgments of guilty or
4 not guilty of petit theft be in a written record,
5 rather than in writing, or in an electronic record
6 with the judge's electronic signature, recorded by the
7 clerk of the circuit court; providing requirements for
8 such records; conforming provisions to changes made by
9 the act; amending s. 921.241, F.S.; defining terms;
10 requiring that judgments of guilty or not guilty of a
11 felony be in a written record, rather than in writing,
12 or an electronic record with the judge's electronic
13 signature, recorded by the clerk of the circuit court;
14 requiring that for an electronic record of a judgment
15 of guilty, the fingerprints of a defendant be
16 electronically captured and a certain certification be
17 included; requiring the judge to place his or her
18 electronic signature on the certificate; conforming
19 provisions to changes made by the act; amending s.
20 921.242, F.S.; requiring that specified judgments of
21 guilty be in a written record, rather than in writing,
22 or an electronic record with the judge's electronic
23 signature, recorded by the clerk of the circuit court;
24 conforming provisions to changes made by the act;
25 reenacting s. 775.084(3)(a), (b), and (c), F.S.,
26 relating to fingerprinting a defendant for the purpose
27 of identification, to incorporate the amendment made
28 to s. 921.241, F.S., in references thereto; providing
29 an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:
32

33 Section 1. Paragraph (d) of subsection (3) of section
34 812.014, Florida Statutes, is amended to read:

35 812.014 Theft.—

36 (3)

37 (d)1. A ~~Every~~ judgment of guilty or not guilty of a petit
38 theft must ~~shall~~ be in:

39 a. A written record that is ~~writing,~~ signed by the judge,
40 and recorded by the clerk of the circuit court; or

41 b. An electronic record that contains the judge's
42 electronic signature, as defined in s. 933.40, and is recorded
43 by the clerk of the circuit court.

44 2. At the time a defendant is found guilty of petit theft,
45 the judge shall cause the following to occur ~~to be affixed to~~
46 ~~every such written judgment of guilty of petit theft,~~ in open
47 court and in the presence of such judge:
48

49 a. For a written record of a judgment of guilty, the
50 fingerprints of the defendant against whom such judgment is
51 rendered must be manually taken and. ~~Such fingerprints shall be~~
52 ~~affixed beneath the judge's signature on the~~ ~~to such~~ judgment.
53 ~~Beneath such fingerprints shall be appended~~ A certificate,
54 containing substantially ~~to~~ the following language must be
55 appended beneath the fingerprints effect:

56 "I hereby certify that the affixed ~~above and foregoing~~
57 fingerprints on this judgment are the fingerprints of the
58 defendant,, and that they were placed there ~~thereon~~ by said

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59 defendant in my presence, in open court, this the day of
60, ...(year)...."

61
62 Such certificate must ~~shall~~ be signed by the judge, whose
63 signature must ~~thereo shall~~ be followed by the word "Judge."

64 b. For an electronic record of a judgment of guilty, the
65 fingerprints of the defendant must be electronically captured,
66 and a certificate must be issued as provided in s.
67 921.241(3)(b).

68 3.2. A Any such written or an electronic record of a
69 judgment of guilty of a petit theft, or a certified copy
70 thereof, is admissible in evidence in the courts of this state
71 as provided in s. 921.241(4) prima facie evidence that the
72 fingerprints appearing thereon and certified by the judge are
73 the fingerprints of the defendant against whom such judgment of
74 guilty of a petit theft was rendered.

75 Section 2. Section 921.241, Florida Statutes, is amended to
76 read:

77 921.241 Felony judgments; fingerprints and social security
78 number required in record.—

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

80 (a) "Electronic signature" has the same meaning as in s.
81 933.40.

82 (b) "Transaction control number" means the unique
83 identifier comprised of numbers, letters, or other symbols for a
84 digital fingerprint record which is generated by the device used
85 to electronically capture the fingerprints ~~At the time a~~
86 ~~defendant is found guilty of a felony, the judge shall cause the~~
87 ~~defendant's fingerprints to be taken.~~

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88 (2) ~~A Every~~ judgment of guilty or not guilty of a felony
89 must shall be in:

90 (a) A written record that is writing, signed by the judge,
91 and recorded by the clerk of the court; or

92 (b) An electronic record that contains the judge's
93 electronic signature and is recorded by the clerk of the court.

94 (3) At the time a defendant is found guilty of a felony,
95 the judge shall cause the following to occur ~~to be affixed to~~
96 ~~every written judgment of guilty of a felony,~~ in open court and,
97 in the presence of such judge:

98 (a) For a written record of a judgment of guilty, and at
99 ~~the time the judgment is rendered,~~ the fingerprints of the
100 defendant must be manually taken and ~~against whom such judgment~~
101 ~~is rendered. Such fingerprints shall be affixed beneath the~~
102 judge's signature on the to such judgment. ~~Beneath such~~
103 ~~fingerprints shall be appended~~ A certificate containing
104 substantially to the following language must be appended beneath
105 the fingerprints effect:

106
107 "I hereby certify that the affixed ~~above and foregoing~~
108 fingerprints on this judgment are the fingerprints of the
109 defendant,, and that they were placed there ~~thereon~~ by said
110 defendant in my presence, in open court, this the day of
111, . . . (year)"

112
113 Such certificate must shall be signed by the judge, whose
114 signature must thereto shall be followed by the word "Judge."

115 (b) For an electronic record of a judgment of guilty, the
116 fingerprints of the defendant must be electronically captured,

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117 and the following certificate must be included in the electronic
 118 record of judgment:

119
 120 "I hereby certify that the digital fingerprints record
 121 associated with Transaction Control Number contains the
 122 fingerprints of the defendant,, which were electronically
 123 captured from the defendant in my presence, in open court, this
 124 the day of, ...(year)...."

125
 126 The judge shall place his or her electronic signature, which
 127 must be followed by the word "Judge," on the certificate.

128 (4)-(3) A written or an electronic record of a ~~Any such~~
 129 written judgment of guilty ~~of a felony~~, or a certified copy
 130 thereof, ~~is shall be~~ admissible in evidence in the ~~several~~
 131 courts of this state as prima facie evidence that:

132 (a) The manual fingerprints appearing thereon and certified
 133 by the judge ~~as aforesaid~~ are the fingerprints of the defendant
 134 against whom the such judgment of guilty ~~of a felony~~ was
 135 rendered.

136 (b) The digital fingerprint record associated with the
 137 transaction control number specified in the judge's certificate
 138 contains the fingerprints of the defendant against whom the
 139 judgment of guilty was rendered.

140 (5)-(4) At the time the defendant's fingerprints are
 141 manually taken or electronically captured, the judge shall also
 142 cause the defendant's social security number to be taken. The
 143 defendant's social security number must shall be specified in
 144 each ~~affixed to every~~ written or electronic record of a judgment
 145 of guilty of a felony, in open court and, in the presence of

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146 such judge, ~~and~~ at the time the judgment is rendered. If the
147 defendant is unable or unwilling to provide his or her social
148 security number, the reason for its absence must ~~shall~~ be
149 specified in indicated on the written or electronic record of
150 judgment.

151 Section 3. Section 921.242, Florida Statutes, is amended to
152 read:

153 921.242 Subsequent offenses under chapter 796; method of
154 proof applicable.—

155 (1) A ~~Every~~ judgment of guilty with respect to any offense
156 governed by the provisions of chapter 796 must ~~shall~~ be in:

157 (a) A written record of a judgment that is writing, signed
158 by the judge, ~~and~~ recorded by the clerk of the circuit court; or

159 (b) An electronic record of a judgment that contains the
160 judge's electronic signature, as defined in s. 933.40, and is
161 recorded by the clerk of the circuit court.

162 (2) At the time a defendant is found guilty, the judge
163 shall cause the following to occur ~~to be affixed to every such~~
164 ~~written judgment of guilty,~~ in open court and in the presence of
165 such judge:

166 (a) For a written record of a judgment of guilty, the
167 fingerprints of the defendant must be manually taken and against
168 ~~whom such judgment is rendered. Such fingerprints shall be~~
169 ~~affixed beneath the judge's signature on the to any such~~
170 ~~judgment. Beneath such fingerprints shall be appended A~~
171 ~~certificate~~ containing substantially ~~to~~ the following language
172 must be appended beneath the fingerprints effect:

173
174 "I hereby certify that the affixed ~~above and foregoing~~

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175 fingerprints on this judgment are the fingerprints of the
176 defendant, ...(name)..., and that they were placed there ~~thereon~~
177 by said defendant in my presence, in open court, this the
178 day of, ...(year)...."

179
180 Such certificate must ~~shall~~ be signed by the judge, whose
181 signature must ~~thereto shall~~ be followed by the word "Judge."

182 (b) For an electronic record of a judgment of guilty, the
183 fingerprints of the defendant must be electronically captured,
184 and a certificate must be issued as provided in s.
185 921.241(3)(b).

186 (2) A ~~Any such~~ written or an electronic record of a
187 judgment of guilty, or a certified copy thereof, is ~~shall be~~
188 admissible in evidence in the ~~several~~ courts of this state as
189 provided in s. 921.241(4) ~~prima facie evidence that the~~
190 ~~fingerprints appearing thereon and certified by the judge as~~
191 ~~aforsaid are the fingerprints of the defendant against whom~~
192 ~~such judgment of guilty was rendered.~~

193 Section 4. For the purpose of incorporating the amendment
194 made by this act to section 921.241, Florida Statutes, in a
195 reference thereto, paragraphs (a), (b), and (c) of subsection
196 (3) of section 775.084, Florida Statutes, are reenacted to read:

197 775.084 Violent career criminals; habitual felony offenders
198 and habitual violent felony offenders; three-time violent felony
199 offenders; definitions; procedure; enhanced penalties or
200 mandatory minimum prison terms.—

201 (3) (a) In a separate proceeding, the court shall determine
202 if the defendant is a habitual felony offender or a habitual
203 violent felony offender. The procedure shall be as follows:

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204 1. The court shall obtain and consider a presentence
205 investigation prior to the imposition of a sentence as a
206 habitual felony offender or a habitual violent felony offender.

207 2. Written notice shall be served on the defendant and the
208 defendant's attorney a sufficient time prior to the entry of a
209 plea or prior to the imposition of sentence in order to allow
210 the preparation of a submission on behalf of the defendant.

211 3. Except as provided in subparagraph 1., all evidence
212 presented shall be presented in open court with full rights of
213 confrontation, cross-examination, and representation by counsel.

214 4. Each of the findings required as the basis for such
215 sentence shall be found to exist by a preponderance of the
216 evidence and shall be appealable to the extent normally
217 applicable to similar findings.

218 5. For the purpose of identification of a habitual felony
219 offender or a habitual violent felony offender, the court shall
220 fingerprint the defendant pursuant to s. 921.241.

221 6. For an offense committed on or after October 1, 1995, if
222 the state attorney pursues a habitual felony offender sanction
223 or a habitual violent felony offender sanction against the
224 defendant and the court, in a separate proceeding pursuant to
225 this paragraph, determines that the defendant meets the criteria
226 under subsection (1) for imposing such sanction, the court must
227 sentence the defendant as a habitual felony offender or a
228 habitual violent felony offender, subject to imprisonment
229 pursuant to this section unless the court finds that such
230 sentence is not necessary for the protection of the public. If
231 the court finds that it is not necessary for the protection of
232 the public to sentence the defendant as a habitual felony

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233 offender or a habitual violent felony offender, the court shall
234 provide written reasons; a written transcript of orally stated
235 reasons is permissible, if filed by the court within 7 days
236 after the date of sentencing. Each month, the court shall submit
237 to the Office of Economic and Demographic Research of the
238 Legislature the written reasons or transcripts in each case in
239 which the court determines not to sentence a defendant as a
240 habitual felony offender or a habitual violent felony offender
241 as provided in this subparagraph.

242 (b) In a separate proceeding, the court shall determine if
243 the defendant is a three-time violent felony offender. The
244 procedure shall be as follows:

245 1. The court shall obtain and consider a presentence
246 investigation prior to the imposition of a sentence as a three-
247 time violent felony offender.

248 2. Written notice shall be served on the defendant and the
249 defendant's attorney a sufficient time prior to the entry of a
250 plea or prior to the imposition of sentence in order to allow
251 the preparation of a submission on behalf of the defendant.

252 3. Except as provided in subparagraph 1., all evidence
253 presented shall be presented in open court with full rights of
254 confrontation, cross-examination, and representation by counsel.

255 4. Each of the findings required as the basis for such
256 sentence shall be found to exist by a preponderance of the
257 evidence and shall be appealable to the extent normally
258 applicable to similar findings.

259 5. For the purpose of identification of a three-time
260 violent felony offender, the court shall fingerprint the
261 defendant pursuant to s. 921.241.

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262 6. For an offense committed on or after the effective date
263 of this act, if the state attorney pursues a three-time violent
264 felony offender sanction against the defendant and the court, in
265 a separate proceeding pursuant to this paragraph, determines
266 that the defendant meets the criteria under subsection (1) for
267 imposing such sanction, the court must sentence the defendant as
268 a three-time violent felony offender, subject to imprisonment
269 pursuant to this section as provided in paragraph (4)(c).

270 (c) In a separate proceeding, the court shall determine
271 whether the defendant is a violent career criminal with respect
272 to a primary offense committed on or after October 1, 1995. The
273 procedure shall be as follows:

274 1. Written notice shall be served on the defendant and the
275 defendant's attorney a sufficient time prior to the entry of a
276 plea or prior to the imposition of sentence in order to allow
277 the preparation of a submission on behalf of the defendant.

278 2. All evidence presented shall be presented in open court
279 with full rights of confrontation, cross-examination, and
280 representation by counsel.

281 3. Each of the findings required as the basis for such
282 sentence shall be found to exist by a preponderance of the
283 evidence and shall be appealable only as provided in paragraph
284 (d).

285 4. For the purpose of identification, the court shall
286 fingerprint the defendant pursuant to s. 921.241.

287 5. For an offense committed on or after October 1, 1995, if
288 the state attorney pursues a violent career criminal sanction
289 against the defendant and the court, in a separate proceeding
290 pursuant to this paragraph, determines that the defendant meets

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291 the criteria under subsection (1) for imposing such sanction,
292 the court must sentence the defendant as a violent career
293 criminal, subject to imprisonment pursuant to this section
294 unless the court finds that such sentence is not necessary for
295 the protection of the public. If the court finds that it is not
296 necessary for the protection of the public to sentence the
297 defendant as a violent career criminal, the court shall provide
298 written reasons; a written transcript of orally stated reasons
299 is permissible, if filed by the court within 7 days after the
300 date of sentencing. Each month, the court shall submit to the
301 Office of Economic and Demographic Research of the Legislature
302 the written reasons or transcripts in each case in which the
303 court determines not to sentence a defendant as a violent career
304 criminal as provided in this subparagraph.

305 Section 5. This act shall take effect July 1, 2019.