

By the Committee on Criminal Justice; and Senator Baxley

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

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Paragraph (d) of subsection (3) of section  
31 812.014, Florida Statutes, is amended to read:

32 812.014 Theft.—

33 (3)

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

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

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

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

46 a. For a written judgment of guilty, the fingerprints of  
47 the defendant against whom such judgment is rendered shall be  
48 manually taken. Such fingerprints shall be affixed beneath the  
49 judge's signature on the ~~to such~~ judgment. Beneath such  
50 fingerprints shall be appended a certificate to the following  
51 effect:

52 "I hereby certify that the above and foregoing fingerprints  
53 on this judgment are the fingerprints of the defendant, . . . ,  
54 and that they were placed thereon by said defendant in my  
55 presence, in open court, this the . . . day of . . . ,  
56 . . . (year) . . ."

57  
58 Such certificate shall be signed by the judge, whose signature

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thereto shall be followed by the word "Judge."

b. For an electronic judgment of guilty, s. 921.241(3)(b) applies.

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

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

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

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

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

(b) "Transaction control number" means 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 ~~At the time a defendant is found guilty of a felony, the judge shall cause the defendant's fingerprints to be taken.~~

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

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

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

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

92           (a) For a written judgment of guilty, and at the time the  
 93 ~~judgment is rendered,~~ the fingerprints of the defendant shall be  
 94 manually taken and against whom such judgment is rendered. Such  
 95 ~~fingerprints shall be~~ affixed beneath the judge's signature on  
 96 the ~~to such~~ judgment. Beneath such fingerprints shall be  
 97 appended a certificate to the following effect:

98  
 99           "I hereby certify that the above and foregoing fingerprints  
 100 on this judgment are the fingerprints of the defendant, . . . . ,  
 101 and that they were placed thereon by said defendant in my  
 102 presence, in open court, this the . . . . day of . . . . ,  
 103 . . . (year) . . . ."

104  
 105 Such certificate shall be signed by the judge, whose signature  
 106 thereto shall be followed by the word "Judge."

107           (b) For an electronic judgment of guilty, the fingerprints  
 108 of the defendant shall be electronically captured and the  
 109 following certificate shall be included in the electronic  
 110 judgment:

111  
 112           "I hereby certify that the digital fingerprints record  
 113 associated with Transaction Control Number . . . . contains the  
 114 fingerprints of the defendant, . . . . , which were electronically  
 115 captured from the defendant in my presence, in open court, this  
 116 the . . . . day of . . . . , . . . (year) . . . ."

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118 The judge shall place his or her electronic signature, which  
119 shall be followed by the word "Judge," on the certificate.

120 (4)-(3) A written or electronic ~~Any such written~~ judgment of  
121 ~~guilty of a felony,~~ or a certified copy thereof, shall be  
122 admissible in evidence in the several courts of this state as  
123 prima facie evidence that the:

124 (a) Manual fingerprints appearing thereon and certified by  
125 the judge as aforesaid are the fingerprints of the defendant  
126 against whom the ~~such~~ judgment of guilty ~~of a felony~~ was  
127 rendered.

128 (b) Digital fingerprint record associated with the  
129 transaction control number specified in the judge's certificate  
130 contains the fingerprints of the defendant against whom the  
131 judgment of guilty was rendered.

132 (5)-(4) At the time the defendant's fingerprints are  
133 manually taken or electronically captured, the judge shall also  
134 cause the defendant's social security number to be taken. The  
135 defendant's social security number shall be specified in each  
136 ~~affixed to every~~ written or electronic judgment of guilty of a  
137 felony, in open court, in the presence of such judge, and at the  
138 time the judgment is rendered. If the defendant is unable or  
139 unwilling to provide his or her social security number, the  
140 reason for its absence shall be specified in ~~indicated on~~ the  
141 written or electronic judgment.

142 Section 3. Section 921.242, Florida Statutes, is amended to  
143 read:

144 921.242 Subsequent offenses under chapter 796; method of  
145 proof applicable.-

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

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

150 (b) An electronic record that contains the judge's  
151 electronic signature, as defined in s. 933.40, and is recorded  
152 by the clerk of the circuit court.

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

157 (a) For a written judgment of guilty, the fingerprints of  
158 the defendant against whom such judgment is rendered shall be  
159 manually taken. Such fingerprints shall be affixed beneath the  
160 judge's signature on the ~~to any such~~ judgment. Beneath such  
161 fingerprints shall be appended a certificate to the following  
162 effect:

163  
164 "I hereby certify that the above and foregoing fingerprints  
165 are of the defendant, ...(name)..., and that they were placed  
166 thereon by said defendant in my presence, in open court, this  
167 the .... day of ....., ...(year)...."

168  
169 Such certificate shall be signed by the judge, whose signature  
170 thereto shall be followed by the word "Judge."

171 (b) For an electronic judgment of guilty, s. 921.241(3)(b)  
172 applies.

173 (2) ~~A Any such~~ written or an electronic judgment of guilty,  
174 or a certified copy thereof, shall be admissible in evidence in

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175 the several courts of this state as provided in s. 921.241(4)  
176 ~~prima facie evidence that the fingerprints appearing thereon and~~  
177 ~~certified by the judge as aforesaid are the fingerprints of the~~  
178 ~~defendant against whom such judgment of guilty was rendered.~~

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

183 775.084 Violent career criminals; habitual felony offenders  
184 and habitual violent felony offenders; three-time violent felony  
185 offenders; definitions; procedure; enhanced penalties or  
186 mandatory minimum prison terms.—

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

190 1. The court shall obtain and consider a presentence  
191 investigation prior to the imposition of a sentence as a  
192 habitual felony offender or a habitual violent felony offender.

193 2. Written notice shall be served on the defendant and the  
194 defendant's attorney a sufficient time prior to the entry of a  
195 plea or prior to the imposition of sentence in order to allow  
196 the preparation of a submission on behalf of the defendant.

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

200 4. Each of the findings required as the basis for such  
201 sentence shall be found to exist by a preponderance of the  
202 evidence and shall be appealable to the extent normally  
203 applicable to similar findings.

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204           5. For the purpose of identification of a habitual felony  
205 offender or a habitual violent felony offender, the court shall  
206 fingerprint the defendant pursuant to s. 921.241.

207           6. For an offense committed on or after October 1, 1995, if  
208 the state attorney pursues a habitual felony offender sanction  
209 or a habitual violent felony offender sanction against the  
210 defendant and the court, in a separate proceeding pursuant to  
211 this paragraph, determines that the defendant meets the criteria  
212 under subsection (1) for imposing such sanction, the court must  
213 sentence the defendant as a habitual felony offender or a  
214 habitual violent felony offender, subject to imprisonment  
215 pursuant to this section unless the court finds that such  
216 sentence is not necessary for the protection of the public. If  
217 the court finds that it is not necessary for the protection of  
218 the public to sentence the defendant as a habitual felony  
219 offender or a habitual violent felony offender, the court shall  
220 provide written reasons; a written transcript of orally stated  
221 reasons is permissible, if filed by the court within 7 days  
222 after the date of sentencing. Each month, the court shall submit  
223 to the Office of Economic and Demographic Research of the  
224 Legislature the written reasons or transcripts in each case in  
225 which the court determines not to sentence a defendant as a  
226 habitual felony offender or a habitual violent felony offender  
227 as provided in this subparagraph.

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

231           1. The court shall obtain and consider a presentence  
232 investigation prior to the imposition of a sentence as a three-



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233 time violent felony offender.

234 2. Written notice shall be served on the defendant and the  
235 defendant's attorney a sufficient time prior to the entry of a  
236 plea or prior to the imposition of sentence in order to allow  
237 the preparation of a submission on behalf of the defendant.

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

241 4. Each of the findings required as the basis for such  
242 sentence shall be found to exist by a preponderance of the  
243 evidence and shall be appealable to the extent normally  
244 applicable to similar findings.

245 5. For the purpose of identification of a three-time  
246 violent felony offender, the court shall fingerprint the  
247 defendant pursuant to s. 921.241.

248 6. For an offense committed on or after the effective date  
249 of this act, if the state attorney pursues a three-time violent  
250 felony offender sanction against the defendant and the court, in  
251 a separate proceeding pursuant to this paragraph, determines  
252 that the defendant meets the criteria under subsection (1) for  
253 imposing such sanction, the court must sentence the defendant as  
254 a three-time violent felony offender, subject to imprisonment  
255 pursuant to this section as provided in paragraph (4) (c).

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

260 1. Written notice shall be served on the defendant and the  
261 defendant's attorney a sufficient time prior to the entry of a

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262 plea or prior to the imposition of sentence in order to allow  
263 the preparation of a submission on behalf of the defendant.

264 2. All evidence presented shall be presented in open court  
265 with full rights of confrontation, cross-examination, and  
266 representation by counsel.

267 3. Each of the findings required as the basis for such  
268 sentence shall be found to exist by a preponderance of the  
269 evidence and shall be appealable only as provided in paragraph  
270 (d).

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

273 5. For an offense committed on or after October 1, 1995, if  
274 the state attorney pursues a violent career criminal sanction  
275 against the defendant and the court, in a separate proceeding  
276 pursuant to this paragraph, determines that the defendant meets  
277 the criteria under subsection (1) for imposing such sanction,  
278 the court must sentence the defendant as a violent career  
279 criminal, subject to imprisonment pursuant to this section  
280 unless the court finds that such sentence is not necessary for  
281 the protection of the public. If the court finds that it is not  
282 necessary for the protection of the public to sentence the  
283 defendant as a violent career criminal, the court shall provide  
284 written reasons; a written transcript of orally stated reasons  
285 is permissible, if filed by the court within 7 days after the  
286 date of sentencing. Each month, the court shall submit to the  
287 Office of Economic and Demographic Research of the Legislature  
288 the written reasons or transcripts in each case in which the  
289 court determines not to sentence a defendant as a violent career  
290 criminal as provided in this subparagraph.

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Section 5. This act shall take effect July 1, 2018.