

By Senator Baxley

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1 A bill to be entitled
2 An act relating to criminal judgments; amending s.
3 921.241, F.S.; requiring that all judgments of guilty
4 and not guilty for felonies and misdemeanors be
5 documented in a written or electronic record;
6 requiring a judge to cause to be gathered, either
7 manually or electronically, in his or her presence in
8 open court the fingerprints and social security number
9 of a defendant found guilty of a felony or a
10 misdemeanor; providing that a judgment of guilty is
11 admissible as evidence under certain circumstances;
12 authorizing a judge to electronically sign an
13 electronic judgment of guilty or not guilty and a
14 certificate documenting the electronically gathered
15 fingerprints; defining the term "electronic
16 signature"; repealing s. 921.242, F.S.; deleting
17 provisions requiring judgments of guilt for certain
18 violations to be in writing, signed by a judge, and
19 recorded by a clerk of the circuit court; deleting a
20 provision requiring the gathering of a defendant's
21 fingerprints and the judge's accompanying
22 certification; deleting a provision providing for the
23 admissibility of the judgment of guilt under certain
24 circumstances; reenacting s. 775.084(3)(a), (b), and
25 (c), F.S., relating to fingerprinting a defendant for
26 the purpose of identification, to incorporate the
27 amendment made to s. 921.241, F.S., in references
28 thereto; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

31
32 Section 1. Section 921.241, Florida Statutes, is amended to
33 read:

34 921.241 Criminal ~~Felony~~ judgments; fingerprints and social
35 security number required in record.—

36 ~~(1) At the time a defendant is found guilty of a felony,~~
37 ~~the judge shall cause the defendant's fingerprints to be taken.~~

38 ~~(2) A~~ Every judgment of guilty or not guilty of a felony or
39 misdemeanor shall be in a written or an electronic record
40 ~~writing,~~ signed by the judge, and recorded by the clerk of the
41 court.

42 (2) At the time a defendant is found guilty of a felony or
43 misdemeanor, the judge shall cause all of the following to occur
44 ~~to be affixed to every written judgment of guilty of a felony,~~
45 in open court, in the presence of such judge, and at the time
46 the judgment is rendered:7

47 (a) The fingerprints of the defendant shall be taken
48 manually or electronically and against whom such judgment is
49 ~~rendered. Such fingerprints shall be attached~~ affixed beneath
50 the judge's signature on the ~~to such~~ judgment. Beneath such
51 fingerprints shall be attached ~~appended~~ a certificate to the
52 following effect:

53 "I hereby certify that the above and foregoing fingerprints
54 on this judgment are the fingerprints of the defendant,,
55 and that they were placed thereon by said defendant in my
56 presence, in open court, this the day of,
57 . . . (year)"
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59 Such certificate shall be signed by the judge, whose signature
60 thereto shall be followed by the word "Judge."

61 (b) The social security number of the defendant shall be
62 taken and indicated on the judgment. If the defendant is unable
63 or unwilling to provide his or her social security number, the
64 reason for its absence shall be indicated on the judgment.

65 (3) ~~A Any such written judgment of guilty of a felony, or a~~
66 ~~certified copy thereof, shall be admissible in evidence in the~~
67 ~~several courts of this state as prima facie evidence that the~~
68 ~~fingerprints appearing thereon and certified by the judge as~~
69 ~~aforesaid are the fingerprints of the defendant against whom~~
70 ~~such judgment of guilty of a felony was rendered.~~

71 (4) A judge may electronically sign:

72 (a) An electronic judgment of guilty or not guilty under
73 subsection (1) if the judge determines, after examination of the
74 electronic record, that such record accurately reflects the
75 judgment entered by the court.

76 (b) The certificate required under paragraph (2) (a) if the
77 judge witnesses the electronic taking of the defendant's
78 fingerprints and certifies that such fingerprints have been
79 attached to the judgment by reliable electronic means.

80 (5) As used in this section, the term "electronic
81 signature" has the same meaning as in s. 933.40 ~~At the time the~~
82 ~~defendant's fingerprints are taken, the judge shall also cause~~
83 ~~the defendant's social security number to be taken. The~~
84 ~~defendant's social security number shall be affixed to every~~
85 ~~written judgment of guilty of a felony, in open court, in the~~
86 ~~presence of such judge, and at the time the judgment is~~
87 ~~rendered. If the defendant is unable or unwilling to provide his~~

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88 ~~or her social security number, the reason for its absence shall~~
89 ~~be indicated on the written judgment.~~

90 Section 2. Section 921.242, Florida Statutes, is repealed.

91 Section 3. For the purpose of incorporating the amendment
92 made by this act to section 921.241, Florida Statutes, in a
93 reference thereto, paragraphs (a), (b), and (c) of subsection
94 (3) of section 775.084, Florida Statutes, are reenacted to read:

95 775.084 Violent career criminals; habitual felony offenders
96 and habitual violent felony offenders; three-time violent felony
97 offenders; definitions; procedure; enhanced penalties or
98 mandatory minimum prison terms.-

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

102 1. The court shall obtain and consider a presentence
103 investigation prior to the imposition of a sentence as a
104 habitual felony offender or a habitual violent felony offender.

105 2. Written notice shall be served on the defendant and the
106 defendant's attorney a sufficient time prior to the entry of a
107 plea or prior to the imposition of sentence in order to allow
108 the preparation of a submission on behalf of the defendant.

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

112 4. Each of the findings required as the basis for such
113 sentence shall be found to exist by a preponderance of the
114 evidence and shall be appealable to the extent normally
115 applicable to similar findings.

116 5. For the purpose of identification of a habitual felony

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117 offender or a habitual violent felony offender, the court shall
118 fingerprint the defendant pursuant to s. 921.241.

119 6. For an offense committed on or after October 1, 1995, if
120 the state attorney pursues a habitual felony offender sanction
121 or a habitual violent felony offender sanction against the
122 defendant and the court, in a separate proceeding pursuant to
123 this paragraph, determines that the defendant meets the criteria
124 under subsection (1) for imposing such sanction, the court must
125 sentence the defendant as a habitual felony offender or a
126 habitual violent felony offender, subject to imprisonment
127 pursuant to this section unless the court finds that such
128 sentence is not necessary for the protection of the public. If
129 the court finds that it is not necessary for the protection of
130 the public to sentence the defendant as a habitual felony
131 offender or a habitual violent felony offender, the court shall
132 provide written reasons; a written transcript of orally stated
133 reasons is permissible, if filed by the court within 7 days
134 after the date of sentencing. Each month, the court shall submit
135 to the Office of Economic and Demographic Research of the
136 Legislature the written reasons or transcripts in each case in
137 which the court determines not to sentence a defendant as a
138 habitual felony offender or a habitual violent felony offender
139 as provided in this subparagraph.

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

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

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146 2. Written notice shall be served on the defendant and the
147 defendant's attorney a sufficient time prior to the entry of a
148 plea or prior to the imposition of sentence in order to allow
149 the preparation of a submission on behalf of the defendant.

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

153 4. Each of the findings required as the basis for such
154 sentence shall be found to exist by a preponderance of the
155 evidence and shall be appealable to the extent normally
156 applicable to similar findings.

157 5. For the purpose of identification of a three-time
158 violent felony offender, the court shall fingerprint the
159 defendant pursuant to s. 921.241.

160 6. For an offense committed on or after the effective date
161 of this act, if the state attorney pursues a three-time violent
162 felony offender sanction against the defendant and the court, in
163 a separate proceeding pursuant to this paragraph, determines
164 that the defendant meets the criteria under subsection (1) for
165 imposing such sanction, the court must sentence the defendant as
166 a three-time violent felony offender, subject to imprisonment
167 pursuant to this section as provided in paragraph (4) (c).

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

172 1. Written notice shall be served on the defendant and the
173 defendant's attorney a sufficient time prior to the entry of a
174 plea or prior to the imposition of sentence in order to allow

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175 the preparation of a submission on behalf of the defendant.

176 2. All evidence presented shall be presented in open court
177 with full rights of confrontation, cross-examination, and
178 representation by counsel.

179 3. Each of the findings required as the basis for such
180 sentence shall be found to exist by a preponderance of the
181 evidence and shall be appealable only as provided in paragraph
182 (d).

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

185 5. For an offense committed on or after October 1, 1995, if
186 the state attorney pursues a violent career criminal sanction
187 against the defendant and the court, in a separate proceeding
188 pursuant to this paragraph, determines that the defendant meets
189 the criteria under subsection (1) for imposing such sanction,
190 the court must sentence the defendant as a violent career
191 criminal, subject to imprisonment pursuant to this section
192 unless the court finds that such sentence is not necessary for
193 the protection of the public. If the court finds that it is not
194 necessary for the protection of the public to sentence the
195 defendant as a violent career criminal, the court shall provide
196 written reasons; a written transcript of orally stated reasons
197 is permissible, if filed by the court within 7 days after the
198 date of sentencing. Each month, the court shall submit to the
199 Office of Economic and Demographic Research of the Legislature
200 the written reasons or transcripts in each case in which the
201 court determines not to sentence a defendant as a violent career
202 criminal as provided in this subparagraph.

203 Section 4. This act shall take effect July 1, 2018.