

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1401 Judgments in Criminal Cases  
**SPONSOR(S):** Criminal Justice Subcommittee; Altman  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1230

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N, As CS	Jones	Sumner
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

Every criminal judgment of guilty or not guilty is required to be in writing, signed by the judge, and recorded by the clerk of court. When a defendant is convicted of a felony, petit theft, or any offense under chapter 796, F.S. (relating to prostitution), the defendant's fingerprints are required to be taken in open court and affixed to the judgment, along with the defendant's social security number. The judgment is then admissible in court as prima facie evidence that the fingerprints on the judgment are the fingerprints of the defendant who was convicted of the crime.

CS/HB 1401 allows a criminal judgment to be recorded either in writing or electronically and also allows the judge to take the defendant's fingerprints electronically.

The bill may have a minimal indeterminate fiscal impact on the state and does not appear to have a fiscal impact on local governments.

The effective date of the bill is July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Felony and Petit Theft Judgments

Every judgment adjudicating a person guilty or not guilty of a felony must be in writing, signed by the judge, and recorded by the clerk of court.<sup>1</sup> When a defendant is convicted of a felony, the defendant's fingerprints must be taken in open court and affixed to the judgment, along with the defendant's social security number.<sup>2</sup> If the defendant is unable or unwilling to provide a social security number, the reason for its absence must be indicated on the judgment.<sup>3</sup> The judgment is admissible in court as prima facie evidence that the fingerprints on the judgment are the fingerprints of the defendant who was convicted of the felony.<sup>4</sup> A defendant convicted of petit theft is also subject to the fingerprinting requirement.<sup>5</sup>

##### Criminal Judgments Under Chapter 796, F.S.

Chapter 796, F.S., governs prostitution and similar crimes. Under s. 921.242, F.S., every judgment of guilt with respect to any offense under chapter 796 must be in writing, signed by the judge, recorded by the clerk of court, and accompanied by the defendant's fingerprints and social security number.<sup>6</sup>

##### **Effect of Proposed Changes**

##### Definitions

CS/HB 1401 includes the following definitions:

- "Electronic signature" means 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.<sup>7</sup>
- "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.

CS/HB 1401 amends ss. 812.014, F.S., 921.241, F.S., and 921.242, F.S., to permit criminal judgments in felony, petit theft, and chapter 796 cases to be recorded electronically and to allow the judge to take the defendant's fingerprints electronically. For a judgment to be electronically recorded, it must contain the judge's electronic signature and be recorded by the clerk of court. In cases where the defendant's social security number is required to be taken, the social security number must be made a part of the record, whether written or electronic.

For a defendant's fingerprints to be taken electronically, the fingerprints must be electronically captured and the judge must certify that the digital fingerprint record associated with the corresponding transaction control number contains the fingerprints of the defendant. This ensures the record accurately matches a defendant to his or her fingerprints.

The effective date of the bill is July 1, 2018.

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<sup>1</sup> S. 921.241, F.S.

<sup>2</sup> Id.

<sup>3</sup> S. 921.241(4), F.S.

<sup>4</sup> S. 921.241(3), F.S.

<sup>5</sup> S. 812.014(3)(d)1., F.S.

<sup>6</sup> S. 921.242, F.S.

<sup>7</sup> S. 933.40(1)(d), F.S.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 812.014, F.S., relating to theft.

**Section 2:** Amends s. 921.241, F.S., relating to felony judgments; fingerprints and social security number required in record.

**Section 3:** Amends s. 921.242, F.S., relating to subsequent offense under chapter 796; method of proof applicable.

**Section 4:** Provides an effective date of July 1, 2018.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments, infra.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill allows courts the option of recording judgments and taking fingerprints electronically; thus, for courts opting to use an electronic system of taking fingerprints and keeping records, there could be initial costs to implement the electronic system. Courts opting for electronic fingerprinting and electronic recordkeeping may save money over time by reducing their need to keep paper records.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 29, 2018, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Made a technical change to the manner in which fingerprints are made a part of an electronic judgment in a criminal case.
- Removed the requirement that the fingerprints and social security numbers of all misdemeanants be attached to the judgment.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.