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CS/HB 7081, Engrossed 1

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1  
2 An act relating to state court system administration;  
3 amending ss. 25.386 and 44.106, F.S.; requiring  
4 security background investigations for foreign  
5 language court interpreters and mediators; amending s.  
6 61.125, F.S.; providing definitions; revising  
7 qualifications for parenting coordinators; providing  
8 disqualification factors for appointment as a  
9 parenting coordinator; authorizing disclosure of  
10 certain testimony or evidence in certain  
11 circumstances; providing immunity for certain persons;  
12 requiring the Office of the State Courts Administrator  
13 to establish standards and procedures for parenting  
14 coordinators; authorizing the office to appoint or  
15 employ certain persons to assist in specified duties;  
16 amending s. 121.052, F.S.; revising provisions  
17 relating to judicial retirement to conform to  
18 revisions to the mandatory retirement age; amending s.  
19 812.014, F.S.; authorizing electronic records of  
20 judgments; amending s. 921.241, F.S.; authorizing  
21 electronic records of judgments; providing  
22 definitions; providing forms; authorizing the  
23 collection of fingerprints; amending s. 921.242, F.S.;  
24 providing for electronic records of judgments;  
25 reenacting s. 775.084(3) (a), (b), and (c), F.S.,

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26 relating to fingerprinting a defendant for the purpose  
 27 of identification, to incorporate the amendments made  
 28 by the act; providing an effective date.

30 Be It Enacted by the Legislature of the State of Florida:

32 Section 1. Section 25.386, Florida Statutes, is amended to  
 33 read:

34 25.386 Foreign language court interpreters.—

35 (1) The Supreme Court shall establish minimum standards  
 36 and procedures for qualifications, certification, professional  
 37 conduct, discipline, and training of foreign language court  
 38 interpreters who are appointed by a court of competent  
 39 jurisdiction. The Supreme Court shall set fees to be charged to  
 40 applicants for certification and renewal of certification as a  
 41 foreign language court interpreter. The revenues generated from  
 42 such fees shall be used to offset the costs of administration of  
 43 the certification program and shall be deposited into the  
 44 Administrative Trust Fund within the state courts system. The  
 45 Supreme Court may appoint or employ such personnel as are  
 46 necessary to assist the court in administering this section.

47 (2) An applicant for certification as a foreign language  
 48 court interpreter shall undergo a security background  
 49 investigation, which includes, but is not limited to, submitting  
 50 a full set of fingerprints to the Department of Law Enforcement

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51 or to a vendor, entity, or agency authorized by s. 943.053. The  
 52 vendor, entity, or agency shall forward the fingerprints to the  
 53 department for state processing, and the department shall  
 54 forward the fingerprints to the Federal Bureau of Investigation  
 55 for national processing. Any vendor fee and state and federal  
 56 processing fees shall be borne by the applicant. For records  
 57 provided to a person or entity other than those excepted  
 58 therein, the cost for state fingerprint processing is the fee  
 59 authorized in s. 943.053(3)(e).

60 Section 2. Section 44.106, Florida Statutes, is amended to  
 61 read:

62 44.106 Standards and procedures for mediators and  
 63 arbitrators; fees.—

64 (1) The Supreme Court shall establish minimum standards and  
 65 procedures for qualifications, certification, professional  
 66 conduct, discipline, and training for mediators and arbitrators  
 67 who are appointed pursuant to this chapter. The Supreme Court is  
 68 authorized to set fees to be charged to applicants for  
 69 certification and renewal of certification. The revenues  
 70 generated from these fees shall be used to offset the costs of  
 71 administration of the certification process. The Supreme Court  
 72 may appoint or employ such personnel as are necessary to assist  
 73 the court in exercising its powers and performing its duties  
 74 under this chapter.

75 (2) An applicant for certification as a mediator shall

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76 | undergo a security background investigation, which includes, but  
 77 | is not limited to, submitting a full set of fingerprints to the  
 78 | Department of Law Enforcement or to a vendor, entity, or agency  
 79 | authorized by s. 943.053. The vendor, entity, or agency shall  
 80 | forward the fingerprints to the department for state processing,  
 81 | and the department shall forward the fingerprints to the Federal  
 82 | Bureau of Investigation for national processing. Any vendor fee  
 83 | and state and federal processing fees shall be borne by the  
 84 | applicant. For records provided to a person or entity other than  
 85 | those excepted therein, the cost for state fingerprint  
 86 | processing is the fee authorized in s. 943.053(3)(e).

87 | Section 3. Subsections (1) through (9) of section 61.125,  
 88 | Florida Statutes, are renumbered as subsections (2) through  
 89 | (10), respectively, present subsections (4), (5), (7), and (9)  
 90 | are amended, and new subsections (1) and (11) are added to that  
 91 | section, to read:

92 | 61.125 Parenting coordination.—

93 | (1) DEFINITIONS.—As used in this section, the term:

94 | (a) "Communication" means an oral or written statement, or  
 95 | nonverbal conduct intended to make an assertion, by or to a  
 96 | parenting coordinator, a participant, or a party made during  
 97 | parenting coordination, or before parenting coordination if made  
 98 | in furtherance of the parenting coordination process. The term  
 99 | does not include the commission of a crime during parenting  
 100 | coordination.

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101 (b) "Office" means the Office of the State Courts  
 102 Administrator.

103 (c) "Participant" means any individual involved in the  
 104 parenting coordination process, other than the parenting  
 105 coordinator and the named parties, who takes part in an event in  
 106 person or by telephone, videoconference, or other electronic  
 107 means.

108 (d) "Parenting coordination" means a nonadversarial  
 109 dispute resolution process that is court ordered or agreed upon  
 110 by the parties.

111 (e) "Parenting coordinator" means an impartial third party  
 112 appointed by the court or agreed to by the parties whose role is  
 113 to assist the parties in successfully creating or implementing a  
 114 parenting plan.

115 (f) "Parenting Coordinator Review Board" means the board  
 116 appointed by the Chief Justice of the Florida Supreme Court to  
 117 consider complaints against qualified and court-appointed  
 118 parenting coordinators.

119 (g) "Party" means a person participating directly, or  
 120 through a designated representative, in parenting coordination.

121 ~~(5)-(4) QUALIFICATIONS OF A PARENTING COORDINATOR.—A~~  
 122 ~~parenting coordinator is an impartial third person whose role is~~  
 123 ~~to assist the parents in successfully creating or implementing a~~  
 124 ~~parenting plan. Unless there is a written agreement between the~~  
 125 ~~parties, the court may appoint only a qualified parenting~~

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126 ~~coordinator.~~

127 (a) To be qualified, a parenting coordinator must:

128 1. Meet one of the following professional requirements:

129 a. Be licensed as a mental health professional under  
130 chapter 490 or chapter 491.

131 b. Be licensed as a physician under chapter 458, with  
132 certification by the American Board of Psychiatry and Neurology.

133 c. Be certified by the Florida Supreme Court as a family  
134 law mediator, with at least a master's degree in a mental health  
135 field.

136 d. Be a member in good standing of The Florida Bar.

137 2. Complete all of the following:

138 a. Three years of postlicensure or postcertification  
139 practice.

140 b. A family mediation training program certified by the  
141 Florida Supreme Court.

142 c. A minimum of 24 hours of parenting coordination  
143 training in parenting coordination concepts and ethics, family  
144 systems theory and application, family dynamics in separation  
145 and divorce, child and adolescent development, the parenting  
146 coordination process, parenting coordination techniques, and  
147 Florida family law and procedure, and a minimum of 4 hours of  
148 training in domestic violence and child abuse which is related  
149 to parenting coordination.

150 (b) The court may require additional qualifications to

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151 address issues specific to the parties.

152 (c) A qualified parenting coordinator must be in good  
 153 standing, or in clear and active status, with his or her  
 154 respective licensing authority, certification board, or both, as  
 155 applicable.

156 (d) Unless there is a written agreement between the  
 157 parties, the court may appoint only a qualified parenting  
 158 coordinator.

159 (6)~~(5)~~ DISQUALIFICATIONS OF PARENTING COORDINATOR.—

160 (a) The court may not appoint a person to serve as  
 161 parenting coordinator who, in any jurisdiction:

162 1. Has been convicted or had adjudication withheld on a  
 163 charge of child abuse, child neglect, domestic violence,  
 164 parental kidnapping, or interference with custody;

165 2. Has been found by a court in a child protection hearing  
 166 to have abused, neglected, or abandoned a child;

167 3. Has consented to an adjudication or a withholding of  
 168 adjudication on a petition for dependency; ~~or~~

169 4. Is or has been a respondent in a final order or  
 170 injunction of protection against domestic violence; or—

171 5. Has been disqualified by the Parenting Coordinator  
 172 Review Board.

173 (b) A parenting coordinator must discontinue service as a  
 174 parenting coordinator and immediately report to the court and  
 175 the parties if any of the disqualifying circumstances described

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176 in paragraph (a) occur, or if he or she no longer meets the  
 177 ~~minimum~~ qualifications in subsection (5)~~(4)~~, and the court may  
 178 appoint another parenting coordinator.

179 (8)~~(7)~~ CONFIDENTIALITY.—Except as otherwise provided in  
 180 this section, all communications made by, between, or among the  
 181 parties, participants, and the parenting coordinator during  
 182 parenting coordination sessions are confidential. The parenting  
 183 coordinator, participants, and each party designated in the  
 184 order appointing the coordinator may not testify or offer  
 185 evidence about communications made by, between, or among the  
 186 parties, participants, and the parenting coordinator during  
 187 parenting coordination sessions, except if:

188 (a) Necessary to identify, authenticate, confirm, or deny  
 189 a written agreement entered into by the parties during parenting  
 190 coordination;

191 (b) The testimony or evidence is necessary to identify an  
 192 issue for resolution by the court without otherwise disclosing  
 193 communications made by any party, participant, or the parenting  
 194 coordinator;

195 (c) The testimony or evidence is limited to the subject of  
 196 a party's compliance with the order of referral to parenting  
 197 coordination, orders for psychological evaluation, counseling  
 198 ordered by the court or recommended by a health care provider,  
 199 or for substance abuse testing or treatment;

200 (d) The parenting coordinator reports that the case is no



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201 longer appropriate for parenting coordination;

202 (e) The parenting coordinator is reporting that he or she  
203 is unable or unwilling to continue to serve and that a successor  
204 parenting coordinator should be appointed;

205 (f) The testimony or evidence is necessary pursuant to  
206 paragraph (6)~~(5)~~(b) or subsection (9)~~(8)~~;

207 (g) The parenting coordinator is not qualified to address  
208 or resolve certain issues in the case and a more qualified  
209 coordinator should be appointed;

210 (h) The parties or participants agree that the testimony  
211 or evidence may be permitted; ~~or~~

212 (i) The testimony or evidence is necessary to protect any  
213 person from future acts that would constitute domestic violence  
214 under chapter 741; child abuse, neglect, or abandonment under  
215 chapter 39; or abuse, neglect, or exploitation of an elderly or  
216 disabled adult under chapter 825;~~;~~

217 (j) The testimony or evidence is offered to report, prove,  
218 or disprove a violation of professional malpractice occurring  
219 during the parenting coordination process, solely for the  
220 purpose of the professional malpractice proceeding; or

221 (k) The testimony or evidence is offered to report, prove,  
222 or disprove professional misconduct occurring during the  
223 parental coordination proceeding, solely for the internal use of  
224 the body conducting the investigation of the conduct.

225 ~~(10)-(9) IMMUNITY AND LIMITED LIMITATION ON LIABILITY.-~~

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226       (a) A person appointed or employed to assist the Supreme  
 227 Court in performing its duties relating to disciplinary  
 228 proceedings involving parenting coordinators, including a member  
 229 of the Parenting Coordinator Review Board, is not liable for  
 230 civil damages for any act or omission arising from the  
 231 performance of his or her duties while acting within the scope  
 232 of his or her appointed function or job description unless such  
 233 person acted in bad faith or with malicious purpose.

234       (b) A parenting coordinator appointed by the court is not  
 235 liable for civil damages for any act or omission in the scope of  
 236 his or her duties under ~~pursuant to~~ an order of referral unless  
 237 such person acted in bad faith or with malicious purpose or in a  
 238 manner exhibiting wanton and willful disregard for the rights,  
 239 safety, or property of the parties.

240       (11) STANDARDS AND PROCEDURES.—The Supreme Court shall  
 241 establish minimum standards and procedures for the training,  
 242 ethical conduct, and discipline of parenting coordinators who  
 243 serve under this section. The office may appoint or employ  
 244 personnel as necessary to assist the court in exercising its  
 245 powers and performing its duties under this section.

246       Section 4. Subsection (4) of section 121.052, Florida  
 247 Statutes, is amended to read:

248       121.052 Membership class of elected officers.—

249       (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED  
 250 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

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251 (a) A duly elected officer whose term of office was  
252 shortened by legislative or judicial apportionment pursuant to  
253 s. 16, Art. III of the State Constitution may, after the term of  
254 office to which he or she was elected is completed, pay into the  
255 Florida Retirement System Trust Fund the amount of contributions  
256 that would have been made by the officer or the officer's  
257 employer on his or her behalf, plus 4 percent interest  
258 compounded annually from the date he or she left office until  
259 July 1, 1975, and 6.5 percent interest compounded annually  
260 thereafter, and may receive service credit for the length of  
261 time the officer would have served if such term had not been  
262 shortened by apportionment.

263 (b) Any duly elected officer whose term of office was  
264 shortened because the election at which he or she was elected  
265 was delayed as a result of federal intervention under the  
266 federal Voting Rights Act may, after the term of office to which  
267 he or she was elected is completed, pay into the System Trust  
268 Fund the amount of contributions that would have been made by  
269 the employee or by the employer on his or her behalf for the  
270 period of time the assumption of office was delayed, plus 4  
271 percent interest compounded annually from the date he or she  
272 assumed office until July 1, 1975, and 6.5 percent interest  
273 compounded annually thereafter, and may receive service credit  
274 for the length of time he or she would have served if such term  
275 had not been shortened by delay of the election.

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276 (c) For the purpose of this chapter, "creditable service"  
277 includes the period from November 1972 to January 1973 which  
278 would have been served by an elected county officer but for the  
279 enactment of chapter 67-510, Laws of Florida, if the inclusion  
280 of such period would provide any person affected with sufficient  
281 creditable service to qualify for retirement benefits pursuant  
282 to this chapter.

283 (d)1. Any justice or judge, or any retired justice or  
284 judge who retired before July 1, 1993, who ~~has~~ attained the age  
285 of 70 years before July 1, 2019, and who was ~~is~~ prevented under  
286 s. 8, Art. V of the State Constitution from completing his or  
287 her term of office because of age may elect to purchase credit  
288 for all or a portion of the months he or she would have served  
289 during the remainder of the term of office; however, he or she  
290 may claim those months only after the date the service would  
291 have occurred. The justice or judge must pay into the Florida  
292 Retirement System Trust Fund the amount of contributions that  
293 would have been made by the employer on his or her behalf for  
294 the period of time being claimed, plus 6.5 percent interest  
295 thereon compounded each June 30 from the date he or she left  
296 office, in order to receive service credit in this class for the  
297 period of time being claimed. After the date the service would  
298 have occurred, and upon payment of the required contributions,  
299 the retirement benefit of a retired justice or judge shall be  
300 adjusted prospectively to include the additional creditable

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301 service; however, such adjustment may be made only once.

302 2. Any justice or judge who did ~~does~~ not seek retention or  
 303 election to a subsequent term of office because he or she was  
 304 ~~would be~~ prevented under s. 8, Art. V of the State Constitution  
 305 from completing such term of office upon attaining the age of 70  
 306 years may elect to purchase service credit for service as a  
 307 temporary judge as assigned by the court if the temporary  
 308 assignment immediately follows the last full term of office  
 309 served and the purchase is limited to the number of months of  
 310 service needed to vest retirement benefits. To receive  
 311 retirement credit for such temporary service beyond termination,  
 312 the justice or judge must pay into the Florida Retirement System  
 313 Trust Fund the amount of contributions that would have been made  
 314 by the justice or judge and the employer on his or her behalf  
 315 had he or she continued in office for the period of time being  
 316 claimed, plus 6.5 percent interest thereon compounded each June  
 317 30 from the date he or she left office.

318 Section 5. Paragraph (d) of subsection (3) of section  
 319 812.014, Florida Statutes, is amended to read:

320 812.014 Theft.—

321 (3)

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

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

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326 b. An electronic record that contains the judge's  
 327 electronic signature as defined in s. 933.40 and is recorded by  
 328 the clerk of the circuit court.

329 2. At the time a defendant is found guilty of petit theft,  
 330 the judge shall cause the following to occur ~~to be affixed to~~  
 331 ~~every such written judgment of guilty of petit theft,~~ in open  
 332 court and in the judge's presence; ~~of such judge~~

333 a. For a written judgment of guilty, the fingerprints of  
 334 the defendant against whom such judgment is rendered shall be  
 335 manually taken and. ~~Such fingerprints shall be~~ affixed beneath  
 336 the judge's signature on the ~~to such~~ judgment. Beneath such  
 337 fingerprints shall be appended a certificate to the following  
 338 effect:

339 "I hereby certify that the above and foregoing fingerprints  
 340 on this judgment are the fingerprints of the defendant, . . . .,  
 341 and that they were placed thereon by said defendant in my  
 342 presence, in open court, this the . . . . day of . . . .,  
 343 . . . (year) . . . ."

344  
 345 Such certificate shall be signed by the judge, whose signature  
 346 thereto shall be followed by the word "Judge."

347 b. For an electronic judgment of guilty, the fingerprints  
 348 of the defendant must be electronically captured and a  
 349 certificate must be issued as provided in s. 921.241(3)(b).

350 3.2. A Any such written or an electronic judgment of

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351 guilty of a petit theft, or a certified copy thereof, is  
 352 admissible in evidence in the courts of this state as provided  
 353 in s. 921.241(4) ~~prima facie evidence that the fingerprints~~  
 354 ~~appearing thereon and certified by the judge are the~~  
 355 ~~fingerprints of the defendant against whom such judgment of~~  
 356 ~~guilty of a petit theft was rendered.~~

357 Section 6. Section 921.241, Florida Statutes, is amended  
 358 to read:

359 921.241 Felony judgments; fingerprints and social security  
 360 number required in record.—

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

362 (a) "Electronic signature" has the same meaning as in s.  
 363 933.40.

364 (b) "Transaction control number" means the unique  
 365 identifier comprised of numbers, letters, or other symbols for a  
 366 digital fingerprint record generated by the device used to  
 367 electronically capture the fingerprints ~~At the time a defendant~~  
 368 ~~is found guilty of a felony, the judge shall cause the~~  
 369 ~~defendant's fingerprints to be taken.~~

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

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

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

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376 (3) At the time a defendant is found guilty of a felony,  
 377 the judge shall cause the following to occur ~~to be affixed to~~  
 378 ~~every written judgment of guilty of a felony,~~ in open court and  
 379 in the judge's presence: ~~of such judge~~

380 (a) For a written judgment of guilty, ~~and at the time the~~  
 381 ~~judgment is rendered,~~ the fingerprints of the defendant shall be  
 382 manually taken and against whom such judgment is rendered. Such  
 383 ~~fingerprints shall be~~ affixed beneath the judge's signature on  
 384 the ~~to such~~ judgment. Beneath such fingerprints shall be  
 385 appended a certificate to the following effect:

386 "I hereby certify that the above and foregoing fingerprints  
 387 on this judgment are the fingerprints of the defendant, . . . .,  
 388 and that they were placed thereon by said defendant in my  
 389 presence, in open court, this the . . . . day of . . . .,  
 390 . . . (year) . . . ."

391 Such certificate shall be signed by the judge, whose signature  
 392 thereto shall be followed by the word "Judge."

393 (b) For an electronic judgment of guilty, the fingerprints  
 394 of the defendant shall be electronically captured and the  
 395 following certificate shall be included in the electronic  
 396 judgment:

397 "I hereby certify that the digital fingerprint record  
 398 associated with Transaction Control Number . . . . contains the  
 399 fingerprints of the defendant, . . . ., which were electronically  
 400 captured from the defendant in my presence, in open court, this



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401 the .... day of ....., ... (year)...."

402

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

405 (4)(3) A written or electronic ~~Any such written~~ judgment  
 406 of guilty ~~of a felony~~, or a certified copy thereof, shall be  
 407 admissible in evidence in the several courts of this state as  
 408 prima facie evidence that the:

409 (a) Manual fingerprints appearing thereon and certified by  
 410 the judge as aforesaid are the fingerprints of the defendant  
 411 against whom the ~~such~~ judgment of guilty ~~of a felony~~ was  
 412 rendered.

413 (b) Digital fingerprint record associated with the  
 414 transaction control number specified in the judge's certificate  
 415 contains the fingerprints of the defendant against whom the  
 416 judgment of guilty was rendered.

417 (5)(4) At the time the defendant's fingerprints are  
 418 manually taken or electronically captured, the judge shall also  
 419 cause the defendant's social security number to be taken. The  
 420 defendant's social security number shall be specified in each  
 421 ~~affixed to every~~ written or electronic judgment of guilty of a  
 422 felony, in open court, in the presence of such judge, and at the  
 423 time the judgment is rendered. If the defendant is unable or  
 424 unwilling to provide his or her social security number, the  
 425 reason for its absence shall be specified in ~~indicated on the~~

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426 | written or electronic judgment.

427 | Section 7. Section 921.242, Florida Statutes, is amended  
428 | to read:

429 | 921.242 Subsequent offenses under chapter 796; method of  
430 | proof applicable.—

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

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

435 | (b) An electronic record that contains the judge's  
436 | electronic signature as defined in s. 933.40 and is recorded by  
437 | the clerk of circuit court.

438 | (2) At the time a defendant is found guilty, the judge  
439 | shall cause the following to occur ~~to be affixed to every such~~  
440 | ~~written judgment of guilty,~~ in open court and in the judge's  
441 | presence: ~~of such judge~~

442 | (a) For a written judgment of guilty, the fingerprints of  
443 | the defendant against whom such judgment is rendered shall be  
444 | manually taken and. ~~Such fingerprints shall be~~ affixed beneath  
445 | the judge's signature on the ~~to any such~~ judgment. Beneath such  
446 | fingerprints shall be appended a certificate to the following  
447 | effect:

448 | "I hereby certify that the above and foregoing fingerprints  
449 | are of the defendant, ...(name)..., and that they were placed  
450 | thereon by said defendant in my presence, in open court, this

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451 the .... day of ....., ... (year)...."

452 Such certificate shall be signed by the judge, whose  
453 signature thereto shall be followed by the word "Judge."

454 (b) For an electronic judgment of guilty, the fingerprints  
455 of the defendant must be electronically captured and a  
456 certificate must be issued as provided in s. 921.241(3)(b).

457 (3)(2) A ~~Any such~~ written or an electronic judgment of  
458 guilty, or a certified copy thereof, shall be admissible in  
459 evidence in the several courts of this state as provided in s.  
460 921.241(4) ~~prima facie evidence that the fingerprints appearing~~  
461 ~~thereon and certified by the judge as aforesaid are the~~  
462 ~~fingerprints of the defendant against whom such judgment of~~  
463 ~~guilty was rendered.~~

464 Section 8. For the purpose of incorporating the amendment  
465 made by this act to section 921.241, Florida Statutes, in  
466 references thereto, paragraphs (a), (b), and (c) of subsection  
467 (3) of section 775.084, Florida Statutes, are reenacted to read:

468 775.084 Violent career criminals; habitual felony  
469 offenders and habitual violent felony offenders; three-time  
470 violent felony offenders; definitions; procedure; enhanced  
471 penalties or mandatory minimum prison terms.—

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

475 1. The court shall obtain and consider a presentence

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476 investigation prior to the imposition of a sentence as a  
477 habitual felony offender or a habitual violent felony offender.

478 2. Written notice shall be served on the defendant and the  
479 defendant's attorney a sufficient time prior to the entry of a  
480 plea or prior to the imposition of sentence in order to allow  
481 the preparation of a submission on behalf of the defendant.

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

485 4. Each of the findings required as the basis for such  
486 sentence shall be found to exist by a preponderance of the  
487 evidence and shall be appealable to the extent normally  
488 applicable to similar findings.

489 5. For the purpose of identification of a habitual felony  
490 offender or a habitual violent felony offender, the court shall  
491 fingerprint the defendant pursuant to s. 921.241.

492 6. For an offense committed on or after October 1, 1995,  
493 if the state attorney pursues a habitual felony offender  
494 sanction or a habitual violent felony offender sanction against  
495 the defendant and the court, in a separate proceeding pursuant  
496 to this paragraph, determines that the defendant meets the  
497 criteria under subsection (1) for imposing such sanction, the  
498 court must sentence the defendant as a habitual felony offender  
499 or a habitual violent felony offender, subject to imprisonment  
500 pursuant to this section unless the court finds that such

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501 sentence is not necessary for the protection of the public. If  
502 the court finds that it is not necessary for the protection of  
503 the public to sentence the defendant as a habitual felony  
504 offender or a habitual violent felony offender, the court shall  
505 provide written reasons; a written transcript of orally stated  
506 reasons is permissible, if filed by the court within 7 days  
507 after the date of sentencing. Each month, the court shall submit  
508 to the Office of Economic and Demographic Research of the  
509 Legislature the written reasons or transcripts in each case in  
510 which the court determines not to sentence a defendant as a  
511 habitual felony offender or a habitual violent felony offender  
512 as provided in this subparagraph.

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

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

519 2. Written notice shall be served on the defendant and the  
520 defendant's attorney a sufficient time prior to the entry of a  
521 plea or prior to the imposition of sentence in order to allow  
522 the preparation of a submission on behalf of the defendant.

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

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526 4. Each of the findings required as the basis for such  
527 sentence shall be found to exist by a preponderance of the  
528 evidence and shall be appealable to the extent normally  
529 applicable to similar findings.

530 5. For the purpose of identification of a three-time  
531 violent felony offender, the court shall fingerprint the  
532 defendant pursuant to s. 921.241.

533 6. For an offense committed on or after the effective date  
534 of this act, if the state attorney pursues a three-time violent  
535 felony offender sanction against the defendant and the court, in  
536 a separate proceeding pursuant to this paragraph, determines  
537 that the defendant meets the criteria under subsection (1) for  
538 imposing such sanction, the court must sentence the defendant as  
539 a three-time violent felony offender, subject to imprisonment  
540 pursuant to this section as provided in paragraph (4)(c).

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

545 1. Written notice shall be served on the defendant and the  
546 defendant's attorney a sufficient time prior to the entry of a  
547 plea or prior to the imposition of sentence in order to allow  
548 the preparation of a submission on behalf of the defendant.

549 2. All evidence presented shall be presented in open court  
550 with full rights of confrontation, cross-examination, and

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551 representation by counsel.

552 3. Each of the findings required as the basis for such  
553 sentence shall be found to exist by a preponderance of the  
554 evidence and shall be appealable only as provided in paragraph  
555 (d).

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

558 5. For an offense committed on or after October 1, 1995,  
559 if the state attorney pursues a violent career criminal sanction  
560 against the defendant and the court, in a separate proceeding  
561 pursuant to this paragraph, determines that the defendant meets  
562 the criteria under subsection (1) for imposing such sanction,  
563 the court must sentence the defendant as a violent career  
564 criminal, subject to imprisonment pursuant to this section  
565 unless the court finds that such sentence is not necessary for  
566 the protection of the public. If the court finds that it is not  
567 necessary for the protection of the public to sentence the  
568 defendant as a violent career criminal, the court shall provide  
569 written reasons; a written transcript of orally stated reasons  
570 is permissible, if filed by the court within 7 days after the  
571 date of sentencing. Each month, the court shall submit to the  
572 Office of Economic and Demographic Research of the Legislature  
573 the written reasons or transcripts in each case in which the  
574 court determines not to sentence a defendant as a violent career  
575 criminal as provided in this subparagraph.

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576 | Section 9. This act shall take effect July 1, 2019. |