

CHAPTER 2019-98

Committee Substitute for House Bill No. 7081

An act relating to state court system administration; amending ss. 25.386 and 44.106, F.S.; requiring security background investigations for foreign language court interpreters and mediators; amending s. 61.125, F.S.; providing definitions; revising qualifications for parenting coordinators; providing disqualification factors for appointment as a parenting coordinator; authorizing disclosure of certain testimony or evidence in certain circumstances; providing immunity for certain persons; requiring the Office of the State Courts Administrator to establish standards and procedures for parenting coordinators; authorizing the office to appoint or employ certain persons to assist in specified duties; amending s. 121.052, F.S.; revising provisions relating to judicial retirement to conform to revisions to the mandatory retirement age; amending s. 812.014, F.S.; authorizing electronic records of judgments; amending s. 921.241, F.S.; authorizing electronic records of judgments; providing definitions; providing forms; authorizing the collection of fingerprints; amending s. 921.242, F.S.; providing for electronic records of judgments; reenacting s. 775.084(3)(a), (b), and (c), F.S., relating to fingerprinting a defendant for the purpose of identification, to incorporate the amendments made by the act; providing an effective date.

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

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

25.386 Foreign language court interpreters.—

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

(2) An applicant for certification as a foreign language court interpreter shall undergo a security background investigation, which includes, but is not limited to, submitting a full set of fingerprints to the Department of Law Enforcement or to a vendor, entity, or agency authorized by s. 943.053. The vendor, entity, or agency shall forward the fingerprints to the department for state processing, and the department shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Any vendor fee and state and federal processing fees shall be borne by the applicant. For

records provided to a person or entity other than those excepted therein, the cost for state fingerprint processing is the fee authorized in s. 943.053(3)(e).

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

44.106 Standards and procedures for mediators and arbitrators; fees.

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

(2) An applicant for certification as a mediator shall undergo a security background investigation, which includes, but is not limited to, submitting a full set of fingerprints to the Department of Law Enforcement or to a vendor, entity, or agency authorized by s. 943.053. The vendor, entity, or agency shall forward the fingerprints to the department for state processing, and the department shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Any vendor fee and state and federal processing fees shall be borne by the applicant. For records provided to a person or entity other than those excepted therein, the cost for state fingerprint processing is the fee authorized in s. 943.053(3)(e).

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

61.125 Parenting coordination.—

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

(a) “Communication” means an oral or written statement, or nonverbal conduct intended to make an assertion, by or to a parenting coordinator, a participant, or a party made during parenting coordination, or before parenting coordination if made in furtherance of the parenting coordination process. The term does not include the commission of a crime during parenting coordination.

(b) “Office” means the Office of the State Courts Administrator.

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

(d) “Parenting coordination” means a nonadversarial dispute resolution process that is court ordered or agreed upon by the parties.

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

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

(g) “Party” means a person participating directly, or through a designated representative, in parenting coordination.

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

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

1. Meet one of the following professional requirements:

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

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

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

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

2. Complete all of the following:

a. Three years of postlicensure or postcertification practice.

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

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

(b) The court may require additional qualifications to address issues specific to the parties.

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

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

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

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

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

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

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

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

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

(b) A parenting coordinator must discontinue service as a parenting coordinator and immediately report to the court and the parties if any of the disqualifying circumstances described in paragraph (a) occur, or if he or she no longer meets the ~~minimum~~ qualifications in subsection (5)(4), and the court may appoint another parenting coordinator.

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

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

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

(c) The testimony or evidence is limited to the subject of a party's compliance with the order of referral to parenting coordination, orders for

psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment;

(d) The parenting coordinator reports that the case is no longer appropriate for parenting coordination;

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

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

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

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

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

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

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

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

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

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

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

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

121.052 Membership class of elected officers.—

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

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

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

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

(d)1. Any justice or judge, or any retired justice or judge who retired before July 1, 1993, who has attained the age of 70 years before July 1, 2019, and who was is prevented under s. 8, Art. V of the State Constitution from completing his or her term of office because of age may elect to purchase

credit for all or a portion of the months he or she would have served during the remainder of the term of office; however, he or she may claim those months only after the date the service would have occurred. The justice or judge must pay into the Florida Retirement System Trust Fund the amount of contributions that would have been made by the employer on his or her behalf for the period of time being claimed, plus 6.5 percent interest thereon compounded each June 30 from the date he or she left office, in order to receive service credit in this class for the period of time being claimed. After the date the service would have occurred, and upon payment of the required contributions, the retirement benefit of a retired justice or judge shall be adjusted prospectively to include the additional creditable service; however, such adjustment may be made only once.

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

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

812.014 Theft.—

(3)

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

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

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

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

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

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

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word “Judge.”

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

~~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 6. 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 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 court.

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

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

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

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word “Judge.”

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

“I hereby certify that the digital fingerprint record associated with Transaction Control Number contains the fingerprints of the defendant,, which were electronically captured from the defendant in my presence, in open court, this the day of, ...(year)....”

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

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

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

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

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

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

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

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

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

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

(2) At the time a defendant is found guilty, the judge shall cause the following to occur to be affixed to every such written judgment of guilty, in open court and in the judge’s presence; ~~of such judge~~

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

“I hereby certify that the above and foregoing fingerprints are of the defendant, ...(name)..., and that they were placed thereon by said defendant in my presence, in open court, this the day of, ...(year)....”

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word “Judge.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a violent career criminal, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts

in each case in which the court determines not to sentence a defendant as a violent career criminal as provided in this subparagraph.

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

Approved by the Governor June 7, 2019.

Filed in Office Secretary of State June 7, 2019.