

By: Hardcastle

H.B. No. 2259

A BILL TO BE ENTITLED

AN ACT

relating to the evidentiary use of certain judgments, orders, and docket sheets in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 38.33, Code of Criminal Procedure, is amended to read as follows:

Art. 38.33. PRESERVATION AND USE OF CERTAIN COURT DOCUMENTS AS EVIDENCE [~~OF CERTAIN MISDEMEANOR CONVICTIONS~~]. (a) A [~~Sec. 1. The~~] court other than a justice or municipal court shall order that a defendant in a criminal action [~~who is convicted of a felony or a misdemeanor offense that is punishable by confinement in jail~~] have the defendant's right [a] thumbprint or another of the defendant's fingerprints [~~of the defendant's right thumb~~] rolled legibly on the judgment, order, or [~~the~~] docket sheet in the case. [~~The court shall order a defendant who is placed on probation under Section 5 of Article 42.12, Code of Criminal Procedure, for an offense described by this section to have a thumbprint of the defendant's right thumb rolled legibly on the order placing the defendant on probation. If the defendant does not have a right thumb, the defendant must have a thumbprint of the defendant's left thumb rolled legibly on the judgment, order, or docket sheet. The defendant must have a fingerprint of the defendant's index finger rolled legibly on the judgment, order, or docket sheet if the defendant does not have a right thumb or a left thumb.~~] The

1 judgment, order, or docket sheet must contain a statement that
2 specifies the [~~describes from which~~] thumb or finger from which the
3 print was taken[~~, unless a rolled 10-finger print set was taken. A~~
4 ~~clerk or bailiff of the court or other person qualified to take~~
5 ~~fingerprints shall take the thumbprint or fingerprint, either by~~
6 ~~use of the ink-rolled print method or by use of a live-scanning~~
7 ~~device that prints the thumbprint or fingerprint image on the~~
8 ~~judgment, order, or docket sheet]. The court may include in the
9 records of the case additional information to identify the
10 defendant.~~

11 (b) A document authenticated in accordance with Subsection
12 (a) is admissible in any criminal proceeding unless the document is
13 void or has been set aside or otherwise withdrawn.

14 (c) On introduction and admission into evidence of a
15 document showing the name of the defendant and authenticated in
16 accordance with Subsection (a), a presumption exists that the
17 person named in the document and the defendant are the same person.
18 The presumption exists only if the name appearing on the document is
19 identical or substantially similar to the name of the defendant.
20 Notice of intent to introduce evidence authenticated under this
21 article shall be provided to the opposing party not later than the
22 20th day before the date the trial begins.

23 (d) A party may rebut the presumption under Subsection (c)
24 by filing, not later than the 10th day before the date the trial
25 begins, under oath subject to the penalty for perjury, a statement
26 denying that the defendant is the person named in the document or
27 otherwise providing a factual basis why the document should not be

1 used as evidence in the case, including, if applicable, the fact
2 that the document is void or was set aside or otherwise withdrawn.

3 ~~[Sec. 2. This article does not prohibit a court from~~
4 ~~including in the records of the case additional information to~~
5 ~~identify the defendant.]~~

6 SECTION 2. The change in law made by this Act applies only
7 to an offense committed on or after the effective date of this Act.
8 An offense committed before the effective date of this Act is
9 covered by the law in effect when the offense was committed, and the
10 former law is continued in effect for that purpose. For purposes of
11 this section, an offense was committed before the effective date of
12 this Act if any element of the offense was committed before that
13 date.

14 SECTION 3. This Act takes effect September 1, 2007.