

Amendment No. 13

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Plakon offered the following:

3
4 **Amendment (with title amendment)**

5 Remove lines 69-189 and insert:

6 7. Section 893.13(6)(b), relating to possession of certain
7 amounts of cannabis or controlled substances, if the offense
8 involved 5 grams or less of cannabis; or

9 8. Section 893.147, relating to the use, possession,
10 manufacture, delivery, transportation, advertisement, or retail
11 sale of drug paraphernalia; or

12 (b) May issue a civil citation to the juvenile or require
13 the juvenile's participation in a similar diversion program if
14 none of the violations of law in the misdemeanor offense are
15 enumerated in paragraph (a).

16 (4) Under such a juvenile civil citation or similar
17 diversion program, a law enforcement officer who makes contact

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18 with a juvenile who admits having committed a second-time or
19 third-time misdemeanor offense may issue a civil citation to the
20 juvenile or require the juvenile's participation in a similar
21 diversion program, regardless of whether the violations of law
22 in the misdemeanor offense are enumerated in paragraph (3)(a).

23 (5) If an arrest is made for a misdemeanor offense subject
24 to paragraph (3)(b) or subsection (4), a law enforcement officer
25 must provide written documentation as to why the arrest was
26 warranted.

27 (6) A law enforcement officer shall advise a juvenile who
28 is subject to subsection (3) or subsection (4) that the juvenile
29 has the option to refuse the civil citation or other similar
30 diversion program and be referred to the department. This option
31 may be exercised at any time before completion of the community
32 service assignment required under subsection (8). Participation
33 in a civil citation or similar diversion program is not
34 considered a referral to the department.

35 (7) Upon issuance of the civil citation or documentation
36 requiring a similar diversion program, the law enforcement
37 officer shall send a copy of such citation or documentation to
38 the county sheriff, state attorney, appropriate intake office of
39 the department or community service performance monitor
40 designated by the department, parent or guardian of the child,
41 and victim. The department shall enter such information into the
42 juvenile offender information system.

43 (8) A juvenile who elects to participate in a civil

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44 ~~citation or similar diversion program shall complete, and assess~~
45 ~~up to 50 community service hours, and participate~~ require
46 ~~participation~~ in intervention services as indicated by an
47 assessment of the needs of the juvenile, including family
48 counseling, urinalysis monitoring, and substance abuse and
49 mental health treatment services.

50 (a) The juvenile shall report to the community service
51 performance monitor within 7 business days after the date of
52 issuance of the civil citation or documentation for a similar
53 diversion program. The juvenile shall spend a minimum of 5 hours
54 per week completing the community service assignment. The
55 monitor shall immediately notify the intake office of the
56 department that a juvenile has reported to the monitor and the
57 expected date on which the juvenile will complete the community
58 service assignment ~~A copy of each citation issued under this~~
59 ~~section shall be provided to the department, and the department~~
60 ~~shall enter appropriate information into the juvenile offender~~
61 ~~information system. Use of the civil citation or similar~~
62 ~~diversion program is not limited to first-time misdemeanors and~~
63 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
64 ~~is made, a law enforcement officer must provide written~~
65 ~~documentation as to why an arrest was warranted.~~

66 (b) At the conclusion of a juvenile's civil citation
67 program or similar diversion program, the entity agency
68 operating the program shall report the outcome of the program to
69 the department.

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70 (c) If the juvenile fails to timely report for a community
71 service assignment, complete such assignment, or comply with
72 assigned intervention services within the prescribed time, or if
73 the juvenile commits a subsequent misdemeanor, the law
74 enforcement officer shall issue a report alleging the juvenile
75 has committed a delinquent act, at which time a juvenile
76 probation officer shall process the original delinquent act as a
77 referral to the department and refer the report to the state
78 attorney for review ~~The issuance of a civil citation is not~~
79 ~~considered a referral to the department.~~

80 (9)(2) The department shall develop guidelines for ~~the~~
81 civil citation and similar diversion programs ~~program~~ which
82 include intervention services that are based on ~~upon~~ proven
83 civil citation or similar diversion programs in ~~within~~ the
84 state.

85 (10) This section does not apply to:

86 (a) A juvenile who is currently alleged to have committed,
87 or is currently charged with, and awaiting final disposition of
88 an offense that would be a felony if committed by an adult.

89 (b) A juvenile who has entered a plea of nolo contendere
90 or guilty to, or has been found to have committed, an offense
91 that would be a felony if committed by an adult.

92 (c) A misdemeanor arising out of an episode in which the
93 juvenile is also alleged to have committed an offense that would
94 be a felony if committed by an adult.

95 (11) This section does not modify the authority of a law

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106 enforcement officer who comes into contact with a juvenile who
107 is alleged to have committed a misdemeanor to issue only a
108 simple warning to the juvenile or notice to a juvenile's parent
109 or guardian of the alleged offense.

100 ~~(3) Upon issuing such citation, the law enforcement~~
101 ~~officer shall send a copy to the county sheriff, state attorney,~~
102 ~~the appropriate intake office of the department, or the~~
103 ~~community service performance monitor designated by the~~
104 ~~department, the parent or guardian of the child, and the victim.~~

105 ~~(4) The child shall report to the community service~~
106 ~~performance monitor within 7 working days after the date of~~
107 ~~issuance of the citation. The work assignment shall be~~
108 ~~accomplished at a rate of not less than 5 hours per week. The~~
109 ~~monitor shall advise the intake office immediately upon~~
110 ~~reporting by the child to the monitor, that the child has in~~
111 ~~fact reported and the expected date upon which completion of the~~
112 ~~work assignment will be accomplished.~~

113 ~~(5) If the child fails to report timely for a work~~
114 ~~assignment, complete a work assignment, or comply with assigned~~
115 ~~intervention services within the prescribed time, or if the~~
116 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
117 ~~officer shall issue a report alleging the child has committed a~~
118 ~~delinquent act, at which point a juvenile probation officer~~
119 ~~shall process the original delinquent act as a referral to the~~
120 ~~department and refer the report to the state attorney for~~
121 ~~review.~~

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122 ~~(6) At the time of issuance of the citation by the law~~
123 ~~enforcement officer, such officer shall advise the child that~~
124 ~~the child has the option to refuse the citation and to be~~
125 ~~referred to the intake office of the department. That option may~~
126 ~~be exercised at any time before completion of the work~~
127 ~~assignment.~~

128 Section 2. Section 901.40, Florida Statutes, is created to
129 read:

130 901.40 Prearrest diversion programs.-

131 (1) INTENT.-The Legislature encourages local communities
132 and public or private educational institutions to implement
133 prearrest diversion programs that afford certain adults who
134 fulfill specified intervention and community service obligations
135 the opportunity to avoid an arrest record. The Legislature does
136 not mandate that a particular prearrest diversion program for
137 adults be adopted but finds that the adoption of the model
138 provided in this section would allow certain adults to avoid an
139 arrest record, while ensuring that those adults receive
140 appropriate intervention and fulfill community service
141 obligations.

142 (2) MODEL ADULT CIVIL CITATION PROGRAM.-Local communities
143 and public or private educational institutions may adopt a
144 program in which:

145 (a) Law enforcement officers, at their sole discretion,
146 may issue civil citations to certain adults who commit a
147 qualifying nonviolent misdemeanor offense listed in subsection

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148 (3). A civil citation may be issued only if the adult admits
149 that he or she committed the offense and if the adult has not
150 previously been arrested and has not received an adult civil
151 citation. However, an adult may not be issued a civil citation
152 if the nonviolent misdemeanor offense involves a victim and the
153 victim objects to issuance of the civil citation.

154 (b) An adult who receives a civil citation shall report
155 for intake as required by the local prearrest diversion program
156 and shall be provided appropriate assessment, intervention,
157 education, and behavioral health care services. While in the
158 local prearrest diversion program, the adult shall perform
159 community service hours as specified by the local prearrest
160 diversion program. The adult shall pay restitution due to the
161 victim as a requirement of the prearrest diversion program. If
162 the adult does not successfully complete the prearrest diversion
163 program, the law enforcement agency that issued the civil
164 citation shall criminally charge the adult for the original
165 offense and refer the case to the state attorney to determine if
166 prosecution is appropriate. If the adult successfully completes
167 the program, an arrest record may not be associated with the
168 offense.

169 (c) A steering committee shall be created for the
170 prearrest diversion program to develop policies and procedures
171 for the program, including, but not limited to, eligibility
172 criteria, program implementation and operation, and the fee to
173 be paid by adults participating in the program. At a minimum,

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174 the steering committee must be composed of representatives of
175 the law enforcement agencies participating in the program, a
176 representative of the program services provider, a public
177 defender or his or her designee, a state attorney or his or her
178 designee, a clerk of the circuit court or his or her designee,
179 and other interested stakeholders.

180 (d) If implemented, the prearrest diversion program must
181 share information with other prearrest diversion programs.

182 (3) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses
183 that qualify for a prearrest diversion program include, but are
184 not limited to:

185 (a) Disorderly conduct in violation of s. 877.03.

186 (b) An open house party in violation of s. 856.015.

187 (c) Petit theft of property valued at less than \$50 in
188 violation of s. 812.014.

189 (d) Possession of alcohol by a person younger than 21
190 years of age in violation of s. 562.111.

191 (e) Possession of 5 grams or less of cannabis in violation
192 of s. 893.13.

193 (f) Selling or providing alcoholic beverages to a minor in
194 violation of s. 562.11.

195 (g) Trespass in a structure or conveyance in violation of
196 s. 810.08.

197 (4) APPLICABILITY.—This section does not preempt a county
198 or municipality from enacting noncriminal sanctions for a
199 violation of an ordinance or other violation, and does not

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200 preempt a county, a municipality, or a public or private
201 educational institution from creating its own model for a
202 prearrest diversion program for adults.

203 Section 3. (1) In consultation with the Department of Law
204 Enforcement and the Criminal and Juvenile Justice Information
205 Systems Council, information technology providers whose
206 information systems support an adult prearrest diversion program
207 shall report annually by December 1 to the President of the
208 Senate and the Speaker of the House of Representatives regarding
209 their compliance with the Federal Bureau of Investigation's
210 Criminal Justice Information Services Security Policy.

211 (2) To ensure continuous statewide access by law
212 enforcement agencies to data regarding civil citations issued
213 under adult prearrest diversion programs, an information
214 technology provider that ceases operation shall transfer such
215 data in an appropriate format to the Department of Law
216 Enforcement immediately upon ceasing operation.

217 -----
218
219 **T I T L E A M E N D M E N T**

220 Between lines 8 and 9, insert:

221 creating s. 901.40, F.S.; encouraging local
222 communities and public or private educational
223 institutions to implement prearrest diversion programs
224 for certain offenders; authorizing law enforcement
225 officers of participating law enforcement agencies, at

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226 their sole discretion, to issue civil citations to
227 adults under specified circumstances; requiring an
228 adult who is issued such a civil citation to report
229 for intake as required by the program; requiring the
230 provision of appropriate behavioral health care
231 services; requiring that an adult issued a civil
232 citation fulfill a community service requirement and
233 pay restitution to a victim; providing for criminal
234 prosecution of adults who fail to complete the
235 prearrest diversion program; prohibiting an arrest
236 record from being associated with a certain offense
237 for adults who successfully complete the program;
238 establishing a steering committee for the prearrest
239 diversion program; providing duties and membership of
240 the committee; requiring that a prearrest diversion
241 program share information with other such programs
242 under certain circumstances; specifying the nonviolent
243 misdemeanor offenses that are eligible for the
244 prearrest diversion program; providing applicability;
245 requiring information technology providers whose
246 information systems support an adult prearrest
247 diversion program to annually report compliance with
248 certain federal requirements to the Legislature;
249 requiring such providers that cease operation to
250 provide certain data to the Department of Law
251 Enforcement;