

<b>Tab 1</b>	<b>CS/SB 408 by CJ, Altman (CO-INTRODUCERS) Negron, Joyner, Clemens, Flores, Sachs, Sobel, Soto;</b> (Similar to CS/H 7085) Juvenile Civil Citations and Similar Diversion Programs						
206892	A	S	FAV	CF, Altman	Delete L.55 - 77:	02/24	11:55 AM
562480	AA	S L	FAV	CF, Altman	Delete L.6 - 29:	02/24	11:55 AM
<del>321464</del>	A	S	WD	CF, Altman	Delete L.64:	02/24	11:55 AM
<del>663694</del>	A	S	WD	CF, Altman	Delete L.89 - 157:	02/24	11:55 AM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**  
**Senator Sobel, Chair**  
**Senator Altman, Vice Chair**

**MEETING DATE:** Wednesday, February 24, 2016  
**TIME:** 10:00—11:00 a.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Sobel, Chair; Senator Altman, Vice Chair; Senators Dean, Detert, Garcia, Hutson, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 408</b> Criminal Justice / Altman (Similar CS/H 7085, Compare S 506)	Juvenile Civil Citations and Similar Diversion Programs; Requiring the establishment of civil citation or similar diversion programs for juveniles, etc.  CJ 02/08/2016 Not Considered CJ 02/16/2016 Fav/CS CF 02/24/2016 Fav/CS RC	Fav/CS Yeas 3 Nays 2

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/CS/SB 408

INTRODUCER: Children, Families, and Elder Affairs; Criminal Justice Committee; and Senator Altman and others

SUBJECT: Juvenile Civil Citations and Similar Diversion Programs

DATE: February 24, 2016      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE – Substantial Changes

**I. Summary:**

CS/CS/SB 408 requires a law enforcement officer to issue a civil citation or require the juvenile's participation in a similar diversion program for certain enumerated first-time misdemeanor offenses. The bill requires law enforcement officers to issue a civil citation to a juvenile or require the juvenile's participation in a similar diversion program when the juvenile is under 16 years of age and if each of the violations of law is one of the enumerated misdemeanor offenses. The bill allows law enforcement officers the discretion to issue a civil citation or require the juvenile's participation in a similar diversion program regardless of whether the violation is one of the enumerated offenses identified in the bill.

A law enforcement officer must provide written documentation articulating why an arrest is warranted if he or she has discretion under the statute to issue a civil citation but chooses instead to arrest the juvenile.

The bill also provides that the civil citation law does not modify the authority of a law enforcement officer to issue only a simple warning to the juvenile or to notice the juvenile's guardian or parent of the alleged offense.

The bill could have a positive fiscal impact and has an effective date of July 1, 2016.

## II. Present Situation:

Section 985.12, F.S., establishes a civil citation process that provides an efficient and innovative alternative to the Department of Juvenile Justice's (DJJ) custody for youth who commit nonserious delinquent acts.<sup>1</sup> The DJJ is required to encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs around the state.<sup>2</sup>

The DJJ must also develop guidelines for civil citation programs which include intervention services based upon proven civil citation or similar diversion programs within the state.<sup>3</sup> These programs are to be established at the local level in concurrence with the chief judge, state attorney, public defender, and head of each local law enforcement agency.<sup>4</sup>

Currently, statute provides that a law enforcement officer may issue a civil citation to a youth who admits to committing a misdemeanor<sup>5</sup> without taking the youth into custody.<sup>6</sup> Last session, the Legislature amended the law to allow a law enforcement officer to issue a simple warning to the youth or inform the youth's parents of the misdemeanor, or issue a civil citation or require participation in a similar diversion program.<sup>7</sup>

Another significant change to the statute last session was allowing a law enforcement officer to issue a civil citation to a youth who admits committing a second or third misdemeanor. (Civil citation was previously limited to the commission of a first-time misdemeanor.) If an arrest is made, the law enforcement officer is required to provide written documentation as to why the arrest is warranted under another amendment to the law last session.<sup>8</sup>

The law enforcement officer must send a copy of the citation to the department, sheriff, state attorney, DJJ's intake office or the community service performance monitor, parent or guardian of the youth, and the victim.<sup>9</sup> The issuance of a civil citation is not considered a referral to the department.<sup>10</sup>

A civil citation program or similar diversion program may be operated by law enforcement, the DJJ, a juvenile assessment center, a county or municipality, or an entity selected by the county or municipality. Operations must be in consultation and agreement with the state attorney and local law enforcement agencies.<sup>11</sup> According to the DJJ, since law enforcement agencies are not

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<sup>1</sup> Section 985.12(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 985.12(2), F.S.

<sup>4</sup> Section 985.12(1), F.S.

<sup>5</sup> Misdemeanors involving sexual or firearm offenses are currently ineligible for civil citation programs under the *DJJ Civil Citation Model Plan*. Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).

<sup>6</sup> *Id.*

<sup>7</sup> Ch. 2015-46, s. 1, Laws of Fla. (amending s. 985.12, F.S., effective October 1, 2015).

<sup>8</sup> *Id.*

<sup>9</sup> Section 985.12(3), F.S.

<sup>10</sup> Section 985.12(1), F.S.

<sup>11</sup> *Id.*

required to issue civil citations, there is variation in the use of civil citation programs among agencies and counties statewide.<sup>12</sup>

Youth issued a civil citation may be assigned up to 50 hours of community service and must participate in intervention services as indicated by a needs assessment. Intervention services include family counseling, urinalysis monitoring, substance abuse and mental health treatment services.<sup>13</sup> At the time a civil citation is issued, the law enforcement officer must advise the youth that he or she has the option of refusing the civil citation and of being referred to DJJ. The youth may refuse the civil citation at any time before completion of the work assignment.<sup>14</sup>

The youth is required to report to a community service performance monitor within seven working days after the civil citation has been issued. The youth must also complete at least five community service hours per week. The monitor reports information to DJJ regarding the youth's service hour completion and the expected completion date.<sup>15</sup> If the youth fails to timely report or complete a work assignment, fails to timely comply with assigned intervention services, or if the youth commits a subsequent misdemeanor, the law enforcement officer must issue a report to DJJ alleging that the youth has committed a delinquent act, thereby initiating formal judicial processing.<sup>16</sup>

According to the DJJ, there are 61 counties that have implemented a civil citation program in Florida. Taylor County has committed to implementing one. Bradford, Calhoun, Gulf, Hardee, and Washington counties use a similar diversion program without civil citations.<sup>17</sup>

In Fiscal Year 2014-15, there were 20,833 youth who were eligible to receive a civil citation (first-time misdemeanants who were not accused of a firearm or sexual offense). Statewide, 8,961 eligible youth (43% of eligible first-time misdemeanants) were issued a civil citation, according to DJJ.<sup>18</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 985.12, F.S., to allow the establishment of one or more civil citation or similar diversion programs in each county to serve all juveniles alleged to have committed a violation of law which would be a misdemeanor if committed by an adult. The bill requires a "law enforcement officer"<sup>19</sup> to issue a civil citation or require the juvenile's participation in a

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<sup>12</sup> Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).

<sup>13</sup> *Id.*

<sup>14</sup> Section 985.12(6), F.S.

<sup>15</sup> Section 985.12(4), F.S.

<sup>16</sup> Section 985.12(5), F.S.

<sup>17</sup> Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).

<sup>18</sup> *Id.*

<sup>19</sup> The bill defines "law enforcement officer" to have the same meaning as in s. 943.10, F.S. Section 943.10, F.S., defines the term to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law

similar diversion program when the juvenile is under 16 years of age for the following enumerated first-time “misdemeanor offenses”:<sup>20</sup>

- Possession of alcoholic beverages by a minor;<sup>21</sup>
- Battery, provided the victim approves of the issuance of the civil citation or similar diversion program;<sup>22</sup>
- Petit theft;<sup>23</sup>
- Retail theft;<sup>24</sup>
- Affrays and riots;<sup>25</sup>
- Disorderly conduct;<sup>26</sup>
- Possession of cannabis or other controlled substances;<sup>27</sup>
- Use, possession, sale, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia;<sup>28</sup> or
- Resisting an officer without violence.<sup>29</sup>

The bill permits a law enforcement officer that makes contact with a juvenile who admits having committed a second-time or third-time offense to issue a civil citation to the juvenile or require the juvenile’s participation in a similar diversion program, regardless of whether the violations are part of the enumerated offenses. The bill permits the issuance of a civil citation or similar diversion program for:

- Any first-time misdemeanor offense that is not one of the enumerated “misdemeanor offenses;” or
- Any second or third-time misdemeanor offense, regardless of whether the offense is one of the enumerated “misdemeanor offenses.”

A law enforcement officer must provide written documentation articulating why an arrest is warranted if he or she has discretion under the statute to issue a civil citation but chooses instead to arrest the juvenile.

The bill specifies that civil citation programs do not apply to the following:

- A juvenile who is currently alleged to have committed, or is currently charged with, and awaiting final disposition of an offense that would be a felony if committed by an adult.
- A juvenile who has entered a plea of nolo contendere or guilty to, or has been found to have committed, an offense that would be a felony if committed by an adult.

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enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

<sup>20</sup> The bill defines “misdemeanor offense” as one or more violations of law arising out of the same criminal episode, act, or transaction.

<sup>21</sup> Section 562.111, F.S.

<sup>22</sup> Section 784.03(1), F.S.

<sup>23</sup> Section 812.014(2)(e) and (3)(a), F.S.

<sup>24</sup>Section 812.015(2), F.S.

<sup>25</sup> Section 870.01(1), F.S.

<sup>26</sup> Section 877.03, F.S.

<sup>27</sup> Section 893.13(6)(b), F.S.

<sup>28</sup>Section 893.147, F.S.

<sup>29</sup> Section 843.02, F.S.

- A misdemeanor arising out of an episode in which the juvenile is also alleged to have committed an offense that would be a felony if committed by an adult.

The bill provides that the civil citation law, s. 985.12, F.S., does not modify the authority of a law enforcement officer to issue only a simple warning to the juvenile or to notice the juvenile's guardian or parent of the alleged offense.

The bill retains current statutory provisions relating to the following:

- The program requirements placed upon juveniles participating in a civil citation program, including community service hours, intervention services, and time frames to complete the program;
- The ability of juveniles to refuse participation in a civil citation program;
- The requirement of DJJ and law enforcement officers to forward civil citations to specified parties;
- The requirement for civil citation programs to report the juveniles' outcomes to DJJ; and
- Participation in a civil citation program is not considered a referral to DJJ.

The bill extends the time period that a youth is required to report to a community service performance monitor from seven to ten working days after the civil citation has been issued. The juvenile is required to spend a minimum of 5 hours per week completing the community service requirement. The juvenile's failure to timely report for a community service assignment, complete such assignment, or comply with assigned intervention services within the prescribed time will result in the law enforcement officer issuing a report alleging the juvenile has committed a delinquent act, the probation officer will process the original delinquent act as a referral to DJJ and refer the report to the state attorney for review.

**Section 2** amends s. 943.051, F.S., to make conforming changes.

**Section 3** amends s. 985.11, F.S., to make conforming changes.

**Section 4** provides an effective date of July 1, 2016.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Expanding the use of civil citation programs could result in more youth having future opportunities for employment since these youth will not have the hurdle of an arrest record.

**C. Government Sector Impact:**

The increase in civil citations under the bill could result in a potential cost savings to the state and local governments as youth are diverted from the more costly juvenile justice system.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 985.12 of the Florida Statutes.

The bill makes conforming technical changes to sections 943.051 and 985.11 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Children, Families, and Elder Affairs on February 24, 2016:**

- Requires the law enforcement officer to issue a civil citation or require the participation in a similar diversion program to a juvenile when the juvenile is under 16 years of age and if each violation of law in the misdemeanor offense is one of the enumerated offenses.
- Allows law enforcement officers the discretion to issue a civil citation or require the juvenile's participation in a similar diversion program regardless of whether the violation is one of the enumerated offenses identified in the bill.

**CS by Criminal Justice on February 16, 2016:**



- Requires a law enforcement officer to issue a civil citation or require the juvenile's participation in a similar diversion program for specified first-time "misdemeanor offenses" as enumerated by the bill.
- Permits the issuance of a civil citation or similar diversion program for a first-time misdemeanor offense that is not enumerated under the bill or any second or third-time misdemeanor offense, regardless of whether the offense is an enumerated "misdemeanor offense."
- Provides that the following misdemeanors are enumerated "misdemeanor offenses" for purposes of issuing a civil citation: possession of alcoholic beverages by a minor; battery, under certain circumstances; petit theft; retail theft; affrays and riots; disorderly conduct; possession of cannabis or other controlled substances; use, possession, sale, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia; and resisting an officer without violence.
- Deletes the provision requiring prior approval if a law enforcement officer makes an arrest instead of issuing a civil citation.
- Extends the time period that a youth is required to report to a community service performance monitor from seven to ten working days after the civil citation has been issued.

B. Amendments:

None.



206892

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/24/2016	.	
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The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

**Senate Amendment**

Delete lines 55 - 77  
and insert:  
the juvenile's participation in a similar diversion program when the juvenile is under 14 years of age and if each violation of law in the misdemeanor offense is one of the following:  
1. Section 562.111, relating to possession of alcoholic beverages by persons under age 21;  
2. Section 784.03(1), relating to battery, if the victim



206892

11 approves the juvenile's participation in a civil citation or  
12 similar diversion program;  
13 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
14 theft;  
15 4. Section 812.015(2), relating to retail and farm theft;  
16 5. Section 843.02, relating to resisting an officer without  
17 violence;  
18 6. Section 870.01(1), relating to affrays and riots;  
19 7. Section 877.03, relating to disorderly conduct;  
20 8. Section 893.13(6)(b), relating to possession of certain  
21 amounts of cannabis or controlled substances; or  
22 9. Section 893.147, relating to use, possession,  
23 manufacture, delivery, transportation, advertisement, or retail  
24 sale of drug paraphernalia.  
25 (b) May issue a civil citation to the juvenile or require  
26 the juvenile's participation in a similar diversion program if  
27 the violations of law are not enumerated in paragraph (a), or if  
28 the violation of law is one of the enumerated offenses in  
29 paragraph (a) and the juvenile is 14 years of age or older.



562480

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/24/2016	.	
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The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

**Senate Amendment to Amendment (206892)**

Delete lines 6 - 29

and insert:

the juvenile is under 16 years of age and if each violation of law in the misdemeanor offense is one of the following:

1. Section 562.111, relating to possession of alcoholic beverages by persons under age 21;

2. Section 784.03(1), relating to battery, if the victim approves the juvenile's participation in a civil citation or



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11 similar diversion program;  
12 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
13 theft;  
14 4. Section 812.015(2), relating to retail and farm theft;  
15 5. Section 843.02, relating to resisting an officer without  
16 violence;  
17 6. Section 870.01(1), relating to affrays and riots;  
18 7. Section 877.03, relating to disorderly conduct;  
19 8. Section 893.13(6)(b), relating to possession of certain  
20 amounts of cannabis or controlled substances; or  
21 9. Section 893.147, relating to use, possession,  
22 manufacture, delivery, transportation, advertisement, or retail  
23 sale of drug paraphernalia.  
24 (b) May issue a civil citation to the juvenile or require  
25 the juvenile's participation in a similar diversion program if  
26 the violations of law are not enumerated in paragraph (a), or if  
27 the violation of law is one of the enumerated offenses in  
28 paragraph (a) and the juvenile is 16 years of age or older.



321464

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2016	.	
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The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

**Senate Amendment**

Delete line 64  
and insert:  
theft, if the victim approves the juvenile's participation in a  
civil citation or similar diversion program;



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2016	.	
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The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 89 - 157  
and insert:

(6) If a juvenile who is 14 years of age or older is arrested for one of the offenses specified in paragraph (3) (a), the arrest report must include a factual explanation as to why the officer decided to arrest the juvenile in lieu of issuing a civil citation or requiring the juvenile to participate in a similar diversion program, and such report must be reviewed by a



663694

11 supervising officer. The arrest report must be filed with the  
12 law enforcement agency in a manner that will allow data to be  
13 collected on the number of juveniles who were arrested for such  
14 offenses in lieu of the issuance of a civil citation or  
15 participation in a similar program. Each law enforcement agency  
16 that employs a law enforcement officer who makes an arrest for  
17 an offense listed in paragraph (3) (a) shall submit an annual  
18 report before December 31 of each year to the department. The  
19 report shall include, at a minimum, the number of arrests and  
20 the justifications for the arrests.

21 (7) A law enforcement officer shall advise a juvenile who  
22 is subject to subsection (3) or subsection (4) that the juvenile  
23 has the option to refuse the civil citation or other similar  
24 diversion program and be referred to the department. This option  
25 may be exercised at any time before completion of the community  
26 service assignment required under subsection (9). Participation  
27 in a civil citation or similar diversion program is not  
28 considered a referral to the department.

29 (8) Upon issuance of the civil citation or documentation  
30 requiring a similar diversion program, the law enforcement  
31 officer shall send a copy to the county sheriff, state attorney,  
32 the appropriate intake office of the department or the community  
33 service performance monitor designated by the department, the  
34 parent or guardian of the child, and the victim. The department  
35 shall enter such information into the juvenile offender  
36 information system.

37 (9) A juvenile that elects to participate in a civil  
38 citation or similar diversion program shall complete, and assess  
39 up to 50 community service hours, and participate require





663694

40 ~~participation~~ in intervention services as indicated by an  
41 assessment of the needs of the juvenile, including family  
42 counseling, urinalysis monitoring, and substance abuse and  
43 mental health treatment services.

44 (a) The juvenile shall report to the community service  
45 performance monitor within 10 business days after the date of  
46 issuance of the civil citation or documentation for a similar  
47 diversion program. The juvenile shall spend a minimum of 5 hours  
48 per week completing the community service assignment. The  
49 monitor shall immediately notify the intake office of the  
50 department that a juvenile has reported to the monitor and the  
51 expected date on which the juvenile will complete the community  
52 service assignment ~~A copy of each citation issued under this~~  
53 ~~section shall be provided to the department, and the department~~  
54 ~~shall enter appropriate information into the juvenile offender~~  
55 ~~information system. Use of the civil citation or similar~~  
56 ~~diversion program is not limited to first-time misdemeanors and~~  
57 ~~may be used in up to two subsequent misdemeanors. If an arrest~~  
58 ~~is made, a law enforcement officer must provide written~~  
59 ~~documentation as to why an arrest was warranted.~~

60 (b) At the conclusion of a juvenile's civil citation  
61 program or similar diversion program, the entity agency  
62 operating the program shall report the outcome of the program to  
63 the department.

64 (c) If the juvenile fails to timely report for a community  
65 service assignment, complete such assignment, or comply with  
66 assigned intervention services within the prescribed time, or if  
67 the juvenile commits a subsequent misdemeanor, the law  
68 enforcement officer shall issue a report alleging the juvenile



663694

69 has committed a delinquent act, at which time a juvenile  
70 probation officer shall process the original delinquent act as a  
71 referral to the department and refer the report to the state  
72 attorney for review ~~The issuance of a civil citation is not~~  
73 ~~considered a referral to the department.~~

74 (10) ~~(2)~~ The department shall develop guidelines for ~~the~~  
75 civil citation and similar diversion programs ~~program~~ which  
76 include intervention services that are based on ~~upon~~ proven  
77 civil citation or similar diversion programs in ~~within~~ the  
78 state.

79 (11) This section does not apply to:

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

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

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

89 (12) This section does not modify the authority of a law  
90

91 ===== T I T L E A M E N D M E N T =====

92 And the title is amended as follows:

93 Delete line 8

94 and insert:

95 providing exceptions; requiring the reporting and  
96 reviewing of specified information in an arrest  
97 report; requiring a law enforcement agency to submit



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98           an annual report before a specified date to the  
99           Department of Juvenile Justice under certain  
100          circumstances; providing applicability;

By the Committee on Criminal Justice; and Senators Altman, Negron, Joyner, Clemens, Flores, Sachs, Sobel, and Soto

591-03619-16

2016408c1

A bill to be entitled

An act relating to juvenile civil citation and similar diversion programs; amending s. 985.12, F.S.; requiring the establishment of civil citation or similar diversion programs for juveniles; providing definitions; specifying program eligibility, participation, and implementation requirements; providing exceptions; providing applicability; amending ss. 943.051 and 985.11, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 985.12, Florida Statutes, is amended to read:

985.12 Civil citation and similar diversion programs.—

(1) (a) There is established a process for the use of juvenile civil citation and similar diversion programs to provide process for the purpose of providing an efficient and innovative alternative to custody by the department ~~of Juvenile Justice for juveniles children~~ who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The department shall encourage and assist in the implementation and improvement of civil citation and programs or other similar diversion programs in around the state.

(b) One or more ~~The~~ civil citation or similar diversion programs ~~program~~ shall be established in each county which must individually or collectively serve all juveniles who are alleged to have committed a violation of law which would be a misdemeanor offense if committed by an adult. Such programs must

Page 1 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-03619-16

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~~be established at the local level~~ with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved ~~and. The program~~ may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, the county or municipality, or another entity selected by the county or municipality. An entity operating such a the civil citation or similar diversion program must do so in consultation and agreement with the state attorney and local law enforcement agencies.

(2) As used in this section, the term:

(a) "Misdemeanor offense" means one or more misdemeanor violations of law arising out of the same criminal episode, act, or transaction.

(b) "Law enforcement officer" has the same meaning as provided in s. 943.10.

(3) Under such a juvenile civil citation or similar diversion program, a law enforcement officer that makes, upon making contact with a juvenile who admits having committed a first-time misdemeanor: misdemeanor, may choose to issue a simple warning or inform the child's guardian or parent of the child's infraction, or may

(a) Shall issue a civil citation to the juvenile or require the juvenile's participation in a similar diversion program if each violation of law in the misdemeanor offense is one of the following:

1. Section 562.111, relating to possession of alcoholic beverages by persons under age 21;

2. Section 784.03(1), relating to battery, if the victim

Page 2 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-03619-16

2016408c1

61 approves the juvenile's participation in a civil citation or  
 62 similar diversion program;

63 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
 64 theft;

65 4. Section 812.015(2), relating to retail and farm theft;

66 5. Section 870.01(1), relating to affrays and riots;

67 6. Section 877.03, relating to disorderly conduct;

68 7. Section 893.13(6)(b), relating to possession of certain  
 69 amounts of cannabis or controlled substances;

70 8. Section 893.147, relating to use, possession,  
 71 manufacture, delivery, transportation, advertisement, or retail  
 72 sale of drug paraphernalia; or

73 9. Section 843.02, relating to resisting an officer without  
 74 violence.

75 (b) May issue a civil citation to the juvenile or require  
 76 the juvenile's participation in a similar diversion program if  
 77 the violations of law are not enumerated in subparagraph (a).

78 (4) Under such a juvenile civil citation or similar  
 79 diversion program, a law enforcement officer that makes contact  
 80 with a juvenile who admits having committed a second-time or  
 81 third-time misdemeanor offense may issue a civil citation to the  
 82 juvenile or require the juvenile's participation in a similar  
 83 diversion program, regardless of whether the violations of law  
 84 are enumerated in subparagraph (3)(a).

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

89 (6) A law enforcement officer shall advise a juvenile who

591-03619-16

2016408c1

90 is subject to subsection (3) or subsection (4) that the juvenile  
 91 has the option to refuse the civil citation or other similar  
 92 diversion program and be referred to the department. This option  
 93 may be exercised at any time before completion of the community  
 94 service assignment required under subsection (8). Participation  
 95 in a civil citation or similar diversion program is not  
 96 considered a referral to the department.

97 (7) Upon issuance of the civil citation or documentation  
 98 requiring a similar diversion program, the law enforcement  
 99 officer shall send a copy to the county sheriff, state attorney,  
 100 the appropriate intake office of the department or the community  
 101 service performance monitor designated by the department, the  
 102 parent or guardian of the child, and the victim. The department  
 103 shall enter such information into the juvenile offender  
 104 information system.

105 (8) A juvenile that elects to participate in a civil  
 106 citation or similar diversion program shall complete, ~~and assess~~  
 107 up to 50 community service hours, and participate ~~require~~  
 108 participation in intervention services as indicated by an  
 109 assessment of the needs of the juvenile, including family  
 110 counseling, urinalysis monitoring, and substance abuse and  
 111 mental health treatment services.

112 (a) The juvenile shall report to the community service  
 113 performance monitor within 10 business days after the date of  
 114 issuance of the civil citation or documentation for a similar  
 115 diversion program. The juvenile shall spend a minimum of 5 hours  
 116 per week completing the community service assignment. The  
 117 monitor shall immediately notify the intake office of the  
 118 department that a juvenile has reported to the monitor and the

591-03619-16

2016408c1

119 ~~expected date on which the juvenile will complete the community~~  
 120 ~~service assignment. A copy of each citation issued under this~~  
 121 ~~section shall be provided to the department, and the department~~  
 122 ~~shall enter appropriate information into the juvenile offender~~  
 123 ~~information system. Use of the civil citation or similar~~  
 124 ~~diversion program is not limited to first-time misdemeanors and~~  
 125 ~~may be used in up to two subsequent misdemeanors. If an arrest~~  
 126 ~~is made, a law enforcement officer must provide written~~  
 127 ~~documentation as to why an arrest was warranted.~~

128 (b) At the conclusion of a juvenile's civil citation  
 129 program or similar diversion program, the entity agency  
 130 operating the program shall report the outcome of the program to  
 131 the department.

132 (c) If the juvenile fails to timely report for a community  
 133 service assignment, complete such assignment, or comply with  
 134 assigned intervention services within the prescribed time, or if  
 135 the juvenile commits a subsequent misdemeanor, the law  
 136 enforcement officer shall issue a report alleging the juvenile  
 137 has committed a delinquent act, at which time a juvenile  
 138 probation officer shall process the original delinquent act as a  
 139 referral to the department and refer the report to the state  
 140 attorney for review. The issuance of a civil citation is not  
 141 considered a referral to the department.

142 (9)(2) The department shall develop guidelines for the  
 143 civil citation and similar diversion programs program which  
 144 include intervention services that are based on upon proven  
 145 civil citation or similar diversion programs in within the  
 146 state.

147 (10) This section does not apply to:

591-03619-16

2016408c1

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

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

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

157 (11) This section does not modify the authority of a law  
 158 enforcement officer who comes into contact with a juvenile who  
 159 is alleged to have committed a misdemeanor to issue only a  
 160 simple warning to the juvenile or notice to a juvenile's parent  
 161 or guardian of the alleged offense.

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

167 ~~(4)~~ The child shall report to the community service  
 168 performance monitor within 7 working days after the date of  
 169 issuance of the citation. The work assignment shall be  
 170 accomplished at a rate of not less than 5 hours per week. The  
 171 monitor shall advise the intake office immediately upon  
 172 reporting by the child to the monitor, that the child has in  
 173 fact reported and the expected date upon which completion of the  
 174 work assignment will be accomplished.

175 ~~(5)~~ If the child fails to report timely for a work  
 176 assignment, complete a work assignment, or comply with assigned

591-03619-16 2016408c1

177 ~~intervention services within the prescribed time, or if the~~  
 178 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~  
 179 ~~officer shall issue a report alleging the child has committed a~~  
 180 ~~delinquent act, at which point a juvenile probation officer~~  
 181 ~~shall process the original delinquent act as a referral to the~~  
 182 ~~department and refer the report to the state attorney for~~  
 183 ~~review.~~

184 ~~(6) At the time of issuance of the citation by the law~~  
 185 ~~enforcement officer, such officer shall advise the child that~~  
 186 ~~the child has the option to refuse the citation and to be~~  
 187 ~~referred to the intake office of the department. That option may~~  
 188 ~~be exercised at any time before completion of the work~~  
 189 ~~assignment.~~

190 Section 2. Paragraph (b) of subsection (3) of section  
 191 943.051, Florida Statutes, is amended to read:

192 943.051 Criminal justice information; collection and  
 193 storage; fingerprinting.—

194 (3)

195 (b) A minor who is charged with or found to have committed  
 196 the following offenses shall be fingerprinted and the  
 197 fingerprints shall be submitted electronically to the  
 198 department, unless the minor participates in ~~is issued~~ a civil  
 199 citation or similar diversion program pursuant to s. 985.12:

- 200 1. Assault, as defined in s. 784.011.
- 201 2. Battery, as defined in s. 784.03.
- 202 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 203 4. Unlawful use of destructive devices or bombs, as defined  
 204 in s. 790.1615(1).
- 205 5. Neglect of a child, as defined in s. 827.03(1)(e).

591-03619-16 2016408c1

- 206 6. Assault or battery on a law enforcement officer, a  
 207 firefighter, or other specified officers, as defined in s.  
 208 784.07(2) (a) and (b).  
 209 7. Open carrying of a weapon, as defined in s. 790.053.  
 210 8. Exposure of sexual organs, as defined in s. 800.03.  
 211 9. Unlawful possession of a firearm, as defined in s.  
 212 790.22(5).  
 213 10. Petit theft, as defined in s. 812.014(3).  
 214 11. Cruelty to animals, as defined in s. 828.12(1).  
 215 12. Arson, as defined in s. 806.031(1).  
 216 13. Unlawful possession or discharge of a weapon or firearm  
 217 at a school-sponsored event or on school property, as provided  
 218 in s. 790.115.

219 Section 3. Paragraph (b) of subsection (1) of section  
 220 985.11, Florida Statutes, is amended to read:

221 985.11 Fingerprinting and photographing.—

222 (1)

223 (b) Unless the child is participating in ~~is issued~~ a civil  
 224 citation or is participating in a similar diversion program  
 225 pursuant to s. 985.12, a child who is charged with or found to  
 226 have committed one of the following offenses shall be  
 227 fingerprinted, and the fingerprints shall be submitted to the  
 228 Department of Law Enforcement as provided in s. 943.051(3)(b):

- 229 1. Assault, as defined in s. 784.011.
- 230 2. Battery, as defined in s. 784.03.
- 231 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 232 4. Unlawful use of destructive devices or bombs, as defined  
 233 in s. 790.1615(1).
- 234 5. Neglect of a child, as defined in s. 827.03(1)(e).

591-03619-16 2016408c1

235 6. Assault on a law enforcement officer, a firefighter, or  
 236 other specified officers, as defined in s. 784.07(2)(a).  
 237 7. Open carrying of a weapon, as defined in s. 790.053.  
 238 8. Exposure of sexual organs, as defined in s. 800.03.  
 239 9. Unlawful possession of a firearm, as defined in s.  
 240 790.22(5).  
 241 10. Petit theft, as defined in s. 812.014.  
 242 11. Cruelty to animals, as defined in s. 828.12(1).  
 243 12. Arson, resulting in bodily harm to a firefighter, as  
 244 defined in s. 806.031(1).  
 245 13. Unlawful possession or discharge of a weapon or firearm  
 246 at a school-sponsored event or on school property as defined in  
 247 s. 790.115.  
 248  
 249 A law enforcement agency may fingerprint and photograph a child  
 250 taken into custody upon probable cause that such child has  
 251 committed any other violation of law, as the agency deems  
 252 appropriate. Such fingerprint records and photographs shall be  
 253 retained by the law enforcement agency in a separate file, and  
 254 these records and all copies thereof must be marked "Juvenile  
 255 Confidential." These records are not available for public  
 256 disclosure and inspection under s. 119.07(1) except as provided  
 257 in ss. 943.053 and 985.04(2), but shall be available to other  
 258 law enforcement agencies, criminal justice agencies, state  
 259 attorneys, the courts, the child, the parents or legal  
 260 custodians of the child, their attorneys, and any other person  
 261 authorized by the court to have access to such records. In  
 262 addition, such records may be submitted to the Department of Law  
 263 Enforcement for inclusion in the state criminal history records

Page 9 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-03619-16 2016408c1

264 and used by criminal justice agencies for criminal justice  
 265 purposes. These records may, in the discretion of the court, be  
 266 open to inspection by anyone upon a showing of cause. The  
 267 fingerprint and photograph records shall be produced in the  
 268 court whenever directed by the court. Any photograph taken  
 269 pursuant to this section may be shown by a law enforcement  
 270 officer to any victim or witness of a crime for the purpose of  
 271 identifying the person who committed such crime.  
 272 Section 4. This act shall take effect July 1, 2016.

Page 10 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.





206892

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/24/2016	.	
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The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

**Senate Amendment**

Delete lines 55 - 77  
and insert:  
the juvenile's participation in a similar diversion program when the juvenile is under 14 years of age and if each violation of law in the misdemeanor offense is one of the following:  
1. Section 562.111, relating to possession of alcoholic beverages by persons under age 21;  
2. Section 784.03(1), relating to battery, if the victim



206892

11 approves the juvenile's participation in a civil citation or  
12 similar diversion program;  
13 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
14 theft;  
15 4. Section 812.015(2), relating to retail and farm theft;  
16 5. Section 843.02, relating to resisting an officer without  
17 violence;  
18 6. Section 870.01(1), relating to affrays and riots;  
19 7. Section 877.03, relating to disorderly conduct;  
20 8. Section 893.13(6)(b), relating to possession of certain  
21 amounts of cannabis or controlled substances; or  
22 9. Section 893.147, relating to use, possession,  
23 manufacture, delivery, transportation, advertisement, or retail  
24 sale of drug paraphernalia.  
25 (b) May issue a civil citation to the juvenile or require  
26 the juvenile's participation in a similar diversion program if  
27 the violations of law are not enumerated in paragraph (a), or if  
28 the violation of law is one of the enumerated offenses in  
29 paragraph (a) and the juvenile is 14 years of age or older.



562480

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/24/2016	.	
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The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

**Senate Amendment to Amendment (206892)**

Delete lines 6 - 29

and insert:

the juvenile is under 16 years of age and if each violation of law in the misdemeanor offense is one of the following:

1. Section 562.111, relating to possession of alcoholic beverages by persons under age 21;

2. Section 784.03(1), relating to battery, if the victim approves the juvenile's participation in a civil citation or



562480

11 similar diversion program;  
12 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
13 theft;  
14 4. Section 812.015(2), relating to retail and farm theft;  
15 5. Section 843.02, relating to resisting an officer without  
16 violence;  
17 6. Section 870.01(1), relating to affrays and riots;  
18 7. Section 877.03, relating to disorderly conduct;  
19 8. Section 893.13(6)(b), relating to possession of certain  
20 amounts of cannabis or controlled substances; or  
21 9. Section 893.147, relating to use, possession,  
22 manufacture, delivery, transportation, advertisement, or retail  
23 sale of drug paraphernalia.  
24 (b) May issue a civil citation to the juvenile or require  
25 the juvenile's participation in a similar diversion program if  
26 the violations of law are not enumerated in paragraph (a), or if  
27 the violation of law is one of the enumerated offenses in  
28 paragraph (a) and the juvenile is 16 years of age or older.



The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** CS/SB 408  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Wednesday, February 24, 2016  
**TIME:** 10:00—11:00 a.m.  
**PLACE:** 301 Senate Office Building

SENATORS	2/24/2016 <sup>4</sup> Amendment 206892 Altman		Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
	Yea	Nay								
Dean										
Detert										
Garcia										
Hutson										
Ring										
Altman, VICE CHAIR										
Sobel, CHAIR										
<b>TOTALS</b>	FAV	-								
	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable    RCS=Replaced by Committee Substitute    TP=Temporarily Postponed    WD=Withdrawn  
 UNF=Unfavorable    RE=Replaced by Engrossed Amendment    VA=Vote After Roll Call    OO=Out of Order  
 -R=Reconsidered    RS=Replaced by Substitute Amendment    VC=Vote Change After Roll Call    AV=Abstain from Voting