

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.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/SB 1300

INTRODUCER: Criminal Justice Committee and Senator Storms

SUBJECT: Juvenile Civil Citation Programs

DATE: March 25, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	O'Connor	Maclure	JU	Favorable
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill requires juvenile civil citation programs or other similar diversion programs to be established at the local level. Currently, these local diversion programs are discretionary. The bill specifies that they may be operated by any number of entities, including law enforcement, the Department of Juvenile Justice (DJJ), a juvenile assessment center, the county or city, or an entity selected by the county or city. Unlike current law, only first-time juvenile misdemeanants will be eligible to participate in a civil citation program. Current law allows second-time juvenile misdemeanants to participate. The bill also provides that intervention services will be required during the civil citation program if a needs assessment determines such services are necessary.

Finally, the DJJ is required to encourage and assist with the implementation and improvement of civil citation programs or other similar diversion programs around the state. The DJJ must also develop guidelines for the civil citation program which include intervention services. The guidelines must be based on proven civil citation programs or other similar programs within Florida.

This bill substantially amends section 985.12, Florida Statutes.

II. Present Situation:

Statutory Requirements for Civil Citation Programs

Currently, juvenile civil citation programs provide an efficient and innovative alternative to the Department of Juvenile Justice's (DJJ) custody. They provide swift and appropriate consequences for youth who commit nonserious delinquent acts. A law enforcement officer is authorized to issue a civil citation to a youth who admits having committed a misdemeanor.¹

The programs are discretionary under the authorizing statute. They exist 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.² Civil citation programs require the youth to complete no more than 50 community service hours, and may require participation in intervention services appropriate to the identified needs of the youth, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services.³

Upon issuance of a citation, the local law enforcement agencies are required to send a copy of the citation to the DJJ so that the department can enter the appropriate information into the Juvenile Justice Information System (JJIS).⁴ A copy must also be sent by law enforcement to the sheriff, state attorney, the DJJ's intake office, the community service performance monitor, the youth's parent, and the victim.⁵ 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 the DJJ. The youth may refuse the civil citation at any time before completion of the work assignment.⁶

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 to the DJJ information regarding the youth's service hour completion and the expected completion date.⁷ If the youth fails to timely report or complete a work assignment, fails to timely comply with assigned intervention services, or commits a third or subsequent misdemeanor, the law enforcement officer must issue a report to the DJJ alleging that the youth has committed a delinquent act, thereby initiating formal judicial processing.⁸

¹ Section 985.12(1), F.S.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Section 985.12(2), F.S.

⁶ Section 985.12(5), F.S.

⁷ Section 985.12(3), F.S.

⁸ Section 985.12(4), F.S.

Input from Local Civil Citation Programs

Last summer, 21 local civil citation programs around the state received a questionnaire about their civil citation expungement procedures.⁹ Out of that number, 18 responses were received.¹⁰ One of these programs ended on June 30, 2010, because of inadequate funding.¹¹ Similarly, one of the three program recipients that did not complete the questionnaire also indicated that its program ended then for the same reason.¹² (Nine of the 21 civil citation programs were funded through the DJJ until the end of June when the 3-year grant funding stopped.¹³) Another of the program respondents indicated that its civil citation program was discontinued last year by choice, and instead, a local diversion program was developed in its place.¹⁴

About half of these programs are run through the local sheriff,¹⁵ and the rest are run through the local DJJ or a youth services organization,¹⁶ the state attorney,¹⁷ or the city or court administrator.¹⁸ Program lengths range anywhere from one month to six months, with a length of two or three months being the most typical.

Several programs specified the following misdemeanors as being “acceptable” for admission into their respective programs:¹⁹

- Petit theft;
- Criminal mischief;
- Trespassing;
- Simple assault/battery;
- Disruption of a school function;
- Disorderly conduct; and
- Breach of the peace.

Although program admission eligibility requirements varied from circuit to circuit, the majority of programs seemed consistent with their general requirements, including:²⁰

⁹ *Senate Criminal Justice Committee Interim Report 2011-113* (October 2010), available at http://archive.flsenate.gov/data/Publications/2011/Senate/reports/interim_reports/pdf/2011-113cj.pdf (last visited Mar. 25, 2011).

¹⁰ The following judicial circuits have (or had) at least one such program: judicial circuit 1 (program ended June 2010); judicial circuit 2 (2 of 3 programs responded); judicial circuits 4, 5, and 6 (program ended but started a similar diversion program); judicial circuit 7 (2 of 3 programs responded); judicial circuit 8 (program ended June 2010); and judicial circuits 9, 11, 13, 16, 17, 18, 19, and 20.

¹¹ Judicial circuit 8.

¹² Judicial circuit 1.

¹³ Judicial circuits 1, 4, 5, 8, 11, 13, 17, 19, and 20.

¹⁴ Judicial circuit 6. The program is called “Juvenile Arrest Avoidance Program,” and its purpose is to prevent first time juvenile misdemeanants in Pinellas County from having a juvenile record. Everything about the program is kept local, including the youth’s record. (Palm Beach County also has a diversion program that is handled completely on the local level, according to the state attorney’s office in the 15th judicial circuit.)

¹⁵ Judicial circuits 2, 5, 7 (has several programs), 16, 17, and 20 (has a few programs).

¹⁶ Judicial circuits 6, 9, 11 are DJJ operated and Circuits 1, 2, 13, and 18 are operated by a youth services organization.

¹⁷ Judicial circuit 20.

¹⁸ Judicial circuits 4 and 19.

¹⁹ *Senate Criminal Justice Committee Interim Report 2011-113*, *supra* note 9.

²⁰ *Id.*

- Must not have a prior criminal history (some programs specify no prior felony arrests, but will allow one prior misdemeanor);
- Must be between 10 and 17 years of age (some programs do not specify a minimum age, but specify the maximum age to be 17 years);
- Must not have participated in a prior diversion program, including civil citation, or be on any form of court-ordered supervision;
- Must be a first-time misdemeanor offense (some programs require there be no restitution issues, or some specify that it must be a nonviolent misdemeanor);
- Must not have committed a domestic violence offense, traffic offense, sexual crime, hate crime, or malicious act of violence;
- Must be a resident of the applicable county; and
- Must have a written agreement among the youth, the victim, and the parents.

III. Effect of Proposed Changes:

This bill requires juvenile civil citation programs or other similar diversion programs to be established at the local level. Currently, these local diversion programs are discretionary. The bill specifies that they may be operated by any number of entities, including law enforcement, the Department of Juvenile Justice (DJJ), a juvenile assessment center, the county or city, or an entity selected by the county or city. However, the state attorney and local law enforcement agencies must be in agreement with the selected entity.

The bill deletes the county sheriff and the victim as entities that are required to receive a copy of the issued citation. The bill also provides that intervention services will be required during the civil citation program if a needs assessment determines that such services are necessary. Unlike current law, only first-time juvenile misdemeanants will be eligible to participate in a civil citation program. The statute currently allows second-time juvenile misdemeanants to participate.

Upon program completion, the agency operating the program must report the outcome to the DJJ. The bill also states that the issuance of a civil citation will not be considered a referral to the DJJ, meaning it will not initiate formal judicial processing. However, if the youth fails to comply, the juvenile probation officer must process the original delinquent act as a referral to the DJJ and send the report to the state attorney for review.

Finally, the DJJ is required to encourage and assist with the implementation and improvement of civil citation programs or other similar diversion programs around the state. The DJJ must also develop guidelines for the civil citation program which include intervention services. Furthermore, the guidelines must be based on proven civil citation programs or other similar programs in Florida.

The bill provides an effective date of July 1, 2011.

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:

The expansion of juvenile civil citation programs or other similar diversion programs in Florida may result in more eligible youth benefiting from this diversion program, especially as it relates to future opportunities for employment since these youth will not have to deal with the obstacle of having an arrest record.

C. Government Sector Impact:

By requiring the local establishment of civil citation programs or other similar diversion programs, the bill may result in an indeterminate fiscal impact on those jurisdictions that do not have adequate diversion resources available.

On the other hand, to the extent that youth are increasingly diverted from the more costly juvenile justice system, the greater the potential cost savings will be to Florida.

According to the Office of the State Courts Administrator, the bill will have an indeterminate effect on judicial workload.²¹

VI. Technical Deficiencies:

None.

²¹ Office of the State Courts Administrator, *Senate Bill 1300 Fiscal Analysis* (Mar. 4, 2011) (on file with the Senate Committee on Judiciary).

VII. Related Issues:

This bill is one of the criminal and juvenile justice cost saving proposals recommended by Florida Tax Watch.²²

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 22, 2011:

The committee substitute:

- Requires the DJJ to encourage and assist with the implementation and improvement of civil citation programs or other similar diversion programs around the state.
- Requires the DJJ to develop guidelines for the civil citation program which include intervention services.
- Requires the civil citation guidelines to be based on proven civil citation programs or other similar diversion programs within Florida.
- Provides that the state attorney and local law enforcement agencies must be in agreement with whatever entity is selected to operate the local civil citation or other similar diversion program.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²² Florida Tax Watch, *Cost-Savings Recommendations for the Criminal and Juvenile Justice System*, presented to the Senate Committee on Criminal Justice, January 11, 2011 (on file with the Senate Committee on Criminal Justice).