

**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 Rules

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BILL: CS/SB 378

INTRODUCER: Criminal Justice Committee and Senators Garcia and others

SUBJECT: Juvenile Justice

DATE: April 1, 2015

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>Favorable</u>
3.	<u>Dugger</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 378 expands juvenile civil citation by allowing law enforcement to issue a civil citation to youth who have committed a second or subsequent misdemeanor. Civil citation is presently only available to youth who admit to committing a first-time misdemeanor.

In addition, law enforcement will be authorized to issue a simple warning to the youth, inform the youth's parents of the misdemeanor, issue a civil citation or require participation in a similar diversion program under the bill. The bill also states that if an arrest is made, law enforcement must provide written documentation as to why the arrest is warranted.

The bill is not expected to have a fiscal impact on the state and is effective October 1, 2015.

**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 of department) custody for youth who commit nonserious delinquent acts.<sup>1</sup> The department is required to encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs

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

around the state.<sup>2</sup> It must also develop guidelines for civil citation 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. The statute provides that a law enforcement officer may issue a civil citation to a youth who admits to committing a misdemeanor without taking the youth into custody. Only first-time misdemeanants are eligible.<sup>4</sup> A law enforcement officer currently has the discretion to give a warning to the youth, inform the parents, issue a civil citation, or arrest a youth.

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>5</sup> The issuance of a civil citation is not considered a referral to the department.<sup>6</sup>

A civil citation program or similar diversion program may be operated by law enforcement, the department, 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>7</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>8</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>9</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>10</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>11</sup>

According to the department, there are currently 59 counties that have implemented civil citation programs. In contrast, Bradford, Polk, Taylor, Calhoun, Gulf, Hardee, Sarasota, and Washington

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

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

<sup>4</sup> Section 985.12(1)

<sup>5</sup> *Id.*

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

<sup>7</sup> *Id.*

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

<sup>9</sup> Section 985.12(6), F.S.

<sup>10</sup> Section 985.12(4), F.S.

<sup>11</sup> Section 985.12(5), F.S.

counties have not yet implemented one. However, these counties have similar diversion programs available.<sup>12</sup>

Additionally, the department states that in calendar years 2013 and 2014, there were 16,149 civil citations issued (7,634 in 2013 and 8,515 in 2014). In fiscal year 2013-14, there were 34,485 arrests of youth for misdemeanors. Of those arrests, 21,349 youth were eligible for civil citation and of those, 8,059 or 38 percent received one. The DJJ also found that the recidivism rate for youth completing civil citation during fiscal year 2012-13 was 5 percent. To calculate this rate, the department monitored the youth for 12 months to determine if there was a subsequent adjudication, adjudication withheld, or an adult conviction.<sup>13</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 985.12, F.S., to allow law enforcement that makes contact with a juvenile who admits to having committed a misdemeanor the discretion to issue a simple warning, inform the child's guardian or parents of the child's infraction, issue a civil citation or require participation in a similar diversion program. Based on the assessed needs of the juvenile, the diversion program may assess up to 50 community service hours and require participation in intervention services, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services. This section also allows use of the juvenile civil citation by allowing law enforcement to issue a civil citation to youth who have committed a second or subsequent misdemeanor. The bill also states that if an arrest is made, law enforcement must provide written documentation as to why the arrest is warranted.

**Section 2** reenacts s. 943.051, F.S., for the purpose of incorporating the amendment to s. 985.12, F.S.

**Section 3** reenacts s. 985.11, F.S., for the purpose of incorporating the amendment to s. 985.12, F.S.

The effective date of the bill is October 1, 2015.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

<sup>12</sup> Electronic mail from Meredith Stanfield, DJJ Legislative Director, dated February 25, 2015 (on file with the Senate Criminal Justice Committee).

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

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

None.

**B. Private Sector Impact:**

Expanding civil citation 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:**

To the extent that youth are diverted from the more costly juvenile justice system, the greater the potential cost savings are to the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 985.12 of the Florida Statutes.

The bill reenacts 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 Criminal Justice on March 10, 2015:**

- Makes issuing a civil citation discretionary.
- Deletes the provision allowing law enforcement to arrest a first-time juvenile misdemeanor under exceptional circumstances.
- Provides that if an arrest is made, law enforcement must give written documentation as to why the arrest is warranted.

**B. Amendments:**

None.