

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 99 Juvenile Justice

SPONSOR(S): Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; Clarke-Reed; Rouson and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 378

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	10 Y, 3 N, As CS	Cox	Cunningham
2) Justice Appropriations Subcommittee	11 Y, 1 N, As CS	Schrader	Lloyd
3) Judiciary Committee	16 Y, 0 N, As CS	Cox	Havlicak

SUMMARY ANALYSIS

Civil Citation Programs (CCPs) give law enforcement officers (LEO) an alternative to arresting youth who have committed non-serious delinquent acts. Under a CCP, a LEO has discretion to issue a civil citation to a juvenile who admits to having committed a first-time misdemeanor, assess not more than 50 community service hours, and require participation in intervention services appropriate to any identified needs of the juvenile.

As of October 2014, CCPs were operational in 59 of Florida's 67 counties.

The bill amends s. 985.12, F.S., to:

- Authorize a law enforcement officer to issue a warning or inform the juvenile's parent when a juvenile admits to having committed a misdemeanor;
- Gives the officer discretion to issue a civil citation or require participation in a similar diversion program if he or she decides not to issue a warning or notify the juvenile's parents;
- Gives the officer discretion to arrest the juvenile; if an arrest is made a LEO must provide written documentation as to why an arrest was warranted; and
- Allow a juvenile to participate in the civil citation program for a total of three separate misdemeanor offenses.

To the extent the bill prevents youth from being arrested and placed in detention at a Juvenile Assessment Center, the bill will result in a positive fiscal impact to local and state governments.

The bill is effective October 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Juvenile Justice Process

The juvenile justice process usually starts when a law enforcement officer (LEO) arrests a youth¹ for a criminal offense.² Depending on the seriousness of the offense and the LEO's view of what is needed to appropriately address the offense, the LEO may:

- Deliver the youth to a Juvenile Assessment Center (JAC) for intake screening to further assess the youth's risk to the community and to determine if some type of detention is necessary;
- Call an "on call screener" to assess the youth's risk and determine if detention is necessary (this is done in localities where a JAC is not available);
- Release the youth to a parent or guardian and forward the charges to the local clerk of court and Department of Juvenile Justice (DJJ) Probation office; or
- Release the youth to parent or guardian with a direct referral to a diversion program.³

In lieu of arresting a youth, LEOs have the option of issuing certain youth a civil citation.

Civil Citation Program

The Civil Citation Program (CCP), created by s. 985.12, F.S., gives law enforcement an alternative to taking youth who have committed non-serious delinquent acts into custody while ensuring swift and appropriate consequences.⁴ Under a CCP, a LEO may issue a civil citation to a juvenile who admits to having committed a first-time misdemeanor,⁵ assess not more than 50 community service hours, and require participation in intervention services appropriate to identified needs of the juvenile.⁶ The statute requires the LEO issuing the civil citation⁷ to advise the child of his or her option to refuse the citation and instead be arrested and referred to a DJJ intake office.⁸

A child that elects to participate in the CCP must report to a community service performance monitor within seven working days after the date of issuance of the civil citation, and must complete the work assignment at a rate of not less than 5 hours per week.⁹ Upon completion of the program, the agency operating the CCP must report the outcome to DJJ.¹⁰

If the youth fails to report timely for a work assignment, complete a work assignment, comply with assigned intervention services within the prescribed time, or commits a subsequent misdemeanor, the LEO must issue a report alleging the child has committed a delinquent act.¹¹ A juvenile probation officer must then process the original delinquent act as a referral to DJJ and refer the report to the state attorney for review.¹²

¹ "Child" or "juvenile" or "youth" means any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached the age of 18 years. s. 985.03(7), F.S.,

² Florida Department of Juvenile Justice, Probation and Community Intervention. <http://www.djj.state.fl.us/faqs/probation-community-intervention> (last visited February 23, 2015).

³ *Id.*

⁴ s. 985.12(1), F.S.

⁵ First time misdemeanor offenses are eligible for civil citation, with the exception of firearm, sexual offense, or gang related charges. Rule 63D-10.002(2)(a), F.A.C.

⁶ Such services may include family counseling, urinalysis monitoring, and substance abuse and mental health treatment services. s. 985.12(1), F.S. Additional sanctions or services could include a letter of apology to the victim(s), restitution, school progress monitoring, and pre-vocational skill services. *Florida Civil Citation, Civil Citation FAQs*, <http://www.djj.state.fl.us/partners/our-approach/florida-civil-citation> (last visited on February 23, 2015).

⁷ If the LEO issues a civil citation, a copy must be provided to the county sheriff, state attorney, the appropriate DJJ intake office or the community performance monitor designated by DJJ, the parents or guardian of the youth, and the victim. Section 985.12(1), F.S.

⁸ The youth has the right to opt out of the CCP and be referred to a DJJ intake office at any time before completion of the work assignment. s. 985.12(6), F.S.

⁹ s. 985.12(4), F.S.

¹⁰ s. 985.12(1), F.S.

¹¹ s. 985.12(5), F.S.

¹² *Id.*

Currently, s. 985.12, F.S., requires CCPs or another similar diversion program¹³ to 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. The program may be operated by a law enforcement agency, DJJ, a JAC, a county or municipality, or an entity selected by a county or municipality.¹⁴ As of October 2014, CCPs were operational in 59 of Florida's 67 counties.¹⁵

Effect of the Bill

As noted above, a LEO who makes contact with a juvenile who admits to having committed a misdemeanor has the option to issue a youth a civil citation, rather than arrest the youth and refer him or her to DJJ.

The bill amends s. 985.12, F.S., to:

- Authorize a law enforcement officer to issue a warning or inform the juvenile's parent when a juvenile admits to having committed a misdemeanor;
- Gives the officer discretion to issue a civil citation or require participation in a similar diversion program if he or she decides not to issue a warning or notify the juvenile's parents;
- Gives the officer discretion to arrest the juvenile; if an arrest is made a LEO must provide written documentation as to why an arrest was warranted; and
- Allow a juvenile to participate in the civil citation program for a total of three separate misdemeanor offenses.

The bill also reenacts ss. 943.051 and 985.11, F.S., for purposes of incorporating the changes made by the act to s. 985.12, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 985.12, F.S., relating to civil citation.

Section 2. Reenacts s. 943.051, F.S., relating to criminal justice information; collection and storage; fingerprinting.

Section 3. Reenacts s. 985.11, F.S., relating to fingerprinting and photographing.

Section 4. Provides an effective date of October 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

To the extent the bill prevents youth from being arrested and placed in detention at a JAC, the bill will result in a positive fiscal impact on state government expenditures.

¹³ Diversion programs are non-judicial alternatives used to keep youth who have committed a delinquent act from being handled through the traditional juvenile justice system. Diversion programs may be pre-arrest or post-arrest programs and are established by law enforcement agencies or school districts in cooperation with state attorneys. See s. 985.125, F.S., and *DJJ Youth and Families, Glossary*, <http://www.djj.state.fl.us/youth-families/glossary> (last visited February 23, 2015).

¹⁴ s. 985.12(1), F.S.

¹⁵ Polk, Taylor, and Bradford counties are in the process of developing a CCP. Sarasota, Hardee, Gulf, Calhoun, and Washington counties do not have CCPs. Florida Department of Juvenile Justice, Probation and Community Intervention. <http://www.djj.state.fl.us/faqs/probation-community-intervention> (last visited February 23, 2015).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

To the extent the bill prevents youth from being arrested and placed in detention at a JAC, the bill will result in a positive fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2015, the Criminal Justice Subcommittee a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Authorizes a law enforcement officer to issue a warning or inform the juvenile's parent when a juvenile admits to having committed a misdemeanor;
- Requires the officer to issue a civil citation or require participation in a similar diversion program if he or she decides not to issue a warning or notify the juvenile's parents;
- Gives the officer discretion to arrest the juvenile if the officer makes written findings that doing so protects the public; and
- Authorizes an officer to issue a civil citation for second or subsequent misdemeanors.

On March 30, 2015, the Justice Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment makes issuing a civil citation discretionary.

On April 14, 2015, the Judiciary Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment limits the number of times a juvenile may participate in a civil citation program to a total of three separate misdemeanor offenses.

The analysis is drafted to the committee substitute as passed by the Judiciary Committee.