

1 A bill to be entitled
2 An act relating to prearrest diversion programs;
3 creating s. 901.40, F.S.; encouraging local
4 communities and public or private educational
5 institutions to implement prearrest diversion programs
6 for certain offenders; authorizing law enforcement
7 officers of participating law enforcement agencies, at
8 their sole discretion, to issue civil citations to
9 adults under specified circumstances; requiring an
10 adult who is issued such a civil citation to report
11 for intake as required by the program; requiring the
12 provision of appropriate behavioral health care
13 services; requiring that an adult issued a civil
14 citation fulfill a community service requirement and
15 pay restitution to a victim; providing for criminal
16 prosecution of adults who fail to complete the
17 prearrest diversion program; prohibiting an arrest
18 record from being associated with a certain offense
19 for adults who successfully complete the program;
20 establishing a steering committee for the prearrest
21 diversion program; providing duties and membership of
22 the committee; requiring that a prearrest diversion
23 program share information with other such programs
24 under certain circumstances; specifying the nonviolent
25 misdemeanor offenses that are eligible for the
26 prearrest diversion program; providing applicability;

27 providing an effective date.

28

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

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31 Section 1. Section 901.40, Florida Statutes, is created to
32 read:

33 901.40 Prearrest diversion programs.-

34 (1) INTENT.-The Legislature encourages local communities
35 and public or private educational institutions to implement
36 prearrest diversion programs that afford certain adults who
37 fulfill specified intervention and community service obligations
38 the opportunity to avoid an arrest record. The Legislature does
39 not mandate that a particular prearrest diversion program for
40 adults be adopted but finds that the adoption of the model
41 provided in this section would allow certain adults to avoid an
42 arrest record, while ensuring that those adults receive
43 appropriate intervention and fulfill community service
44 obligations.

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

48 (a) Law enforcement officers, at their sole discretion,
49 may issue civil citations to certain adults who commit a
50 qualifying nonviolent misdemeanor offense listed in subsection
51 (3). A civil citation may be issued only if the adult admits
52 that he or she committed the offense and if the adult has not

53 previously been arrested and has not received an adult civil
54 citation. However, an adult may not be issued a civil citation
55 if the nonviolent misdemeanor offense involves a victim and the
56 victim objects to issuance of the civil citation.

57 (b) An adult who receives a civil citation shall report
58 for intake as required by the local prearrest diversion program
59 and shall be provided appropriate assessment, intervention,
60 education, and behavioral health care services. While in the
61 local prearrest diversion program, the adult shall perform
62 community service hours as specified by the local prearrest
63 diversion program. The adult shall pay restitution due to the
64 victim as a requirement of the prearrest diversion program. If
65 the adult does not successfully complete the prearrest diversion
66 program, the law enforcement agency that issued the civil
67 citation shall criminally charge the adult for the original
68 offense and refer the case to the state attorney to determine if
69 prosecution is appropriate. If the adult successfully completes
70 the program, an arrest record may not be associated with the
71 offense.

72 (c) A steering committee shall be created for the
73 prearrest diversion program to develop policies and procedures
74 for the program, including, but not limited to, eligibility
75 criteria, program implementation and operation, and the fee to
76 be paid by adults participating in the program. At a minimum,
77 the steering committee must be composed of representatives of
78 the law enforcement agencies participating in the program, a

79 representative of the program services provider, a public
 80 defender or his or her designee, a state attorney or his or her
 81 designee, a clerk of the circuit court or his or her designee,
 82 and other interested stakeholders.

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

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

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

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

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

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

94 (e) Possession of 20 grams or less of cannabis in
 95 violation of s. 893.13.

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

98 (g) Trespass in a structure or conveyance in violation of
 99 s. 810.08.

100 (4) APPLICABILITY.—This section does not preempt a county
 101 or municipality from enacting noncriminal sanctions for a
 102 violation of an ordinance or other violation, and does not
 103 preempt a county, a municipality, or a public or private
 104 educational institution from creating its own model for a

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105 | prearrest diversion program for adults.

106 | Section 2. This act shall take effect July 1, 2016.