

By Senator Altman

16-00515-16

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1                   A bill to be entitled  
2           An act relating to juvenile civil citations; amending  
3           s. 985.12, F.S.; requiring, rather than authorizing, a  
4           law enforcement officer to issue a civil citation or  
5           require participation in a similar diversion program  
6           if the officer does not issue a warning or inform a  
7           child's guardian or parent of the infraction;  
8           requiring a law enforcement officer to receive  
9           approval from a supervisor before arresting a child  
10          for a first-time misdemeanor; reenacting ss.  
11          943.051(3)(b) and 985.11(1)(b), F.S., relating to  
12          fingerprinting and photographing a minor, to  
13          incorporate the amendments made to s. 985.12, F.S., in  
14          references thereto; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Subsection (1) of section 985.12, Florida  
19 Statutes, is amended to read:

20           985.12 Civil citation.—

21           (1) There is established a juvenile civil citation process  
22 for the purpose of providing an efficient and innovative  
23 alternative to custody by the Department of Juvenile Justice for  
24 children who commit nonserious delinquent acts and to ensure  
25 swift and appropriate consequences. The department shall  
26 encourage and assist in the implementation and improvement of  
27 civil citation programs or other similar diversion programs  
28 around the state. The civil citation or similar diversion  
29 program shall be established at the local level with the

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30 concurrence of the chief judge of the circuit, state attorney,  
31 public defender, and the head of each local law enforcement  
32 agency involved. The program may be operated by an entity such  
33 as a law enforcement agency, the department, a juvenile  
34 assessment center, the county or municipality, or another entity  
35 selected by the county or municipality. An entity operating the  
36 civil citation or similar diversion program must do so in  
37 consultation and agreement with the state attorney and local law  
38 enforcement agencies. Under such a juvenile civil citation or  
39 similar diversion program, a law enforcement officer, upon  
40 making contact with a juvenile who admits having committed a  
41 misdemeanor, shall ~~may choose to~~ issue a simple warning or  
42 inform the child's guardian or parent of the child's infraction,  
43 or shall ~~may~~ issue a civil citation or require participation in  
44 a similar diversion program, and assess up to 50 community  
45 service hours, and require participation in intervention  
46 services as indicated by an assessment of the needs of the  
47 juvenile, including family counseling, urinalysis monitoring,  
48 and substance abuse and mental health treatment services. A copy  
49 of each citation issued under this section shall be provided to  
50 the department, and the department shall enter appropriate  
51 information into the juvenile offender information system. Use  
52 of the civil citation or similar diversion program is not  
53 limited to first-time misdemeanors and may be used in up to two  
54 subsequent misdemeanors. Before ~~If~~ an arrest is made for a  
55 first-time misdemeanor, a law enforcement officer must receive  
56 approval from a supervisor and provide written documentation as  
57 to why an arrest was warranted rather than a civil citation. At  
58 the conclusion of a juvenile's civil citation program or similar

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59 diversion program, the agency operating the program shall report  
60 the outcome to the department. The issuance of a civil citation  
61 is not considered a referral to the department.

62 Section 2. For the purpose of incorporating the amendment  
63 made by this act to section 985.12, Florida Statutes, in a  
64 reference thereto, paragraph (b) of subsection (3) of section  
65 943.051, Florida Statutes, is reenacted to read:

66 943.051 Criminal justice information; collection and  
67 storage; fingerprinting.—

68 (3)

69 (b) A minor who is charged with or found to have committed  
70 the following offenses shall be fingerprinted and the  
71 fingerprints shall be submitted electronically to the  
72 department, unless the minor is issued a civil citation pursuant  
73 to s. 985.12:

74 1. Assault, as defined in s. 784.011.

75 2. Battery, as defined in s. 784.03.

76 3. Carrying a concealed weapon, as defined in s. 790.01(1).

77 4. Unlawful use of destructive devices or bombs, as defined  
78 in s. 790.1615(1).

79 5. Neglect of a child, as defined in s. 827.03(1)(e).

80 6. Assault or battery on a law enforcement officer, a  
81 firefighter, or other specified officers, as defined in s.  
82 784.07(2)(a) and (b).

83 7. Open carrying of a weapon, as defined in s. 790.053.

84 8. Exposure of sexual organs, as defined in s. 800.03.

85 9. Unlawful possession of a firearm, as defined in s.  
86 790.22(5).

87 10. Petit theft, as defined in s. 812.014(3).

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88 11. Cruelty to animals, as defined in s. 828.12(1).

89 12. Arson, as defined in s. 806.031(1).

90 13. Unlawful possession or discharge of a weapon or firearm  
91 at a school-sponsored event or on school property, as provided  
92 in s. 790.115.

93 Section 3. For the purpose of incorporating the amendment  
94 made by this act to section 985.12, Florida Statutes, in a  
95 reference thereto, paragraph (b) of subsection (1) of section  
96 985.11, Florida Statutes, is reenacted to read:

97 985.11 Fingerprinting and photographing.—

98 (1)

99 (b) Unless the child is issued a civil citation or is  
100 participating in a similar diversion program pursuant to s.  
101 985.12, a child who is charged with or found to have committed  
102 one of the following offenses shall be fingerprinted, and the  
103 fingerprints shall be submitted to the Department of Law  
104 Enforcement as provided in s. 943.051(3)(b):

105 1. Assault, as defined in s. 784.011.

106 2. Battery, as defined in s. 784.03.

107 3. Carrying a concealed weapon, as defined in s. 790.01(1).

108 4. Unlawful use of destructive devices or bombs, as defined  
109 in s. 790.1615(1).

110 5. Neglect of a child, as defined in s. 827.03(1)(e).

111 6. Assault on a law enforcement officer, a firefighter, or  
112 other specified officers, as defined in s. 784.07(2)(a).

113 7. Open carrying of a weapon, as defined in s. 790.053.

114 8. Exposure of sexual organs, as defined in s. 800.03.

115 9. Unlawful possession of a firearm, as defined in s.  
116 790.22(5).

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117 10. Petit theft, as defined in s. 812.014.

118 11. Cruelty to animals, as defined in s. 828.12(1).

119 12. Arson, resulting in bodily harm to a firefighter, as  
120 defined in s. 806.031(1).

121 13. Unlawful possession or discharge of a weapon or firearm  
122 at a school-sponsored event or on school property as defined in  
123 s. 790.115.

124  
125 A law enforcement agency may fingerprint and photograph a child  
126 taken into custody upon probable cause that such child has  
127 committed any other violation of law, as the agency deems  
128 appropriate. Such fingerprint records and photographs shall be  
129 retained by the law enforcement agency in a separate file, and  
130 these records and all copies thereof must be marked "Juvenile  
131 Confidential." These records are not available for public  
132 disclosure and inspection under s. 119.07(1) except as provided  
133 in ss. 943.053 and 985.04(2), but shall be available to other  
134 law enforcement agencies, criminal justice agencies, state  
135 attorneys, the courts, the child, the parents or legal  
136 custodians of the child, their attorneys, and any other person  
137 authorized by the court to have access to such records. In  
138 addition, such records may be submitted to the Department of Law  
139 Enforcement for inclusion in the state criminal history records  
140 and used by criminal justice agencies for criminal justice  
141 purposes. These records may, in the discretion of the court, be  
142 open to inspection by anyone upon a showing of cause. The  
143 fingerprint and photograph records shall be produced in the  
144 court whenever directed by the court. Any photograph taken  
145 pursuant to this section may be shown by a law enforcement

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146 officer to any victim or witness of a crime for the purpose of  
147 identifying the person who committed such crime.

148 Section 4. This act shall take effect July 1, 2016.