

**By** the Committees on Rules; Children, Families, and Elder Affairs; and Criminal Justice; and Senators Altman, Negron, Joyner, Clemens, Flores, Sachs, Sobel, and Soto

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A bill to be entitled

An act relating to juvenile civil citation and similar diversion programs; amending s. 985.12, F.S.; requiring the establishment of civil citation or similar diversion programs for juveniles; providing definitions; specifying program eligibility, participation, and implementation requirements; providing exceptions; providing applicability; amending ss. 943.051 and 985.11, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 985.12, Florida Statutes, is amended to read:

985.12 Civil citation and similar diversion programs.—

(1) (a) There is established a process for the use of juvenile civil citation and similar diversion programs to provide process for the purpose of providing an efficient and innovative alternative to custody by the department ~~of Juvenile Justice~~ for juveniles ~~children~~ who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The department shall encourage and assist in the implementation and improvement of civil citation and ~~programs or other~~ similar diversion programs in ~~around~~ the state.

(b) One or more ~~The~~ civil citation or similar diversion programs ~~program~~ shall be established in each county which must individually or collectively serve all juveniles who are alleged to have committed a violation of law which would be a

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31 misdemeanor offense if committed by an adult. Such programs must  
32 be established ~~at the local level~~ with the concurrence of the  
33 chief judge of the circuit, state attorney, public defender, and  
34 the head of each local law enforcement agency involved and. ~~The~~  
35 ~~program~~ may be operated by an entity such as a law enforcement  
36 agency, the department, a juvenile assessment center, the county  
37 or municipality, or another entity selected by the county or  
38 municipality. An entity operating such a ~~the civil citation or~~  
39 ~~similar diversion~~ program must do so in consultation and  
40 agreement with the state attorney and local law enforcement  
41 agencies.

42 (2) As used in this section, the term:

43 (a) "Misdemeanor offense" means one or more misdemeanor  
44 violations of law arising out of the same criminal episode, act,  
45 or transaction.

46 (b) "Law enforcement officer" has the same meaning as  
47 provided in s. 943.10.

48 (3) Under such a juvenile civil citation or similar  
49 diversion program, a law enforcement officer that makes, ~~upon~~  
50 ~~making~~ contact with a juvenile who admits having committed a  
51 first-time misdemeanor: misdemeanor, ~~may choose to issue a~~  
52 ~~simple warning or inform the child's guardian or parent of the~~  
53 ~~child's infraction, or may~~

54 (a) Shall issue a civil citation to the juvenile or require  
55 the juvenile's participation in a similar diversion program when  
56 the juvenile is under 16 years of age and if each violation of  
57 law in the misdemeanor offense is one of the following:

58 1. Section 562.111, relating to possession of alcoholic  
59 beverages by persons under age 21;

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60 2. Section 812.014(2)(e) or (3)(a), relating to theft;

61 3. Section 812.015(2), relating to retail and farm theft;

62 4. Section 843.02, relating to resisting an officer without  
63 violence;

64 5. Section 877.03, relating to disorderly conduct;

65 6. Section 893.13(6)(b), relating to possession of certain  
66 amounts of cannabis or controlled substances; or

67 7. Section 893.147, relating to use, possession,  
68 manufacture, delivery, transportation, advertisement, or retail  
69 sale of drug paraphernalia.

70 (b) May issue a civil citation to the juvenile or require  
71 the juvenile's participation in a similar diversion program if  
72 the violations of law are not enumerated in paragraph (a), or if  
73 the violation of law is one of the enumerated offenses in  
74 paragraph (a) and the juvenile is 16 years of age or older.

75 (4) Under such a juvenile civil citation or similar  
76 diversion program, a law enforcement officer that makes contact  
77 with a juvenile who admits having committed a second-time or  
78 third-time misdemeanor offense may issue a civil citation to the  
79 juvenile or require the juvenile's participation in a similar  
80 diversion program, regardless of whether the violations of law  
81 are enumerated in subparagraph (3)(a).

82 (5) If an arrest is made for a misdemeanor offense subject  
83 to paragraph (3)(b) or subsection (4), a law enforcement officer  
84 must provide written documentation as to why the arrest was  
85 warranted.

86 (6) A law enforcement officer shall advise a juvenile who  
87 is subject to subsection (3) or subsection (4) that the juvenile  
88 has the option to refuse the civil citation or other similar

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89 diversion program and be referred to the department. This option  
90 may be exercised at any time before completion of the community  
91 service assignment required under subsection (8). Participation  
92 in a civil citation or similar diversion program is not  
93 considered a referral to the department.

94 (7) Upon issuance of the civil citation or documentation  
95 requiring a similar diversion program, the law enforcement  
96 officer shall send a copy to the county sheriff, state attorney,  
97 the appropriate intake office of the department or the community  
98 service performance monitor designated by the department, the  
99 parent or guardian of the child, and the victim. The department  
100 shall enter such information into the juvenile offender  
101 information system.

102 (8) A juvenile that elects to participate in a civil  
103 citation or similar diversion program shall complete, and assess  
104 up to 50 community service hours, and participate require  
105 participation in intervention services as indicated by an  
106 assessment of the needs of the juvenile, including family  
107 counseling, urinalysis monitoring, and substance abuse and  
108 mental health treatment services.

109 (a) The juvenile shall report to the community service  
110 performance monitor within 10 business days after the date of  
111 issuance of the civil citation or documentation for a similar  
112 diversion program. The juvenile shall spend a minimum of 5 hours  
113 per week completing the community service assignment. The  
114 monitor shall immediately notify the intake office of the  
115 department that a juvenile has reported to the monitor and the  
116 expected date on which the juvenile will complete the community  
117 service assignment ~~A copy of each citation issued under this~~

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118 ~~section shall be provided to the department, and the department~~  
119 ~~shall enter appropriate information into the juvenile offender~~  
120 ~~information system. Use of the civil citation or similar~~  
121 ~~diversion program is not limited to first-time misdemeanors and~~  
122 ~~may be used in up to two subsequent misdemeanors. If an arrest~~  
123 ~~is made, a law enforcement officer must provide written~~  
124 ~~documentation as to why an arrest was warranted.~~

125 (b) At the conclusion of a juvenile's civil citation  
126 ~~program~~ or similar diversion program, the entity agency  
127 operating the program shall report the outcome of the program to  
128 the department.

129 (c) If the juvenile fails to timely report for a community  
130 service assignment, complete such assignment, or comply with  
131 assigned intervention services within the prescribed time, or if  
132 the juvenile commits a subsequent misdemeanor, the law  
133 enforcement officer shall issue a report alleging the juvenile  
134 has committed a delinquent act, at which time a juvenile  
135 probation officer shall process the original delinquent act as a  
136 referral to the department and refer the report to the state  
137 attorney for review ~~The issuance of a civil citation is not~~  
138 ~~considered a referral to the department.~~

139 (9)(2) The department shall develop guidelines for ~~the~~  
140 civil citation and similar diversion programs ~~program~~ which  
141 include intervention services that are based on ~~upon~~ proven  
142 civil citation or similar diversion programs in ~~within~~ the  
143 state.

144 (10) This section does not apply to:

145 (a) A juvenile who is currently alleged to have committed,  
146 or is currently charged with, and awaiting final disposition of

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147 an offense that would be a felony if committed by an adult.

148 (b) A juvenile who has entered a plea of nolo contendere or  
149 guilty to, or has been found to have committed, an offense that  
150 would be a felony if committed by an adult.

151 (c) A misdemeanor arising out of an episode in which the  
152 juvenile is also alleged to have committed an offense that would  
153 be a felony if committed by an adult.

154 (11) This section does not modify the authority of a law  
155 enforcement officer who comes into contact with a juvenile who  
156 is alleged to have committed a misdemeanor to issue only a  
157 simple warning to the juvenile or notice to a juvenile's parent  
158 or guardian of the alleged offense.

159 ~~(3) Upon issuing such citation, the law enforcement officer~~  
160 ~~shall send a copy to the county sheriff, state attorney, the~~  
161 ~~appropriate intake office of the department, or the community~~  
162 ~~service performance monitor designated by the department, the~~  
163 ~~parent or guardian of the child, and the victim.~~

164 ~~(4) The child shall report to the community service~~  
165 ~~performance monitor within 7 working days after the date of~~  
166 ~~issuance of the citation. The work assignment shall be~~  
167 ~~accomplished at a rate of not less than 5 hours per week. The~~  
168 ~~monitor shall advise the intake office immediately upon~~  
169 ~~reporting by the child to the monitor, that the child has in~~  
170 ~~fact reported and the expected date upon which completion of the~~  
171 ~~work assignment will be accomplished.~~

172 ~~(5) If the child fails to report timely for a work~~  
173 ~~assignment, complete a work assignment, or comply with assigned~~  
174 ~~intervention services within the prescribed time, or if the~~  
175 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~

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176 ~~officer shall issue a report alleging the child has committed a~~  
177 ~~delinquent act, at which point a juvenile probation officer~~  
178 ~~shall process the original delinquent act as a referral to the~~  
179 ~~department and refer the report to the state attorney for~~  
180 ~~review.~~

181 ~~(6) At the time of issuance of the citation by the law~~  
182 ~~enforcement officer, such officer shall advise the child that~~  
183 ~~the child has the option to refuse the citation and to be~~  
184 ~~referred to the intake office of the department. That option may~~  
185 ~~be exercised at any time before completion of the work~~  
186 ~~assignment.~~

187 Section 2. Paragraph (b) of subsection (3) of section  
188 943.051, Florida Statutes, is amended to read:

189 943.051 Criminal justice information; collection and  
190 storage; fingerprinting.-

191 (3)

192 (b) A minor who is charged with or found to have committed  
193 the following offenses shall be fingerprinted and the  
194 fingerprints shall be submitted electronically to the  
195 department, unless the minor participates in ~~is issued~~ a civil  
196 citation or similar diversion program pursuant to s. 985.12:

- 197 1. Assault, as defined in s. 784.011.
- 198 2. Battery, as defined in s. 784.03.
- 199 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 200 4. Unlawful use of destructive devices or bombs, as defined  
201 in s. 790.1615(1).
- 202 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 203 6. Assault or battery on a law enforcement officer, a  
204 firefighter, or other specified officers, as defined in s.

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205 784.07(2) (a) and (b).

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

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

208 9. Unlawful possession of a firearm, as defined in s.

209 790.22(5).

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

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

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

213 13. Unlawful possession or discharge of a weapon or firearm

214 at a school-sponsored event or on school property, as provided

215 in s. 790.115.

216 Section 3. Paragraph (b) of subsection (1) of section

217 985.11, Florida Statutes, is amended to read:

218 985.11 Fingerprinting and photographing.—

219 (1)

220 (b) Unless the child is participating in ~~is issued~~ a civil  
221 citation or ~~is participating in~~ a similar diversion program

222 pursuant to s. 985.12, a child who is charged with or found to

223 have committed one of the following offenses shall be

224 fingerprinted, and the fingerprints shall be submitted to the

225 Department of Law Enforcement as provided in s. 943.051(3) (b):

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

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

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

229 4. Unlawful use of destructive devices or bombs, as defined

230 in s. 790.1615(1).

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

232 6. Assault on a law enforcement officer, a firefighter, or

233 other specified officers, as defined in s. 784.07(2) (a).



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- 234 7. Open carrying of a weapon, as defined in s. 790.053.  
235 8. Exposure of sexual organs, as defined in s. 800.03.  
236 9. Unlawful possession of a firearm, as defined in s.  
237 790.22(5).  
238 10. Petit theft, as defined in s. 812.014.  
239 11. Cruelty to animals, as defined in s. 828.12(1).  
240 12. Arson, resulting in bodily harm to a firefighter, as  
241 defined in s. 806.031(1).  
242 13. Unlawful possession or discharge of a weapon or firearm  
243 at a school-sponsored event or on school property as defined in  
244 s. 790.115.  
245  
246 A law enforcement agency may fingerprint and photograph a child  
247 taken into custody upon probable cause that such child has  
248 committed any other violation of law, as the agency deems  
249 appropriate. Such fingerprint records and photographs shall be  
250 retained by the law enforcement agency in a separate file, and  
251 these records and all copies thereof must be marked "Juvenile  
252 Confidential." These records are not available for public  
253 disclosure and inspection under s. 119.07(1) except as provided  
254 in ss. 943.053 and 985.04(2), but shall be available to other  
255 law enforcement agencies, criminal justice agencies, state  
256 attorneys, the courts, the child, the parents or legal  
257 custodians of the child, their attorneys, and any other person  
258 authorized by the court to have access to such records. In  
259 addition, such records may be submitted to the Department of Law  
260 Enforcement for inclusion in the state criminal history records  
261 and used by criminal justice agencies for criminal justice  
262 purposes. These records may, in the discretion of the court, be

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263 open to inspection by anyone upon a showing of cause. The  
264 fingerprint and photograph records shall be produced in the  
265 court whenever directed by the court. Any photograph taken  
266 pursuant to this section may be shown by a law enforcement  
267 officer to any victim or witness of a crime for the purpose of  
268 identifying the person who committed such crime.

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