

By the Committees on Fiscal Policy; Community Affairs; and Criminal Justice; and Senator Evers

594-02691-16

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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; requiring that a prearrest
7 diversion program share information with other
8 prearrest diversion programs under certain
9 circumstances; authorizing law enforcement officers of
10 participating law enforcement agencies, at their sole
11 discretion, to issue civil citations to adults under
12 specified circumstances; requiring an adult who is
13 issued a civil citation by a participating law
14 enforcement agency to report for intake as required by
15 the prearrest diversion program; requiring the
16 provision of appropriate behavioral health care
17 services; requiring that an adult who is issued a
18 civil citation fulfill a community service
19 requirement; requiring the adult to pay restitution to
20 a victim; providing for criminal prosecution of adults
21 who fail to complete the prearrest diversion program;
22 prohibiting an arrest record from being associated
23 with a certain offense for adults who successfully
24 complete the program; establishing a steering
25 committee for the prearrest diversion program;
26 providing duties and membership of the committee;
27 specifying the nonviolent misdemeanor offenses that
28 are eligible for the prearrest diversion program;
29 providing applicability; providing an effective date.

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

594-02691-16

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

901.40 Prearrest diversion programs.—

(1) INTENT.—The Legislature encourages local communities and public or private educational institutions to implement prearrest diversion programs that afford certain adults who fulfill specified intervention and community service obligations the opportunity to avoid an arrest record. The Legislature does not mandate that a particular prearrest diversion program for adults be adopted, but finds that the adoption of the model provided in this section would allow certain adults to avoid an arrest record, while ensuring that those adults receive appropriate intervention and fulfill community service obligations. If a prearrest diversion program is implemented, the program must share information with other prearrest diversion programs.

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

(a) Law enforcement officers, at their sole discretion, may issue civil citations to certain adults who commit a qualifying nonviolent misdemeanor offense listed in subsection (3). A civil citation may be issued only if the adult admits that he or she committed the offense and if the adult has not previously been arrested and has not received an adult civil citation. However, an adult may not be issued a civil citation if the nonviolent misdemeanor offense involves a victim and the victim objects to issuance of the civil citation.

594-02691-16

2016618c3

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

76 (c) A steering committee shall be created for the prearrest
77 diversion program to develop policies and procedures for the
78 program, including, but not limited to, eligibility criteria,
79 program implementation and operation, and the fee to be paid by
80 adults participating in the program. At a minimum, the steering
81 committee must be composed of representatives of the law
82 enforcement agencies participating in the program, a
83 representative of the program services provider, a public
84 defender or his or her designee, a state attorney or his or her
85 designee, a clerk of the circuit court or his or her designee,
86 and other interested stakeholders.

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

594-02691-16

2016618c3

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

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

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

94 (d) Possession of alcohol by a person younger than 21 years
95 of age in violation of s. 856.015.

96 (e) Possession of 20 grams or less of cannabis in violation
97 of s. 893.13.

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

100 (g) Trespass in a structure or conveyance in violation of
101 s. 810.08.

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

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