

1 A bill to be entitled
 2 An act relating to juvenile civil citation and similar
 3 diversion programs; amending s. 985.12, F.S.;
 4 requiring the establishment of civil citation or
 5 similar diversion programs for juveniles; providing
 6 definitions; specifying program eligibility,
 7 participation, and implementation requirements;
 8 providing exceptions; providing applicability;
 9 amending ss. 943.051 and 985.11, F.S.; conforming
 10 provisions to changes made by the act; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 985.12, Florida Statutes, is amended to
 16 read:

17 985.12 Civil citation and similar diversion programs.—

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

27 (b) One or more ~~The~~ civil citation or similar diversion
 28 programs ~~program~~ shall be established in each judicial circuit
 29 which must individually or collectively serve all juveniles who
 30 are alleged to have committed a delinquent act which would be a
 31 misdemeanor if committed by an adult. Such programs must be
 32 established ~~at the local level~~ with the concurrence of the chief
 33 judge of the circuit, state attorney, public defender, and the
 34 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) "Eligible offense" means a misdemeanor violation of:

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

46 2. Section 784.03(1), relating to battery, if the victim
 47 approves the juvenile's participation in a civil citation or
 48 similar diversion program.

49 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to
 50 theft;

51 4. Section 812.015(2), relating to retail and farm theft;

52 5. Section 870.01(1), relating to affrays and riots;

53 6. Section 877.03, relating to disorderly conduct;
 54 7. Section 893.13(6) (b), relating to possession of certain
 55 amounts of cannabis or controlled substances; or
 56 8. Section 893.147, relating to use, possession,
 57 manufacture, delivery, transportation, advertisement, or retail
 58 sale of drug paraphernalia.
 59 (b) "Episode" means the same act, criminal episode, or
 60 transaction.
 61 (c) "Law enforcement officer" has the same meaning as
 62 provided in s. 943.10.
 63 (3) Each ~~Under such a~~ juvenile civil citation or similar
 64 diversion program must:
 65 (a) Require, a law enforcement officer, upon making
 66 contact with a juvenile who admits having committed for the
 67 first time one or more eligible offenses arising out of one
 68 episode, to a misdemeanor, ~~may choose to issue a simple warning~~
 69 ~~or inform the child's guardian or parent of the child's~~
 70 ~~infraction, or may~~ issue a civil citation to the juvenile or
 71 require the juvenile's participation in a similar diversion
 72 program.
 73 (b) Authorize a law enforcement officer to implement
 74 paragraph (a) for a juvenile who admits having committed:
 75 1. For the first time, one or more misdemeanor offenses
 76 arising out of the same episode which are not enumerated in
 77 paragraph (2) (a).
 78 2. For the second or third time, one or more misdemeanor

79 offenses arising out of the same episode, regardless of whether
 80 such offenses are enumerated in paragraph (2) (a).

81

82 If an arrest is made for a misdemeanor subject to this
 83 paragraph, a law enforcement officer must provide written
 84 documentation as to why the arrest was warranted.

85 (c) Require a law enforcement officer to advise a juvenile
 86 who is subject to paragraph (a) or paragraph (b) that the
 87 juvenile has the option to refuse the civil citation or other
 88 similar diversion program and be referred to the department.
 89 This option may be exercised at any time before completion of
 90 the community service assignment required under paragraph (e).
 91 Participation in a civil citation or similar diversion program
 92 is not considered a referral to the department.

93 (d) Require the law enforcement agency issuing the civil
 94 citation or documentation for a similar diversion program to
 95 send a copy of the citation or documentation to other law
 96 enforcement agencies within the judicial circuit; the state
 97 attorney; the department; the community service performance
 98 monitor designated by the department, if applicable; the parent
 99 or guardian of the juvenile; and the victim. The department
 100 shall enter such information into the juvenile offender
 101 information system.

102 (e) Require a juvenile to complete, and assess up to 50
 103 community service hours, and participate ~~require participation~~
 104 in intervention services as indicated by an assessment of the

105 needs of the juvenile, including family counseling, urinalysis
106 monitoring, and substance abuse and mental health treatment
107 services.

108 1. The juvenile shall report to the community service
109 performance monitor within 7 business days after the date of
110 issuance of the civil citation or documentation for a similar
111 diversion program. The juvenile shall spend a minimum of 5 hours
112 per week completing the community service assignment. The
113 monitor shall immediately notify the intake office of the
114 department that a juvenile has reported to the monitor and the
115 expected date on which the juvenile will complete the community
116 service assignment ~~A copy of each citation issued under this~~
117 ~~section shall be provided to the department, and the department~~
118 ~~shall enter appropriate information into the juvenile offender~~
119 ~~information system. Use of the civil citation or similar~~
120 ~~diversion program is not limited to first-time misdemeanors and~~
121 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
122 ~~is made, a law enforcement officer must provide written~~
123 ~~documentation as to why an arrest was warranted.~~

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

128 3. If the juvenile fails to timely report for a community
129 service assignment, complete such assignment, or comply with
130 assigned intervention services within the prescribed time, or if

131 the juvenile commits a subsequent misdemeanor, the law
132 enforcement officer shall issue a report alleging the juvenile
133 has committed a delinquent act, at which time a juvenile
134 probation officer shall process the original delinquent act as a
135 referral to the department and refer the report to the state
136 attorney for review ~~The issuance of a civil citation is not~~
137 ~~considered a referral to the department.~~

138 (4) ~~(2)~~ The department shall develop guidelines for ~~the~~
139 civil citation and similar diversion programs ~~program~~ which
140 include intervention services that are based on ~~upon~~ proven
141 civil citation or similar diversion programs in ~~within~~ the
142 state.

143 (5) This section does not apply to:

144 (a) A juvenile who is currently alleged to have committed,
145 or is currently charged with, and awaiting final disposition of
146 an offense that would be a felony if committed by an adult.

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

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

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

157 or guardian of the alleged offense.

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

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

171 ~~(5) If the child fails to report timely for a work~~
172 ~~assignment, complete a work assignment, or comply with assigned~~
173 ~~intervention services within the prescribed time, or if the~~
174 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
175 ~~officer shall issue a report alleging the child has committed a~~
176 ~~delinquent act, at which point a juvenile probation officer~~
177 ~~shall process the original delinquent act as a referral to the~~
178 ~~department and refer the report to the state attorney for~~
179 ~~review.~~

180 ~~(6) At the time of issuance of the citation by the law~~
181 ~~enforcement officer, such officer shall advise the child that~~
182 ~~the child has the option to refuse the citation and to be~~

183 ~~referred to the intake office of the department. That option may~~
 184 ~~be exercised at any time before completion of the work~~
 185 ~~assignment.~~

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

188 943.051 Criminal justice information; collection and
 189 storage; fingerprinting.—

190 (3)

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

- 196 1. Assault, as defined in s. 784.011.
- 197 2. Battery, as defined in s. 784.03.
- 198 3. Carrying a concealed weapon, as defined in s.
 199 790.01(1).
- 200 4. Unlawful use of destructive devices or bombs, as
 201 defined 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.
 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
 214 firearm at a school-sponsored event or on school property, as
 215 provided 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.
 229 790.01(1).

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

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

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

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

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

237 9. Unlawful possession of a firearm, as defined in s.
238 790.22(5).

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

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

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

243 13. Unlawful possession or discharge of a weapon or
244 firearm at a school-sponsored event or on school property as
245 defined in s. 790.115.

246

247 A law enforcement agency may fingerprint and photograph a child
248 taken into custody upon probable cause that such child has
249 committed any other violation of law, as the agency deems
250 appropriate. Such fingerprint records and photographs shall be
251 retained by the law enforcement agency in a separate file, and
252 these records and all copies thereof must be marked "Juvenile
253 Confidential." These records are not available for public
254 disclosure and inspection under s. 119.07(1) except as provided
255 in ss. 943.053 and 985.04(2), but shall be available to other
256 law enforcement agencies, criminal justice agencies, state
257 attorneys, the courts, the child, the parents or legal
258 custodians of the child, their attorneys, and any other person
259 authorized by the court to have access to such records. In
260 addition, such records may be submitted to the Department of Law

HB 7085

2016

261 Enforcement for inclusion in the state criminal history records
262 and used by criminal justice agencies for criminal justice
263 purposes. These records may, in the discretion of the court, be
264 open to inspection by anyone upon a showing of cause. The
265 fingerprint and photograph records shall be produced in the
266 court whenever directed by the court. Any photograph taken
267 pursuant to this section may be shown by a law enforcement
268 officer to any victim or witness of a crime for the purpose of
269 identifying the person who committed such crime.

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