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576-02204-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

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) As used in this section, the term:

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

(b) "Misdemeanor offense" means one misdemeanor violation of law.

(2) (a) ~~(1)~~ 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



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28 department shall encourage and assist in the implementation and
29 improvement of civil citation and ~~programs or other~~ similar
30 diversion programs in ~~around~~ the state.

31 (b) One or more ~~The~~ civil citation or similar diversion
32 programs ~~program~~ shall be established in each county to serve
33 juveniles who commit misdemeanor offenses as provided in this
34 section. Such programs must meet the requirements of this
35 section and be established ~~at the local level~~ with the
36 concurrence of the chief judge of the circuit, state attorney,
37 public defender, and the head of each local law enforcement
38 agency involved. At least one program must be applicable
39 countywide. The countywide program may be established by a
40 county or by interlocal agreement pursuant to s. 163.01 by a
41 county working jointly with any municipalities or other entities
42 within the county's boundaries or contiguous counties and any
43 municipalities or other entities within the counties'
44 boundaries. The program may be operated by an entity such as a
45 law enforcement agency, the department, a juvenile assessment
46 center, the county or municipality, or another entity selected
47 by the county or municipality. Any additional programs shall
48 complement the countywide program. Any program may work with any
49 other program in the state to best serve the juveniles in the
50 jurisdiction. An entity operating such a ~~the civil citation or~~
51 ~~similar diversion~~ program must do so in consultation and
52 agreement with the state attorney and local law enforcement
53 agencies.

54 (3) Under ~~such~~ a juvenile civil citation or similar
55 diversion program, a law enforcement officer who makes, ~~upon~~
56 ~~making~~ contact with a juvenile who admits having committed a



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57 misdemeanor offense for the first time ~~misdemeanor~~, may:
58 (a) Choose to issue a simple warning or inform the child's
59 guardian or parent of the child's infraction;~~7~~ or may
60 (b) Issue a civil citation to the juvenile or require the
61 juvenile's participation in a similar diversion program, as
62 follows:
63 1. The officer shall issue the citation if the violation of
64 law is a misdemeanor offense and is one of the following:
65 a. Section 562.111, relating to possession of alcoholic
66 beverages by persons under age 21;
67 b. Section 784.03(1), relating to battery;
68 c. Section 806.13, relating to criminal mischief;
69 d. Section 810.08 or s. 810.09, relating to trespass;
70 e. Section 812.014(2)(e) or s. 812.014(3)(a), relating to
71 theft;
72 f. Section 812.015(2), relating to retail and farm theft;
73 g. Section 856.021, relating to loitering or prowling;
74 h. Section 870.01(1), relating to affrays and riots;
75 i. Section 877.03, relating to disorderly conduct;
76 j. Section 893.13(6)(b), relating to possession of certain
77 amounts of cannabis;
78 k. Section 893.147, relating to use, possession,
79 manufacture, delivery, transportation, advertisement, or retail
80 sale of drug paraphernalia; or
81 1. Section 843.02, relating to resisting an officer without
82 violence.
83 2. The officer may issue a civil citation to the juvenile
84 or require the juvenile's participation in a similar diversion
85 program if the violation of law is a misdemeanor not enumerated



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86 in subparagraph 1.

87 (4) Under a juvenile civil citation or similar diversion
88 program, a law enforcement officer who makes contact with a
89 juvenile who admits to having committed a misdemeanor offense
90 and has one or two prior misdemeanors from a separate criminal
91 episode may issue a civil citation to the juvenile or require
92 the juvenile's participation in a similar diversion program,
93 regardless of whether the violations of law are enumerated in
94 subparagraph (3) (b)1.

95 (5) Under a juvenile civil citation or similar diversion
96 program, a law enforcement officer who makes contact with a
97 juvenile who admits to having committed a misdemeanor offense
98 and is currently alleged to have committed, or is currently
99 charged with and awaiting final disposition, of an offense that
100 would be a felony, may issue a civil citation to the juvenile or
101 require the juvenile's participation in a similar diversion
102 program, regardless of whether the violations of law are
103 enumerated in subparagraph (3) (b)1.

104 (6) If an arrest is made for a misdemeanor offense subject
105 to paragraph (3) (b)2., subsection (4), or subsection (5) a law
106 enforcement officer must provide written documentation as to why
107 the arrest was warranted.

108 (7) A law enforcement officer shall advise a juvenile
109 eligible to receive a civil citation under subsection (3), (4),
110 or (5) that he or she has the option to refuse the civil
111 citation or other similar diversion program and be referred to
112 the department. This option may be exercised at any time before
113 completion of the community service assignment required under
114 subsection (9). Participation in a civil citation or similar



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115 diversion program is not considered a referral to the
116 department.

117 (8) Upon issuance of the civil citation or documentation
118 requiring a similar diversion program, the law enforcement
119 officer shall send a copy to the county sheriff, the state
120 attorney, the department or the entity operating the program as
121 designated by the department, the parent or guardian of the
122 juvenile, and the victim. The entity operating the program shall
123 enter such information into the juvenile justice information
124 system.

125 (9) A juvenile who elects to participate in a civil
126 citation or similar diversion program shall complete, and assess
127 up to 50 community service hours, and participate require
128 participation in intervention services as indicated by an
129 assessment of the needs of the juvenile, including family
130 counseling, urinalysis monitoring, and substance abuse and
131 mental health treatment services.

132 (a) The juvenile shall report to the entity operating the
133 program within 10 business days after the date of issuance of
134 the civil citation or documentation for a similar diversion
135 program. The juvenile shall spend a minimum of 5 hours per week
136 completing the community service assignment. The entity
137 operating the program shall immediately notify the department
138 through the juvenile justice information system that a juvenile
139 has reported to the entity operating the program and the
140 expected date on which the juvenile will complete the community
141 service assignment ~~A copy of each citation issued under this~~
142 ~~section shall be provided to the department, and the department~~
143 ~~shall enter appropriate information into the juvenile offender~~



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144 ~~information system. Use of the civil citation or similar~~
145 ~~diversion program is not limited to first-time misdemeanors and~~
146 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
147 ~~is made, a law enforcement officer must provide written~~
148 ~~documentation as to why an arrest was warranted.~~

149 (b) At the conclusion of a juvenile's civil citation
150 program or similar diversion program, the entity agency
151 operating the program shall report the outcome of the program to
152 the department.

153 (c) If the juvenile fails to timely report for a community
154 service assignment, complete such assignment, or comply with
155 assigned intervention services within the prescribed time, the
156 entity operating the program shall notify the law enforcement
157 officer. The law enforcement officer shall determine if there is
158 good cause to arrest the juvenile for the original misdemeanor
159 offense and refer the case to the state attorney or allow the
160 juvenile to continue in the program.

161 (d) If the juvenile commits a subsequent delinquent act
162 then the entity operating the program shall notify the law
163 enforcement officer and the law enforcement officer shall arrest
164 the juvenile for the original misdemeanor offense and refer the
165 case to the state attorney. ~~The issuance of a civil citation is~~
166 ~~not considered a referral to the department.~~

167 (10) ~~(2)~~ The department shall develop guidelines for the
168 civil citation and similar diversion programs program which
169 include intervention services that are based on ~~upon~~ proven
170 civil citation or similar diversion programs in ~~within~~ the
171 state. The department shall report annually on best practices of
172 the programs.



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173 (11) This section does not apply to:

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

177 (b) A misdemeanor offense arising out of a criminal episode
178 in which the juvenile is also alleged to have committed an
179 offense that would be a felony if committed by an adult.

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

185 ~~(4) The child shall report to the community service~~
186 ~~performance monitor within 7 working days after the date of~~
187 ~~issuance of the citation. The work assignment shall be~~
188 ~~accomplished at a rate of not less than 5 hours per week. The~~
189 ~~monitor shall advise the intake office immediately upon~~
190 ~~reporting by the child to the monitor, that the child has in~~
191 ~~fact reported and the expected date upon which completion of the~~
192 ~~work assignment will be accomplished.~~

193 ~~(5) If the child fails to report timely for a work~~
194 ~~assignment, complete a work assignment, or comply with assigned~~
195 ~~intervention services within the prescribed time, or if the~~
196 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
197 ~~officer shall issue a report alleging the child has committed a~~
198 ~~delinquent act, at which point a juvenile probation officer~~
199 ~~shall process the original delinquent act as a referral to the~~
200 ~~department and refer the report to the state attorney for~~
201 ~~review.~~



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202 ~~(6) At the time of issuance of the citation by the law~~
203 ~~enforcement officer, such officer shall advise the child that~~
204 ~~the child has the option to refuse the citation and to be~~
205 ~~referred to the intake office of the department. That option may~~
206 ~~be exercised at any time before completion of the work~~
207 ~~assignment.~~

208 Section 2. Paragraph (b) of subsection (3) of section
209 943.051, Florida Statutes, is amended to read:

210 943.051 Criminal justice information; collection and
211 storage; fingerprinting.—

212 (3)

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

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

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

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

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

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

224 6. Assault or battery on a law enforcement officer, a
225 firefighter, or other specified officers, as defined in s.
226 784.07(2)(a) and (b).

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

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

229 9. Unlawful possession of a firearm, as defined in s.
230 790.22(5).



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- 231 10. Petit theft, as defined in s. 812.014(3).
- 232 11. Cruelty to animals, as defined in s. 828.12(1).
- 233 12. Arson, as defined in s. 806.031(1).
- 234 13. Unlawful possession or discharge of a weapon or firearm
- 235 at a school-sponsored event or on school property, as provided
- 236 in s. 790.115.
- 237 Section 3. Paragraph (b) of subsection (1) of section
- 238 985.11, Florida Statutes, is amended to read:
- 239 985.11 Fingerprinting and photographing.—
- 240 (1)
- 241 (b) Unless the child is participating in ~~is issued~~ a civil
- 242 citation or ~~is participating in~~ a similar diversion program
- 243 pursuant to s. 985.12, a child who is charged with or found to
- 244 have committed one of the following offenses shall be
- 245 fingerprinted, and the fingerprints shall be submitted to the
- 246 Department of Law Enforcement as provided in s. 943.051(3)(b):
- 247 1. Assault, as defined in s. 784.011.
- 248 2. Battery, as defined in s. 784.03.
- 249 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 250 4. Unlawful use of destructive devices or bombs, as defined
- 251 in s. 790.1615(1).
- 252 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 253 6. Assault on a law enforcement officer, a firefighter, or
- 254 other specified officers, as defined in s. 784.07(2)(a).
- 255 7. Open carrying of a weapon, as defined in s. 790.053.
- 256 8. Exposure of sexual organs, as defined in s. 800.03.
- 257 9. Unlawful possession of a firearm, as defined in s.
- 258 790.22(5).
- 259 10. Petit theft, as defined in s. 812.014.



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260 11. Cruelty to animals, as defined in s. 828.12(1).
261 12. Arson, resulting in bodily harm to a firefighter, as
262 defined in s. 806.031(1).
263 13. Unlawful possession or discharge of a weapon or firearm
264 at a school-sponsored event or on school property as defined in
265 s. 790.115.
266
267 A law enforcement agency may fingerprint and photograph a child
268 taken into custody upon probable cause that such child has
269 committed any other violation of law, as the agency deems
270 appropriate. Such fingerprint records and photographs shall be
271 retained by the law enforcement agency in a separate file, and
272 these records and all copies thereof must be marked "Juvenile
273 Confidential." These records are not available for public
274 disclosure and inspection under s. 119.07(1) except as provided
275 in ss. 943.053 and 985.04(2), but shall be available to other
276 law enforcement agencies, criminal justice agencies, state
277 attorneys, the courts, the child, the parents or legal
278 custodians of the child, their attorneys, and any other person
279 authorized by the court to have access to such records. In
280 addition, such records may be submitted to the Department of Law
281 Enforcement for inclusion in the state criminal history records
282 and used by criminal justice agencies for criminal justice
283 purposes. These records may, in the discretion of the court, be
284 open to inspection by anyone upon a showing of cause. The
285 fingerprint and photograph records shall be produced in the
286 court whenever directed by the court. Any photograph taken
287 pursuant to this section may be shown by a law enforcement
288 officer to any victim or witness of a crime for the purpose of



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289 identifying the person who committed such crime.

290 Section 4. This act shall take effect October 1, 2017.