

By the Committee on Criminal Justice; and Senators Flores, Bracy, Garcia, and Baxley

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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 misdemeanor offense if committed by an adult. Such programs must

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32 meet the requirements of this section and be established ~~at the~~  
33 ~~local level~~ with the concurrence of the chief judge of the  
34 circuit, state attorney, public defender, and the head of each  
35 local law enforcement agency involved. At least one program must  
36 be operated by the county. Additional programs ~~The program~~ may  
37 be operated by an entity such as a law enforcement agency, the  
38 department, a juvenile assessment center, the county or  
39 municipality, or another entity selected by the county or  
40 municipality. Any additional programs shall complement the  
41 established county program. An entity operating such a ~~the civil~~  
42 ~~citation or similar diversion~~ program must do so in consultation  
43 and agreement with the state attorney and local law enforcement  
44 agencies.

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

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

48 (b) "Misdemeanor offense" means one or more misdemeanor  
49 violations of law arising out of the same criminal episode, act,  
50 or transaction.

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

57 (a) Shall issue a civil citation to the juvenile or require  
58 the juvenile's participation in a similar diversion program if  
59 each violation of law is a misdemeanor offense and is one of the  
60 following:

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- 61       1. Section 562.111, relating to possession of alcoholic  
62 beverages by persons under age 21;
- 63       2. Section 784.03(1), relating to battery;
- 64       3. Section 806.13, relating to criminal mischief;
- 65       4. Section 810.08 or s. 810.09, relating to trespass;
- 66       5. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
67 theft;
- 68       6. Section 812.015(2), relating to retail and farm theft;
- 69       7. Section 856.021, relating to loitering or prowling;
- 70       8. Section 870.01(1), relating to affrays and riots;
- 71       9. Section 877.03, relating to disorderly conduct;
- 72       10. Section 893.13(6)(b), relating to possession of certain  
73 amounts of cannabis or controlled substances;
- 74       11. Section 893.147, relating to use, possession,  
75 manufacture, delivery, transportation, advertisement, or retail  
76 sale of drug paraphernalia; or
- 77       12. Section 843.02, relating to resisting an officer  
78 without violence.
- 79       (b) May issue a civil citation to the juvenile or require  
80 the juvenile's participation in a similar diversion program if  
81 the violations of law are misdemeanors not enumerated in  
82 paragraph (a).
- 83       (4) Under a juvenile civil citation or similar diversion  
84 program, a law enforcement officer who makes contact with a  
85 juvenile who admits having committed a second-time or third-time  
86 misdemeanor offense may issue a civil citation to the juvenile  
87 or require the juvenile's participation in a similar diversion  
88 program, regardless of whether the violations of law are  
89 enumerated in paragraph (3)(a).

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

94       (6) A law enforcement officer shall advise a juvenile who  
95 is subject to subsection (3) or subsection (4) that the juvenile  
96 has the option to refuse the civil citation or other similar  
97 diversion program and be referred to the department. This option  
98 may be exercised at any time before completion of the community  
99 service assignment required under subsection (8). Participation  
100 in a civil citation or similar diversion program is not  
101 considered a referral to the department.

102       (7) Upon issuance of the civil citation or documentation  
103 requiring a similar diversion program, the law enforcement  
104 officer shall send a copy to the county sheriff, the state  
105 attorney, the department or the entity operating the program as  
106 designated by the department, the parent or guardian of the  
107 juvenile, and the victim. The entity operating the program shall  
108 enter such information into the juvenile justice information  
109 system.

110       (8) A juvenile who elects to participate in a civil  
111 citation or similar diversion program shall complete, ~~and assess~~  
112 up to 50 community service hours, ~~and participate~~ ~~require~~  
113 ~~participation~~ in intervention services as indicated by an  
114 assessment of the needs of the juvenile, including family  
115 counseling, urinalysis monitoring, and substance abuse and  
116 mental health treatment services.

117       (a) The juvenile shall report to the entity operating the  
118 program within 10 business days after the date of issuance of

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119 the civil citation or documentation for a similar diversion  
120 program. The juvenile shall spend a minimum of 5 hours per week  
121 completing the community service assignment. The entity  
122 operating the program shall immediately notify the department  
123 through the juvenile justice information system that a juvenile  
124 has reported to the entity operating the program and the  
125 expected date on which the juvenile will complete the community  
126 service assignment ~~A copy of each citation issued under this~~  
127 ~~section shall be provided to the department, and the department~~  
128 ~~shall enter appropriate information into the juvenile offender~~  
129 ~~information system. Use of the civil citation or similar~~  
130 ~~diversion program is not limited to first-time misdemeanors and~~  
131 ~~may be used in up to two subsequent misdemeanors. If an arrest~~  
132 ~~is made, a law enforcement officer must provide written~~  
133 ~~documentation as to why an arrest was warranted.~~

134 (b) At the conclusion of a juvenile's civil citation  
135 ~~program~~ or similar diversion program, the entity ~~agency~~  
136 operating the program shall report the outcome of the program to  
137 the department.

138 (c) If the juvenile fails to timely report for a community  
139 service assignment, complete such assignment, or comply with  
140 assigned intervention services within the prescribed time, the  
141 entity operating the program shall notify the law enforcement  
142 officer and the law enforcement officer shall proceed with an  
143 arrest of the juvenile.

144 (d) If the juvenile commits a subsequent delinquent act  
145 then the entity operating the program shall notify the law  
146 enforcement officer and the law enforcement officer shall  
147 proceed with an arrest of the juvenile ~~The issuance of a civil~~

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148 ~~citation is not considered a referral to the department.~~

149 (9)(2) The department shall develop guidelines for the  
150 civil citation and similar diversion programs ~~program~~ which  
151 include intervention services that are based on ~~upon~~ proven  
152 civil citation or similar diversion programs in ~~within~~ the  
153 state.

154 (10) This section does not apply to:

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

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

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

164 (11) This section does not modify the authority of a law  
165 enforcement officer who comes into contact with a juvenile who  
166 is alleged to have committed a misdemeanor offense to issue only  
167 a simple warning to the juvenile or notice to a juvenile's  
168 parent or guardian of the alleged offense.

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

174 ~~(4) The child shall report to the community service~~  
175 ~~performance monitor within 7 working days after the date of~~  
176 ~~issuance of the citation. The work assignment shall be~~

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177 ~~accomplished at a rate of not less than 5 hours per week. The~~  
178 ~~monitor shall advise the intake office immediately upon~~  
179 ~~reporting by the child to the monitor, that the child has in~~  
180 ~~fact reported and the expected date upon which completion of the~~  
181 ~~work assignment will be accomplished.~~

182 ~~(5) If the child fails to report timely for a work~~  
183 ~~assignment, complete a work assignment, or comply with assigned~~  
184 ~~intervention services within the prescribed time, or if the~~  
185 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~  
186 ~~officer shall issue a report alleging the child has committed a~~  
187 ~~delinquent act, at which point a juvenile probation officer~~  
188 ~~shall process the original delinquent act as a referral to the~~  
189 ~~department and refer the report to the state attorney for~~  
190 ~~review.~~

191 ~~(6) At the time of issuance of the citation by the law~~  
192 ~~enforcement officer, such officer shall advise the child that~~  
193 ~~the child has the option to refuse the citation and to be~~  
194 ~~referred to the intake office of the department. That option may~~  
195 ~~be exercised at any time before completion of the work~~  
196 ~~assignment.~~

197 Section 2. Paragraph (b) of subsection (3) of section  
198 943.051, Florida Statutes, is amended to read:

199 943.051 Criminal justice information; collection and  
200 storage; fingerprinting.—

201 (3)

202 (b) A minor who is charged with or found to have committed  
203 the following offenses shall be fingerprinted and the  
204 fingerprints shall be submitted electronically to the  
205 department, unless the minor participates in ~~is issued~~ a civil

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206 citation or similar diversion program pursuant to s. 985.12:

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

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

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

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

211 in s. 790.1615(1).

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

213 6. Assault or battery on a law enforcement officer, a

214 firefighter, or other specified officers, as defined in s.

215 784.07(2)(a) and (b).

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

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

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

219 790.22(5).

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

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

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

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

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

225 in s. 790.115.

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

227 985.11, Florida Statutes, is amended to read:

228 985.11 Fingerprinting and photographing.—

229 (1)

230 (b) Unless the child is participating in ~~is issued~~ a civil

231 citation or ~~is participating in a~~ similar diversion program

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

233 have committed one of the following offenses shall be

234 fingerprinted, and the fingerprints shall be submitted to the



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- 235 Department of Law Enforcement as provided in s. 943.051(3)(b):
- 236 1. Assault, as defined in s. 784.011.
- 237 2. Battery, as defined in s. 784.03.
- 238 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 239 4. Unlawful use of destructive devices or bombs, as defined
- 240 in s. 790.1615(1).
- 241 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 242 6. Assault on a law enforcement officer, a firefighter, or
- 243 other specified officers, as defined in s. 784.07(2)(a).
- 244 7. Open carrying of a weapon, as defined in s. 790.053.
- 245 8. Exposure of sexual organs, as defined in s. 800.03.
- 246 9. Unlawful possession of a firearm, as defined in s.
- 247 790.22(5).
- 248 10. Petit theft, as defined in s. 812.014.
- 249 11. Cruelty to animals, as defined in s. 828.12(1).
- 250 12. Arson, resulting in bodily harm to a firefighter, as
- 251 defined in s. 806.031(1).
- 252 13. Unlawful possession or discharge of a weapon or firearm
- 253 at a school-sponsored event or on school property as defined in
- 254 s. 790.115.

255

256 A law enforcement agency may fingerprint and photograph a child

257 taken into custody upon probable cause that such child has

258 committed any other violation of law, as the agency deems

259 appropriate. Such fingerprint records and photographs shall be

260 retained by the law enforcement agency in a separate file, and

261 these records and all copies thereof must be marked "Juvenile

262 Confidential." These records are not available for public

263 disclosure and inspection under s. 119.07(1) except as provided

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264 in ss. 943.053 and 985.04(2), but shall be available to other  
265 law enforcement agencies, criminal justice agencies, state  
266 attorneys, the courts, the child, the parents or legal  
267 custodians of the child, their attorneys, and any other person  
268 authorized by the court to have access to such records. In  
269 addition, such records may be submitted to the Department of Law  
270 Enforcement for inclusion in the state criminal history records  
271 and used by criminal justice agencies for criminal justice  
272 purposes. These records may, in the discretion of the court, be  
273 open to inspection by anyone upon a showing of cause. The  
274 fingerprint and photograph records shall be produced in the  
275 court whenever directed by the court. Any photograph taken  
276 pursuant to this section may be shown by a law enforcement  
277 officer to any victim or witness of a crime for the purpose of  
278 identifying the person who committed such crime.

279 Section 4. This act shall take effect July 1, 2017.