

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 county which must  
 29 | individually or collectively serve all juveniles who are alleged  
 30 | to have committed a violation of law which would be a  
 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 who makes, ~~upon~~  
 50 | ~~making~~ contact with a juvenile who admits having committed a

51 first-time misdemeanor offense: misdemeanor, may choose to issue  
 52 a 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  
 55 require the juvenile's participation in a similar diversion  
 56 program if each violation of law in the misdemeanor offense is  
 57 one of the following:

- 58 1. Section 562.111, relating to possession of alcoholic  
 59 beverages by persons under age 21;
- 60 2. Section 784.03(1), relating to battery;
- 61 3. Section 806.13, relating to criminal mischief;
- 62 4. Section 810.08 or s. 810.09, relating to trespass;
- 63 5. Section 812.014(2)(e) or s. 812.014(3)(a), relating to  
 64 theft;
- 65 6. Section 812.015(2), relating to retail and farm theft;
- 66 7. Section 870.01(1), relating to affrays and riots;
- 67 8. Section 877.03, relating to disorderly conduct;
- 68 9. Section 893.13(6)(b), relating to possession of certain  
 69 amounts of cannabis or controlled substances;
- 70 10. Section 893.147, relating to use, possession,  
 71 manufacture, delivery, transportation, advertisement, or retail  
 72 sale of drug paraphernalia; or
- 73 11. Section 843.02, relating to resisting an officer  
 74 without violence.

75 (b) May issue a civil citation to the juvenile or require

76 | the juvenile's participation in a similar diversion program if  
77 | the violations of law are not enumerated in paragraph (a).

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

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

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

96 | (7) Upon issuance of the civil citation or documentation  
97 | requiring a similar diversion program, the law enforcement  
98 | officer shall send a copy to the county sheriff, the state  
99 | attorney, the appropriate intake office of the department or the  
100 | community service performance monitor designated by the

101 department, the parent or guardian of the juvenile, and the  
102 victim. The department shall enter such information into the  
103 juvenile offender information system.

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

111 (a) The juvenile shall report to the community service  
112 performance monitor within 10 business days after the date of  
113 issuance of the civil citation or documentation for a similar  
114 diversion program. The juvenile shall spend a minimum of 5 hours  
115 per week completing the community service assignment. The  
116 monitor shall immediately notify the intake office of the  
117 department that a juvenile has reported to the monitor and the  
118 expected date on which the juvenile will complete the community  
119 service assignment ~~A copy of each citation issued under this~~  
120 ~~section shall be provided to the department, and the department~~  
121 ~~shall enter appropriate information into the juvenile offender~~  
122 ~~information system. Use of the civil citation or similar~~  
123 ~~diversion program is not limited to first-time misdemeanors and~~  
124 ~~may be used in up to two subsequent misdemeanors. If an arrest~~  
125 ~~is made, a law enforcement officer must provide written~~

126 ~~documentation as to why an arrest was warranted.~~

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

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

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

146 (10) This section does not apply to:

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

150 (b) A juvenile who has entered a plea of nolo contendere

151 or guilty to, or has been found to have committed, an offense  
152 that would be a felony if committed by an adult.

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

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

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

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

174 ~~(5) If the child fails to report timely for a work~~  
175 ~~assignment, complete a work assignment, or comply with assigned~~

176 ~~intervention services within the prescribed time, or if the~~  
 177 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~  
 178 ~~officer shall issue a report alleging the child has committed a~~  
 179 ~~delinquent act, at which point a juvenile probation officer~~  
 180 ~~shall process the original delinquent act as a referral to the~~  
 181 ~~department and refer the report to the state attorney for~~  
 182 ~~review.~~

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

189 Section 2. Paragraph (b) of subsection (3) of section  
 190 943.051, Florida Statutes, is amended to read:

191 943.051 Criminal justice information; collection and  
 192 storage; fingerprinting.—

193 (3)

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

- 199 1. Assault, as defined in s. 784.011.
- 200 2. Battery, as defined in s. 784.03.



- 201 3. Carrying a concealed weapon, as defined in s.
- 202 790.01(1).
- 203 4. Unlawful use of destructive devices or bombs, as
- 204 defined in s. 790.1615(1).
- 205 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 206 6. Assault or battery on a law enforcement officer, a
- 207 firefighter, or other specified officers, as defined in s.
- 208 784.07(2)(a) and (b).
- 209 7. Open carrying of a weapon, as defined in s. 790.053.
- 210 8. Exposure of sexual organs, as defined in s. 800.03.
- 211 9. Unlawful possession of a firearm, as defined in s.
- 212 790.22(5).
- 213 10. Petit theft, as defined in s. 812.014(3).
- 214 11. Cruelty to animals, as defined in s. 828.12(1).
- 215 12. Arson, as defined in s. 806.031(1).
- 216 13. Unlawful possession or discharge of a weapon or
- 217 firearm at a school-sponsored event or on school property, as
- 218 provided in s. 790.115.
- 219 Section 3. Paragraph (b) of subsection (1) of section
- 220 985.11, Florida Statutes, is amended to read:
- 221 985.11 Fingerprinting and photographing.—
- 222 (1)
- 223 (b) Unless the child is participating in ~~is issued~~ a civil
- 224 citation or ~~is participating in a~~ similar diversion program
- 225 pursuant to s. 985.12, a child who is charged with or found to

226 | have committed one of the following offenses shall be  
 227 | fingerprinted, and the fingerprints shall be submitted to the  
 228 | Department of Law Enforcement as provided in s. 943.051(3)(b):

- 229 |       1. Assault, as defined in s. 784.011.
- 230 |       2. Battery, as defined in s. 784.03.
- 231 |       3. Carrying a concealed weapon, as defined in s.  
 232 | 790.01(1).
- 233 |       4. Unlawful use of destructive devices or bombs, as  
 234 | defined in s. 790.1615(1).
- 235 |       5. Neglect of a child, as defined in s. 827.03(1)(e).
- 236 |       6. Assault on a law enforcement officer, a firefighter, or  
 237 | other specified officers, as defined in s. 784.07(2)(a).
- 238 |       7. Open carrying of a weapon, as defined in s. 790.053.
- 239 |       8. Exposure of sexual organs, as defined in s. 800.03.
- 240 |       9. Unlawful possession of a firearm, as defined in s.  
 241 | 790.22(5).
- 242 |       10. Petit theft, as defined in s. 812.014.
- 243 |       11. Cruelty to animals, as defined in s. 828.12(1).
- 244 |       12. Arson, resulting in bodily harm to a firefighter, as  
 245 | defined in s. 806.031(1).
- 246 |       13. Unlawful possession or discharge of a weapon or  
 247 | firearm at a school-sponsored event or on school property as  
 248 | defined in s. 790.115.

249 |  
 250 | A law enforcement agency may fingerprint and photograph a child

251 taken into custody upon probable cause that such child has  
252 committed any other violation of law, as the agency deems  
253 appropriate. Such fingerprint records and photographs shall be  
254 retained by the law enforcement agency in a separate file, and  
255 these records and all copies thereof must be marked "Juvenile  
256 Confidential." These records are not available for public  
257 disclosure and inspection under s. 119.07(1) except as provided  
258 in ss. 943.053 and 985.04(2), but shall be available to other  
259 law enforcement agencies, criminal justice agencies, state  
260 attorneys, the courts, the child, the parents or legal  
261 custodians of the child, their attorneys, and any other person  
262 authorized by the court to have access to such records. In  
263 addition, such records may be submitted to the Department of Law  
264 Enforcement for inclusion in the state criminal history records  
265 and used by criminal justice agencies for criminal justice  
266 purposes. These records may, in the discretion of the court, be  
267 open to inspection by anyone upon a showing of cause. The  
268 fingerprint and photograph records shall be produced in the  
269 court whenever directed by the court. Any photograph taken  
270 pursuant to this section may be shown by a law enforcement  
271 officer to any victim or witness of a crime for the purpose of  
272 identifying the person who committed such crime.

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