

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; encouraging prearrest diversion
7 programs to share information with other prearrest
8 diversion programs; authorizing law enforcement
9 officers, at their sole discretion, to issue a civil
10 citation or similar prearrest diversion program notice
11 to adults under specified circumstances; requiring an
12 adult who is issued a civil citation or similar notice
13 by a participating law enforcement agency to report
14 for intake as required by the prearrest diversion
15 program; requiring the program to provide certain
16 appropriate services; requiring that an adult who is
17 issued a civil citation or similar notice fulfill a
18 community service requirement; requiring the adult to
19 pay restitution to a victim; specifying that a law
20 enforcement agency may criminally charge an adult who
21 fails to complete the prearrest diversion program and
22 refer the case for prosecution; prohibiting an arrest
23 record from being associated with a certain offense
24 for an adult who successfully completes the program;
25 requiring specified entities to create the prearrest

26 diversion program; requiring the entities to develop
27 policies and procedures for the development and
28 operation of the program and to solicit input from
29 other interested stakeholders; authorizing specified
30 entities to operate the program; specifying how the
31 misdemeanor offenses that are eligible for the
32 prearrest diversion program are selected; providing
33 applicability; providing an effective date.

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

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

39 901.40 Prearrest diversion programs.-

40 (1) INTENT.-The Legislature encourages local communities
41 and public or private educational institutions to implement
42 prearrest diversion programs that afford certain adults who
43 fulfill specified intervention and community service obligations
44 the opportunity to avoid an arrest record. The Legislature does
45 not mandate that a particular prearrest diversion program for
46 adults be adopted, but finds that the adoption of the model
47 provided in this section would allow certain adults to avoid an
48 arrest record, while ensuring that those adults receive
49 appropriate intervention and fulfill community service
50 obligations. If a prearrest diversion program is implemented,

51 the program is encouraged to share information with other
52 prearrest diversion programs.

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

56 (a) Law enforcement officers, at their sole discretion,
57 may issue a civil citation or similar prearrest diversion
58 program notice to certain adults who commit a qualifying
59 misdemeanor offense selected by the program. A civil citation or
60 similar notice may be issued only if the adult does not contest
61 that he or she committed the offense and if the adult has not
62 previously been arrested and has not previously received an
63 adult civil citation or similar notice, unless the terms of the
64 program allow otherwise.

65 (b) An adult who receives a civil citation or similar
66 notice shall report for intake as required by the prearrest
67 diversion program and shall be provided appropriate assessment,
68 intervention, education, and behavioral health care services by
69 the program. While in the program, the adult shall perform
70 community service hours as specified by the program. The adult
71 shall pay restitution due to the victim as a program
72 requirement. If the adult does not successfully complete the
73 prearrest diversion program, the law enforcement agency that
74 issued the civil citation or similar notice may criminally
75 charge the adult for the original offense and refer the case to

76 the state attorney to determine if prosecution is appropriate.
77 If the adult successfully completes the program, an arrest
78 record may not be associated with the offense.

79 (3) PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—
80 Representatives of participating law enforcement agencies, a
81 representative of the program services provider, the public
82 defender, the state attorney, and the clerk of the circuit court
83 shall create the prearrest diversion program and develop its
84 policies and procedures including, but not limited to,
85 eligibility criteria, program implementation and operation, and
86 the determination of the fee, if any, to be paid by adults
87 participating in the program. In developing the policies and
88 procedures for the program, the parties must solicit input from
89 other interested stakeholders. The program may be operated by an
90 entity such as a law enforcement agency, the county or
91 municipality, or another entity selected by the county or
92 municipality.

93 (4) QUALIFYING OFFENSES.—Misdemeanor offenses that qualify
94 the offender for a prearrest diversion program must be selected
95 as part of the program development under subsection (3).

96 (5) APPLICABILITY.—This section does not preempt a county
97 or municipality from enacting noncriminal sanctions for a
98 violation of an ordinance or other violation, and it does not
99 preempt a county, a municipality, or a public or private
100 educational institution from creating its own model for a

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101 | prearrest diversion program for adults.

102 | Section 2. This act shall take effect July 1, 2017.

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