

By Senator Brandes

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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 to adults under specified circumstances;
11 requiring an adult who is issued a civil citation by a
12 participating law enforcement agency to report for
13 intake as required by the prearrest diversion program;
14 requiring the program to provide certain appropriate
15 services; requiring that an adult who is issued a
16 civil citation fulfill a community service
17 requirement; requiring the adult to pay restitution to
18 a victim; providing for criminal prosecution of adults
19 who fail to complete the prearrest diversion program;
20 prohibiting an arrest record from being associated
21 with a certain offense for an adult who successfully
22 completes the program; requiring specified entities to
23 create the prearrest diversion program; requiring the
24 entities to develop policies and procedures for the
25 development and operation of the program and to
26 solicit input from other interested stakeholders;
27 authorizing specified entities to operate the program;
28 specifying how the nonviolent misdemeanor offenses
29 that are eligible for the prearrest diversion program
30 are selected; providing applicability; providing an
31 effective date.
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33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Section 901.40, Florida Statutes, is created to
36 read:

37 901.40 Prearrest diversion programs.—

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

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

54 (a) Law enforcement officers, at their sole discretion, may
55 issue a civil citation to certain adults who commit a qualifying
56 nonviolent misdemeanor offense selected by the program. A civil
57 citation may be issued only if the adult admits that he or she
58 committed the offense and if the adult has not previously been
59 arrested and has not received an adult civil citation. However,
60 an adult may not be issued a civil citation if the nonviolent
61 misdemeanor offense involves a victim and the victim objects to

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62 issuance of the civil citation.

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

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

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

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

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