

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 644

INTRODUCER: Senator Bracy

SUBJECT: Juvenile Civil Citation and Similar Diversion Programs

DATE: December 1, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 644 requires the establishment of one or more juvenile civil citation or similar diversion programs in each county.

The bill provides that a law enforcement officer must issue a juvenile a civil citation or require the juvenile's participation in a similar diversion program when the juvenile admits to committing one of the following first-time misdemeanor offenses:

- Possession of alcoholic beverages by persons under age 21 (s. 562.111, F.S.);
- Battery (s. 784.03(1), F.S.);
- Criminal mischief (s. 806.13, F.S.);
- Trespass (ss. 810.08 or 810.09, F.S.);
- Petit theft (s. 812.014(2)(e) or (3)(a), F.S.);
- Retail and farm theft (s. 812.015(2), F.S.);
- Resisting an officer without violence (s. 843.02, F.S.);
- Affrays and riots (s. 870.01(1), F.S.);
- Breach of the peace or disorderly conduct (s. 877.03, F.S.);
- Possession of 20 grams or less of cannabis (s. 893.13(6)(b), F.S.); or
- Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia (s. 893.147, F.S.).

The bill permits a law enforcement officer to issue a juvenile a civil citation or require the juvenile's participation in a similar diversion program when the juvenile admits to committing:

- A misdemeanor offense not enumerated in the bill; or
- A second-time or third-time misdemeanor offense, regardless of whether the offense is enumerated in the bill.

The bill specifies that the option of the issuance of a civil citation or referral to a similar diversion program does not apply to:

- A juvenile who is alleged to have committed, is charged with, has plead, is awaiting disposition, or has been found to have committed a felony; or
- A misdemeanor offense arising out of an episode in which the juvenile is also alleged to have committed a felony.

The bill provides that participation in a civil citation or similar diversion program is not considered a referral to the Department of Juvenile Justice (DJJ). However, the law enforcement officer may process the original delinquent act as a referral to the DJJ if the juvenile fails to comply with the requirements of the program or commits a subsequent misdemeanor.

The bill may have a positive fiscal impact on state and local governments. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2018.

II. Present Situation:

Section 985.12, F.S., establishes a juvenile civil citation process that provides law enforcement an alternative to arresting juveniles for nonserious delinquent acts. The DJJ is required to assist in the implementation of civil citation or other similar diversion programs. The DJJ must also develop guidelines for these programs that include intervention services based upon proven civil citation or similar diversion programs within the state.¹

The civil citation process is designed to divert juveniles prior to arrest and prevent the juvenile's further involvement in the juvenile justice system.² These civil citation or similar diversion programs are established on a discretionary basis at the local level. A civil citation or similar diversion program has been implemented in 61 counties in Florida, with Taylor County in the process of implementation.³ The following counties have not established a civil citation program: Bradford, Calhoun, Gulf, Hardee, and Washington.⁴

If established at the local level, the program must be created with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency. The program may be operated by a law enforcement agency, the DJJ, a juvenile assessment center, the county or municipality, or another entity selected by the county or municipality.⁵

¹ Section 985.12(1) and (2), F.S.

² Florida Department of Juvenile Justice 2014-15, *Civil Citation*, [http://www.djj.state.fl.us/docs/car-reports/\(2014-15-car\)-civil-citation-\(12-21-2015\)-mg-final.pdf?sfvrsn=2](http://www.djj.state.fl.us/docs/car-reports/(2014-15-car)-civil-citation-(12-21-2015)-mg-final.pdf?sfvrsn=2) (last visited November 28, 2017).

³ Florida Department of Juvenile Justice, *Civil Citation Implementation by County as of July 21, 2017*, <http://www.djj.state.fl.us/docs/probation-policy-memos/counties-with-cc-as-of-may-09-2016.pdf?Status=Master&sfvrsn=25> (last visited December 1, 2017).

⁴ *Id.*

⁵ Section 985.12(1), F.S.

Currently, a law enforcement officer who makes contact with a juvenile who admits to having committed a misdemeanor⁶ has the discretion to:

- Issue a warning or inform the juvenile's parent or guardian of the child's infraction;
- Issue a civil citation or require participation in a similar diversion program; or
- Arrest the juvenile.⁷

From October 2016 to September 2017, there were 17,463 juveniles eligible to receive a civil citation. Of those eligible, 9,678 juveniles were issued a civil citation and the remaining 7,785 were arrested.⁸

A law enforcement officer can issue a civil citation to any juvenile who admits to committing a first-time, second-time, or third-time misdemeanor.⁹ The officer must advise the juvenile of the option to refuse the civil citation and instead be referred to the DJJ. The juvenile may exercise that option at any time prior to completion of the program.¹⁰ An officer who issues a civil citation or requires participation in a similar diversion program may also assess up to 50 hours of community service and require participation in intervention services.¹¹

The juvenile must report to the community service performance monitor within seven business days after being issued the civil citation and complete at least five hours of work per week. The monitor must inform the DJJ intake office when the juvenile has reported to them and the expected date that the work assignment will be completed.¹²

The issuance of a civil citation is not considered a referral to the DJJ. However, the law enforcement officer must issue a report alleging the juvenile has committed a delinquent act, resulting in the juvenile probation officer processing the act as a referral to the DJJ, if:

- The child fails to report on time for a work assignment or fails to complete a work assignment;
- The child fails to comply with assigned intervention services within the prescribed time; or
- The child commits a subsequent misdemeanor.¹³

III. Effect of Proposed Changes:

The bill amends s. 985.12, F.S., to require the establishment of one or more juvenile civil citation or similar diversion programs in each county.

⁶ Misdemeanors involving sex or firearm offenses are currently ineligible for civil citations. Florida Department of Juvenile Justice, *Civil Citation Model Plan: A Guide to Implementation*, <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-model-plan.pdf?Status=Master&sfvrsn=4> (last visited November 30, 2017).

⁷ An officer who elects to arrest the juvenile must provide written documentation explaining why the arrest was warranted. Section 985.12(1), F.S.

⁸ Florida Department of Juvenile Justice, *Civil Citation & Other Similar Diversion Program Dashboard*, <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/civil-citation-dashboard/cc-dashboard> (last visited November 28, 2017).

⁹ Section 985.12(1), F.S.

¹⁰ Section 985.12(6), F.S.

¹¹ Section 985.12(1), F.S.

¹² Section 985.12(4), F.S.

¹³ Section 985.12(5), F.S.

The bill provides that a law enforcement officer¹⁴ must issue a civil citation or require the juvenile's participation in a similar diversion program to a juvenile who admits to committing one of the following first-time misdemeanor offenses:¹⁵

- Possession of alcoholic beverages by persons under age 21 (s. 562.111, F.S.);
- Battery (s. 784.03(1), F.S.);
- Criminal mischief (s. 806.13, F.S.);
- Trespass (ss. 810.08 or 810.09, F.S.);
- Petit theft (s. 812.014(2)(e) or (3)(a), F.S.);
- Retail and farm theft (s. 812.015(2), F.S.);
- Resisting an officer without violence (s. 843.02, F.S.);
- Affrays and riots (s. 870.01(1), F.S.);
- Breach of the peace or disorderly conduct (s. 877.03, F.S.);
- Possession of 20 grams or less of cannabis (s. 893.13(6)(b), F.S.); or
- Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia (s. 893.147, F.S.).¹⁶

The bill permits a law enforcement officer to issue a civil citation or require the juvenile's participation in a similar diversion program to a juvenile who admits to committing:

- A misdemeanor offense not enumerated in the bill; or
- A second-time or third-time misdemeanor offense, regardless of whether the offense is enumerated in the bill.

The bill preserves the requirement that a law enforcement officer who has the discretion to issue a civil citation, but instead chooses to arrest the juvenile, to provide written documentation explaining why an arrest is warranted.

The bill retains the statutory right for a juvenile who is eligible for a civil citation or similar diversion program to be informed of his or her right to refuse these options and instead be referred to the DJJ. The bill specifies that a juvenile may exercise this right of refusal at any time prior to the completion of the community service assignment.

The bill limits the recipients of a copy of the civil citation or documentation requiring a similar diversion program to the entity operating the program, the parent or guardian of the juvenile, and

¹⁴ The bill defines "law enforcement officer" to have the same meaning as provided in s. 943.10, F.S. Section 943.10, F.S., defines the term as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with the authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁵ The bill defines a "misdemeanor offense" as one or more misdemeanor violations of law arising out of the same criminal episode, act, or transaction.

¹⁶ In Fiscal Year 2016-17, for those enumerated offenses, 55 percent of eligible first-time misdemeanants received a civil citation. Florida Department of Juvenile Justice, *2018 Legislative Bill Analysis for SB 644*, (November 28, 2017) (on file with the Senate Criminal Justice Committee).

the victim. The information is then entered into the Juvenile Justice Information System or the Prevention Web system.

The bill extends the time in which the juvenile must report to the entity operating the program, from seven business days to 10 business days, after the issuance of the civil citation or documentation for a similar diversion program. The bill specifies that a juvenile must complete up to 50 hours of community service and participate in intervention services as indicated by an assessment of the juvenile's needs. The bill does not specify how many hours of work must be completed each week.

Participation in a civil citation or similar diversion program is not considered a referral to the DJJ. However, the law enforcement officer may issue a report alleging the juvenile has committed a delinquent act, resulting in the juvenile probation officer processing the original delinquent act as a referral to the DJJ, if:

- The juvenile fails to report on time for a work assignment or fails to complete a work assignment;
- The juvenile fails to comply with assigned intervention services within the prescribed time; or
- The juvenile commits a subsequent misdemeanor.

The bill specifies that the option of the issuance of a civil citation or referral to a similar diversion program does not apply to:

- A juvenile who is alleged to have committed, is charged with, has plead, is awaiting disposition, or has been found to have committed a felony; or
- A misdemeanor offense arising out of an episode in which the juvenile is also alleged to have committed a felony offense.

A law enforcement officer who makes contact with a juvenile who is alleged to have committed a misdemeanor offense still maintains the authority to issue a warning to the juvenile or notice to the juvenile's parent or guardian.

The bill amends ss. 943.051 and 985.11, F.S., to make conforming changes.

The bill is effective July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill could have a positive fiscal impact to state and local governments because an increase in the issuance of civil citations or referrals to similar diversion programs could lead to less juveniles being referred to the costlier juvenile justice system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 985.12 of the Florida Statutes.

The bill makes conforming technical changes to the following sections of the Florida Statutes: 943.051 and 985.11.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.