

By the Committee on Criminal Justice; and Senator Bracy

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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.; defining
4 terms; requiring the establishment of civil citation
5 or similar diversion programs for juveniles;
6 specifying program eligibility, participation, and
7 implementation requirements; providing exceptions;
8 providing applicability; providing construction;
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) As used in this section, the term:

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

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

24 (2) (a) There is established a process for the use of
25 juvenile civil citation and similar diversion programs to
26 provide ~~process for the purpose of providing~~ an efficient and
27 innovative alternative to custody by the department ~~of Juvenile~~
28 Justice for juveniles ~~children~~ who commit nonserious delinquent
29 acts and to ensure swift and appropriate consequences. The

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30 department shall encourage and assist in the implementation and
31 improvement of civil citation and ~~programs or other~~ similar
32 diversion programs in ~~around~~ the state.

33 (b) One or more ~~The~~ civil citation or similar diversion
34 programs ~~program~~ shall be established in each county which must
35 individually or collectively serve all juveniles who are alleged
36 to have committed a violation of law which would be a
37 misdemeanor offense if committed by an adult. Such programs must
38 be established ~~at the local level~~ with the concurrence of the
39 chief judge of the circuit, the state attorney, the public
40 defender, and the head of each local law enforcement agency
41 involved and. ~~The program~~ may be operated by an entity such as a
42 law enforcement agency, the department, a juvenile assessment
43 center, the county or municipality, or another entity selected
44 by the county or municipality. An entity operating such a ~~the~~
45 ~~civil citation or similar diversion~~ program must do so in
46 consultation and agreement with the state attorney and local law
47 enforcement agencies.

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 require
55 the juvenile's participation in a similar diversion program if
56 the misdemeanor offense is one or more of the following:

57 1. Section 562.111, relating to possession of alcoholic
58 beverages by persons under age 21;

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59 2. Section 784.03(1), relating to battery;

60 3. Section 806.13, relating to criminal mischief;

61 4. Section 810.08 or s. 810.09, relating to trespass;

62 5. Section 812.014(2)(e) or (3)(a), relating to theft;

63 6. Section 812.015(2), relating to theft from a merchant,
64 farmer, or transit agency;

65 7. Section 843.02, relating to resisting an officer without
66 violence;

67 8. Section 870.01(1), relating to an affray;

68 9. Section 877.03, relating to breach of the peace or
69 disorderly conduct;

70 10. Section 893.13(6)(b), relating to possession of certain
71 amounts of cannabis; or

72 11. Section 893.147, relating to use, possession,
73 manufacture, delivery, transportation, advertisement, or retail
74 sale of drug paraphernalia.

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 misdemeanor offense is not specified 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 or a third
81 misdemeanor offense may issue a civil citation to the juvenile
82 or require the juvenile's participation in a similar diversion
83 program, regardless of whether the misdemeanor offense is
84 specified in paragraph (3)(a).

85 (5) If a juvenile is arrested for a misdemeanor offense
86 subject to paragraph (3)(b) or subsection (4), the law
87 enforcement officer must provide written documentation as to why

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88 the arrest was warranted.

89 (6) A law enforcement officer shall advise a juvenile who
90 is eligible under subsection (3) or subsection (4) that the
91 juvenile has the option to refuse the civil citation or other
92 similar diversion program and be referred to the department, and
93 that the juvenile may elect this option at any time before fully
94 completing the community service assignment required under
95 subsection (8). Participation in a civil citation or similar
96 diversion program is not considered a referral to the
97 department.

98 (7) Upon issuance of the civil citation or documentation
99 requiring a similar diversion program, the law enforcement
100 officer shall send a copy to the entity designated to operate
101 the program, the parent or guardian of the juvenile, and the
102 victim. The operating entity, appropriate intake office, or a
103 designee of the entity or intake office shall enter such
104 information into the Juvenile Justice Information System
105 Prevention Web.

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

114 (a) The juvenile shall report to the entity designated to
115 operate the program, or its designee, within 10 business days
116 after the date of issuance of the civil citation or

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117 ~~documentation for a similar diversion program. A copy of each~~
118 ~~citation issued under this section shall be provided to the~~
119 ~~department, and the department shall enter appropriate~~
120 ~~information into the juvenile offender information system. Use~~
121 ~~of the civil citation or similar diversion program is not~~
122 ~~limited to first-time misdemeanors and may be used in up to two~~
123 ~~subsequent misdemeanors. If an arrest is made, a law enforcement~~
124 ~~officer must provide written documentation as to why an arrest~~
125 ~~was warranted.~~

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

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

140 (9)-(2) The department shall develop guidelines for the
141 civil citation and similar diversion programs program ~~program~~ which
142 include intervention services that are based on ~~upon~~ proven
143 civil citation or similar diversion programs in ~~within~~ the
144 state.

145 (10) This section does not apply to:

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

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

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

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

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

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

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

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

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

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

190 943.051 Criminal justice information; collection and
191 storage; fingerprinting.-

192 (3)

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

- 198 1. Assault, as defined in s. 784.011.
- 199 2. Battery, as defined in s. 784.03.
- 200 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 201 4. Unlawful use of destructive devices or bombs, as defined
202 in s. 790.1615(1).
- 203 5. Neglect of a child, as defined in s. 827.03(1)(e).

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- 204 6. Assault or battery on a law enforcement officer, a
205 firefighter, or other specified officers, as defined in s.
206 784.07(2) (a) and (b).
- 207 7. Open carrying of a weapon, as defined in s. 790.053.
- 208 8. Exposure of sexual organs, as defined in s. 800.03.
- 209 9. Unlawful possession of a firearm, as defined in s.
210 790.22(5).
- 211 10. Petit theft, as defined in s. 812.014(3).
- 212 11. Cruelty to animals, as defined in s. 828.12(1).
- 213 12. Arson, as defined in s. 806.031(1).
- 214 13. Unlawful possession or discharge of a weapon or firearm
215 at a school-sponsored event or on school property, as provided
216 in s. 790.115.
- 217 Section 3. Paragraph (b) of subsection (1) of section
218 985.11, Florida Statutes, is amended to read:
- 219 985.11 Fingerprinting and photographing.—
- 220 (1)
- 221 (b) Unless the child is participating in ~~is issued~~ a civil
222 citation or ~~is participating in a~~ similar diversion program
223 pursuant to s. 985.12, a child who is charged with or found to
224 have committed one of the following offenses shall be
225 fingerprinted, and the fingerprints shall be submitted to the
226 Department of Law Enforcement as provided in s. 943.051(3) (b):
- 227 1. Assault, as defined in s. 784.011.
- 228 2. Battery, as defined in s. 784.03.
- 229 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 230 4. Unlawful use of destructive devices or bombs, as defined
231 in s. 790.1615(1).
- 232 5. Neglect of a child, as defined in s. 827.03(1) (e).

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- 233 6. Assault on a law enforcement officer, a firefighter, or
234 other specified officers, as defined in s. 784.07(2)(a).
- 235 7. Open carrying of a weapon, as defined in s. 790.053.
- 236 8. Exposure of sexual organs, as defined in s. 800.03.
- 237 9. Unlawful possession of a firearm, as defined in s.
238 790.22(5).
- 239 10. Petit theft, as defined in s. 812.014.
- 240 11. Cruelty to animals, as defined in s. 828.12(1).
- 241 12. Arson, resulting in bodily harm to a firefighter, as
242 defined in s. 806.031(1).
- 243 13. Unlawful possession or discharge of a weapon or firearm
244 at a school-sponsored event or on school property as defined in
245 s. 790.115.
- 246
- 247 A law enforcement agency may fingerprint and photograph a child
248 taken into custody upon probable cause that such child has
249 committed any other violation of law, as the agency deems
250 appropriate. Such fingerprint records and photographs shall be
251 retained by the law enforcement agency in a separate file, and
252 these records and all copies thereof must be marked "Juvenile
253 Confidential." These records are not available for public
254 disclosure and inspection under s. 119.07(1) except as provided
255 in ss. 943.053 and 985.04(2), but shall be available to other
256 law enforcement agencies, criminal justice agencies, state
257 attorneys, the courts, the child, the parents or legal
258 custodians of the child, their attorneys, and any other person
259 authorized by the court to have access to such records. In
260 addition, such records may be submitted to the Department of Law
261 Enforcement for inclusion in the state criminal history records

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262 and used by criminal justice agencies for criminal justice
263 purposes. These records may, in the discretion of the court, be
264 open to inspection by anyone upon a showing of cause. The
265 fingerprint and photograph records shall be produced in the
266 court whenever directed by the court. Any photograph taken
267 pursuant to this section may be shown by a law enforcement
268 officer to any victim or witness of a crime for the purpose of
269 identifying the person who committed such crime.

270 Section 4. This act shall take effect July 1, 2018.