

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 378

INTRODUCER: Senators Garcia, Gibson, and others

SUBJECT: Juvenile Justice

DATE: February 27, 2015

REVISED: 03/09/15

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Pre-meeting
2.			CF	
3.			RC	

I. Summary:

SB 378 expands juvenile civil citation by allowing law enforcement to issue a civil citation to youth who have committed a second or subsequent misdemeanor. (Civil citation is presently only available to youth who admit to committing a first-time misdemeanor.)

In addition, law enforcement will be authorized to issue a simple warning to the youth or inform the youth's parents of the misdemeanor, or the officer will be required to issue a civil citation or require participation in a similar diversion program under the bill. (These options are now discretionary with law enforcement.) Issuing a civil citation will no longer be discretionary for law enforcement under the bill.

The bill also provides that in exceptional circumstances, law enforcement may arrest a first-time juvenile misdemeanant by providing written documentation justifying why the arrest is needed to protect public safety.

II. Present Situation:

Section 985.12, F.S., establishes a civil citation process that provides an efficient and innovative alternative to the Department of Juvenile Justice's (DJJ) custody for youth who commit nonserious delinquent acts.¹ The DJJ is required to encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs around the state.² It must also develop guidelines for civil citation which include intervention services that are based upon proven civil citation or similar diversion programs within the state.³

¹ Section 985.12(1), F.S.

² *Id.*

³ Section 985.12(2), F.S.

These programs are to be established at the local level in concurrence with the chief circuit judge, state attorney, public defender, and head of each local law enforcement agency. The statute provides that a law enforcement officer may issue a civil citation to a youth who admits to committing a misdemeanor without having to take the youth into custody. Only first-time misdemeanants are eligible.⁴ (A law enforcement officer currently has the discretion to give a warning to the youth, inform the parents, issue a civil citation, or arrest a youth.)

The law enforcement officer must send a copy of the citation to the department, sheriff, state attorney, the DJJ's intake office or the community service performance monitor, parent or guardian of the youth, and the victim.⁵ The issuance of a civil citation is not considered a referral to the department.⁶

A civil citation program or similar diversion program may be operated by law enforcement, the department, a juvenile assessment center, a county or municipality, or an entity selected by the county or municipality. Operations must be in consultation and agreement with the state attorney and local law enforcement agencies.⁷

Youth issued a civil citation may be assigned up to 50 hours of community service and are required to participate in intervention services as indicated by a needs assessment. Intervention services include family counseling, urinalysis monitoring, substance abuse and mental health treatment services.⁸ At the time a civil citation is issued, the law enforcement officer must advise the youth that he or she has the option of refusing the civil citation and of being referred to the DJJ. The youth may refuse the civil citation at any time before completion of the work assignment.⁹

The youth is required to report to a community service performance monitor within seven working days after the civil citation has been issued. The youth must also complete at least five community service hours per week. The monitor reports information to the DJJ regarding the youth's service hour completion and the expected completion date.¹⁰ If the youth fails to timely report or complete a work assignment, fails to timely comply with assigned intervention services, or if the youth commits a subsequent misdemeanor, the law enforcement officer must issue a report to the DJJ alleging that the youth has committed a delinquent act, thereby initiating formal judicial processing.¹¹

According to the DJJ, there are currently 59 counties that have implemented civil citation programs. In contrast, Bradford, Polk, Taylor, Calhoun, Gulf, Hardee, Sarasota, and Washington counties have not yet implemented one. However, these counties have similar diversion programs available.¹²

⁴ Section 985.12(1)

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 985.12(6), F.S.

¹⁰ Section 985.12(4), F.S.

¹¹ Section 985.12(5), F.S.

¹² Electronic mail from Meredith Stanfield, DJJ Legislative Director, dated February 25, 2015 (on file with the Senate Criminal Justice Committee).

Additionally, the department states that in calendar years 2013 and 2014, there were 16,149 civil citations issued (7,634 in 2013 and 8,515 in 2014). In fiscal year 2013-14, there were 34,485 arrests of youth for misdemeanors. Of those arrests, 21,349 youth were eligible for civil citation and of those, 8,059 or 38%, received one. The DJJ also found that the recidivism rate for youth completing civil citation during fiscal year 2012-13 was 5 percent. (To calculate this rate, the department monitored the youth for 12 months to determine if there was a subsequent adjudication, adjudication withheld, or an adult conviction.)¹³

III. Effect of Proposed Changes:

The bill expands juvenile civil citation by allowing law enforcement to issue a civil citation to youth who have committed a second or subsequent misdemeanor. Civil citation will no longer only be available to first-time misdemeanor offenders under the bill.

In addition, law enforcement will be authorized to issue a simple warning to the youth or inform the youth's parents of the misdemeanor, or the officer will be required to issue a civil citation or require participation in a similar diversion program under the bill. (These options are now discretionary with law enforcement.) Issuing a civil citation will no longer be discretionary for law enforcement under the bill.

The bill also provides that in exceptional circumstances, law enforcement may arrest a first-time juvenile misdemeanant by providing written documentation justifying why the arrest is needed to protect public safety.

The effective date of the bill is October 1, 2015.

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.

¹³ *Id.*

B. Private Sector Impact:

Expanding civil citation could result in more youth having future opportunities for employment since these youth will not have the hurdle of an arrest record.

C. Government Sector Impact:

To the extent that youth are diverted from the more costly juvenile justice system, the greater the potential cost savings are to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 985.12 of the Florida Statutes.

The bill reenacts sections 943.051 and 985.11 of the Florida Statutes.

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.