

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 408

INTRODUCER: Senator Altman and others

SUBJECT: Juvenile Civil Citations

DATE: February 5, 2016

REVISED: _____

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

I. Summary:

SB 408 requires, rather than allows, a law enforcement officer to issue a warning to a youth or inform the youth's parents of the misdemeanor, or issue a civil citation or require participation in a similar diversion program if the youth admits to committing a misdemeanor. (These options are currently discretionary for law enforcement.) The law enforcement officer will also be required to receive prior approval from a supervisor before arresting a youth who admits to committing a first-time misdemeanor under the bill.

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

The DJJ must also develop guidelines for civil citation which include intervention services based upon proven civil citation or similar diversion programs within the state.³ These programs are to be established at the local level in concurrence with the chief judge, state attorney, public defender, and head of each local law enforcement agency.⁴

¹ Section 985.12(1), F.S.

² *Id.*

³ Section 985.12(2), F.S.

⁴ Section 985.12(1), F.S.

The statute provides that a law enforcement officer may issue a civil citation to a youth who admits to committing a misdemeanor⁵ without taking the youth into custody.⁶ Last session, the Legislature amended the law to allow a law enforcement officer to issue a simple warning to the youth or inform the youth's parents of the misdemeanor, or issue a civil citation or require participation in a similar diversion program.⁷

Another significant change to the statute last session was allowing a law enforcement officer to issue a civil citation to a youth who admits committing a second or third misdemeanor. (Civil citation was previously limited to the commission of a first-time misdemeanor.) If an arrest is made, the law enforcement officer is required to provide written documentation as to why the arrest is warranted under another amendment to the law last session.⁸

The law enforcement officer must send a copy of the citation to the department, sheriff, state attorney, DJJ's intake office or the community service performance monitor, parent or guardian of the youth, and the victim.⁹ The issuance of a civil citation is not considered a referral to the department.¹⁰

A civil citation program or similar diversion program may be operated by law enforcement, the DJJ, 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.¹¹ According to the DJJ, since law enforcement agencies are not required to issue civil citations, there is variation in the use of civil citation programs among agencies and counties statewide.¹²

Youth issued a civil citation may be assigned up to 50 hours of community service and must participate in intervention services as indicated by a needs assessment. Intervention services include family counseling, urinalysis monitoring, substance abuse and mental health treatment services.¹³ 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 DJJ. The youth may refuse the civil citation at any time before completion of the work assignment.¹⁴

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 DJJ regarding the

⁵ Misdemeanors involving sexual or firearm offenses are currently ineligible for civil citation programs under the *DJJ Civil Citation Model Plan*. Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).

⁶ *Id.*

⁷ Ch. 2015-46, s. 1, Laws of Fla. (amending s. 985.12, F.S., effective October 1, 2015).

⁸ *Id.*

⁹ Section 985.12(3), F.S.

¹⁰ Section 985.12(1), F.S.

¹¹ *Id.*

¹² Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).

¹³ *Id.*

¹⁴ Section 985.12(6), F.S.

youth's service hour completion and the expected completion date.¹⁵ 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 DJJ alleging that the youth has committed a delinquent act, thereby initiating formal judicial processing.¹⁶

According to the DJJ, there are 61 counties that have implemented a civil citation program in Florida. Taylor County has committed to implementing one. Bradford, Calhoun, Gulf, Hardee, and Washington counties use a similar diversion program without the civil citation overlay.¹⁷

In Fiscal Year 2014-15, there were 20,833 youth who were eligible to receive a civil citation (first-time misdemeanants who were not accused of a firearm or sexual offense). Statewide, 8,961 eligible youth (43% of eligible first-time misdemeanants) were issued a civil citation, according to DJJ.¹⁸

III. Effect of Proposed Changes:

The bill requires, rather than allows, a law enforcement officer to issue a warning to a youth or inform the youth's parents of the misdemeanor, or issue a civil citation or require participation in a similar diversion program if the youth admits to committing a misdemeanor. (These options are currently discretionary for law enforcement.)

The law enforcement officer will also be required to receive prior approval from a supervisor before arresting a youth who admits to committing a first-time misdemeanor under the bill. The current statutory requirement of providing written documentation justifying why the arrest is warranted is unchanged by the bill so a law enforcement officer will still be required to provide that documentation.

The effective date of the bill is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁵ Section 985.12(4), F.S.

¹⁶ Section 985.12(5), F.S.

¹⁷ Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).

¹⁸ *Id.*

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Expanding the use of civil citation programs 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:

The increase in civil citations under the bill could result in a potential cost savings to the state as youth are diverted from the more costly juvenile justice system.

According to DJJ, the workload and resources for providing assessment and diversion-type services to youth in civil citation programs will likely be relatively stable, but these services will be provided primarily pre-arrest rather than post-arrest under the bill.¹⁹

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁹ *Id.*