

By Senator Brandes

24-00112B-17

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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:

34  
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.