

By the Committee on Criminal Justice; and Senator Brandes

591-02385A-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 or similar prearrest diversion program notice
11 to adults under specified circumstances; requiring an
12 adult who is issued a civil citation or similar
13 prearrest diversion program notice by a participating
14 law enforcement agency to report for intake as
15 required by the prearrest diversion program; requiring
16 the program to provide certain appropriate services;
17 requiring that an adult who is issued a civil citation
18 or similar prearrest diversion program notice fulfill
19 a community service requirement; requiring the adult
20 to pay restitution to a victim; requiring the law
21 enforcement officer to determine if there is good
22 cause to arrest an adult who did not successfully
23 complete the program and refer the case to the state
24 attorney or allow the adult to continue in the
25 program; requiring specified entities to create the
26 prearrest diversion program; requiring the entities to
27 develop policies and procedures for the development
28 and operation of the program and to solicit input from
29 other interested stakeholders; authorizing specified

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30 entities to operate the program; specifying how the
31 misdemeanor offenses that are eligible for the
32 prearrest diversion program are selected; providing
33 applicability; providing an effective date.
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35 Be It Enacted by the Legislature of the State of Florida:
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37 Section 1. Section 901.40, Florida Statutes, is created to
38 read:

39 901.40 Prearrest diversion programs.—

40 (1) INTENT.—The Legislature encourages local communities
41 and public or private educational institutions to implement
42 prearrest diversion programs that afford certain adults who
43 fulfill specified intervention and community service obligations
44 the opportunity to avoid an arrest record. The Legislature does
45 not mandate that a particular prearrest diversion program for
46 adults be adopted, but finds that the adoption of the model
47 provided in this section would allow certain adults to avoid an
48 arrest record, while ensuring that those adults receive
49 appropriate intervention and fulfill community service
50 obligations. If a prearrest diversion program is implemented,
51 the program is encouraged to share information with other
52 prearrest diversion programs.

53 (2) MODEL PREARREST DIVERSION PROGRAM.—Local communities
54 and public or private educational institutions may adopt a
55 program in which:

56 (a) Law enforcement officers, at their sole discretion, may
57 issue a civil citation or similar prearrest diversion program
58 notice to certain adults who commit a qualifying misdemeanor

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59 offense selected by the program. A civil citation or similar
60 prearrest diversion program notice may be issued if the adult:

61 1. Admits that he or she committed the offense or does not
62 contest the offense; and

63 2. Has not previously been arrested and has not received an
64 adult civil citation or similar prearrest diversion program
65 notice, unless the terms of the local adult prearrest diversion
66 program allow otherwise.

67 (b) An adult who receives a civil citation or similar
68 prearrest diversion program notice shall report for intake as
69 required by the local prearrest diversion program and shall be
70 provided appropriate assessment, intervention, education, and
71 behavioral health care services by the program. While in the
72 local prearrest diversion program, the adult shall perform
73 community service hours as specified by the program. The adult
74 shall pay restitution due to the victim as a program
75 requirement. If the adult does not successfully complete the
76 prearrest diversion program, the law enforcement officer shall
77 determine if there is good cause to arrest the adult for the
78 original misdemeanor offense and refer the case to the state
79 attorney to determine if prosecution is appropriate or allow the
80 adult to continue in the program.

81 (3) PROGRAM DEVELOPMENT; IMPLEMENTATION; OPERATION.—
82 Representatives of participating law enforcement agencies, a
83 representative of the program services provider, the public
84 defender, the state attorney, and the clerk of the circuit court
85 shall create the prearrest diversion program and develop its
86 policies and procedures, including, but not limited to,
87 eligibility criteria, program implementation and operation, and

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88 the determination of the fee, if any, to be paid by adults
89 participating in the program. In developing the policies and
90 procedures for the program, the parties must solicit input from
91 other interested stakeholders. The program may be operated by an
92 entity such as a law enforcement agency, the county or
93 municipality, or another entity selected by the county or
94 municipality.

95 (4) QUALIFYING OFFENSES.—Misdemeanor offenses that qualify
96 the offender for a prearrest diversion program must be selected
97 as part of the program development under subsection (3).

98 (5) APPLICABILITY.—This section does not preempt a county
99 or municipality from enacting noncriminal sanctions for a
100 violation of an ordinance or other violation, and it does not
101 preempt a county, a municipality, or a public or private
102 educational institution from creating its own model for a
103 prearrest diversion program for adults.

104 Section 2. This act shall take effect July 1, 2017.