

By the Committee on Criminal Justice; and Senator Brandes

591-02385A-17

2017448c1

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

591-02385A-17

2017448c1

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.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

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

591-02385A-17

2017448c1

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

591-02385A-17

2017448c1

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.