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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/27/2018	.	
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The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 249 - 396

and insert:

Section 3. Section 985.12, Florida Statutes, is amended to read:

985.12 Civil citation or similar prearrest diversion programs.-

(1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds that the creation and implementation of civil citation or



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11 similar prearrest diversion programs at the judicial circuit
12 level promotes public safety, aids interagency cooperation, and
13 provides the greatest chance of success for civil citation and
14 similar prearrest diversion programs. The Legislature further
15 finds that the widespread use of civil citation and similar
16 prearrest diversion programs has a positive effect on the
17 criminal justice system and contributes to an overall reduction
18 in the crime rate and recidivism in the state. The Legislature
19 encourages but does not mandate that counties, municipalities,
20 and public or private educational institutions participate in a
21 civil citation or similar prearrest diversion program created by
22 their judicial circuit under this section. ~~There is established~~
23 a juvenile civil citation process for the purpose of providing
24 an efficient and innovative alternative to custody by the
25 Department of Juvenile Justice for children who commit
26 nonserious delinquent acts and to ensure swift and appropriate
27 consequences. The department shall encourage and assist in the
28 implementation and improvement of civil citation programs or
29 other similar diversion programs around the state.

30 (2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR PREARREST
31 DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION AND OPERATION.—

32 (a) A ~~The~~ civil citation or similar prearrest diversion
33 program shall be established in each judicial circuit in the
34 state. ~~The at the local level with the concurrence of the chief~~
35 judge of the circuit, state attorney and, public defender of
36 each circuit, the clerk of the court for each county in the
37 circuit, and representatives of participating law enforcement
38 agencies in the circuit shall create a civil citation or similar
39 prearrest diversion program and develop its policies and



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40 procedures. In developing the program's policies and procedures,
41 input from other interested stakeholders may be solicited. The
42 department shall annually develop and provide guidelines on best
43 practice models for civil citation or similar prearrest
44 diversion programs to the judicial circuits as a resource.

45 (b) Each judicial circuit's civil citation or similar
46 prearrest diversion program must specify:

47 1. The misdemeanor offenses that qualify a juvenile for
48 participation in the program;

49 2. The eligibility criteria for the program;

50 3. The program's implementation and operation;

51 4. The program's requirements, including, but not limited
52 to, the completion of community service hours, payment of
53 restitution, if applicable, and intervention services indicated
54 by a needs assessment of the juvenile, approved by the
55 department, such as family counseling, urinalysis monitoring,
56 and substance abuse and mental health treatment services; and

57 5. A program fee, if any, to be paid by a juvenile
58 participating in the program. If the program imposes a fee, the
59 clerk of the court of the applicable county must receive a
60 reasonable portion of the fee.

61 (c) The state attorney of each circuit shall operate a
62 civil citation or similar prearrest diversion program in each
63 circuit. A sheriff, police department, county, municipality, or
64 public or private educational institution may continue to
65 operate an independent civil citation or similar prearrest
66 diversion program that is in operation as of October 1, 2018, if
67 the independent program is reviewed by the state attorney of the
68 applicable circuit and he or she determines that the independent



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69 program is substantially similar to the civil citation or
70 similar prearrest diversion program developed by the circuit. If
71 the state attorney determines that the independent program is
72 not substantially similar to the civil citation or similar
73 prearrest diversion program developed by the circuit, the
74 operator of the independent diversion program may revise the
75 program and the state attorney may conduct an additional review
76 of the independent program.

77 (d) A judicial circuit may model an existing sheriff,
78 police department, county, municipality, or public or private
79 educational institution's independent civil citation or similar
80 prearrest diversion program in developing the civil citation or
81 similar prearrest diversion program for the circuit.

82 (e) If a juvenile does not successfully complete the civil
83 citation or similar prearrest diversion program, the arresting
84 law enforcement officer shall determine if there is good cause
85 to arrest the juvenile for the original misdemeanor offense and
86 refer the case to the state attorney to determine if prosecution
87 is appropriate or allow the juvenile to continue in the program
88 and the head of each local law enforcement agency involved. The
89 program may be operated by an entity such as a law enforcement
90 agency, the department, a juvenile assessment center, the county
91 or municipality, or another entity selected by the county or
92 municipality. An entity operating the civil citation or similar
93 diversion program must do so in consultation and agreement with
94 the state attorney and local law enforcement agencies. Under
95 such a juvenile civil citation or similar diversion program, a
96 law enforcement officer, upon making contact with a juvenile who
97 admits having committed a misdemeanor, may choose to issue a



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98 ~~simple warning or inform the child's guardian or parent of the~~
99 ~~child's infraction, or may issue a civil citation or require~~
100 ~~participation in a similar diversion program, and assess up to~~
101 ~~50 community service hours, and require participation in~~
102 ~~intervention services as indicated by an assessment of the needs~~
103 ~~of the juvenile, including family counseling, urinalysis~~
104 ~~monitoring, and substance abuse and mental health treatment~~
105 ~~services.~~

106 (f) A copy of each civil citation or similar prearrest
107 diversion program notice issued under this section shall be
108 provided to the department, and the department shall enter
109 appropriate information into the juvenile offender information
110 system. ~~Use of the civil citation or similar diversion program~~
111 ~~is not limited to first-time misdemeanors and may be used in up~~
112 ~~to two subsequent misdemeanors. If an arrest is made, a law~~
113 ~~enforcement officer must provide written documentation as to why~~
114 ~~an arrest was warranted.~~

115 (g) At the conclusion of a juvenile's civil citation
116 ~~program~~ or similar prearrest diversion program, the state
117 attorney or operator of the independent program agency operating
118 ~~the program~~ shall report the outcome to the department. The
119 issuance of a civil citation or similar prearrest diversion
120 program notice is not considered a referral to the department.

121 ~~(2) The department shall develop guidelines for the civil~~
122 ~~citation program which include intervention services that are~~
123 ~~based upon proven civil citation or similar diversion programs~~
124 ~~within the state.~~

125 (h) ~~(3)~~ Upon issuing such a civil citation or similar
126 prearrest diversion program notice, the law enforcement officer



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127 shall send a copy of ~~to~~ the civil citation or similar prearrest
128 diversion program notice to county sheriff, state attorney, the
129 appropriate intake office of the department, or the community
130 service performance monitor designated by the department, the
131 parent or guardian of the child, and to the victim.

132 ~~(4) The child shall report to the community service~~
133 ~~performance monitor within 7 working days after the date of~~
134 ~~issuance of the citation. The work assignment shall be~~
135 ~~accomplished at a rate of not less than 5 hours per week. The~~
136 ~~monitor shall advise the intake office immediately upon~~
137 ~~reporting by the child to the monitor, that the child has in~~
138 ~~fact reported and the expected date upon which completion of the~~
139 ~~work assignment will be accomplished.~~

140 ~~(5) If the child fails to report timely for a work~~
141 ~~assignment, complete a work assignment, or comply with assigned~~
142 ~~intervention services within the prescribed time, or if the~~
143 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
144 ~~officer shall issue a report alleging the child has committed a~~
145 ~~delinquent act, at which point a juvenile probation officer~~
146 ~~shall process the original delinquent act as a referral to the~~
147 ~~department and refer the report to the state attorney for~~
148 ~~review.~~

149 ~~(6) At the time of issuance of the citation by the law~~
150 ~~enforcement officer, such officer shall advise the child that~~
151 ~~the child has the option to refuse the citation and to be~~
152 ~~referred to the intake office of the department. That option may~~
153 ~~be exercised at any time before completion of the work~~
154 ~~assignment.~~

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156 ===== T I T L E A M E N D M E N T =====

157 And the title is amended as follows:

158 Delete lines 41 - 70

159 and insert:

160 certain purpose; establishing a civil citation or
161 similar prearrest diversion program in each judicial
162 circuit, rather than at the local level with the
163 concurrence of specified persons; requiring that the
164 state attorney and public defender of each circuit,
165 the clerk of the court for each county in the circuit,
166 and representatives of participating law enforcement
167 agencies create a civil citation or similar prearrest
168 diversion program and develop its policies and
169 procedures; authorizing such entities to solicit
170 stakeholders for input in developing the program's
171 policies and procedures; requiring the Department of
172 Juvenile Justice to annually develop and provide
173 guidelines on civil citation or similar prearrest
174 diversion programs to the judicial circuits; providing
175 requirements for the civil citation or similar
176 prearrest diversion program; requiring the state
177 attorney of each judicial circuit to operate the civil
178 citation or similar prearrest diversion program;
179 providing an exception; providing construction;
180 requiring the arresting law enforcement officer to
181 make a determination if a juvenile does not
182 successfully complete the civil citation or similar
183 prearrest diversion program; deleting provisions
184 relating to the operation of and requirements for a



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185 civil citation or similar prearrest diversion program;
186 requiring that a copy of each civil citation or
187 similar prearrest diversion program notice be provided
188 to the Department of Juvenile Justice; conforming
189 provisions to changes made by the act; deleting
190 provisions relating to requirements for a civil
191 citation or similar prearrest diversion program;