

By Senator Bracy

11-00428-18

2018644__

1 A bill to be entitled
2 An act relating to juvenile civil citation and similar
3 diversion programs; amending s. 985.12, F.S.; defining
4 terms; requiring the establishment of civil citation
5 or similar diversion programs for juveniles;
6 specifying program eligibility, participation, and
7 implementation requirements; providing exceptions;
8 providing applicability; providing construction;
9 amending ss. 943.051 and 985.11, F.S.; conforming
10 provisions to changes made by the act; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 985.12, Florida Statutes, is amended to
16 read:

17 985.12 Civil citation and similar diversion programs.—

18 (1) As used in this section, the term:

19 (a) "Law enforcement officer" has the same meaning as
20 provided in s. 943.10.

21 (b) "Misdemeanor offense" means one or more misdemeanor
22 violations of law arising out of the same criminal episode, act,
23 or transaction.

24 (2) (a) There is established a process for the use of
25 juvenile civil citation and similar diversion programs to
26 provide process for the purpose of providing an efficient and
27 innovative alternative to custody by the department ~~of Juvenile~~
28 ~~Justice~~ for juveniles ~~children~~ who commit nonserious delinquent
29 acts and to ensure swift and appropriate consequences. The

11-00428-18

2018644__

30 department shall encourage and assist in the implementation and
 31 improvement of civil citation and ~~programs or other~~ similar
 32 diversion programs in ~~around~~ the state.

33 (b) One or more ~~The~~ civil citation or similar diversion
 34 programs ~~program~~ shall be established in each county which must
 35 individually or collectively serve all juveniles who are alleged
 36 to have committed a violation of law which would be a
 37 misdemeanor offense if committed by an adult. Such programs must
 38 be established ~~at the local level~~ with the concurrence of the
 39 chief judge of the circuit, the state attorney, the public
 40 defender, and the head of each local law enforcement agency
 41 involved and. ~~The program~~ may be operated by an entity such as a
 42 law enforcement agency, the department, a juvenile assessment
 43 center, the county or municipality, or another entity selected
 44 by the county or municipality. An entity operating such a ~~the~~
 45 ~~civil citation or similar diversion~~ program must do so in
 46 consultation and agreement with the state attorney and local law
 47 enforcement agencies.

48 (3) Under ~~such~~ a juvenile civil citation or similar
 49 diversion program, a law enforcement officer who makes, ~~upon~~
 50 ~~making~~ contact with a juvenile who admits having committed a
 51 first-time misdemeanor offense: misdemeanor, ~~may choose to issue~~
 52 ~~a simple warning or inform the child's guardian or parent of the~~
 53 ~~child's infraction, or may~~

54 (a) Shall issue a civil citation to the juvenile or require
 55 the juvenile's participation in a similar diversion program if
 56 the misdemeanor offense is one or more of the following:

57 1. Section 562.111, relating to possession of alcoholic
 58 beverages by persons under age 21;

11-00428-18

2018644__

59 2. Section 784.03(1), relating to battery;

60 3. Section 806.13, relating to criminal mischief;

61 4. Section 810.08 or s. 810.09, relating to trespass;

62 5. Section 812.014(2)(e) or (3)(a), relating to theft;

63 6. Section 812.015(2), relating to theft from a merchant,
64 farmer, or transit agency;

65 7. Section 843.02, relating to resisting an officer without
66 violence;

67 8. Section 870.01(1), relating to an affray;

68 9. Section 877.03, relating to breach of the peace or
69 disorderly conduct;

70 10. Section 893.13(6)(b), relating to possession of certain
71 amounts of cannabis; or

72 11. Section 893.147, relating to use, possession,
73 manufacture, delivery, transportation, advertisement, or retail
74 sale of drug paraphernalia.

75 (b) May issue a civil citation to the juvenile or require
76 the juvenile's participation in a similar diversion program if
77 the misdemeanor offense is not specified in paragraph (a).

78 (4) Under a juvenile civil citation or similar diversion
79 program, a law enforcement officer who makes contact with a
80 juvenile who admits having committed a second or a third
81 misdemeanor offense may issue a civil citation to the juvenile
82 or require the juvenile's participation in a similar diversion
83 program, regardless of whether the misdemeanor offense is
84 specified in paragraph (3)(a).

85 (5) If a juvenile is arrested for a misdemeanor offense
86 subject to paragraph (3)(b) or subsection (4), the law
87 enforcement officer must provide written documentation as to why

11-00428-18

2018644__

88 the arrest was warranted.

89 (6) A law enforcement officer shall advise a juvenile who
90 is eligible under subsection (3) or subsection (4) that the
91 juvenile has the option to refuse the civil citation or other
92 similar diversion program and be referred to the department, and
93 that the juvenile may elect this option at any time before fully
94 completing the community service assignment required under
95 subsection (8). Participation in a civil citation or similar
96 diversion program is not considered a referral to the
97 department.

98 (7) Upon issuance of the civil citation or documentation
99 requiring a similar diversion program, the law enforcement
100 officer shall send a copy to the entity designated to operate
101 the program, the parent or guardian of the juvenile, and the
102 victim. The operating entity, appropriate intake office, or a
103 designee of the entity or intake office shall enter such
104 information into the Juvenile Justice Information System or the
105 Prevention Web system.

106 (8) A juvenile who elects to participate in a civil
107 citation or similar diversion program must complete, and assess
108 up to 50 community service hours, and participate require
109 participation in intervention services as indicated by an
110 assessment of the needs of the juvenile, including family
111 counseling, urinalysis monitoring, and substance abuse and
112 mental health treatment services.

113 (a) The juvenile shall report to the entity designated to
114 operate the program, or its designee, within 10 business days
115 after the date of issuance of the civil citation or
116 documentation for a similar diversion program. ~~A copy of each~~

11-00428-18

2018644__

117 ~~citation issued under this section shall be provided to the~~
118 ~~department, and the department shall enter appropriate~~
119 ~~information into the juvenile offender information system. Use~~
120 ~~of the civil citation or similar diversion program is not~~
121 ~~limited to first-time misdemeanors and may be used in up to two~~
122 ~~subsequent misdemeanors. If an arrest is made, a law enforcement~~
123 ~~officer must provide written documentation as to why an arrest~~
124 ~~was warranted.~~

125 (b) At the conclusion of a juvenile's participation in a
126 civil citation program or similar diversion program, the entity
127 agency operating the program shall report the outcome of the
128 juvenile's participation in the program to the department.

129 (c) If the juvenile fails to timely report for a community
130 service assignment, complete the assignment, or comply with
131 assigned intervention services within the prescribed time, or if
132 the juvenile commits a new misdemeanor offense, the law
133 enforcement officer may issue a report alleging that the
134 juvenile has committed a delinquent act, at which time a
135 juvenile probation officer shall process the original delinquent
136 act as a referral to the department and refer the report to the
137 state attorney for review ~~The issuance of a civil citation is~~
138 ~~not considered a referral to the department.~~

139 (9)(2) The department shall develop guidelines for the
140 civil citation and similar diversion programs program which
141 include intervention services that are based on ~~upon~~ proven
142 civil citation or similar diversion programs in ~~within~~ the
143 state.

144 (10) This section does not apply to:

145 (a) A juvenile who is alleged to have committed, or is

11-00428-18

2018644__

146 charged with, and awaiting final disposition of an offense that
147 would be a felony if committed by an adult.

148 (b) A juvenile who has entered a plea of nolo contendere or
149 guilty to, or has been found to have committed, an offense that
150 would be a felony if committed by an adult.

151 (c) A misdemeanor offense arising out of an episode in
152 which the juvenile is also alleged to have committed an offense
153 that would be a felony if committed by an adult.

154 (11) This section does not modify the authority of a law
155 enforcement officer who, upon making contact with a juvenile who
156 is alleged to have committed a misdemeanor offense, elects to
157 issue only a simple warning to the juvenile or notice to a
158 juvenile's parent or guardian of the alleged offense.

159 ~~(3) Upon issuing such citation, the law enforcement officer~~
160 ~~shall send a copy to the county sheriff, state attorney, the~~
161 ~~appropriate intake office of the department, or the community~~
162 ~~service performance monitor designated by the department, the~~
163 ~~parent or guardian of the child, and the victim.~~

164 ~~(4) The child shall report to the community service~~
165 ~~performance monitor within 7 working days after the date of~~
166 ~~issuance of the citation. The work assignment shall be~~
167 ~~accomplished at a rate of not less than 5 hours per week. The~~
168 ~~monitor shall advise the intake office immediately upon~~
169 ~~reporting by the child to the monitor, that the child has in~~
170 ~~fact reported and the expected date upon which completion of the~~
171 ~~work assignment will be accomplished.~~

172 ~~(5) If the child fails to report timely for a work~~
173 ~~assignment, complete a work assignment, or comply with assigned~~
174 ~~intervention services within the prescribed time, or if the~~

11-00428-18

2018644__

175 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
176 ~~officer shall issue a report alleging the child has committed a~~
177 ~~delinquent act, at which point a juvenile probation officer~~
178 ~~shall process the original delinquent act as a referral to the~~
179 ~~department and refer the report to the state attorney for~~
180 ~~review.~~

181 ~~(6) At the time of issuance of the citation by the law~~
182 ~~enforcement officer, such officer shall advise the child that~~
183 ~~the child has the option to refuse the citation and to be~~
184 ~~referred to the intake office of the department. That option may~~
185 ~~be exercised at any time before completion of the work~~
186 ~~assignment.~~

187 Section 2. Paragraph (b) of subsection (3) of section
188 943.051, Florida Statutes, is amended to read:

189 943.051 Criminal justice information; collection and
190 storage; fingerprinting.—

191 (3)

192 (b) A minor who is charged with or found to have committed
193 the following offenses shall be fingerprinted and the
194 fingerprints shall be submitted electronically to the
195 department, unless the minor participates in ~~is issued~~ a civil
196 citation or similar diversion program pursuant to s. 985.12:

- 197 1. Assault, as defined in s. 784.011.
- 198 2. Battery, as defined in s. 784.03.
- 199 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 200 4. Unlawful use of destructive devices or bombs, as defined
201 in s. 790.1615(1).
- 202 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 203 6. Assault or battery on a law enforcement officer, a

11-00428-18

2018644__

- 204 firefighter, or other specified officers, as defined in s.
205 784.07(2) (a) and (b) .
- 206 7. Open carrying of a weapon, as defined in s. 790.053.
207 8. Exposure of sexual organs, as defined in s. 800.03.
208 9. Unlawful possession of a firearm, as defined in s.
209 790.22(5) .
- 210 10. Petit theft, as defined in s. 812.014(3) .
211 11. Cruelty to animals, as defined in s. 828.12(1) .
212 12. Arson, as defined in s. 806.031(1) .
213 13. Unlawful possession or discharge of a weapon or firearm
214 at a school-sponsored event or on school property, as provided
215 in s. 790.115.
- 216 Section 3. Paragraph (b) of subsection (1) of section
217 985.11, Florida Statutes, is amended to read:
218 985.11 Fingerprinting and photographing.—
219 (1)
220 (b) Unless the child is participating in ~~is issued~~ a civil
221 citation or ~~is participating in a~~ similar diversion program
222 pursuant to s. 985.12, a child who is charged with or found to
223 have committed one of the following offenses shall be
224 fingerprinted, and the fingerprints shall be submitted to the
225 Department of Law Enforcement as provided in s. 943.051(3) (b):
226 1. Assault, as defined in s. 784.011.
227 2. Battery, as defined in s. 784.03.
228 3. Carrying a concealed weapon, as defined in s. 790.01(1).
229 4. Unlawful use of destructive devices or bombs, as defined
230 in s. 790.1615(1) .
231 5. Neglect of a child, as defined in s. 827.03(1) (e).
232 6. Assault on a law enforcement officer, a firefighter, or

11-00428-18

2018644__

233 other specified officers, as defined in s. 784.07(2)(a).

234 7. Open carrying of a weapon, as defined in s. 790.053.

235 8. Exposure of sexual organs, as defined in s. 800.03.

236 9. Unlawful possession of a firearm, as defined in s.

237 790.22(5).

238 10. Petit theft, as defined in s. 812.014.

239 11. Cruelty to animals, as defined in s. 828.12(1).

240 12. Arson, resulting in bodily harm to a firefighter, as

241 defined in s. 806.031(1).

242 13. Unlawful possession or discharge of a weapon or firearm

243 at a school-sponsored event or on school property as defined in

244 s. 790.115.

245

246 A law enforcement agency may fingerprint and photograph a child

247 taken into custody upon probable cause that such child has

248 committed any other violation of law, as the agency deems

249 appropriate. Such fingerprint records and photographs shall be

250 retained by the law enforcement agency in a separate file, and

251 these records and all copies thereof must be marked "Juvenile

252 Confidential." These records are not available for public

253 disclosure and inspection under s. 119.07(1) except as provided

254 in ss. 943.053 and 985.04(2), but shall be available to other

255 law enforcement agencies, criminal justice agencies, state

256 attorneys, the courts, the child, the parents or legal

257 custodians of the child, their attorneys, and any other person

258 authorized by the court to have access to such records. In

259 addition, such records may be submitted to the Department of Law

260 Enforcement for inclusion in the state criminal history records

261 and used by criminal justice agencies for criminal justice

11-00428-18

2018644__

262 purposes. These records may, in the discretion of the court, be
263 open to inspection by anyone upon a showing of cause. The
264 fingerprint and photograph records shall be produced in the
265 court whenever directed by the court. Any photograph taken
266 pursuant to this section may be shown by a law enforcement
267 officer to any victim or witness of a crime for the purpose of
268 identifying the person who committed such crime.

269 Section 4. This act shall take effect July 1, 2018.