

By Senator Garcia

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1                   A bill to be entitled  
2       An act relating to juvenile justice; amending s.  
3       985.12, F.S.; authorizing a law enforcement officer to  
4       issue a warning to a juvenile who admits having  
5       committed a misdemeanor or to inform the child's  
6       parent or guardian of the child's infraction;  
7       requiring a law enforcement officer who does not  
8       exercise one of these options to issue a civil  
9       citation or require participation in a similar  
10      diversion program; providing that repeat misdemeanor  
11      offenders may participate in the civil citation  
12      program or a similar diversion program under certain  
13      circumstances; providing that, in exceptional  
14      situations, a law enforcement officer may arrest a  
15      first-time misdemeanor offender in the interest of  
16      protecting public safety; requiring certain written  
17      documentation if such an arrest is made; reenacting  
18      ss. 943.051(3)(b) and 985.11(1)(b), F.S., relating to  
19      the issuance of a civil citation, and the issuance of  
20      a civil citation or similar diversion program,  
21      respectively, to incorporate the amendments made to s.  
22      985.12, F.S., in references thereto; providing an  
23      effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27       Section 1. Subsection (1) of section 985.12, Florida  
28       Statutes, is amended to read:  
29       985.12 Civil citation.-

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30 (1) There is established a juvenile civil citation process  
31 for the purpose of providing an efficient and innovative  
32 alternative to custody by the Department of Juvenile Justice for  
33 children who commit nonserious delinquent acts and to ensure  
34 swift and appropriate consequences. The department shall  
35 encourage and assist in the implementation and improvement of  
36 civil citation programs or other similar diversion programs  
37 around the state. The civil citation or similar diversion  
38 program shall be established at the local level with the  
39 concurrence of the chief judge of the circuit, state attorney,  
40 public defender, and the head of each local law enforcement  
41 agency involved. The program may be operated by an entity such  
42 as a law enforcement agency, the department, a juvenile  
43 assessment center, the county or municipality, or another ~~some~~  
44 ~~other~~ entity selected by the county or municipality. An entity  
45 operating the civil citation or similar diversion program must  
46 do so in consultation and agreement with the state attorney and  
47 local law enforcement agencies. Under such a juvenile civil  
48 citation or similar diversion program, a ~~any~~ law enforcement  
49 officer, upon making contact with a juvenile who admits having  
50 committed a misdemeanor, may choose to issue a simple warning or  
51 inform the child's guardian or parent of the child's infraction,  
52 or shall ~~may~~ issue a civil citation or require participation in  
53 a similar diversion program, and assess up to ~~not more than~~ 50  
54 community service hours, and require participation in  
55 intervention services as indicated by an assessment of the needs  
56 of the juvenile, including family counseling, urinalysis  
57 monitoring, and substance abuse and mental health treatment  
58 services. A copy of each citation issued under this section

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59 shall be provided to the department, and the department shall  
60 enter appropriate information into the juvenile offender  
61 information system. Use of the civil citation or similar  
62 diversion program is not limited to first-time offenses and may  
63 be used in a second or subsequent offense. In exceptional  
64 situations, a local law enforcement officer may arrest a  
65 juvenile for a first-time misdemeanor if he or she provides  
66 written documentation as to why an arrest was warranted to  
67 protect public safety. ~~Only first-time misdemeanor offenders are~~  
68 ~~eligible for the civil citation or similar diversion program.~~ At  
69 the conclusion of a juvenile's civil citation program or similar  
70 diversion program, the agency operating the program shall report  
71 the outcome to the department. The issuance of a civil citation  
72 is not considered a referral to the department.

73 Section 2. For the purpose of incorporating the amendment  
74 made by this act to section 985.12, Florida Statutes, in a  
75 reference thereto, paragraph (b) of subsection (3) of section  
76 943.051, Florida Statutes, is reenacted to read:

77 943.051 Criminal justice information; collection and  
78 storage; fingerprinting.—

79 (3)

80 (b) A minor who is charged with or found to have committed  
81 the following offenses shall be fingerprinted and the  
82 fingerprints shall be submitted electronically to the  
83 department, unless the minor is issued a civil citation pursuant  
84 to s. 985.12:

- 85 1. Assault, as defined in s. 784.011.
- 86 2. Battery, as defined in s. 784.03.
- 87 3. Carrying a concealed weapon, as defined in s. 790.01(1).

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88 4. Unlawful use of destructive devices or bombs, as defined  
89 in s. 790.1615(1).

90 5. Neglect of a child, as defined in s. 827.03(1)(e).

91 6. Assault or battery on a law enforcement officer, a  
92 firefighter, or other specified officers, as defined in s.  
93 784.07(2)(a) and (b).

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

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

96 9. Unlawful possession of a firearm, as defined in s.  
97 790.22(5).

98 10. Petit theft, as defined in s. 812.014(3).

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

100 12. Arson, as defined in s. 806.031(1).

101 13. Unlawful possession or discharge of a weapon or firearm  
102 at a school-sponsored event or on school property, as provided  
103 in s. 790.115.

104 Section 3. For the purpose of incorporating the amendment  
105 made by this act to section 985.12, Florida Statutes, in a  
106 reference thereto, paragraph (b) of subsection (1) of section  
107 985.11, Florida Statutes, is reenacted to read:

108 985.11 Fingerprinting and photographing.—

109 (1)

110 (b) Unless the child is issued a civil citation or is  
111 participating in a similar diversion program pursuant to s.  
112 985.12, a child who is charged with or found to have committed  
113 one of the following offenses shall be fingerprinted, and the  
114 fingerprints shall be submitted to the Department of Law  
115 Enforcement as provided in s. 943.051(3)(b):

116 1. Assault, as defined in s. 784.011.

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- 117           2. Battery, as defined in s. 784.03.
- 118           3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 119           4. Unlawful use of destructive devices or bombs, as defined
- 120 in s. 790.1615(1).
- 121           5. Neglect of a child, as defined in s. 827.03(1)(e).
- 122           6. Assault on a law enforcement officer, a firefighter, or
- 123 other specified officers, as defined in s. 784.07(2)(a).
- 124           7. Open carrying of a weapon, as defined in s. 790.053.
- 125           8. Exposure of sexual organs, as defined in s. 800.03.
- 126           9. Unlawful possession of a firearm, as defined in s.
- 127 790.22(5).
- 128           10. Petit theft, as defined in s. 812.014.
- 129           11. Cruelty to animals, as defined in s. 828.12(1).
- 130           12. Arson, resulting in bodily harm to a firefighter, as
- 131 defined in s. 806.031(1).
- 132           13. Unlawful possession or discharge of a weapon or firearm
- 133 at a school-sponsored event or on school property as defined in
- 134 s. 790.115.

135

136 A law enforcement agency may fingerprint and photograph a child

137 taken into custody upon probable cause that such child has

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

139 appropriate. Such fingerprint records and photographs shall be

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

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

142 Confidential." These records are not available for public

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

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

145 law enforcement agencies, criminal justice agencies, state

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146 attorneys, the courts, the child, the parents or legal  
147 custodians of the child, their attorneys, and any other person  
148 authorized by the court to have access to such records. In  
149 addition, such records may be submitted to the Department of Law  
150 Enforcement for inclusion in the state criminal history records  
151 and used by criminal justice agencies for criminal justice  
152 purposes. These records may, in the discretion of the court, be  
153 open to inspection by anyone upon a showing of cause. The  
154 fingerprint and photograph records shall be produced in the  
155 court whenever directed by the court. Any photograph taken  
156 pursuant to this section may be shown by a law enforcement  
157 officer to any victim or witness of a crime for the purpose of  
158 identifying the person who committed such crime.

159 Section 4. This act shall take effect October 1, 2015.