

HB 1031

2016

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; authorizing law enforcement  
7           officers of participating law enforcement agencies, at  
8           their sole discretion, to issue civil citations to  
9           adults under specified circumstances; requiring an  
10          adult who is issued a civil citation by a  
11          participating law enforcement agency to report for  
12          intake as required by the prearrest diversion program;  
13          requiring the provision of appropriate behavioral  
14          health care services; requiring that an adult who is  
15          issued a citation fulfill a community service  
16          requirement; providing for criminal prosecution of  
17          adults who fail to complete the prearrest diversion  
18          program; requiring that there be no arrest record for  
19          adults who successfully complete the program;  
20          specifying the nonviolent misdemeanor offenses that  
21          are eligible for the prearrest diversion program;  
22          providing an effective date.

23  
24    Be It Enacted by the Legislature of the State of Florida:

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26          Section 1.   Section 901.40, Florida Statutes, is created to

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27 read:

28 901.40 Prearrest diversion programs.-

29 (1) INTENT.-The Legislature encourages local communities  
30 and public or private educational institutions to implement  
31 prearrest diversion programs that afford certain adults who  
32 fulfill specified intervention and community service obligations  
33 the opportunity to avoid an arrest record. The Legislature does  
34 not mandate that a particular prearrest diversion program for  
35 adults be adopted but finds that the adoption of the model  
36 provided in this section would allow certain adults to avoid an  
37 arrest record while ensuring that those adults receive  
38 appropriate intervention and fulfill community service  
39 obligations. The Legislature further encourages that a prearrest  
40 diversion program share information with other prearrest  
41 diversion programs.

42 (2) MODEL ADULT CIVIL CITATION PROGRAM.-

43 (a) Law enforcement officers, at their sole discretion,  
44 may issue civil citations to certain adults who commit a  
45 qualifying nonviolent misdemeanor offense listed in subsection  
46 (4). A civil citation may be issued only if the adult admits  
47 that he or she committed the offense and if the adult has not  
48 been previously arrested as an adult for an offense. However, an  
49 adult may not be issued a civil citation if the nonviolent  
50 misdemeanor offense involves a victim and the victim objects to  
51 issuance of the civil citation.

52 (b) An adult who receives a civil citation shall report

53 for intake as required by the local prearrest diversion program  
54 and shall be provided appropriate assessment, intervention,  
55 education, and behavioral health care services. While in the  
56 local prearrest diversion program, the adult shall perform  
57 community service hours as specified by the local prearrest  
58 diversion program. If the adult does not successfully complete  
59 the prearrest diversion program, the law enforcement agency that  
60 issued the civil citation shall criminally charge the adult for  
61 the original offense and refer the case to the state attorney to  
62 determine if prosecution is appropriate. If the adult  
63 successfully completes the program, an arrest record shall not  
64 be associated with the offense.

65 (c) A steering committee shall be created for the  
66 prearrest diversion program to develop policies and procedures  
67 for the program, including, but not limited to, eligibility  
68 criteria, program implementation and operation, and the fee to  
69 be paid by adults participating in the program. At a minimum,  
70 the steering committee shall be composed of representatives of  
71 the law enforcement agencies participating in the program and a  
72 representative of the program services provider.

73 (3) LOCAL SANCTIONS.—This section does not preempt a  
74 county or municipality from enacting noncriminal sanctions for a  
75 violation of an ordinance or other violation and does not  
76 preempt a county, municipality, or public or private educational  
77 institution from creating its own model for a prearrest  
78 diversion program for adults.

79           (4) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses  
 80 that qualify for a prearrest diversion program include, but are  
 81 not limited to:

82           (a) Disorderly conduct.

83           (b) Nondomestic simple assault or nondomestic simple  
 84 battery.

85           (c) An open house party in violation of s. 856.015(2).

86           (d) Petit theft of stolen property valued at less than  
 87 \$50.

88           (e) Possession of alcohol by a person younger than 21  
 89 years of age.

90           (f) Possession of 20 grams or less of cannabis.

91           (g) Selling or providing alcoholic beverages to a minor.

92           (h) Trespass in a structure or conveyance.

93           Section 2. This act shall take effect July 1, 2016.