

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.

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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

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.