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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/17/2016	.	
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The Committee on Criminal Justice (Clemens) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

985.12 Civil citation and similar diversion programs.—

(1) (a) There is established a process for the use of
juvenile civil citation and similar diversion programs to
provide ~~process for the purpose of providing~~ an efficient and



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11 innovative alternative to custody by the department ~~of Juvenile~~
12 ~~Justice~~ for juveniles ~~children~~ who commit nonserious delinquent
13 acts and to ensure swift and appropriate consequences. The
14 department shall encourage and assist in the implementation and
15 improvement of civil citation and ~~programs or other~~ similar
16 diversion programs in ~~around~~ the state.

17 (b) One or more ~~The~~ civil citation or similar diversion
18 programs ~~program~~ shall be established in each county which must
19 individually or collectively serve all juveniles who are alleged
20 to have committed a violation of law which would be a
21 misdemeanor offense if committed by an adult. Such programs must
22 be established at the local level with the concurrence of the
23 chief judge of the circuit, state attorney, public defender, and
24 the head of each local law enforcement agency involved and. ~~The~~
25 ~~program~~ may be operated by an entity such as a law enforcement
26 agency, the department, a juvenile assessment center, the county
27 or municipality, or another entity selected by the county or
28 municipality. An entity operating such a ~~the civil citation or~~
29 ~~similar diversion~~ program must do so in consultation and
30 agreement with the state attorney and local law enforcement
31 agencies.

32 (2) As used in this section, the term:

33 (a) "Misdemeanor offense" means one or more misdemeanor
34 violations of law arising out of the same criminal episode, act,
35 or transaction.

36 (b) "Law enforcement officer" has the same meaning as
37 provided in s. 943.10.

38 (3) Under such a juvenile civil citation or similar
39 diversion program, a law enforcement officer that makes, ~~upon~~



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40 ~~making~~ contact with a juvenile who admits having committed a
41 ~~first-time misdemeanor: misdemeanor, may choose to issue a~~
42 ~~simple warning or inform the child's guardian or parent of the~~
43 ~~child's infraction, or may~~

44 (a) Shall issue a civil citation to the juvenile or require
45 the juvenile's participation in a similar diversion program if
46 each violation of law in the misdemeanor offense is one of the
47 following:

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

50 2. Section 784.03(1), relating to battery, if the victim
51 approves the juvenile's participation in a civil citation or
52 similar diversion program;

53 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to
54 theft;

55 4. Section 812.015(2), relating to retail and farm theft;

56 5. Section 870.01(1), relating to affrays and riots;

57 6. Section 877.03, relating to disorderly conduct;

58 7. Section 893.13(6)(b), relating to possession of certain
59 amounts of cannabis or controlled substances;

60 8. Section 893.147, relating to use, possession,
61 manufacture, delivery, transportation, advertisement, or retail
62 sale of drug paraphernalia; or

63 9. Section 843.02, relating to resisting an officer without
64 violence.

65 (b) May issue a civil citation to the juvenile or require
66 the juvenile's participation in a similar diversion program if
67 the violations of law are not enumerated in subparagraph (a).

68 (4) Under such a juvenile civil citation or similar



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69 diversion program, a law enforcement officer that makes contact
70 with a juvenile who admits having committed a second-time or
71 third-time misdemeanor offense may issue a civil citation to the
72 juvenile or require the juvenile's participation in a similar
73 diversion program, regardless of whether the violations of law
74 are enumerated in subparagraph (3) (a).

75 (5) If an arrest is made for a misdemeanor offense subject
76 to paragraph (3) (b) or subsection (4), a law enforcement officer
77 must provide written documentation as to why the arrest was
78 warranted.

79 (6) A law enforcement officer shall advise a juvenile who
80 is subject to subsection (3) or subsection (4) that the juvenile
81 has the option to refuse the civil citation or other similar
82 diversion program and be referred to the department. This option
83 may be exercised at any time before completion of the community
84 service assignment required under subsection (8). Participation
85 in a civil citation or similar diversion program is not
86 considered a referral to the department.

87 (7) Upon issuance of the civil citation or documentation
88 requiring a similar diversion program, the law enforcement
89 officer shall send a copy to the county sheriff, state attorney,
90 the appropriate intake office of the department or the community
91 service performance monitor designated by the department, the
92 parent or guardian of the child, and the victim. The department
93 shall enter such information into the juvenile offender
94 information system.

95 (8) A juvenile that elects to participate in a civil
96 citation or similar diversion program shall complete, and assess
97 up to 50 community service hours, and participate require



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98 ~~participation~~ in intervention services as indicated by an
99 assessment of the needs of the juvenile, including family
100 counseling, urinalysis monitoring, and substance abuse and
101 mental health treatment services.

102 (a) The juvenile shall report to the community service
103 performance monitor within 7 business days after the date of
104 issuance of the civil citation or documentation for a similar
105 diversion program. The juvenile shall spend a minimum of 5 hours
106 per week completing the community service assignment. The
107 monitor shall immediately notify the intake office of the
108 department that a juvenile has reported to the monitor and the
109 expected date on which the juvenile will complete the community
110 service assignment ~~A copy of each citation issued under this~~
111 ~~section shall be provided to the department, and the department~~
112 ~~shall enter appropriate information into the juvenile offender~~
113 ~~information system. Use of the civil citation or similar~~
114 ~~diversion program is not limited to first-time misdemeanors and~~
115 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
116 ~~is made, a law enforcement officer must provide written~~
117 ~~documentation as to why an arrest was warranted.~~

118 (b) At the conclusion of a juvenile's civil citation
119 ~~program~~ or similar diversion program, the entity agency
120 operating the program shall report the outcome of the program to
121 the department.

122 (c) If the juvenile fails to timely report for a community
123 service assignment, complete such assignment, or comply with
124 assigned intervention services within the prescribed time, or if
125 the juvenile commits a subsequent misdemeanor, the law
126 enforcement officer shall issue a report alleging the juvenile



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127 has committed a delinquent act, at which time a juvenile
128 probation officer shall process the original delinquent act as a
129 referral to the department and refer the report to the state
130 attorney for review ~~The issuance of a civil citation is not~~
131 ~~considered a referral to the department.~~

132 (9) ~~(2)~~ The department shall develop guidelines for the
133 civil citation and similar diversion programs ~~program~~ which
134 include intervention services that are based on ~~upon~~ proven
135 civil citation or similar diversion programs ~~in~~ within ~~the~~
136 state.

137 (10) This section does not apply to:

138 (a) A juvenile who is currently alleged to have committed,
139 or is currently charged with, and awaiting final disposition of
140 an offense that would be a felony if committed by an adult.

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

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

147 (11) This section does not modify the authority of a law
148 enforcement officer who comes into contact with a juvenile who
149 is alleged to have committed a misdemeanor to issue only a
150 simple warning to the juvenile or notice to a juvenile's parent
151 or guardian of the alleged offense.

152 ~~(3) Upon issuing such citation, the law enforcement officer~~
153 ~~shall send a copy to the county sheriff, state attorney, the~~
154 ~~appropriate intake office of the department, or the community~~
155 ~~service performance monitor designated by the department, the~~



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156 ~~parent or guardian of the child, and the victim.~~

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

165 ~~(5) If the child fails to report timely for a work~~
166 ~~assignment, complete a work assignment, or comply with assigned~~
167 ~~intervention services within the prescribed time, or if the~~
168 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
169 ~~officer shall issue a report alleging the child has committed a~~
170 ~~delinquent act, at which point a juvenile probation officer~~
171 ~~shall process the original delinquent act as a referral to the~~
172 ~~department and refer the report to the state attorney for~~
173 ~~review.~~

174 ~~(6) At the time of issuance of the citation by the law~~
175 ~~enforcement officer, such officer shall advise the child that~~
176 ~~the child has the option to refuse the citation and to be~~
177 ~~referred to the intake office of the department. That option may~~
178 ~~be exercised at any time before completion of the work~~
179 ~~assignment.~~

180 Section 2. Paragraph (b) of subsection (3) of section
181 943.051, Florida Statutes, is amended to read:

182 943.051 Criminal justice information; collection and
183 storage; fingerprinting.—

184 (3)



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

- 190 1. Assault, as defined in s. 784.011.
- 191 2. Battery, as defined in s. 784.03.
- 192 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 193 4. Unlawful use of destructive devices or bombs, as defined
194 in s. 790.1615(1).
- 195 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 196 6. Assault or battery on a law enforcement officer, a
197 firefighter, or other specified officers, as defined in s.
198 784.07(2)(a) and (b).
- 199 7. Open carrying of a weapon, as defined in s. 790.053.
- 200 8. Exposure of sexual organs, as defined in s. 800.03.
- 201 9. Unlawful possession of a firearm, as defined in s.
202 790.22(5).
- 203 10. Petit theft, as defined in s. 812.014(3).
- 204 11. Cruelty to animals, as defined in s. 828.12(1).
- 205 12. Arson, as defined in s. 806.031(1).
- 206 13. Unlawful possession or discharge of a weapon or firearm
207 at a school-sponsored event or on school property, as provided
208 in s. 790.115.

209 Section 3. Paragraph (b) of subsection (1) of section
210 985.11, Florida Statutes, is amended to read:

211 985.11 Fingerprinting and photographing.—

212 (1)

213 (b) Unless the child is participating in ~~is issued~~ a civil



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214 citation or ~~is participating in a~~ similar diversion program
215 pursuant to s. 985.12, a child who is charged with or found to
216 have committed one of the following offenses shall be
217 fingerprinted, and the fingerprints shall be submitted to the
218 Department of Law Enforcement as provided in s. 943.051(3)(b):

- 219 1. Assault, as defined in s. 784.011.
- 220 2. Battery, as defined in s. 784.03.
- 221 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 222 4. Unlawful use of destructive devices or bombs, as defined
223 in s. 790.1615(1).
- 224 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 225 6. Assault on a law enforcement officer, a firefighter, or
226 other specified officers, as defined in s. 784.07(2)(a).
- 227 7. Open carrying of a weapon, as defined in s. 790.053.
- 228 8. Exposure of sexual organs, as defined in s. 800.03.
- 229 9. Unlawful possession of a firearm, as defined in s.
230 790.22(5).
- 231 10. Petit theft, as defined in s. 812.014.
- 232 11. Cruelty to animals, as defined in s. 828.12(1).
- 233 12. Arson, resulting in bodily harm to a firefighter, as
234 defined in s. 806.031(1).
- 235 13. Unlawful possession or discharge of a weapon or firearm
236 at a school-sponsored event or on school property as defined in
237 s. 790.115.

238
239 A law enforcement agency may fingerprint and photograph a child
240 taken into custody upon probable cause that such child has
241 committed any other violation of law, as the agency deems
242 appropriate. Such fingerprint records and photographs shall be



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243 retained by the law enforcement agency in a separate file, and
244 these records and all copies thereof must be marked "Juvenile
245 Confidential." These records are not available for public
246 disclosure and inspection under s. 119.07(1) except as provided
247 in ss. 943.053 and 985.04(2), but shall be available to other
248 law enforcement agencies, criminal justice agencies, state
249 attorneys, the courts, the child, the parents or legal
250 custodians of the child, their attorneys, and any other person
251 authorized by the court to have access to such records. In
252 addition, such records may be submitted to the Department of Law
253 Enforcement for inclusion in the state criminal history records
254 and used by criminal justice agencies for criminal justice
255 purposes. These records may, in the discretion of the court, be
256 open to inspection by anyone upon a showing of cause. The
257 fingerprint and photograph records shall be produced in the
258 court whenever directed by the court. Any photograph taken
259 pursuant to this section may be shown by a law enforcement
260 officer to any victim or witness of a crime for the purpose of
261 identifying the person who committed such crime.

262 Section 4. This act shall take effect July 1, 2016.

263
264 ===== T I T L E A M E N D M E N T =====

265 And the title is amended as follows:

266 Delete everything before the enacting clause
267 and insert:

268 A bill to be entitled
269 An act relating to juvenile civil citation and similar
270 diversion programs; amending s. 985.12, F.S.;
271 requiring the establishment of civil citation or



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272 similar diversion programs for juveniles; providing
273 definitions; specifying program eligibility,
274 participation, and implementation requirements;
275 providing exceptions; providing applicability;
276 amending ss. 943.051 and 985.11, F.S.; conforming
277 provisions to changes made by the act; providing an
278 effective date.