

By the Committee on Criminal Justice; and Senators Altman, Negron, Joyner, Clemens, Flores, Sachs, Sobel, and Soto

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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.;
4 requiring the establishment of civil citation or
5 similar diversion programs for juveniles; providing
6 definitions; specifying program eligibility,
7 participation, and implementation requirements;
8 providing exceptions; providing applicability;
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) (a) There is established a process for the use of
19 juvenile civil citation and similar diversion programs to
20 provide ~~process for the purpose of providing~~ an efficient and
21 innovative alternative to custody by the department ~~of Juvenile~~
22 ~~Justice~~ for juveniles ~~children~~ who commit nonserious delinquent
23 acts and to ensure swift and appropriate consequences. The
24 department shall encourage and assist in the implementation and
25 improvement of civil citation and ~~programs or other~~ similar
26 diversion programs in ~~around~~ the state.

27 (b) One or more ~~The~~ civil citation or similar diversion
28 programs ~~program~~ shall be established in each county which must
29 individually or collectively serve all juveniles who are alleged
30 to have committed a violation of law which would be a
31 misdemeanor offense if committed by an adult. Such programs must

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32 be established ~~at the local level~~ with the concurrence of the
33 chief judge of the circuit, state attorney, public defender, and
34 the head of each local law enforcement agency involved and. ~~The~~
35 ~~program~~ may be operated by an entity such as a law enforcement
36 agency, the department, a juvenile assessment center, the county
37 or municipality, or another entity selected by the county or
38 municipality. An entity operating such a ~~the civil citation or~~
39 ~~similar diversion~~ program must do so in consultation and
40 agreement with the state attorney and local law enforcement
41 agencies.

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

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

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

48 (3) Under such a juvenile civil citation or similar
49 diversion program, a law enforcement officer that makes, ~~upon~~
50 ~~making~~ contact with a juvenile who admits having committed a
51 ~~first-time misdemeanor: misdemeanor, may choose to issue a~~
52 ~~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 each violation of law in the misdemeanor offense is one of the
57 following:

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

60 2. Section 784.03(1), relating to battery, if the victim

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61 approves the juvenile's participation in a civil citation or
62 similar diversion program;

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

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

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

67 6. Section 877.03, relating to disorderly conduct;

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

70 8. Section 893.147, relating to use, possession,
71 manufacture, delivery, transportation, advertisement, or retail
72 sale of drug paraphernalia; or

73 9. Section 843.02, relating to resisting an officer without
74 violence.

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 violations of law are not enumerated in subparagraph (a).

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

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

89 (6) A law enforcement officer shall advise a juvenile who

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90 is subject to subsection (3) or subsection (4) that the juvenile
91 has the option to refuse the civil citation or other similar
92 diversion program and be referred to the department. This option
93 may be exercised at any time before completion of the community
94 service assignment required under subsection (8). Participation
95 in a civil citation or similar diversion program is not
96 considered a referral to the department.

97 (7) Upon issuance of the civil citation or documentation
98 requiring a similar diversion program, the law enforcement
99 officer shall send a copy to the county sheriff, state attorney,
100 the appropriate intake office of the department or the community
101 service performance monitor designated by the department, the
102 parent or guardian of the child, and the victim. The department
103 shall enter such information into the juvenile offender
104 information system.

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

112 (a) The juvenile shall report to the community service
113 performance monitor within 10 business days after the date of
114 issuance of the civil citation or documentation for a similar
115 diversion program. The juvenile shall spend a minimum of 5 hours
116 per week completing the community service assignment. The
117 monitor shall immediately notify the intake office of the
118 department that a juvenile has reported to the monitor and the

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119 expected date on which the juvenile will complete the community
120 service assignment ~~A copy of each citation issued under this~~
121 ~~section shall be provided to the department, and the department~~
122 ~~shall enter appropriate information into the juvenile offender~~
123 ~~information system. Use of the civil citation or similar~~
124 ~~diversion program is not limited to first-time misdemeanors and~~
125 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
126 ~~is made, a law enforcement officer must provide written~~
127 ~~documentation as to why an arrest was warranted.~~

128 (b) At the conclusion of a juvenile's civil citation
129 ~~program~~ or similar diversion program, the entity agency
130 operating the program shall report the outcome of the program to
131 the department.

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

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

147 (10) This section does not apply to:

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

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

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

157 (11) This section does not modify the authority of a law
158 enforcement officer who comes into contact with a juvenile who
159 is alleged to have committed a misdemeanor to issue only a
160 simple warning to the juvenile or notice to a juvenile's parent
161 or guardian of the alleged offense.

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

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

175 ~~(5) If the child fails to report timely for a work~~
176 ~~assignment, complete a work assignment, or comply with assigned~~

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177 ~~intervention services within the prescribed time, or if the~~
178 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
179 ~~officer shall issue a report alleging the child has committed a~~
180 ~~delinquent act, at which point a juvenile probation officer~~
181 ~~shall process the original delinquent act as a referral to the~~
182 ~~department and refer the report to the state attorney for~~
183 ~~review.~~

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

190 Section 2. Paragraph (b) of subsection (3) of section
191 943.051, Florida Statutes, is amended to read:

192 943.051 Criminal justice information; collection and
193 storage; fingerprinting.-

194 (3)

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

- 200 1. Assault, as defined in s. 784.011.
- 201 2. Battery, as defined in s. 784.03.
- 202 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 203 4. Unlawful use of destructive devices or bombs, as defined
204 in s. 790.1615(1).
- 205 5. Neglect of a child, as defined in s. 827.03(1)(e).

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

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- 235 6. Assault on a law enforcement officer, a firefighter, or
236 other specified officers, as defined in s. 784.07(2)(a).
- 237 7. Open carrying of a weapon, as defined in s. 790.053.
- 238 8. Exposure of sexual organs, as defined in s. 800.03.
- 239 9. Unlawful possession of a firearm, as defined in s.
240 790.22(5).
- 241 10. Petit theft, as defined in s. 812.014.
- 242 11. Cruelty to animals, as defined in s. 828.12(1).
- 243 12. Arson, resulting in bodily harm to a firefighter, as
244 defined in s. 806.031(1).
- 245 13. Unlawful possession or discharge of a weapon or firearm
246 at a school-sponsored event or on school property as defined in
247 s. 790.115.
- 248
- 249 A law enforcement agency may fingerprint and photograph a child
250 taken into custody upon probable cause that such child has
251 committed any other violation of law, as the agency deems
252 appropriate. Such fingerprint records and photographs shall be
253 retained by the law enforcement agency in a separate file, and
254 these records and all copies thereof must be marked "Juvenile
255 Confidential." These records are not available for public
256 disclosure and inspection under s. 119.07(1) except as provided
257 in ss. 943.053 and 985.04(2), but shall be available to other
258 law enforcement agencies, criminal justice agencies, state
259 attorneys, the courts, the child, the parents or legal
260 custodians of the child, their attorneys, and any other person
261 authorized by the court to have access to such records. In
262 addition, such records may be submitted to the Department of Law
263 Enforcement for inclusion in the state criminal history records

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

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