

**By** the Committees on Children, Families, and Elder Affairs; and Criminal Justice; and Senators Altman, Negron, Joyner, Clemens, Flores, Sachs, Sobel, and Soto

586-04089A-16

2016408c2

A bill to be entitled

An act relating to juvenile civil citation and similar diversion programs; amending s. 985.12, F.S.; requiring the establishment of civil citation or similar diversion programs for juveniles; providing definitions; specifying program eligibility, participation, and implementation requirements; providing exceptions; providing applicability; amending ss. 943.051 and 985.11, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

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

(b) One or more ~~The~~ civil citation or similar diversion programs program shall be established in each county which must individually or collectively serve all juveniles who are alleged to have committed a violation of law which would be a

586-04089A-16

2016408c2

31 misdemeanor offense if committed by an adult. Such programs must  
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 when  
56 the juvenile is under 16 years of age and if each violation of  
57 law in the misdemeanor offense is one of the following:

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

586-04089A-16

2016408c2

60       2. Section 784.03(1), relating to battery, if the victim  
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 843.02, relating to resisting an officer without  
67 violence;

68       6. Section 870.01(1), relating to affrays and riots;

69       7. Section 877.03, relating to disorderly conduct;

70       8. Section 893.13(6)(b), relating to possession of certain  
71 amounts of cannabis or controlled substances; or

72       9. Section 893.147, relating to use, possession,  
73 manufacture, delivery, transportation, advertisement, or retail  
74 sale of drug paraphernalia.

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 paragraph (a), or if  
78 the violation of law is one of the enumerated offenses in  
79 paragraph (a) and the juvenile is 16 years of age or older.

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

87       (5) If an arrest is made for a misdemeanor offense subject  
88 to paragraph (3)(b) or subsection (4), a law enforcement officer

586-04089A-16

2016408c2

89 must provide written documentation as to why the arrest was  
90 warranted.

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

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

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

114 (a) The juvenile shall report to the community service  
115 performance monitor within 10 business days after the date of  
116 issuance of the civil citation or documentation for a similar  
117 diversion program. The juvenile shall spend a minimum of 5 hours

586-04089A-16

2016408c2

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

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

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

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

586-04089A-16

2016408c2

147 civil citation or similar diversion programs in ~~within~~ the  
148 state.

149 (10) This section does not apply to:

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

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

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

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

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

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

586-04089A-16

2016408c2

176 ~~work assignment will be accomplished.~~

177 ~~(5) If the child fails to report timely for a work~~  
178 ~~assignment, complete a work assignment, or comply with assigned~~  
179 ~~intervention services within the prescribed time, or if the~~  
180 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~  
181 ~~officer shall issue a report alleging the child has committed a~~  
182 ~~delinquent act, at which point a juvenile probation officer~~  
183 ~~shall process the original delinquent act as a referral to the~~  
184 ~~department and refer the report to the state attorney for~~  
185 ~~review.~~

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

192 Section 2. Paragraph (b) of subsection (3) of section  
193 943.051, Florida Statutes, is amended to read:

194 943.051 Criminal justice information; collection and  
195 storage; fingerprinting.—

196 (3)

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

- 202 1. Assault, as defined in s. 784.011.
- 203 2. Battery, as defined in s. 784.03.
- 204 3. Carrying a concealed weapon, as defined in s. 790.01(1).

586-04089A-16

2016408c2

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

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

208 6. Assault or battery on a law enforcement officer, a  
209 firefighter, or other specified officers, as defined in s.  
210 784.07(2)(a) and (b).

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

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

213 9. Unlawful possession of a firearm, as defined in s.  
214 790.22(5).

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

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

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

218 13. Unlawful possession or discharge of a weapon or firearm  
219 at a school-sponsored event or on school property, as provided  
220 in s. 790.115.

221 Section 3. Paragraph (b) of subsection (1) of section  
222 985.11, Florida Statutes, is amended to read:

223 985.11 Fingerprinting and photographing.—

224 (1)

225 (b) Unless the child is participating in ~~is issued~~ a civil  
226 citation or ~~is participating in~~ a similar diversion program  
227 pursuant to s. 985.12, a child who is charged with or found to  
228 have committed one of the following offenses shall be  
229 fingerprinted, and the fingerprints shall be submitted to the  
230 Department of Law Enforcement as provided in s. 943.051(3)(b):

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

232 2. Battery, as defined in s. 784.03.

233 3. Carrying a concealed weapon, as defined in s. 790.01(1).

586-04089A-16

2016408c2

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

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

237 6. Assault on a law enforcement officer, a firefighter, or  
238 other specified officers, as defined in s. 784.07(2)(a).

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

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

241 9. Unlawful possession of a firearm, as defined in s.  
242 790.22(5).

243 10. Petit theft, as defined in s. 812.014.

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

245 12. Arson, resulting in bodily harm to a firefighter, as  
246 defined in s. 806.031(1).

247 13. Unlawful possession or discharge of a weapon or firearm  
248 at a school-sponsored event or on school property as defined in  
249 s. 790.115.

250

251 A law enforcement agency may fingerprint and photograph a child  
252 taken into custody upon probable cause that such child has  
253 committed any other violation of law, as the agency deems  
254 appropriate. Such fingerprint records and photographs shall be  
255 retained by the law enforcement agency in a separate file, and  
256 these records and all copies thereof must be marked "Juvenile  
257 Confidential." These records are not available for public  
258 disclosure and inspection under s. 119.07(1) except as provided  
259 in ss. 943.053 and 985.04(2), but shall be available to other  
260 law enforcement agencies, criminal justice agencies, state  
261 attorneys, the courts, the child, the parents or legal  
262 custodians of the child, their attorneys, and any other person

586-04089A-16

2016408c2

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

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