



188122

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
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The Committee on Community Affairs (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 901.40, Florida Statutes, is created to
read:

901.40 Prearrest diversion programs.—

(1) INTENT.—The Legislature encourages local communities
and public or private educational institutions to implement
prearrest diversion programs that afford certain adults who



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11 fulfill specified intervention and community service obligations
12 the opportunity to avoid an arrest record. The Legislature does
13 not mandate that a particular prearrest diversion program for
14 adults be adopted but finds that the adoption of the model
15 provided in this section would allow certain adults to avoid an
16 arrest record while ensuring that those adults receive
17 appropriate intervention and fulfill community service
18 obligations. The Legislature further encourages that a prearrest
19 diversion program share information with other prearrest
20 diversion programs.

21 (2) MODEL ADULT CIVIL CITATION PROGRAM.—

22 (a) Law enforcement officers, at their sole discretion, may
23 issue civil citations to certain adults who commit a qualifying
24 nonviolent misdemeanor offense listed in subsection (3). A civil
25 citation may be issued only if the adult admits that he or she
26 committed the offense and if the adult has not previously
27 received a civil citation. However, an adult may not be issued a
28 civil citation if the nonviolent misdemeanor offense involves a
29 victim and the victim objects to issuance of the civil citation.

30 (b) An adult who receives a civil citation shall report for
31 intake as required by the local prearrest diversion program and
32 shall be provided appropriate assessment, intervention,
33 education, and behavioral health care services. While in the
34 local prearrest diversion program, the adult shall perform
35 community service hours as specified by the local prearrest
36 diversion program. If the adult does not successfully complete
37 the prearrest diversion program, the law enforcement agency that
38 issued the civil citation shall criminally charge the adult for
39 the original offense and refer the case to the state attorney to



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40 determine if prosecution is appropriate. If the adult
41 successfully completes the program, an arrest record may not be
42 associated with the offense.

43 (c) A steering committee shall be created for the prearrest
44 diversion program to develop policies and procedures for the
45 program, including, but not limited to, eligibility criteria,
46 program implementation and operation, and the fee to be paid by
47 adults participating in the program. At a minimum, the steering
48 committee shall be composed of representatives of the law
49 enforcement agencies participating in the program, a
50 representative of the program services provider, and other
51 interested stakeholders.

52 (3) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses
53 that qualify for a prearrest diversion program include, but are
54 not limited to:

55 (a) Disorderly conduct.

56 (b) An open house party in violation of s. 856.015(2).

57 (c) Petit theft of stolen property valued at less than \$50.

58 (d) Possession of alcohol by a person younger than 21 years
59 of age.

60 (e) Possession of 20 grams or less of cannabis.

61 (f) Selling or providing alcoholic beverages to a minor.

62 (g) Trespass in a structure or conveyance.

63 (4) APPLICABILITY.—This section does not preempt a county
64 or municipality from enacting noncriminal sanctions for a
65 violation of an ordinance or other violation, and does not
66 preempt a county, a municipality, or a public or private
67 educational institution from creating its own model for a
68 prearrest diversion program for adults.



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

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71 ===== T I T L E A M E N D M E N T =====

72 And the title is amended as follows:

73 Delete everything before the enacting clause
74 and insert:

75 A bill to be entitled
76 An act relating to prearrest diversion programs;
77 creating s. 901.40, F.S.; encouraging local
78 communities and public or private educational
79 institutions to implement prearrest diversion programs
80 for certain offenders; authorizing law enforcement
81 officers of participating law enforcement agencies, at
82 their sole discretion, to issue civil citations to
83 adults under specified circumstances; requiring an
84 adult who is issued a civil citation by a
85 participating law enforcement agency to report for
86 intake as required by the prearrest diversion program;
87 requiring the provision of appropriate behavioral
88 health care services; requiring that an adult who is
89 issued a civil citation fulfill a community service
90 requirement; providing for criminal prosecution of
91 adults who fail to complete the prearrest diversion
92 program; prohibiting an arrest record from being
93 associated with a certain offense for adults who
94 successfully complete the program; establishing a
95 steering committee for the prearrest diversion
96 program; providing duties and membership of the
97 committee; specifying the nonviolent misdemeanor



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98 offenses that are eligible for the prearrest diversion
99 program; providing applicability; providing an
100 effective date.