

By the Committees on Community Affairs; and Criminal Justice;  
and Senator Evers

578-02306-16

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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 civil citation fulfill a community service  
16 requirement; providing for criminal prosecution of  
17 adults who fail to complete the prearrest diversion  
18 program; prohibiting an arrest record from being  
19 associated with a certain offense for adults who  
20 successfully complete the program; establishing a  
21 steering committee for the prearrest diversion  
22 program; providing duties and membership of the  
23 committee; specifying the nonviolent misdemeanor  
24 offenses that are eligible for the prearrest diversion  
25 program; providing applicability; providing an  
26 effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:

29  
30 Section 1. Section 901.40, Florida Statutes, is created to  
31 read:

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32       901.40 Prearrest diversion programs.-

33       (1) INTENT.-The Legislature encourages local communities  
34 and public or private educational institutions to implement  
35 prearrest diversion programs that afford certain adults who  
36 fulfill specified intervention and community service obligations  
37 the opportunity to avoid an arrest record. The Legislature does  
38 not mandate that a particular prearrest diversion program for  
39 adults be adopted but finds that the adoption of the model  
40 provided in this section would allow certain adults to avoid an  
41 arrest record while ensuring that those adults receive  
42 appropriate intervention and fulfill community service  
43 obligations. The Legislature further encourages that a prearrest  
44 diversion program share information with other prearrest  
45 diversion programs.

46       (2) MODEL ADULT CIVIL CITATION PROGRAM.-

47       (a) Law enforcement officers, at their sole discretion, may  
48 issue civil citations to certain adults who commit a qualifying  
49 nonviolent misdemeanor offense listed in subsection (3). A civil  
50 citation may be issued only if the adult admits that he or she  
51 committed the offense and if the adult has not previously  
52 received a civil citation. However, an adult may not be issued a  
53 civil citation if the nonviolent misdemeanor offense involves a  
54 victim and the victim objects to issuance of the civil citation.

55       (b) An adult who receives a civil citation shall report for  
56 intake as required by the local prearrest diversion program and  
57 shall be provided appropriate assessment, intervention,  
58 education, and behavioral health care services. While in the  
59 local prearrest diversion program, the adult shall perform  
60 community service hours as specified by the local prearrest

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61 diversion program. If the adult does not successfully complete  
62 the prearrest diversion program, the law enforcement agency that  
63 issued the civil citation shall criminally charge the adult for  
64 the original offense and refer the case to the state attorney to  
65 determine if prosecution is appropriate. If the adult  
66 successfully completes the program, an arrest record may not be  
67 associated with the offense.

68 (c) A steering committee shall be created for the prearrest  
69 diversion program to develop policies and procedures for the  
70 program, including, but not limited to, eligibility criteria,  
71 program implementation and operation, and the fee to be paid by  
72 adults participating in the program. At a minimum, the steering  
73 committee shall be composed of representatives of the law  
74 enforcement agencies participating in the program, a  
75 representative of the program services provider, and other  
76 interested stakeholders.

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

80 (a) Disorderly conduct.

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

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

83 (d) Possession of alcohol by a person younger than 21 years  
84 of age.

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

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

87 (g) Trespass in a structure or conveyance.

88 (4) APPLICABILITY.—This section does not preempt a county  
89 or municipality from enacting noncriminal sanctions for a

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90 violation of an ordinance or other violation, and does not  
91 preempt a county, a municipality, or a public or private  
92 educational institution from creating its own model for a  
93 prearrest diversion program for adults.

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