

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.

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

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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.