

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

594-02691-16

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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; requiring that a prearrest  
7           diversion program share information with other  
8           prearrest diversion programs under certain  
9           circumstances; authorizing law enforcement officers of  
10          participating law enforcement agencies, at their sole  
11          discretion, to issue civil citations to adults under  
12          specified circumstances; requiring an adult who is  
13          issued a civil citation by a participating law  
14          enforcement agency to report for intake as required by  
15          the prearrest diversion program; requiring the  
16          provision of appropriate behavioral health care  
17          services; requiring that an adult who is issued a  
18          civil citation fulfill a community service  
19          requirement; requiring the adult to pay restitution to  
20          a victim; providing for criminal prosecution of adults  
21          who fail to complete the prearrest diversion program;  
22          prohibiting an arrest record from being associated  
23          with a certain offense for adults who successfully  
24          complete the program; establishing a steering  
25          committee for the prearrest diversion program;  
26          providing duties and membership of the committee;  
27          specifying the nonviolent misdemeanor offenses that  
28          are eligible for the prearrest diversion program;  
29          providing applicability; providing an effective date.

30  
31   Be It Enacted by the Legislature of the State of Florida:

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32  
33 Section 1. Section 901.40, Florida Statutes, is created to  
34 read:

35 901.40 Prearrest diversion programs.-

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

49 (2) MODEL ADULT CIVIL CITATION PROGRAM.-Local communities  
50 and public or private educational institutions may adopt a  
51 program in which:

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

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61       (b) An adult who receives a civil citation shall report for  
62 intake as required by the local prearrest diversion program and  
63 shall be provided appropriate assessment, intervention,  
64 education, and behavioral health care services. While in the  
65 local prearrest diversion program, the adult shall perform  
66 community service hours as specified by the local prearrest  
67 diversion program. The adult shall pay restitution due to the  
68 victim as a requirement of the prearrest diversion program. If  
69 the adult does not successfully complete the prearrest diversion  
70 program, the law enforcement agency that issued the civil  
71 citation shall criminally charge the adult for the original  
72 offense and refer the case to the state attorney to determine if  
73 prosecution is appropriate. If the adult successfully completes  
74 the program, an arrest record may not be associated with the  
75 offense.

76       (c) A steering committee shall be created for the prearrest  
77 diversion program to develop policies and procedures for the  
78 program, including, but not limited to, eligibility criteria,  
79 program implementation and operation, and the fee to be paid by  
80 adults participating in the program. At a minimum, the steering  
81 committee must be composed of representatives of the law  
82 enforcement agencies participating in the program, a  
83 representative of the program services provider, a public  
84 defender or his or her designee, a state attorney or his or her  
85 designee, a clerk of the circuit court or his or her designee,  
86 and other interested stakeholders.

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

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90 (a) Disorderly conduct in violation of s. 877.03.

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

92 (c) Petit theft of property valued at less than \$50 in  
93 violation of s. 812.014.

94 (d) Possession of alcohol by a person younger than 21 years  
95 of age in violation of s. 856.015.

96 (e) Possession of 20 grams or less of cannabis in violation  
97 of s. 893.13.

98 (f) Selling or providing alcoholic beverages to a minor in  
99 violation of s. 562.11.

100 (g) Trespass in a structure or conveyance in violation of  
101 s. 810.08.

102 (4) APPLICABILITY.—This section does not preempt a county  
103 or municipality from enacting noncriminal sanctions for a  
104 violation of an ordinance or other violation, and does not  
105 preempt a county, a municipality, or a public or private  
106 educational institution from creating its own model for a  
107 prearrest diversion program for adults.

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