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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/08/2017	.	
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	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 985.12, Florida Statutes, is amended to
read:

985.12 Civil citation and similar diversion programs.-

(1) As used in this section, the term:

(a) "Law enforcement officer" has the same meaning as
provided in s. 943.10.



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11 (b) "Misdemeanor offense" means one misdemeanor violation
12 of law.

13 (2) (a) ~~(1)~~ There is established a process for the use of
14 juvenile civil citation and similar diversion programs to
15 provide process for the purpose of providing an efficient and
16 innovative alternative to custody by the department of Juvenile
17 Justice for juveniles children who commit nonserious delinquent
18 acts and to ensure swift and appropriate consequences. The
19 department shall encourage and assist in the implementation and
20 improvement of civil citation and programs or other similar
21 diversion programs in around the state.

22 (b) One or more ~~The~~ civil citation or similar diversion
23 programs program shall be established in each county to serve
24 juveniles who commit misdemeanor offenses as provided in this
25 section. Such programs must meet the requirements of this
26 section and be established at the local level with the
27 concurrence of the chief judge of the circuit, state attorney,
28 public defender, and the head of each local law enforcement
29 agency involved. At least one program must be applicable
30 countywide. The countywide program may be established by a
31 county or by interlocal agreement pursuant to s. 163.01 by a
32 county working jointly with any municipalities or other entities
33 within the county's boundaries or contiguous counties and any
34 municipalities or other entities within the counties'
35 boundaries. The program may be operated by an entity such as a
36 law enforcement agency, the department, a juvenile assessment
37 center, the county or municipality, or another entity selected
38 by the county or municipality. Any additional programs shall
39 complement the countywide program. Any program may work with any



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40 other program in the state to best serve the juveniles in the
41 jurisdiction. An entity operating ~~such a the civil citation or~~
42 similar diversion program must do so in consultation and
43 agreement with the state attorney and local law enforcement
44 agencies.

45 (3) Under ~~such~~ a juvenile civil citation or similar
46 diversion program, a law enforcement officer ~~who makes, upon~~
47 ~~making~~ contact with a juvenile who admits having committed a
48 ~~misdemeanor~~ offense for the first time ~~misdemeanor~~, may:

49 (a) Choose to issue a simple warning or inform the child's
50 guardian or parent of the child's infraction; ~~or may~~

51 (b) Issue a civil citation to the juvenile or require the
52 juvenile's participation in a similar diversion program, as
53 follows:

54 1. The officer shall issue the citation if the violation of
55 law is a misdemeanor offense and is one of the following:

56 a. Section 562.111, relating to possession of alcoholic
57 beverages by persons under age 21;

58 b. Section 784.03(1), relating to battery;

59 c. Section 806.13, relating to criminal mischief;

60 d. Section 810.08 or s. 810.09, relating to trespass;

61 e. Section 812.014(2)(e) or s. 812.014(3)(a), relating to
62 theft;

63 f. Section 812.015(2), relating to retail and farm theft;

64 g. Section 856.021, relating to loitering or prowling;

65 h. Section 870.01(1), relating to affrays and riots;

66 i. Section 877.03, relating to disorderly conduct;

67 j. Section 893.13(6)(b), relating to possession of certain
68 amounts of cannabis;



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69 k. Section 893.147, relating to use, possession,
70 manufacture, delivery, transportation, advertisement, or retail
71 sale of drug paraphernalia; or

72 1. Section 843.02, relating to resisting an officer without
73 violence.

74 2. The officer may issue a civil citation to the juvenile
75 or require the juvenile's participation in a similar diversion
76 program if the violation of law is a misdemeanor not enumerated
77 in subparagraph 1.

78 (4) Under a juvenile civil citation or similar diversion
79 program, a law enforcement officer who makes contact with a
80 juvenile who admits to having committed a misdemeanor offense
81 and has one or two prior misdemeanors from a separate criminal
82 episode may issue a civil citation to the juvenile or require
83 the juvenile's participation in a similar diversion program,
84 regardless of whether the violations of law are enumerated in
85 subparagraph (3) (b)1.

86 (5) Under a juvenile civil citation or similar diversion
87 program, a law enforcement officer who makes contact with a
88 juvenile who admits to having committed a misdemeanor offense
89 and is currently alleged to have committed, or is currently
90 charged with and awaiting final disposition, of an offense that
91 would be a felony, may issue a civil citation to the juvenile or
92 require the juvenile's participation in a similar diversion
93 program, regardless of whether the violations of law are
94 enumerated in subparagraph (3) (b)1.

95 (6) If an arrest is made for a misdemeanor offense subject
96 to paragraph (3) (b)2., subsection (4), or subsection (5) a law
97 enforcement officer must provide written documentation as to why



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98 the arrest was warranted.

99 (7) A law enforcement officer shall advise a juvenile
100 eligible to receive a civil citation under subsection (3), (4),
101 or (5) that he or she has the option to refuse the civil
102 citation or other similar diversion program and be referred to
103 the department. This option may be exercised at any time before
104 completion of the community service assignment required under
105 subsection (9). Participation in a civil citation or similar
106 diversion program is not considered a referral to the
107 department.

108 (8) Upon issuance of the civil citation or documentation
109 requiring a similar diversion program, the law enforcement
110 officer shall send a copy to the county sheriff, the state
111 attorney, the department or the entity operating the program as
112 designated by the department, the parent or guardian of the
113 juvenile, and the victim. The entity operating the program shall
114 enter such information into the juvenile justice information
115 system.

116 (9) A juvenile who elects to participate in a civil
117 citation or similar diversion program shall complete, and assess
118 up to 50 community service hours, and participate require
119 participation in intervention services as indicated by an
120 assessment of the needs of the juvenile, including family
121 counseling, urinalysis monitoring, and substance abuse and
122 mental health treatment services.

123 (a) The juvenile shall report to the entity operating the
124 program within 10 business days after the date of issuance of
125 the civil citation or documentation for a similar diversion
126 program. The juvenile shall spend a minimum of 5 hours per week



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127 completing the community service assignment. The entity
128 operating the program shall immediately notify the department
129 through the juvenile justice information system that a juvenile
130 has reported to the entity operating the program and the
131 expected date on which the juvenile will complete the community
132 service assignment ~~A copy of each citation issued under this~~
133 ~~section shall be provided to the department, and the department~~
134 ~~shall enter appropriate information into the juvenile offender~~
135 ~~information system. Use of the civil citation or similar~~
136 ~~diversion program is not limited to first-time misdemeanors and~~
137 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
138 ~~is made, a law enforcement officer must provide written~~
139 ~~documentation as to why an arrest was warranted.~~

140 (b) At the conclusion of a juvenile's civil citation
141 program or similar diversion program, the entity agency
142 operating the program shall report the outcome of the program to
143 the department.

144 (c) If the juvenile fails to timely report for a community
145 service assignment, complete such assignment, or comply with
146 assigned intervention services within the prescribed time, the
147 entity operating the program shall notify the law enforcement
148 officer. The law enforcement officer shall determine if there is
149 good cause to arrest juvenile for the original misdemeanor
150 offense and refer the case to the state attorney or allow the
151 juvenile to continue in the program.

152 (d) If the juvenile commits a subsequent delinquent act
153 then the entity operating the program shall notify the law
154 enforcement officer and the law enforcement officer shall arrest
155 the juvenile for the original misdemeanor offense and refer the



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156 ~~case to the state attorney. The issuance of a civil citation is~~
157 ~~not considered a referral to the department.~~

158 ~~(10)(2) The department shall develop guidelines for the~~
159 ~~civil citation and similar diversion programs program which~~
160 ~~include intervention services that are based on upon proven~~
161 ~~civil citation or similar diversion programs in within the~~
162 ~~state. The department shall report annually on best practices of~~
163 ~~the programs.~~

164 ~~(11) This section does not apply to:~~

165 ~~(a) A juvenile who has entered a plea of nolo contendere or~~
166 ~~guilty to, or has been found to have committed, an offense that~~
167 ~~would be a felony if committed by an adult.~~

168 ~~(b) A misdemeanor offense arising out of a criminal episode~~
169 ~~in which the juvenile is also alleged to have committed an~~
170 ~~offense that would be a felony if committed by an adult.~~

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

176 ~~(4) The child shall report to the community service~~
177 ~~performance monitor within 7 working days after the date of~~
178 ~~issuance of the citation. The work assignment shall be~~
179 ~~accomplished at a rate of not less than 5 hours per week. The~~
180 ~~monitor shall advise the intake office immediately upon~~
181 ~~reporting by the child to the monitor, that the child has in~~
182 ~~fact reported and the expected date upon which completion of the~~
183 ~~work assignment will be accomplished.~~

184 ~~(5) If the child fails to report timely for a work~~



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185 ~~assignment, complete a work assignment, or comply with assigned~~
186 ~~intervention services within the prescribed time, or if the~~
187 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
188 ~~officer shall issue a report alleging the child has committed a~~
189 ~~delinquent act, at which point a juvenile probation officer~~
190 ~~shall process the original delinquent act as a referral to the~~
191 ~~department and refer the report to the state attorney for~~
192 ~~review.~~

193 ~~(6) At the time of issuance of the citation by the law~~
194 ~~enforcement officer, such officer shall advise the child that~~
195 ~~the child has the option to refuse the citation and to be~~
196 ~~referred to the intake office of the department. That option may~~
197 ~~be exercised at any time before completion of the work~~
198 ~~assignment.~~

199 Section 2. Paragraph (b) of subsection (3) of section
200 943.051, Florida Statutes, is amended to read:

201 943.051 Criminal justice information; collection and
202 storage; fingerprinting.—

203 (3)

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

- 209 1. Assault, as defined in s. 784.011.
- 210 2. Battery, as defined in s. 784.03.
- 211 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 212 4. Unlawful use of destructive devices or bombs, as defined
213 in s. 790.1615(1).



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- 214 5. Neglect of a child, as defined in s. 827.03(1)(e).
215 6. Assault or battery on a law enforcement officer, a
216 firefighter, or other specified officers, as defined in s.
217 784.07(2)(a) and (b).
218 7. Open carrying of a weapon, as defined in s. 790.053.
219 8. Exposure of sexual organs, as defined in s. 800.03.
220 9. Unlawful possession of a firearm, as defined in s.
221 790.22(5).
222 10. Petit theft, as defined in s. 812.014(3).
223 11. Cruelty to animals, as defined in s. 828.12(1).
224 12. Arson, as defined in s. 806.031(1).
225 13. Unlawful possession or discharge of a weapon or firearm
226 at a school-sponsored event or on school property, as provided
227 in s. 790.115.
- 228 Section 3. Paragraph (b) of subsection (1) of section
229 985.11, Florida Statutes, is amended to read:
230 985.11 Fingerprinting and photographing.—
231 (1)
232 (b) Unless the child is participating in ~~is issued~~ a civil
233 citation or ~~is participating in a~~ similar diversion program
234 pursuant to s. 985.12, a child who is charged with or found to
235 have committed one of the following offenses shall be
236 fingerprinted, and the fingerprints shall be submitted to the
237 Department of Law Enforcement as provided in s. 943.051(3)(b):
238 1. Assault, as defined in s. 784.011.
239 2. Battery, as defined in s. 784.03.
240 3. Carrying a concealed weapon, as defined in s. 790.01(1).
241 4. Unlawful use of destructive devices or bombs, as defined
242 in s. 790.1615(1).



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243 5. Neglect of a child, as defined in s. 827.03(1)(e).
244 6. Assault on a law enforcement officer, a firefighter, or
245 other specified officers, as defined in s. 784.07(2)(a).
246 7. Open carrying of a weapon, as defined in s. 790.053.
247 8. Exposure of sexual organs, as defined in s. 800.03.
248 9. Unlawful possession of a firearm, as defined in s.
249 790.22(5).
250 10. Petit theft, as defined in s. 812.014.
251 11. Cruelty to animals, as defined in s. 828.12(1).
252 12. Arson, resulting in bodily harm to a firefighter, as
253 defined in s. 806.031(1).
254 13. Unlawful possession or discharge of a weapon or firearm
255 at a school-sponsored event or on school property as defined in
256 s. 790.115.
257
258 A law enforcement agency may fingerprint and photograph a child
259 taken into custody upon probable cause that such child has
260 committed any other violation of law, as the agency deems
261 appropriate. Such fingerprint records and photographs shall be
262 retained by the law enforcement agency in a separate file, and
263 these records and all copies thereof must be marked "Juvenile
264 Confidential." These records are not available for public
265 disclosure and inspection under s. 119.07(1) except as provided
266 in ss. 943.053 and 985.04(2), but shall be available to other
267 law enforcement agencies, criminal justice agencies, state
268 attorneys, the courts, the child, the parents or legal
269 custodians of the child, their attorneys, and any other person
270 authorized by the court to have access to such records. In
271 addition, such records may be submitted to the Department of Law



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272 Enforcement for inclusion in the state criminal history records
273 and used by criminal justice agencies for criminal justice
274 purposes. These records may, in the discretion of the court, be
275 open to inspection by anyone upon a showing of cause. The
276 fingerprint and photograph records shall be produced in the
277 court whenever directed by the court. Any photograph taken
278 pursuant to this section may be shown by a law enforcement
279 officer to any victim or witness of a crime for the purpose of
280 identifying the person who committed such crime.

281 Section 4. This act shall take effect October 1, 2017.

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

283 And the title is amended as follows:

284 Delete everything before the enacting clause
285 and insert:

286 A bill to be entitled
287 An act relating to juvenile civil citation and similar
288 diversion programs; amending s. 985.12, F.S.;
289 requiring the establishment of civil citation or
290 similar diversion programs for juveniles; providing
291 definitions; specifying program eligibility,
292 participation, and implementation requirements;
293 providing exceptions; providing applicability;
294 amending ss. 943.051 and 985.11, F.S.; conforming
295 provisions to changes made by the act; providing an
296 effective date.