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576-03826-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to prearrest diversion programs;
creating s. 901.40, F.S.; encouraging local
communities and public or private educational
institutions to implement prearrest diversion programs
for certain offenders; encouraging prearrest diversion
programs to share information with other prearrest
diversion programs; authorizing law enforcement
officers, at their sole discretion, to issue a civil
citation or similar prearrest diversion program notice
to adults under specified circumstances; requiring an
adult who is issued a civil citation or similar
prearrest diversion program notice by a participating
law enforcement agency to report for intake as
required by the prearrest diversion program; requiring
the program to provide certain appropriate services;
requiring that an adult who is issued a civil citation
or similar prearrest diversion program notice fulfill
a community service requirement; requiring the adult
to pay restitution to a victim; requiring the law
enforcement officer to determine if there is good
cause to arrest an adult who did not successfully
complete the program and refer the case to the state
attorney or allow the adult to continue in the
program; requiring specified entities to create the
prearrest diversion program; requiring the entities to
develop policies and procedures for the development



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28 and operation of the program and to solicit input from
29 other interested stakeholders; authorizing specified
30 entities to operate the program; requiring the
31 prearrest diversion program operator to electronically
32 provide a participant's personal identifying
33 information to the clerk of the circuit court;
34 specifying requirements for the clerk on the handling
35 of the information and maintaining it in a statewide
36 database; providing for fee sharing under certain
37 circumstances; requiring fees received by the clerk to
38 be deposited in a certain fund; specifying how the
39 misdemeanor offenses that are eligible for the
40 prearrest diversion program are selected; providing
41 applicability; providing an effective date.

42

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

44

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

47 901.40 Prearrest diversion programs.—

48 (1) INTENT.—The Legislature encourages local communities
49 and public or private educational institutions to implement
50 prearrest diversion programs that afford certain adults who
51 fulfill specified intervention and community service obligations
52 the opportunity to avoid an arrest record. The Legislature does
53 not mandate that a particular prearrest diversion program for
54 adults be adopted, but finds that the adoption of the model
55 provided in this section would allow certain adults to avoid an
56 arrest record, while ensuring that those adults receive



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57 appropriate intervention and fulfill community service
58 obligations. If a prearrest diversion program is implemented,
59 the program is encouraged to share information with other
60 prearrest diversion programs.

61 (2) MODEL PREARREST DIVERSION PROGRAM.—Local communities
62 and public or private educational institutions may adopt a
63 program in which:

64 (a) Law enforcement officers, at their sole discretion, may
65 issue a civil citation or similar prearrest diversion program
66 notice to certain adults who commit a qualifying misdemeanor
67 offense selected by the program. A civil citation or similar
68 prearrest diversion program notice may be issued if the adult:

69 1. Admits that he or she committed the offense or does not
70 contest the offense; and

71 2. Has not previously been arrested and has not received an
72 adult civil citation or similar prearrest diversion program
73 notice, unless the terms of the local adult prearrest diversion
74 program allow otherwise.

75 (b) An adult who receives a civil citation or similar
76 prearrest diversion program notice shall report for intake as
77 required by the local prearrest diversion program and shall be
78 provided appropriate assessment, intervention, education, and
79 behavioral health care services by the program. While in the
80 local prearrest diversion program, the adult shall perform
81 community service hours as specified by the program. The adult
82 shall pay restitution due to the victim as a program
83 requirement. If the adult does not successfully complete the
84 prearrest diversion program, the law enforcement officer shall
85 determine if there is good cause to arrest the adult for the



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86 original misdemeanor offense and refer the case to the state
87 attorney to determine if prosecution is appropriate or allow the
88 adult to continue in the program.

89 (3) PROGRAM DEVELOPMENT; IMPLEMENTATION; OPERATION.—

90 (a) Representatives of participating law enforcement
91 agencies, a representative of the program services provider, the
92 public defender, the state attorney, and the clerk of the
93 circuit court shall create the prearrest diversion program and
94 develop its policies and procedures, including, but not limited
95 to, eligibility criteria, program implementation and operation,
96 and the determination of the fee, if any, to be paid by adults
97 participating in the program. In developing the policies and
98 procedures for the program, the parties must solicit input from
99 other interested stakeholders. The program may be operated by an
100 entity such as a law enforcement agency, the county or
101 municipality, or another entity selected by the county or
102 municipality.

103 (b) Upon intake of any person participating in the program,
104 the program operator shall electronically provide a
105 participant's personal identifying information to the clerk of
106 the circuit court for the county in which the program provides
107 services. Such information is not a court record, and the clerk
108 must maintain confidentiality of the participant's personal
109 identifying information in accordance with subsection (6). The
110 clerk shall maintain such information in a statewide database,
111 which must provide a single point of access for all such
112 statewide information. If the program includes a fee for
113 participation, the clerk must receive a reasonable portion, to
114 be determined by the stakeholders creating the program, for



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115 receiving and maintaining the personal identifying information.
116 The fee must be deposited by the clerk into the clerk's fine and
117 forfeiture fund established pursuant to s. 142.01.

118 (4) QUALIFYING OFFENSES.—Misdemeanor offenses that qualify
119 the offender for a prearrest diversion program must be selected
120 as part of the program development under subsection (3).

121 (5) APPLICABILITY.—This section does not preempt a county
122 or municipality from enacting noncriminal sanctions for a
123 violation of an ordinance or other violation, and it does not
124 preempt a county, a municipality, or a public or private
125 educational institution from creating its own model for a
126 prearrest diversion program for adults.

127 Section 2. This act shall take effect July 1, 2018.