

1 A bill to be entitled
 2 An act relating to juvenile civil citation and similar
 3 diversion programs; amending s. 985.12, F.S.;
 4 requiring the establishment of civil citation and
 5 similar diversion programs for juveniles; providing
 6 definitions; specifying program eligibility,
 7 participation, and implementation requirements;
 8 providing exceptions; providing applicability;
 9 amending ss. 943.051 and 985.11, F.S.; conforming
 10 provisions to changes made by the act; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 985.12, Florida Statutes, is amended to
 16 read:

17 985.12 Civil citation and similar diversion programs.—

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

27 (b) One or more ~~The~~ civil citation or similar diversion
 28 programs ~~program~~ shall be established in each county which must
 29 individually or collectively serve all juveniles who are alleged
 30 to have committed a violation of law which would be a
 31 misdemeanor offense if committed by an adult. Such programs must
 32 be established ~~at the local level~~ with the concurrence of the
 33 chief judge of the circuit, state attorney, public defender, and
 34 ~~the~~ head of each local law enforcement agency involved and. ~~The~~
 35 ~~program~~ may be operated by an entity such as a law enforcement
 36 agency, the department, a juvenile assessment center, the county
 37 or municipality, or another entity selected by the county or
 38 municipality. An entity operating such a ~~the civil citation or~~
 39 ~~similar diversion~~ program must do so in consultation and
 40 agreement with the state attorney and local law enforcement
 41 agencies.

42 (2) As used in this section, the term:

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

45 (b) "Misdemeanor offense" means one or more misdemeanor
 46 violations of law arising out of the same criminal episode, act,
 47 or transaction.

48 (3) Under such a juvenile civil citation or similar
 49 diversion program, a law enforcement officer who makes, ~~upon~~
 50 ~~making~~ contact with a juvenile who admits having committed a
 51 first-time misdemeanor offense: ~~misdemeanor, may choose to issue~~
 52 ~~a simple warning or inform the child's guardian or parent of the~~

53 ~~child's infraction, or may~~

54 (a) Shall issue a civil citation to the juvenile or
55 require the juvenile's participation in a similar diversion
56 program if each violation of law in the misdemeanor offense is
57 one of the following:

58 1. Section 562.111, relating to possession of alcoholic
59 beverages by persons under age 21;

60 2. Section 784.03(1), relating to battery, if the victim
61 approves the juvenile's participation in a civil citation or
62 similar diversion program;

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

65 4. Section 812.015(2), relating to retail and farm theft;

66 5. Section 870.01(1), relating to affrays;

67 6. Section 877.03, relating to breach of the peace or
68 disorderly conduct;

69 7. Section 893.13(6)(b), relating to possession of certain
70 amounts of cannabis or controlled substances; or

71 8. Section 893.147, relating to the use, possession,
72 manufacture, delivery, transportation, advertisement, or retail
73 sale of drug paraphernalia; or

74 (b) May issue a civil citation to the juvenile or require
75 the juvenile's participation in a similar diversion program if
76 none of the violations of law in the misdemeanor offense are
77 enumerated in paragraph (a).

78 (4) Under such a juvenile civil citation or similar

79 diversion program, a law enforcement officer who makes contact
80 with a juvenile who admits having committed a second-time or
81 third-time misdemeanor offense may issue a civil citation to the
82 juvenile or require the juvenile's participation in a similar
83 diversion program, regardless of whether the violations of law
84 in the misdemeanor offense are enumerated in paragraph (3)(a).

85 (5) If an arrest is made for a misdemeanor offense subject
86 to paragraph (3)(b) or subsection (4), a law enforcement officer
87 must provide written documentation as to why the arrest was
88 warranted.

89 (6) A law enforcement officer shall advise a juvenile who
90 is subject to subsection (3) or subsection (4) that the juvenile
91 has the option to refuse the civil citation or other similar
92 diversion program and be referred to the department. This option
93 may be exercised at any time before completion of the community
94 service assignment required under subsection (8). Participation
95 in a civil citation or similar diversion program is not
96 considered a referral to the department.

97 (7) Upon issuance of the civil citation or documentation
98 requiring a similar diversion program, the law enforcement
99 officer shall send a copy of such citation or documentation to
100 the county sheriff, state attorney, appropriate intake office of
101 the department or community service performance monitor
102 designated by the department, parent or guardian of the child,
103 and victim. The department shall enter such information into the
104 juvenile offender information system.

105 (8) A juvenile who elects to participate in a civil
106 citation or similar diversion program shall complete, ~~and assess~~
107 ~~up to 50 community service hours,~~ and participate ~~require~~
108 ~~participation~~ in intervention services as indicated by an
109 assessment of the needs of the juvenile, including family
110 counseling, urinalysis monitoring, and substance abuse and
111 mental health treatment services.

112 (a) The juvenile shall report to the community service
113 performance monitor within 7 business days after the date of
114 issuance of the civil citation or documentation for a similar
115 diversion program. The juvenile shall spend a minimum of 5 hours
116 per week completing the community service assignment. The
117 monitor shall immediately notify the intake office of the
118 department that a juvenile has reported to the monitor and the
119 expected date on which the juvenile will complete the community
120 service assignment ~~A copy of each citation issued under this~~
121 ~~section shall be provided to the department, and the department~~
122 ~~shall enter appropriate information into the juvenile offender~~
123 ~~information system. Use of the civil citation or similar~~
124 ~~diversion program is not limited to first-time misdemeanors and~~
125 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
126 ~~is made, a law enforcement officer must provide written~~
127 ~~documentation as to why an arrest was warranted.~~

128 (b) At the conclusion of a juvenile's civil citation
129 ~~program~~ or similar diversion program, the entity ~~agency~~
130 operating the program shall report the outcome of the program to

131 the department.

132 (c) If the juvenile fails to timely report for a community
133 service assignment, complete such assignment, or comply with
134 assigned intervention services within the prescribed time, or if
135 the juvenile commits a subsequent misdemeanor, the law
136 enforcement officer shall issue a report alleging the juvenile
137 has committed a delinquent act, at which time a juvenile
138 probation officer shall process the original delinquent act as a
139 referral to the department and refer the report to the state
140 attorney for review ~~The issuance of a civil citation is not~~
141 ~~considered a referral to the department.~~

142 (9)-(2) The department shall develop guidelines for ~~the~~
143 civil citation and similar diversion programs ~~program~~ which
144 include intervention services that are based on ~~upon~~ proven
145 civil citation or similar diversion programs in ~~within~~ the
146 state.

147 (10) This section does not apply to:

148 (a) A juvenile who is currently alleged to have committed,
149 or is currently charged with, and awaiting final disposition of
150 an offense that would be a felony if committed by an adult.

151 (b) A juvenile who has entered a plea of nolo contendere
152 or guilty to, or has been found to have committed, an offense
153 that would be a felony if committed by an adult.

154 (c) A misdemeanor arising out of an episode in which the
155 juvenile is also alleged to have committed an offense that would
156 be a felony if committed by an adult.

157 (11) This section does not modify the authority of a law
158 enforcement officer who comes into contact with a juvenile who
159 is alleged to have committed a misdemeanor to issue only a
160 simple warning to the juvenile or notice to a juvenile's parent
161 or guardian of the alleged offense.

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

167 ~~(4) The child shall report to the community service~~
168 ~~performance monitor within 7 working days after the date of~~
169 ~~issuance of the citation. The work assignment shall be~~
170 ~~accomplished at a rate of not less than 5 hours per week. The~~
171 ~~monitor shall advise the intake office immediately upon~~
172 ~~reporting by the child to the monitor, that the child has in~~
173 ~~fact reported and the expected date upon which completion of the~~
174 ~~work assignment will be accomplished.~~

175 ~~(5) If the child fails to report timely for a work~~
176 ~~assignment, complete a work assignment, or comply with assigned~~
177 ~~intervention services within the prescribed time, or if the~~
178 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
179 ~~officer shall issue a report alleging the child has committed a~~
180 ~~delinquent act, at which point a juvenile probation officer~~
181 ~~shall process the original delinquent act as a referral to the~~
182 ~~department and refer the report to the state attorney for~~

183 ~~review.~~

184 ~~(6) At the time of issuance of the citation by the law~~
 185 ~~enforcement officer, such officer shall advise the child that~~
 186 ~~the child has the option to refuse the citation and to be~~
 187 ~~referred to the intake office of the department. That option may~~
 188 ~~be exercised at any time before completion of the work~~
 189 ~~assignment.~~

190 Section 2. Paragraph (b) of subsection (3) of section
 191 943.051, Florida Statutes, is amended to read:

192 943.051 Criminal justice information; collection and
 193 storage; fingerprinting.—

194 (3)

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

- 200 1. Assault, as defined in s. 784.011.
- 201 2. Battery, as defined in s. 784.03.
- 202 3. Carrying a concealed weapon, as defined in s.
 203 790.01(1).
- 204 4. Unlawful use of destructive devices or bombs, as
 205 defined in s. 790.1615(1).
- 206 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 207 6. Assault or battery on a law enforcement officer, a
 208 firefighter, or other specified officers, as defined in s.

209 784.07(2)(a) and (b).

210 7. Open carrying of a weapon, as defined in s. 790.053.

211 8. Exposure of sexual organs, as defined in s. 800.03.

212 9. Unlawful possession of a firearm, as defined in s.

213 790.22(5).

214 10. Petit theft, as defined in s. 812.014(3).

215 11. Cruelty to animals, as defined in s. 828.12(1).

216 12. Arson, as defined in s. 806.031(1).

217 13. Unlawful possession or discharge of a weapon or

218 firearm at a school-sponsored event or on school property, as

219 provided in s. 790.115.

220 Section 3. Paragraph (b) of subsection (1) of section

221 985.11, Florida Statutes, is amended to read:

222 985.11 Fingerprinting and photographing.—

223 (1)

224 (b) Unless the child is participating in ~~is issued~~ a civil

225 citation or ~~is participating in a~~ similar diversion program

226 pursuant to s. 985.12, a child who is charged with or found to

227 have committed one of the following offenses shall be

228 fingerprinted, and the fingerprints shall be submitted to the

229 Department of Law Enforcement as provided in s. 943.051(3)(b):

230 1. Assault, as defined in s. 784.011.

231 2. Battery, as defined in s. 784.03.

232 3. Carrying a concealed weapon, as defined in s.

233 790.01(1).

234 4. Unlawful use of destructive devices or bombs, as

235 defined in s. 790.1615(1).

236 5. Neglect of a child, as defined in s. 827.03(1)(e).

237 6. Assault on a law enforcement officer, a firefighter, or
238 other specified officers, as defined in s. 784.07(2)(a).

239 7. Open carrying of a weapon, as defined in s. 790.053.

240 8. Exposure of sexual organs, as defined in s. 800.03.

241 9. Unlawful possession of a firearm, as defined in s.
242 790.22(5).

243 10. Petit theft, as defined in s. 812.014.

244 11. Cruelty to animals, as defined in s. 828.12(1).

245 12. Arson, resulting in bodily harm to a firefighter, as
246 defined in s. 806.031(1).

247 13. Unlawful possession or discharge of a weapon or
248 firearm at a school-sponsored event or on school property as
249 defined in s. 790.115.

250

251 A law enforcement agency may fingerprint and photograph a child
252 taken into custody upon probable cause that such child has
253 committed any other violation of law, as the agency deems
254 appropriate. Such fingerprint records and photographs shall be
255 retained by the law enforcement agency in a separate file, and
256 these records and all copies thereof must be marked "Juvenile
257 Confidential." These records are not available for public
258 disclosure and inspection under s. 119.07(1) except as provided
259 in ss. 943.053 and 985.04(2), but shall be available to other
260 law enforcement agencies, criminal justice agencies, state

261 attorneys, the courts, the child, the parents or legal
262 custodians of the child, their attorneys, and any other person
263 authorized by the court to have access to such records. In
264 addition, such records may be submitted to the Department of Law
265 Enforcement for inclusion in the state criminal history records
266 and used by criminal justice agencies for criminal justice
267 purposes. These records may, in the discretion of the court, be
268 open to inspection by anyone upon a showing of cause. The
269 fingerprint and photograph records shall be produced in the
270 court whenever directed by the court. Any photograph taken
271 pursuant to this section may be shown by a law enforcement
272 officer to any victim or witness of a crime for the purpose of
273 identifying the person who committed such crime.

274 Section 4. This act shall take effect July 1, 2016.