

By the Committee on Criminal Justice; and Senators Garcia, Gibson, Bullard, Smith, and Detert

591-02107-15

2015378c1

1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 985.12, F.S.; authorizing a law enforcement officer to
4 issue a warning to a juvenile who admits having
5 committed a misdemeanor or to inform the child's
6 parent or guardian of the child's infraction; allowing
7 a law enforcement officer who does not exercise one of
8 these options to issue a civil citation or require
9 participation in a similar diversion program;
10 requiring a law enforcement officer to provide written
11 documentation in certain circumstances; providing that
12 repeat misdemeanor offenders may participate in the
13 civil citation program or a similar diversion program
14 under certain circumstances; reenacting ss.
15 943.051(3)(b) and 985.11(1)(b), F.S., relating to the
16 issuance of a civil citation, and the issuance of a
17 civil citation or similar diversion program,
18 respectively, to incorporate the amendments made to s.
19 985.12, F.S., in references thereto; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (1) of section 985.12, Florida
25 Statutes, is amended to read:

26 985.12 Civil citation.—

27 (1) There is established a juvenile civil citation process
28 for the purpose of providing an efficient and innovative
29 alternative to custody by the Department of Juvenile Justice for

591-02107-15

2015378c1

30 children who commit nonserious delinquent acts and to ensure
31 swift and appropriate consequences. The department shall
32 encourage and assist in the implementation and improvement of
33 civil citation programs or other similar diversion programs
34 around the state. The civil citation or similar diversion
35 program shall be established at the local level with the
36 concurrence of the chief judge of the circuit, state attorney,
37 public defender, and the head of each local law enforcement
38 agency involved. The program may be operated by an entity such
39 as a law enforcement agency, the department, a juvenile
40 assessment center, the county or municipality, or another ~~some~~
41 ~~other~~ entity selected by the county or municipality. An entity
42 operating the civil citation or similar diversion program must
43 do so in consultation and agreement with the state attorney and
44 local law enforcement agencies. Under such a juvenile civil
45 citation or similar diversion program, a any law enforcement
46 officer, upon making contact with a juvenile who admits having
47 committed a misdemeanor, may choose to issue a simple warning or
48 inform the child's guardian or parent of the child's infraction,
49 or may issue a civil citation or require participation in a
50 similar diversion program, and assess up to ~~not more than~~ 50
51 community service hours, and require participation in
52 intervention services as indicated by an assessment of the needs
53 of the juvenile, including family counseling, urinalysis
54 monitoring, and substance abuse and mental health treatment
55 services. A copy of each citation issued under this section
56 shall be provided to the department, and the department shall
57 enter appropriate information into the juvenile offender
58 information system. Use of the civil citation or similar

591-02107-15

2015378c1

59 diversion program is not limited to first-time misdemeanors and
60 may be used in a second or subsequent misdemeanor. If an arrest
61 is made, a law enforcement officer must provide written
62 documentation as to why an arrest was warranted. ~~Only first-time~~
63 ~~misdemeanor offenders are eligible for the civil citation or~~
64 ~~similar diversion program.~~ At the conclusion of a juvenile's
65 civil citation program or similar diversion program, the agency
66 operating the program shall report the outcome to the
67 department. The issuance of a civil citation is not considered a
68 referral to the department.

69 Section 2. For the purpose of incorporating the amendment
70 made by this act to section 985.12, Florida Statutes, in a
71 reference thereto, paragraph (b) of subsection (3) of section
72 943.051, Florida Statutes, is reenacted to read:

73 943.051 Criminal justice information; collection and
74 storage; fingerprinting.—

75 (3)

76 (b) A minor who is charged with or found to have committed
77 the following offenses shall be fingerprinted and the
78 fingerprints shall be submitted electronically to the
79 department, unless the minor is issued a civil citation pursuant
80 to s. 985.12:

- 81 1. Assault, as defined in s. 784.011.
- 82 2. Battery, as defined in s. 784.03.
- 83 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 84 4. Unlawful use of destructive devices or bombs, as defined
85 in s. 790.1615(1).
- 86 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 87 6. Assault or battery on a law enforcement officer, a

591-02107-15

2015378c1

88 firefighter, or other specified officers, as defined in s.
89 784.07(2)(a) and (b).

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

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

92 9. Unlawful possession of a firearm, as defined in s.
93 790.22(5).

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

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

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

97 13. Unlawful possession or discharge of a weapon or firearm
98 at a school-sponsored event or on school property, as provided
99 in s. 790.115.

100 Section 3. For the purpose of incorporating the amendment
101 made by this act to section 985.12, Florida Statutes, in a
102 reference thereto, paragraph (b) of subsection (1) of section
103 985.11, Florida Statutes, is reenacted to read:

104 985.11 Fingerprinting and photographing.—

105 (1)

106 (b) Unless the child is issued a civil citation or is
107 participating in a similar diversion program pursuant to s.
108 985.12, a child who is charged with or found to have committed
109 one of the following offenses shall be fingerprinted, and the
110 fingerprints shall be submitted to the Department of Law
111 Enforcement as provided in s. 943.051(3)(b):

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

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

114 3. Carrying a concealed weapon, as defined in s. 790.01(1).

115 4. Unlawful use of destructive devices or bombs, as defined
116 in s. 790.1615(1).

591-02107-15

2015378c1

- 117 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 118 6. Assault on a law enforcement officer, a firefighter, or
119 other specified officers, as defined in s. 784.07(2)(a).
- 120 7. Open carrying of a weapon, as defined in s. 790.053.
- 121 8. Exposure of sexual organs, as defined in s. 800.03.
- 122 9. Unlawful possession of a firearm, as defined in s.
123 790.22(5).
- 124 10. Petit theft, as defined in s. 812.014.
- 125 11. Cruelty to animals, as defined in s. 828.12(1).
- 126 12. Arson, resulting in bodily harm to a firefighter, as
127 defined in s. 806.031(1).
- 128 13. Unlawful possession or discharge of a weapon or firearm
129 at a school-sponsored event or on school property as defined in
130 s. 790.115.

131

132 A law enforcement agency may fingerprint and photograph a child
133 taken into custody upon probable cause that such child has
134 committed any other violation of law, as the agency deems
135 appropriate. Such fingerprint records and photographs shall be
136 retained by the law enforcement agency in a separate file, and
137 these records and all copies thereof must be marked "Juvenile
138 Confidential." These records are not available for public
139 disclosure and inspection under s. 119.07(1) except as provided
140 in ss. 943.053 and 985.04(2), but shall be available to other
141 law enforcement agencies, criminal justice agencies, state
142 attorneys, the courts, the child, the parents or legal
143 custodians of the child, their attorneys, and any other person
144 authorized by the court to have access to such records. In
145 addition, such records may be submitted to the Department of Law

591-02107-15

2015378c1

146 Enforcement for inclusion in the state criminal history records
147 and used by criminal justice agencies for criminal justice
148 purposes. These records may, in the discretion of the court, be
149 open to inspection by anyone upon a showing of cause. The
150 fingerprint and photograph records shall be produced in the
151 court whenever directed by the court. Any photograph taken
152 pursuant to this section may be shown by a law enforcement
153 officer to any victim or witness of a crime for the purpose of
154 identifying the person who committed such crime.

155 Section 4. This act shall take effect October 1, 2015.