

## CHAPTER 2015-46

### Committee Substitute for Senate Bill No. 378

An act relating to juvenile justice; amending s. 985.12, F.S.; authorizing a law enforcement officer to issue a warning to a juvenile who admits having committed a misdemeanor or to inform the child's parent or guardian of the child's infraction; allowing a law enforcement officer who does not exercise one of these options to issue a civil citation or require participation in a similar diversion program; requiring a law enforcement officer to provide written documentation in certain circumstances; providing that repeat misdemeanor offenders may participate in the civil citation program or a similar diversion program under certain circumstances; reenacting ss. 943.051(3)(b) and 985.11(1)(b), F.S., relating to the issuance of a civil citation, and the issuance of a civil citation or similar diversion program, respectively, to incorporate the amendments made to s. 985.12, F.S., in references thereto; providing an effective date.

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

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

985.12 Civil citation.—

(1) There is established a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile Justice for children who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The department shall encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs around the state. The civil citation or similar diversion program shall be established at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved. The program may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, the county or municipality, or another ~~some other~~ entity selected by the county or municipality. An entity operating the civil citation or similar diversion program must do so in consultation and agreement with the state attorney and local law enforcement agencies. Under such a juvenile civil citation or similar diversion program, ~~a any~~ law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may choose to issue a simple warning or inform the child's guardian or parent of the child's infraction, or may issue a civil citation or require participation in a similar diversion program, and assess up to not more than 50 community service hours, and require participation in intervention services as indicated by an assessment of the needs of the juvenile, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services. A copy of each citation issued under this section shall be provided to

the department, and the department shall enter appropriate information into the juvenile offender information system. Use of the civil citation or similar diversion program is not limited to first-time misdemeanors and may be used in up to two subsequent misdemeanors. If an arrest is made, a law enforcement officer must provide written documentation as to why an arrest was warranted. ~~Only first-time misdemeanor offenders are eligible for the civil citation or similar diversion program.~~ At the conclusion of a juvenile's civil citation program or similar diversion program, the agency operating the program shall report the outcome to the department. The issuance of a civil citation is not considered a referral to the department.

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

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

(3)

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

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(1).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).
5. Neglect of a child, as defined in s. 827.03(1)(e).
6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014(3).
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, as defined in s. 806.031(1).

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

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

985.11 Fingerprinting and photographing.—

(1)

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

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(1).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).
5. Neglect of a child, as defined in s. 827.03(1)(e).
6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014.
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked

“Juvenile Confidential.” These records are not available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 943.053 and 985.04(2), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. In addition, such records may be submitted to the Department of Law Enforcement for inclusion in the state criminal history records and used by criminal justice agencies for criminal justice purposes. These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

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

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.