

1                   A bill to be entitled  
2           An act relating to prearrest diversion programs;  
3           creating s. 901.40, F.S.; encouraging local  
4           communities and public or private educational  
5           institutions to implement prearrest diversion programs  
6           for certain offenders; requiring that a prearrest  
7           diversion program share information with other  
8           prearrest diversion programs under certain  
9           circumstances; authorizing law enforcement officers of  
10          participating law enforcement agencies, at their sole  
11          discretion, to issue civil citations to adults under  
12          specified circumstances; requiring an adult who is  
13          issued a civil citation by a participating law  
14          enforcement agency to report for intake as required by  
15          the prearrest diversion program; establishing a  
16          steering committee for the prearrest diversion  
17          program; providing duties and membership of the  
18          committee; requiring the provision of appropriate  
19          behavioral health care services; requiring that an  
20          adult who is issued a civil citation fulfill a  
21          community service requirement; requiring the adult to  
22          pay restitution to a victim; providing for criminal  
23          prosecution of adults who fail to complete the  
24          prearrest diversion program; prohibiting an arrest  
25          record from being associated with a certain offense  
26          for adults who successfully complete the program;

27 establishing a steering committee for the prearrest  
 28 diversion program; providing duties and membership of  
 29 the committee; specifying the nonviolent misdemeanor  
 30 offenses that are eligible for the prearrest diversion  
 31 program; providing applicability; providing an  
 32 effective date.  
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34 Be It Enacted by the Legislature of the State of Florida:  
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36 Section 1. Section 901.40, Florida Statutes, is created to  
 37 read:

38 901.40 Prearrest diversion programs.-

39 (1) INTENT.- The Legislature encourages local communities  
 40 and public or private educational institutions to implement  
 41 prearrest diversion programs that afford certain adults who  
 42 fulfill specified intervention and community service obligations  
 43 the opportunity to avoid an arrest record. The Legislature does  
 44 not mandate that a particular prearrest diversion program for  
 45 adults be adopted, but finds that the adoption of the model  
 46 provided in this section would allow certain adults to avoid an  
 47 arrest record, while ensuring that those adults receive  
 48 appropriate intervention and fulfill community service  
 49 obligations. If a prearrest diversion program is implemented,  
 50 the program must share information with other prearrest  
 51 diversion programs.

52 (2) MODEL ADULT CIVIL CITATION PROGRAM.-Local communities

53 and public or private educational institutions may adopt a  
 54 program in which:

55 (a) Law enforcement officers, at their sole discretion,  
 56 may issue civil citations to certain adults who commit a  
 57 qualifying nonviolent misdemeanor offense listed in subsection  
 58 (3). A civil citation may be issued only if the adult admits  
 59 that he or she committed the offense and if the adult has not  
 60 previously been arrested and has not received an adult civil  
 61 citation. However, an adult may not be issued a civil citation  
 62 if the nonviolent misdemeanor offense involves a victim and the  
 63 victim objects to issuance of the civil citation.

64 (b) An adult who receives a civil citation shall report  
 65 for intake as required by the local prearrest diversion program  
 66 and shall be provided appropriate assessment, intervention,  
 67 education, and behavioral health care services. While in the  
 68 local prearrest diversion program, the adult shall perform  
 69 community service hours as specified by the local prearrest  
 70 diversion program. The adult shall pay restitution due to the  
 71 victim as a requirement of the prearrest diversion program. If  
 72 the adult does not successfully complete the prearrest diversion  
 73 program, the law enforcement agency that issued the civil  
 74 citation shall criminally charge the adult for the original  
 75 offense and refer the case to the state attorney to determine if  
 76 prosecution is appropriate. If the adult successfully completes  
 77 the program, an arrest record may not be associated with the  
 78 offense.

79 (c) A steering committee shall be created for the  
80 prearrest diversion program to develop policies and procedures  
81 for the program, including, but not limited to, eligibility  
82 criteria, program implementation and operation, and the fee to  
83 be paid by adults participating in the program. At a minimum,  
84 the steering committee must be composed of representatives of  
85 the law enforcement agencies participating in the program, a  
86 representative of the program services provider, a public  
87 defender or his or her designee, a state attorney or his or her  
88 designee, a clerk of the circuit court or his or her designee,  
89 and other interested stakeholders.

90 (3) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses  
91 that qualify for a prearrest diversion program include, but are  
92 not limited to:

93 (a) Disorderly conduct in violation of s. 877.03.

94 (b) An open house party in violation of s. 856.015.

95 (c) Petit theft of property valued at less than \$50 in  
96 violation of s. 812.014.

97 (d) Possession of alcohol by a person younger than 21  
98 years of age in violation of s. 856.015.

99 (e) Possession of 20 grams or less of cannabis in  
100 violation of s. 893.13.

101 (f) Selling or providing alcoholic beverages to a minor in  
102 violation of s. 562.11.

103 (g) Trespass in a structure or conveyance in violation of  
104 s. 810.08.

PCS for HB 1031

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105        (4) APPLICABILITY.—This section does not preempt a county  
106 or municipality from enacting noncriminal sanctions for a  
107 violation of an ordinance or other violation, and does not  
108 preempt a county, a municipality, or a public or private  
109 educational institution from creating its own model for a  
110 prearrest diversion program for adults.

111        Section 2. This act shall take effect July 1, 2016.