



SPONSOR: Rep. Heffernan & Rep. J. Johnson & Rep. K. Williams & Sen.
McDowell
Reps. Baumbach, Bentz, Kowalko, Potter, M. Smith; Sen.
Lopez, Townsend

HOUSE OF REPRESENTATIVES

148th GENERAL ASSEMBLY

HOUSE BILL NO. 405
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF A JUVENILE OFFENDER CIVIL CITATION PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter III, Chapter 9, Title 10 of the Delaware Code by making the insertions as shown by underline as follows.

§ 1004A Juvenile offender civil citation program.

(a) There is hereby established a juvenile offender civil citation option to provide a civil alternative to arrest and criminal prosecution for eligible youth who have committed minor misdemeanor acts of delinquency as set forth herein. The civil citation program shall be coordinated by a statewide Civil Citation Coordinator within the Division of Youth Rehabilitative Services and shall include assessment and intervention services that a juvenile voluntarily agrees to complete in lieu of formal arrest and prosecution.

(b)(1) Referral to the civil citation program shall be initiated by a peace officer through the issuance of a civil citation. Any peace officer having reasonable grounds to believe that a juvenile has committed or attempted to commit an act of delinquency specified in paragraph (2) of this subsection may issue the juvenile a civil citation. The issuance of a civil citation shall be at the discretion of the peace officer and limited to first-time offenders. Participation in the civil citation program is voluntary on the part of the juvenile offender and requires parental consent. Referral to the civil citation program shall be made with the consent of the victim if one exists.

(2) The offenses eligible for disposition pursuant to a civil citation shall be:

a. underage possession or consumption of alcohol in violation of 4 Del. C. §904;

- b. criminal trespass in the third degree in violation of §11 Del. C. §821;
- c. misdemeanor shoplifting in violation of 11 Del. C. §840;
- d. disorderly conduct in violation of 11 Del. C. §1301;
- e. loitering in violation of 11 Del. C. §1321;
- f. possession of marijuana in violation of 16 Del. C. §4764.

(3) For purposes of this section, a first-time offender is defined as any juvenile who has no prior adjudication of delinquency, referral to the civil citation program or any other diversion program.

(c) A civil citation shall be initiated by entering all required information into the Law Enforcement Investigative Support System (LEISS) to include a description of the misdemeanor offense believed to have been committed; contact information for the designated Civil Citation community providers; notification that the juvenile must contact the identified Civil Citation community provider within 7 business days to schedule their intake and initial assessment; and a warning that failure to contact the identified Civil Citation community provider may result in the juvenile's arrest and the commencement of delinquency proceedings as otherwise provided in this subchapter.

(d) At the time of issuance of a civil citation by the peace officer, the peace officer shall advise the juvenile that the juvenile has the option to refuse the civil citation and instead be taken into custody and subject to arrest and prosecution as otherwise provided in this subchapter. Upon issuance of a civil citation, the peace officer shall submit the civil citation through LEISS to the Civil Citation Coordinator.

(e) A juvenile issued a civil citation shall contact the identified Civil Citation community provider within 7 business days or as otherwise directed in the civil citation and thereafter report to the identified provider to which the juvenile is referred.

(f) Providers shall assess referred juveniles using an approved risk assessment tool and may recommend the juvenile to participate in counseling, treatment, community service or other interventions appropriate to the needs of the juvenile as identified by the assessment.

(g) Upon completion of all terms and conditions of the civil citation program, the juvenile shall be discharged successfully without arrest.

(h) If the juvenile fails to comply with any requirements of the civil citation program, including any assessments or required services, or otherwise violates any terms or conditions imposed by the identified provider, the juvenile shall be unsuccessfully discharged from the civil citation program. The Civil Citation Coordinator shall advise the referring peace officer of a juvenile's unsuccessful termination from the program. A peace officer, upon receiving notice that a juvenile to

whom they have issued a civil citation has been unsuccessfully discharged from the civil citation program, shall be authorized to arrest the juvenile and proceed as otherwise provided in this subchapter.

(i) Participation in the Civil Citation Program shall not, with respect to a subsequent arrest, serve to disqualify or otherwise preclude a juvenile from participating in any diversion program at the discretion of the Attorney General.

Section 2. The Civil Citation Coordinator and the Quality Assurance Unit of the Division of Youth and Rehabilitative Services will collect and analyze the civil citation program data, and make annual recommendations to the Criminal Justice Council/Juvenile Justice Advisory Group and the General Assembly regarding the expansion and funding of the civil citation program.

Section 3. This Act expires 2 years after its enactment into law unless otherwise provided by a subsequent act of the General Assembly.