



SPONSOR: Rep. Heffernan & Rep. J. Johnson & Sen. McDowell
Reps. Baumbach, Bentz, Bolden, Brady, Keeley,
Kowalko, Longhurst, Lynn, Osienski, Paradee, Potter,
Sen. Townsend

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 442

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

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

1 Section 1. Amend § 1004A, Title 10 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1004A. Juvenile Offender Civil Citation Program. [For application of this section, see 80 Del. Laws, c. 38, § 6]
4 [Expires Sept. 6, 2018, pursuant to 80 Del. Laws, c. 412, § 3]

5 (b)(1) Referral to the Juvenile Offender Civil Citation Program shall be initiated by a peace officer through the
6 issuance of a civil citation. Any peace officer having reasonable grounds to believe that a juvenile has committed or
7 attempted to commit an a misdemeanor act of delinquency ~~specified in paragraph (b)(2) of this section~~ may issue the
8 juvenile a civil citation. The issuance of a civil citation shall be at the discretion of the peace officer and limited to qualified
9 juvenile offenders. Participation in the Juvenile Offender Civil Citation Program is voluntary on the part of the juvenile
10 offender and requires parental consent. Referral to the Juvenile Offender Civil Citation Program shall be made with the
11 consent of the victim if one exists.

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

13 ~~a. Underage possession or consumption of alcohol in violation of § 904 of Title 4;~~

14 ~~b. Criminal trespass in the third degree in violation of § 821 of Title 11;~~

15 ~~c. Misdemeanor shoplifting in violation of § 840 of Title 11;~~

16 ~~d. Disorderly conduct in violation of § 1301 of Title 11;~~

17 ~~e. Loitering in violation of § 1321 of Title 11;~~

18 ~~f. Possession of marijuana in violation of § 4764 of Title 16;~~

19 ~~g. Possession of drug paraphernalia in violation of § 4771(a) of Title 16. An act of delinquency~~

20 classified as a misdemeanor is eligible for disposition pursuant to a civil citation.

21 (3) For purposes of this section, a "qualified juvenile offender" ~~is defined as any~~ means a juvenile who
22 ~~has-~~ meets both of the following:

23 a. No prior adjudication of ~~delinquency;~~ and delinquency.

24 b. No prior referral to the Juvenile Offender Civil Citation or any other diversion program unless
25 more than ~~18 months have~~ 1 year has elapsed since the first referral and the prior referral was for a
26 different offense.

27 (f)(1) Providers shall assess referred juveniles using an approved risk assessment tool and may recommend the
28 juvenile to participate in counseling, treatment, community service or other interventions appropriate to the needs of the
29 juvenile as identified by the assessment.

30 (2) For purposes of Chapter 86 of Title 11, a civil citation community provider is all of the following:

31 a. Engaged in the rehabilitation of accused persons in the administration of criminal justice.

32 b. An authorized user, if qualified under the minimum requirements established under § 8608 of Title
33 11.

34 c. An authorized agency, if qualified under §§ 8610 and 8611 of Title 11.

35 Section 2. This Act takes effect on July 1, 2019.

SYNOPSIS

This Act expands the Juvenile Civil Citation Program to provide law enforcement officers with the discretion to refer any first-time juvenile offender engaged in any misdemeanor-level behavior to the civil citation program, where the juvenile can be required to participate in counseling, treatment, community service, or any other appropriate intervention. A juvenile who successfully completes the requirements of the civil citation program will not have an arrest or prosecution indicated on their record. Under the current law, officers may make referrals to the civil citation program for only very limited types of misdemeanor offenses.

The Act will also allow a second referral to the civil citation program if 1 year has passed since the first referral and the second offense is not for the same misdemeanor. Under current law, a juvenile is not eligible for a second referral until 18 months have passed since the first referral.

This Act will also provide access to the Delaware Criminal Justice information System to the civil citation community provider to enable the provider to properly assess referred juveniles.

This program provides an alternative to arrest and adjudication, thus avoiding the collateral consequences associated with a criminal record while still allowing the system to compel the juvenile and the juvenile's family to seek and participate in appropriate services to address root causes of delinquent behavior. The expansion of the civil citation program under this Act is consistent with the mission of the juvenile justice system, which is the rehabilitation and treatment of juveniles, not punishment.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.