

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
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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:

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

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

(b)(1) Referral to the Juvenile Offender 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~~ a misdemeanor act of delinquency ~~specified in paragraph (b)(2) of this section~~ 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 qualified juvenile offenders. Participation in the Juvenile Offender Civil Citation Program is voluntary on the part of the juvenile offender and requires parental consent. Referral to the Juvenile Offender 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 § 904 of Title 4;~~

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

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

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

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

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

~~g. Possession of drug paraphernalia in violation of § 4771(a) of Title 16.~~ An act of delinquency classified as a misdemeanor is eligible for disposition pursuant to a civil citation, except any Title 21

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misdemeanor, unlawful sexual contact in violation of § 767 of Title 11, and unlawful imprisonment second degree in violation of § 781 of Title 11..

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

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

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

(f)(1) 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.

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

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

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

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

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

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