

805.16 Citations to persons under eighteen years of age — arrest — nonsecure custody.

1. Except as provided in subsection 2 of this section, a peace officer shall issue a police citation or uniform citation and complaint, in lieu of making a warrantless arrest, to a person under eighteen years of age accused of committing a simple misdemeanor under chapter 321, 321G, 321I, 461A, 461B, 462A, 481A, 481B, 483A, 484A, 484B, or a local ordinance not subject to the jurisdiction of the juvenile court, and shall not detain or confine the person in a facility regulated under chapter 356 or 356A.

2. A person under the age of eighteen who refuses to sign the citation without qualification, who persists in engaging in the conduct for which the citation was issued, who refuses to provide proper identification or to identify the person's self, or who constitutes an immediate threat to the person's own safety or the safety of the public may be arrested in the manner provided in subsection 3. In addition, or alternatively, the peace officer may require that person to surrender the person's driver's license as defined in section 321.1 until the time of the person's initial court appearance. The peace officer shall immediately send the person's driver's license along with a copy of the unsigned citation indicating the juvenile's refusal to sign to the clerk of the district court for the district in which the peace officer issued the citation.

3. a. A person arrested pursuant to subsection 2 shall only be arrested for the limited purpose of holding the person in nonsecure custody in an area not intended for secure detention while awaiting transfer to an appropriate juvenile facility or to court, for booking, for implied consent testing, for contacting and release to the person's parents, or for other administrative purposes.

b. For purposes of this subsection, "nonsecure custody" means custody in an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area, the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held, and the use of the area is limited to providing nonsecure custody only long enough for the purposes stated in paragraph "a" and not for a period of time in excess of six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

4. This section does not prohibit the execution of an arrest warrant by a peace officer.

88 Acts, ch 1167, §7; 90 Acts, ch 1230, §96; 92 Acts, ch 1160, §24; 97 Acts, ch 126, §49; 98 Acts, ch 1073, §9; 2004 Acts, ch 1132, §94; 2013 Acts, ch 30, §220

[T] Subsection 3 amended