

# FLORIDA RULES OF TRAFFIC COURT

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## CITATIONS TO OPINIONS ADOPTING OR AMENDING RULES

Transition Rule 20 was proposed in 1974 and adopted as an emergency rule to handle all traffic cases—effective 1-1-75: 306 So. 2d 489.

### OTHER OPINIONS:

Effective Date	Citation	Description
Effective 2-5-75:	307 So.2d 825.	Amended 6.156(c).
Effective 5-1-75:	311 So.2d 665.	Amended numerous rules.
Effective 3-31-76:	330 So.2d 129.	Amended 6.110, 6.156.
Effective 6-30-76:	335 So.2d 2.	Amended 6.340.
Effective 1-27-77:	342 So.2d 80.	Amended 6.330.
Effective 6-2-77:	347 So.2d 413.	Amended 6.110.
Effective 5-11-78:	358 So.2d 1360.	Amended 6.290; added 6.575.
Effective 12-14-78:	366 So.2d 400.	Amended numerous rules.
Effective 7-18-79:	372 So.2d 1377.	Amended 6.200, 6.470.
Effective 11-1-79:	376 So.2d 1157.	Amended 6.110(a).
Effective 7-1-81:	401 So.2d 805.	Added 6.115.
Effective 2-11-82:	410 So.2d 1337.	Deleted Transition Rule 20; amended numerous rules.
Effective 9-14-82:	426 So.2d 9.	Amended 6.115.
Effective 1-1-85:	458 So.2d 1112.	Amended numerous rules.
Effective 1-1-85:	458 So.2d 1115.	Amended 6.470(c).
Effective 10-1-85:	477 So.2d 542.	Amended numerous rules.
Effective 10-1-86:	494 So.2d 1129.	Amended numerous rules.
Effective 9-8-88:	531 So.2d 150.	Amended 6.115.
Effective 1-1-89:	530 So.2d 274.	Four-year-cycle revisions. Numerous rules amended. (See 536 So.2d 181.)
Effective 1-1-89:	536 So.2d 181.	Revised opinion at 530 So.2d 274.
Effective 3-29-90:	559 So.2d 1101.	Amended 6.010, 6.040, 6.080, 6.100, 6.130; added 6.630.
Effective 10-11-90:	567 So.2d 1380.	Amended 6.110, 6.115, 6.185, 6.291, 6.630.
Effective 11-12-92:	608 So.2d 469.	Amended 6.156.
Effective 1-1-93;	608 So.2d 451	Four-year-cycle revisions. Numerous rules amended, deleted.
1-1-94:		Rule 6.325 to become effective 1-1-94.
Effective 7-1-93:	621 So.2d 1063.	Amended 6.040, 6.110, 6.140; repealed 6.156.
Effective 1-11-96:	667 So.2d 188.	Amended 6.325, 6.630(d).
Effective 1-1-97:	685 So.2d 1242.	Four-year-cycle revisions. Numerous rules amended. Rule 6.445 added.
Effective 1-1-03:	822 So.2d 1239.	Two-year-cycle revisions. Amended 6.630.
Effective 1-1-05:	890 So.2d 1111.	Two-year-cycle revisions. Amended 6.100, 6.190, 6.200, 6.500, 6.580.
Effective 1-1-07:	938 So.2d 983.	Three-year-cycle revisions. Amended 6.040, 6.455, 6.630.
Effective 1-1-10:	24 So.3d 176.	Three-year-cycle revisions. Amended 6.291, 6.330, 6.445, 6.480; repealed 6.115 (effective 12-3-09).
Effective 9-1-12:	102 So.3d 505.	Amended 6.370.
Effective 10-1-12:	95 So.3d 96.	Amended 6.350. Deleted 6.370.
Effective 1-1-13:	105 So.3d 1267.	Amended 6.600(b).
Effective 1-1-14:	131 So.3d 714.	Amended 6.630.
Effective 1-1-16:	166 So.3d 179.	Amended 6.190, 6.380, 6.460, 6.630.
Effective 1-1-19:	43 FLW S327.	Amended 6.010, 6.020, 6.080, 6.090, 6.140, 6.180, 6.190, 6.200, 6.320, 6.330, 6.360, 6.455, 6.490, 6.500, 6.510, 6.520, 6.530, 6.550, 6.560, 6.570, 6.575, 6.590, 6.600. Deleted 6.580.

**NOTE TO USERS:** Rules in this pamphlet are current through 43 FLW S327. Subsequent amendments, if any, can be found at [www.floridasupremecourt.org/decisions/rules.shtml](http://www.floridasupremecourt.org/decisions/rules.shtml). The

Florida Bar also updates the rules on its website at [www.floridabar.org](http://www.floridabar.org) (on the home page click “Rules Updates”).

## I. SCOPE, PURPOSE, AND CONSTRUCTION

### RULE 6.010. SCOPE

(a) **Application.** These rules, cited as “Florida Rules of Traffic Court” and abbreviated as “Fla. R. Traf. Ct.,” shall take effect at 12:00 a.m. on January 1, 1975. These rules govern practice and procedure in any traffic case and specifically apply to practice and procedure in county courts and before civil traffic infraction hearing officers.

(b) **Part III.** The rules under Part III of these rules apply to all criminal traffic offenses.

(c) **Part IV.** The rules under Part IV of these rules apply only to traffic infractions adjudicated in a court of the state, whether by a county court judge or civil traffic infraction hearing officer.

#### Committee Notes

**1990 Amendment.** The statutory authorization of civil traffic infraction hearing officers by chapter 89-337, Laws of Florida, necessitates reference to such hearing officers (statutorily referred to interchangeably as magistrates) in the traffic court rules. Reference in the proposed rule to traffic magistrate rather than merely magistrate is designed to distinguish the former from other magistrates, especially in relation to the applicability of the Code of Judicial Conduct (see section of code entitled “Compliance with the Code of Judicial Conduct”), thereby avoiding the possibility of conflict with authorizing statute.

**1992 Amendment.** Because traffic violations are contained in several chapters of Florida Statutes, references to chapter 318 have been deleted to eliminate latent inconsistencies.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic “magistrates” in favor of the term traffic “hearing officers.”

### RULE 6.020. PURPOSE AND CONSTRUCTION

These rules shall be construed to secure simplicity and uniformity in procedure, fairness in administration, and the elimination of unnecessary expense and delay.

## II. GENERAL PROVISIONS

### RULE 6.040. DEFINITIONS

The following definitions apply:

(a) “Court” means any county court to which these rules apply and the judge thereof or any civil traffic hearing officer program and the traffic hearing officer thereof.

(b) “Charging document” means any information, uniform traffic citation, complaint affidavit, or any other manner of charging a criminal traffic offense under law.

(c) “Judge” means any judicial officer elected or appointed by the governor authorized by law to preside over a court to which these rules apply.

(d) “Law” includes the constitutions of the United States and the State of Florida, statutes, ordinances, judicial decisions, and these rules.

(e) “Oath” includes affirmations.

(f) “Clerk” means clerk of the initiating court or trial court.

(g) “Open court” means in a courtroom as provided or judge’s or traffic hearing officer’s chambers of suitable judicial decorum.

(h) “Prosecutor” means any attorney who represents a state, county, city, town, or village in the prosecution of a defendant for the violation of a statute or ordinance.

(i) “Criminal traffic offense” means a violation that may subject a defendant upon conviction to incarceration, within the jurisdiction of a court to which these rules apply.

(j) “Warrant” includes *capias*.

(k) “Infraction” means a noncriminal traffic violation that is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.

(l) “Official” means any state judge or traffic hearing officer authorized by law to preside over a court or at a hearing adjudicating traffic infractions.

(m) “Department” means the Department of Highway Safety and Motor Vehicles, defined in section 20.24, Florida Statutes, or the appropriate division thereof.

(n) “Officer” means any enforcement officer charged with and acting under authority to arrest or cite persons suspected or known to be violating the statutes or ordinances regulating the operation of equipment or vehicles or the regulation of traffic.

(o) “Infraction requiring a mandatory hearing” refers to an infraction listed in section 318.19, Florida Statutes, which requires an appearance before a designated official at the time and location of the scheduled hearing.

(p) “Traffic hearing officer” means an official appointed under the civil traffic infraction hearing officer program who shall have the power to adjudicate civil traffic infractions subject to certain exceptions.

(q) “Counsel” means any attorney who represents a defendant.

#### **Committee Notes**

**1990 Amendment.** In order to accommodate both the court and hearing officer program as alternative sources for the adjudication of civil infractions, the definition of court has been expanded. The term judge has been redefined to limit its reference to only county court judges and the reference to official has been expanded to include the traffic magistrate. In addition, a separate definition for traffic magistrate has been added.

**1992 Amendment.** Defines charging document and more precisely defines criminal traffic offense.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic “magistrates” in favor of the term traffic “hearing officers.”

#### **RULE 6.080. IMPROPER DISPOSITION OF TRAFFIC TICKET**

Any person who solicits or aids in the disposition of a traffic complaint or summons in any manner other than that authorized by law or who willfully violates any provision of these rules shall be proceeded against for criminal contempt in the manner provided in these rules. However, a traffic hearing officer shall not have the power to hold any person in contempt of court, but shall be permitted to file a



verified motion for order of contempt before any state trial court judge of the same county in which the alleged contempt occurred. Such matter shall be handled as an indirect contempt of court pursuant to the provisions of Florida Rule of Criminal Procedure 3.840.

#### **Committee Notes**

**1990 Amendment.** This rule expands the statutory mandate of Chapter 89-337, section 3(1) which deprives magistrates of the power of contempt with respect to defendants only. The rule extends the prohibition of a magistrate's direct contempt powers to cover any person. The Committee expressed concern that if the contempt prohibition were limited to only the defendant, it might be assumed that such powers existed with respect to others such as attorneys, court personnel and witnesses. This rule also incorporates reference to the provisions of Florida Rule of Criminal Procedure 3.840 by specifying that magistrates may initiate indirect contempt proceedings by filing a verified motion for order of contempt pursuant to the Rule of Criminal Procedure.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic "magistrates" in favor of the term traffic "hearing officers."

#### **RULE 6.090. DIRECT AND INDIRECT CRIMINAL CONTEMPT**

Direct and indirect criminal contempt shall be proceeded upon in the same manner as in the Florida Rules of Criminal Procedure.

#### **Committee Notes**

**1988 Amendment.** The change from the word "punished" to the words "proceeded upon" were needed to make clear that the Committee intended to follow the procedure as outlined in Rule 3.830 and Rule 3.840, Criminal Procedure Rules. Those rules are procedural and contain no penalties.

#### **RULE 6.100. TRAFFIC VIOLATIONS BUREAU**

**(a) Establishment and Function.** A traffic violations bureau shall be established in each county court by administrative order of the chief judge of the circuit in which the county court is located. The function of the bureau shall be to accept appearances, waivers of non-criminal hearings, admissions, payment of civil penalties for traffic infractions not requiring a mandatory hearing, and nolo contendere pleas under the authority of section 318.14(9) and (10), Florida Statutes. If any person's sentence for a criminal traffic offense or penalty for a traffic infraction requiring a mandatory hearing or a traffic infraction in which the person elects to appear before an official includes the payment of a fine or civil penalty, payment may be made before the bureau. The bureau may also accept

appearances, waivers of hearings, admissions, and payment of civil penalties as provided in section 318.18, Florida Statutes, in traffic infraction cases in which the driver originally elected, but was not required, to appear before an official prior to the date of the hearing. The bureau shall act under the direction and control of the judges of the court.

**(b) Civil Penalty Schedule; Payment and Accounting.** The court shall post in the place where civil penalties are to be paid in the violations bureau the schedule of the amount of the civil penalty as provided in section 318.18, Florida Statutes. All fines, civil penalties, and costs shall be paid to, receipted by, and accounted for by the violations bureau or proper authority in accordance with these rules.

**(c) Statistical Reports.** All cases processed in the violations bureau shall be numbered, tabulated, and reported for identification and statistical purposes. In any statistical reports required by law, the number of cases disposed of by the violations bureau shall be listed separately from those disposed of in open court.

#### **Committee Comments**

**1990 Amendment.** This amendment was proposed to avoid possible confusion as to any authority traffic hearing officers could have in relation to the operation of traffic violations bureaus.

### **RULE 6.110. DRIVER IMPROVEMENT, STUDENT TRAFFIC SAFETY COUNCIL, AND SUBSTANCE ABUSE EDUCATION COURSES**

**(a) Designation of School.** In those areas where defendants are ordered or are allowed to elect to attend a driver improvement school or student traffic safety council school, or are sentenced to a substance abuse education course, the chief judge of the circuit shall issue an administrative order designating the schools at which attendance is required. No substance abuse education course shall be approved by the chief judges until approval is first granted by the DUI Programs Director. For persons ordered to attend driver improvement schools, those schools approved by the department shall be considered approved for purposes of this rule.

**(b) Inspection and Supervision.** Any programs designated to serve an area of the state are subject to the inspection and supervision of the DUI Programs Director.

**(c) Out-of-State Residents.** Out-of-state residents sentenced to a driver improvement school course or substance abuse program may elect to complete a substantially similar program or school in their home state, province, or country.

#### **Committee Notes**

**1988 Amendment.** The reason for the change was to bring subdivision (a) into conformity with the statutory language in section 322.282, Florida Statutes, which states “substance abuse education course” rather than a “DWI Counter Attack School.”

Subdivision (c) is new and was designed to allow compliance with section 316.193(5), Florida Statutes, when the person did not reside in Florida, was in Florida for only a short, temporary stay, and attendance at a substance abuse course in Florida would constitute a hardship. Section 316.193(5) requires only that the substance abuse course be “specified by the court.”

**1990 Amendment.** The offense of Driving While Intoxicated was abolished by statute, thereby making reference to DWI inappropriate. The title of the person coordinating Substance Abuse Education Courses has been changed from that of Schools Coordinator to that of Programs Director.

#### **RULE 6.130. CASE CONSOLIDATION**

When a defendant is cited for the commission of both a criminal and a civil traffic violation, or both a civil traffic infraction requiring a mandatory hearing and a civil traffic infraction not requiring a hearing, the cases may be heard simultaneously if they arose out of the same set of facts.

However, in no case shall a traffic hearing officer hear a criminal traffic case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense.

Under any of these circumstances the civil traffic infraction shall be treated as continued for the purpose of reporting to the department. Prior to the date of the scheduled hearing or trial, a defendant may dispose of any nonmandatory civil traffic infraction in the manner provided by these rules and section 318.14, Florida Statutes.

#### **Committee Notes**

**1990 Amendment.** The rule on case consolidation was amended to include language from chapter 89-337, Laws of Florida, which prohibits traffic magistrates from hearing civil infractions arising out of same facts as criminal traffic offenses.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic “magistrates” in favor of the term traffic “hearing officers.”

## **RULE 6.140. CONDUCT OF TRIAL**

All trials and hearings shall be held in open court and shall be conducted in an orderly manner according to law and applicable rules. All proceedings for the trial of traffic cases shall be held in a place suitable for the purpose.

### **Committee Notes**

**1988 Amendment.** There was a major elimination in this particular rule, as the Committee felt that all questions pertaining to the conduct of any trial or hearing were covered by case decision, law, and the rules and that an official should not be permitted to decide on any other basis. It was also felt that the word place, should be substituted for the word room as in some emergency situations hearings had been held outside, etc.

## **RULE 6.150. WITNESSES**

**(a) Procedure.** The procedure prescribed by law in civil and criminal cases concerning the attendance and testimony of witnesses, the administration of oaths and affirmations, and proceedings to enforce the remedies and protect the rights of the parties shall govern traffic cases as far as they are applicable unless provided otherwise by these rules or by the law. Payment of witness fees and costs of serving witnesses in civil traffic cases shall be made in the same manner as in a criminal traffic case.

**(b) Use of Affidavits.** A defendant in a civil infraction case may offer evidence of other witnesses through use of one or more affidavits. The affidavits shall be considered by the court only as to the facts therein that are based on the personal knowledge and observation of the affiant as to relevant material facts. However, the affidavits shall not be admissible for the purpose of establishing character or reputation.

## **III. CRIMINAL OFFENSES**

### **RULE 6.160. PRACTICE AS IN CRIMINAL RULES**

Except as provided, the Florida Rules of Criminal Procedure shall govern this part. A defendant shall be considered “taken into custody” for the purpose of rule 3.191 when the defendant is arrested, or when a traffic citation, notice to

appear, summons, information, or indictment is served on the defendant in lieu of arrest.

#### **Committee Notes**

**1988 Amendment.** The purpose of the change was to make clear that both pretrial and trial procedures, under this part, are governed by the Florida Rules of Criminal Procedure, unless there is a conflict. The previous rule had only applied to “trial” — and the committee felt that pretrial and post-trial procedures should also apply.

### **RULE 6.165. COMPLAINT; SUMMONS; FORM; USE**

**(a) Uniform Traffic Citation.** All prosecutions for criminal traffic offenses by law enforcement officers shall be by uniform traffic citation as provided for in section 316.650, Florida Statutes, or other applicable statutes, or by affidavit, information, or indictment as provided for in the Florida Rules of Criminal Procedure. If prosecution is by affidavit, information, or indictment, a uniform traffic citation shall be prepared by the arresting officer at the direction of the prosecutor or, in the absence of the arresting officer, by the prosecutor and submitted to the department.

**(b) Amendment of Citation.** The court may allow the prosecutor to amend in open court a traffic citation alleging a criminal traffic offense to state a different traffic offense. No new traffic citation need be issued by the arresting officer. The court shall grant additional time to the defendant for the purpose of preparing a defense if the amendment has prejudiced the defendant.

#### **Committee Notes**

**1988 Amendment.** It was felt that due process required the court to grant a continuance to the defendant as a matter of right, if the amendment prejudiced the defendant. The committee felt that this should be mandatory and not discretionary.

### **RULE 6.180. SENTENCING REPEAT OFFENDERS**

**(a) Defendant’s Rights.** A defendant alleged, to have a prior conviction for a criminal traffic offense, shall have the right to remain silent concerning any prior conviction at the time of plea or sentence.

**(b) Proof of Prior Convictions.** If the right to remain silent is invoked by the defendant, the state shall have a reasonable time, if requested, to determine if any prior convictions exist. If the state is unable to prove any prior convictions, the defendant shall be treated as if no prior convictions exist.

(c) **Suspension by Department.** This provision shall not prevent the department from suspending a defendant's driving privilege for a longer period than the court has entered if a prior record is discovered by the department.

#### Committee Notes

**1988 Adoption.** Rule 6.180 is new and is designed to codify existing procedures in DUI cases. The rule sets forth what has become known as a "Meehan plea." *Meehan v. State*, 397 So. 2d 1214 (Fla. 2d DCA 1981).

**1992 Amendment.** Makes a "Meehan plea" applicable to all criminal traffic offenses.

### **RULE 6.183. PEREMPTORY CHALLENGES**

In every jury trial in which a defendant is charged with a violation of section 316.193, Florida Statutes, each party shall have 3 peremptory challenges, but the trial court, in the interest of justice, in its discretion may permit additional challenges.

#### Committee Notes

**1988 Adoption.** This rule was initially drafted to allow 6 peremptory challenges per side in all DUI trials on the basis that the penalties in a DUI were normally more severe than most third-degree felonies, that the trial was as complicated as any second-degree felony, and that it was also subject to extreme jury prejudice due to "media blitz" publicity and the pressures from citizen action groups, as well as the numbers of prospective jurors who were nondrinkers or had religious reasons against drinking. The proposed rule met with strong opposition from the committee as drafted, with an almost even split vote. An amendment was proposed, which is the above rule as written, which satisfied all members of the committee, as it was recognized that the outlined problems existed, and the committee felt that a rule was needed to affirmatively show that additional peremptories should be freely granted by the court when the need arises.

### **RULE 6.190. PROCEDURE ON FAILURE TO APPEAR; WARRANT; NOTICE**

(a) **Issuance of Warrants.** The court may direct the issuance of a warrant for the arrest of any resident of this state, or any non-resident on whom process may be served in this state, who fails to appear and answer a criminal traffic complaint or summons lawfully served on such person and against whom a complaint or information has been filed. The warrant shall be directed to all law enforcement officers, state, county, and municipal, in the state and may be executed in any county in this state.

(b) **Warrant Not Issued or Served; Disposition of Case.** If a warrant is not issued or is not served within 30 days after issuance, the court may place the

case in an inactive file or file of cases disposed of and shall report only bond forfeiture cases and cases finally adjudicated to the driver license issuing authority of the department. For all other purposes, including final disposition reports, the cases shall be reported as disposed of, subject to being reopened if thereafter the defendant appears or is apprehended.

**(c) Nonresident of State; Failure to Appear or Answer Summons.** If a defendant is not a resident of this state and fails to appear or answer a traffic complaint, the clerk of the court or the court shall send notice to the defendant at the address stated in the complaint and to the department. The department shall send notice to the license issuing agency in the defendant's home state. If the defendant fails to appear or answer within 30 days after notice is sent to the defendant, the court shall place the case in an inactive file or file of cases disposed of, subject to being reopened if thereafter the defendant appears or answers or a warrant is issued and served.

**(d) Forfeiture of Bail.** The waiting period imposed herein shall not affect any proceedings for forfeiture of bail.

#### **RULE 6.200. PLEAS AND AFFIDAVITS OF DEFENSE**

**(a) Record of Pleas.** All pleas entered in open court shall be recorded by an official court reporter or electronic means, unless the defendant signs a written waiver of this right.

**(b) Written Pleas of Guilty or Nolo Contendere.** Subject to the approval of the court, written pleas of guilty or nolo contendere may be entered in criminal traffic offenses, and sentence imposed thereon.

**(c) Nonresident of County; Affidavit of Defense.** Any person charged with the commission of a criminal traffic offense who is not a resident of or domiciled in a county where the alleged offense took place may, at the discretion of the court, file a written statement setting forth facts justifying the filing of an affidavit of defense or file an affidavit of defense directly, if practicable, upon posting a reasonable bond set by the court.

#### **RULE 6.290. WITHHOLDING ADJUDICATION PROHIBITED**

Pursuant to section 316.656, Florida Statutes, no court shall suspend, defer, or withhold adjudication of guilt or the imposition of sentence for the offense of driving or being in actual physical control of a motor vehicle while having an

unlawful blood alcohol level or while under the influence of alcoholic beverages, any chemical substance set forth in section 877.111, Florida Statutes, or any substance controlled by chapter 893, Florida Statutes.

#### Committee Notes

**1988 Amendment.** Subdivision (b) was eliminated by the committee as there is no “lesser offense” for a DUI. Moreover, the enhanced penalty under section 316.193(4), Florida Statutes, for a blood alcohol level of .20 or above has inherently changed the entire previous meaning of the eliminated subdivision. The new enhanced penalty portion of the statute creates a “lesser offense” to the “enhancement” — but not to the DUI.

#### **RULE 6.291. PROCEDURES ON WITHHELD ADJUDICATION IN DRIVING WHILE LICENSE SUSPENDED; COSTS AND ENLARGEMENT OF TIME TO COMPLY; RECORD OF CONVICTIONS**

**(a) Costs.** When a defendant charged with a criminal offense elects to exercise the option of receiving a withheld adjudication under section 318.14(10), Florida Statutes, law enforcement education assessments under section 943.25, Florida Statutes, and victims-of-crimes compensation costs and surcharges under sections 938.03 and 938.04, Florida Statutes, must be assessed, in addition to the court costs assessed by section 318.14(10), Florida Statutes.

**(b) Additional Costs.** In addition to any other allowable costs, additional court costs of up to \$5 may be assessed, if authorized by administrative order of the chief judge of the circuit.

**(c) Time to Comply.** When a defendant elects to exercise the option of receiving a withheld adjudication pursuant to section 318.14(10), Florida Statutes, the clerk shall allow the defendant such additional time as may be reasonably necessary, not exceeding 60 days, to fulfill statutory requirements. If the defendant has not been able to comply with the statutory requirements within 60 days, the court, for good cause shown, may extend the time necessary for the defendant to comply.

**(d) Convictions.** Elections under section 318.14(10), Florida Statutes, when adjudication is withheld, shall not constitute convictions as that term is used in chapter 322, Florida Statutes.

#### Committee Notes



**1990 Amendment.** Section 27.3455(1), Florida Statutes, was amended to provide that any person who pleads nolo contendere to a misdemeanor or criminal traffic offense under section 318.14(10)(a) shall be assessed costs of \$50 for the local government criminal justice trust fund. This enactment requires the deletion of the previously existing rule provision that prohibited an assessment of costs for the local government criminal justice trust fund.

**1992 Amendment.** This rule consolidates rules 6.291, 6.292, and 6.293. It also sets a limit on the amount of time a clerk can allow a defendant to process an administrative withheld adjudication through the clerk, without leave of court.

**RULE 6.300. DRIVER LICENSE REVOCATION; MAINTAINING LIST**

In order to comply with the provisions of section 322.282(1), Florida Statutes, the clerk need not maintain a separate list of driver license revocations or suspensions from his or her existing records.

**RULE 6.310. LESSER INCLUDED OFFENSES**

No civil traffic infraction shall be considered a lesser included offense of any criminal traffic offense.

**IV. TRAFFIC INFRACTIONS**

**RULE 6.320. COMPLAINT; SUMMONS; FORMS; USE**

All citations for traffic infractions shall be by uniform traffic citation as provided in section 316.650, Florida Statutes, or other applicable statutes or by affidavit.

**RULE 6.325. SPEEDY TRIAL: INFRACTIONS ONLY**

**(a) General Rule.** Except as otherwise provided in this rule, every defendant charged with a non-criminal traffic infraction shall be brought to trial within 180 days of the date the defendant is served with the uniform traffic citation or other charging document. If trial is not commenced within 180 days, the defendant shall be entitled to dismissal of the infraction charge.

**(b) Effect of Delay or Continuances.** If the trial of the defendant is not commenced within the 180-day requirement established by this rule, a motion for dismissal shall be granted by the court unless it is shown that

(1) failure to hold trial was attributable to the defendant or the defendant's counsel, or

(2) the defendant was unavailable for trial.

If the court finds that dismissal is not appropriate for the reasons listed in this subdivision, the motion for dismissal shall be denied.

**(c) Application of Rule.** This rule shall not apply to any infraction that is a part of a single episode or occurrence, which is attached to, consolidated with, or associated with a criminal traffic offense.

#### **Committee Notes**

**1992 Adoption.** This rule establishes a speedy trial rule for traffic infractions and provides for automatic dismissal upon motion after the expiration of 180 days.

**1995 Amendment.** Subdivision (a) was amended to make it clear that the speedy trial rule was not meant to be a "statute of limitations." Under the existing statute of limitations (section 775.15(2)(d), Florida Statutes) infractions must be filed within one year of the date of the event that is the reason for the charge. This amendment makes it clear that the state can bring the charge within one year from the date of the infraction, but the charge must be tried within 180 days from the date of service of the infraction upon the accused. Subdivision (d) was entirely eliminated as unnecessary.

### **RULE 6.330. ELECTION TO ATTEND A DRIVER IMPROVEMENT COURSE**

**(a) Attendance at a Driver Improvement Course.** Unless a mandatory hearing is required, or the defendant appears at a hearing before an official, a defendant who does not hold a commercial driver license or commercial learner permit may elect to attend a driver improvement course pursuant to section 318.14(9), Florida Statutes, within 30 days of receiving a citation or, if a hearing was requested, at any time before trial. Pursuant to this rule, any defendant electing to attend a driver improvement course under section 318.14(9), Florida Statutes, will have adjudication withheld and not be assessed points.

**(b) Location of Course.** A defendant who is sentenced to or elects to attend a driver improvement course shall have the right to attend an approved course in the location of the defendant's choice, including the internet when the elected or court-ordered drive improvement course is provided online.

#### **Committee Notes**

**2009 Amendment.** The rule change in subdivision (a) was necessary to create a uniform time period throughout the state by which a clerk must allow a defendant to elect to attend a driver improvement school.

**RULE 6.340. AFFIDAVIT OF DEFENSE OR ADMISSION AND WAIVER OF APPEARANCE**

**(a) Appearance in Court.** Any defendant charged with an infraction may, in lieu of a personal appearance at trial, file an affidavit of defense or an admission that the infraction was committed as provided in this rule.

**(b) Posting of Bond.** The trial court may require a bond to be posted before the court will accept an affidavit in lieu of appearance at trial. The defendant shall be given reasonable notice if required to post a bond.

**(c) Attorney Representation.** If a defendant is represented by an attorney in an infraction case, said attorney may represent the defendant in the absence of the defendant at a hearing or trial without the defendant being required to file an affidavit of defense. The attorney shall file a written notice of appearance. The attorney may enter any plea, proceed to trial, present evidence other than the defendant’s statements, and examine and cross examine witnesses without the defendant being required to file an affidavit of defense. Nonetheless, a defendant represented by an attorney may file an affidavit of defense. If a represented defendant files such an affidavit, the affidavit must be signed and properly notarized, subjecting the affiant to perjury prosecution for false statements.

**(d) Sample Affidavit of Defense or Admission and Waiver of Appearance.**

STATE OF FLORIDA,	*	IN THE COUNTY COURT,
	*	_____ COUNTY, FLORIDA
Plaintiff,	*	
	*	CASE NO. _____
vs.	*	
	*	CITATION NO. _____
_____ ,	*	
Defendant.	*	DRIVER’S LICENSE NO.
_____	*	_____

AFFIDAVIT OF DEFENSE OR  
ADMISSION AND WAIVER OF APPEARANCE

Before me personally appeared \_\_\_\_\_, who after first being placed under oath, swears or affirms as follows:

1. My name, address, and telephone number are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

2. I am the defendant in the above-referenced case and am charged with the following violation(s): (List the charges as you understand them to be.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Note: This is not an admission that you violated any law.]

3. Check **only one** as your plea:

\_\_\_\_\_ **I hereby plead NOT GUILTY** and file this affidavit of defense as my sworn statement herein. I understand that when I plead not guilty, I do not have to supply any further statement. I understand that by my filing this affidavit, the hearing officer or judge will have to make a decision as to whether I committed the alleged violation by the sworn testimony of the witnesses, other evidence, and my statement. I understand that I am waiving my personal appearance at the final hearing of this matter.

\_\_\_\_\_ **I hereby plead GUILTY** and file this affidavit as an explanation of what happened and as a statement that the hearing officer or judge can consider before pronouncing a sentence. I understand that I am not required to make any statement. I understand that the hearing officer or judge will determine the appropriate sentence and decide whether to adjudicate me guilty.

\_\_\_\_\_ **I hereby plead NO CONTEST** and file this affidavit as an explanation of what happened and as a statement that the hearing officer or judge can consider before pronouncing a sentence. By pleading no contest, I understand that I am not admitting or denying that the infraction was committed but do not contest the charges, and I understand that I may be sentenced and found guilty even though I entered a plea of no contest. I understand that I am not required to

make any statement. I understand that the hearing officer or judge will determine any appropriate sentence and decide whether to adjudicate me guilty.

4. Defendant's Statement: (additional papers, documents, photos, etc. can be attached but should be mentioned herein).

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I understand that any material misrepresentation could cause me to be prosecuted for a separate criminal law violation.

/s/ \_\_\_\_\_  
Affiant/Defendant

Sworn to (or affirmed) and subscribed before me, the undersigned authority, on

Personally known \_\_\_\_\_  
Produced identification \_\_\_\_\_ Type of ID produced \_\_\_\_\_

/s/ \_\_\_\_\_

Notary Public, Deputy Clerk, or other authority

NAME:

Commission No.

My Commission Expires:

*NOTE: It is your responsibility to make sure this affidavit is in the court file before the hearing date.*

*If Affiant/Defendant is under the age of 18, a parent or guardian must sign this affidavit:*

\_\_\_\_\_  
Parent or Guardian

**Committee Notes**

**1996 Amendment.** The Committee completely revised this rule to conform to the common practice of attorneys practicing in the traffic courts of Florida.

**RULE 6.350. COMPUTATION OF TIME**

Computation of time of time shall be governed by Florida Rule of Judicial Administration 2.514.

**RULE 6.360. ENLARGEMENT OF TIME**

**(a) Procedure.** When an act is required or allowed to be done at or within a specified time pursuant to either a court order or these rules, the official, for good cause shown, may, at any time:

- (1) order the period enlarged if the request is made before the expiration of the period originally prescribed or as extended by a previous order; or
- (2) on motion made after the expiration of the specified period, permit the act to be done when the failure to act was the result of excusable neglect.

However, except as provided by statute or elsewhere in these rules, the official may not extend the time for making a motion for a new hearing, or for taking an appeal.

**(b) Withheld Adjudications.** When a defendant elects to exercise the option of receiving a withheld adjudication pursuant to section 318.14(9) or (10), Florida Statutes, the clerk shall allow the defendant such additional time, not exceeding 60 days, as may be reasonably necessary to fulfill the statutory requirements. If the defendant has not been able to comply with the statutory requirements within 60 days, the court, for good cause shown, may extend the time necessary for the defendant to comply.

**RULE 6.380. NONVERIFICATION OF PLEADINGS**

Except when otherwise specifically provided by these rules or an applicable statute, every written pleading or other document of a defendant represented by an attorney need not be verified or accompanied by an affidavit.

**RULE 6.400. CLERK TO PREPARE AND SEND REPORTS**

When reports or forms are to be sent to the department, the clerk or traffic violations bureau shall prepare and send the reports or forms.

## **RULE 6.445. DISCOVERY: INFRACTIONS ONLY**

If an electronic or mechanical speed measuring device is used by the citing officer, the type of device and the manufacturer's serial number must be included in the body of the citation. If any relevant supporting documentation regarding such device is in the officer's possession at the time of trial, the defendant or defendant's attorney shall be entitled to review that documentation immediately before that trial.

### **Committee Notes**

**2009 Amendment.** This amendment is based on the fact that currently to the committee's knowledge there are 5 different measuring devices or types: Radar, Laser, Pace Car, Vascar, and airplane with stopwatch. It is believed that identifying the type of measuring device is not unduly burdensome to the state and it is necessary in the preparation of a defense. Withholding this information until the time of trial unduly prejudices the defense. This amendment is also forward-looking in that as new measuring devices appear, they can be effectively used as long as they are disclosed.

## **RULE 6.450. ORDER OF HEARING**

**(a) When Traffic Infraction Admitted.** If a defendant admits that the traffic infraction was committed, the official shall permit the defendant to offer a statement concerning the commission of the infraction. The official may examine the defendant and issuing officer concerning the infraction prior to making a determination as to the civil penalty to be imposed.

**(b) Description of Procedure.** Before the commencement of a hearing the official shall briefly describe and explain the purposes and procedure of the hearing and the rights of the defendant.

**(c) Defense.** The defendant may offer sworn testimony and evidence and, after such testimony is offered, shall answer any questions asked by the official.

**(d) Additional Witnesses.** If the testimony of additional witnesses is to be offered, the order in which the witnesses shall testify shall be determined by the official conducting the hearing. Any such witness shall be sworn and shall testify, and may then be questioned by the official, and thereafter may be questioned by the defendant or counsel.

**(e) Further Examination.** Upon the conclusion of such testimony and examination, the official may further examine or allow such examination as the official deems appropriate.

**(f) Closing Statement.** At the conclusion of all testimony and examination, the defendant or counsel shall be permitted to make a statement in the nature of a closing argument.

**(g) Failure to Appear at Contested Hearing.** In any case in which a contested infraction hearing is held, and the defendant, who either has asked for the contested hearing or otherwise received proper notice of the hearing, fails to appear for the hearing, the official can proceed with the hearing, take testimony, and, if it is determined that the infraction was committed, impose a penalty as if the defendant had attended the hearing. In the interests of justice, the court may vacate the judgment upon a showing of good cause by the defendant.

#### **RULE 6.455. AMENDMENTS**

The charging document may be amended by the issuing officer in open court at the time of a scheduled hearing before it commences, subject to the approval of the official. The official shall grant a continuance if the amendment requires one in the interests of justice. No case shall be dismissed by reason of any informality or irregularity in the charging instrument.

#### **Committee Notes**

**1988 Amendment.** The revision deletes the word “may” and substitutes the word “shall.” This brings the rule in accord with due process.

#### **RULE 6.460. EVIDENCE**

**(a) Applicable Rules.** The rules of evidence applicable in all hearings for traffic infractions shall be the same as in civil cases, except to the extent inconsistent with these rules, and shall be liberally construed by the official hearing the case.

**(b) Recording of Hearing.** Any party to a noncriminal traffic infraction may make a recording of the hearing. The provision and operation of the recording equipment shall be the responsibility of that party unless otherwise provided by the court, and shall be in a recording format acceptable to the clerk. A recording of the proceeding that is made by a party shall be delivered immediately after the hearing to the clerk, who shall secure and file it. A certified copy of such recording shall be furnished by the clerk and transcribed for an appeal if ordered by a party at that party’s expense. Transcription shall only be by an official court reporter at the requesting party’s expense.



### Committee Notes

**2015 Amendment.** In light of continuing technological advances, this rule was amended to accommodate continuing changes in technology and the ability to use various types of equipment when recording a traffic infraction hearing. Parties are encouraged to contact the clerk of court prior to their hearing to confirm that the recording equipment they intend to use will produce a recording in a format that is acceptable to the clerk.

### **RULE 6.470. COSTS**

**(a) Hearing Required.** In those cases in which a hearing is held to determine whether a traffic infraction was committed, court costs and surcharges as authorized by law may be assessed by the official against the defendant in addition to the penalty imposed.

**(b) No Hearing Required.** When no hearing is required or held and the defendant admits the commission of the offense by paying the penalty or receiving a withheld adjudication pursuant to section 318.14(9) or (10), Florida Statutes, costs and surcharges as provided by law or administrative order may be imposed.

**(c) Election to Attend School.** If a defendant elects to attend a driver improvement school as provided in rule 6.330, the law enforcement education assessments shall be collected at the time the defendant appears before the traffic violations bureau to make the election.

### Committee Notes

**1992 Amendment.** The proposed amendment deletes reference to specific costs to avoid annual revision.

### **RULE 6.480. DEFERRED PAYMENT OF PENALTY IMPOSED**

**(a) Procedure.** On motion of the defendant or on the official's own motion, an official must allow a reasonable amount of time, no less than 30 days, before requiring the payment of any penalty imposed. If payment is not made after such extension or further extensions, such action will be considered a failure to comply for purposes of section 318.15, Florida Statutes.

**(b) Administrative Order to Clerk.** In relation to elections under section 318.14(9) or (10), Florida Statutes, the clerk, under the authority of an administrative order, may allow a reasonable amount of time before requiring the payment of civil penalties or costs.

### Committee Notes

**2009 Amendment.** Too often, defendants, represented by counsel and exercising use of Traffic Court Rule 6.340 (Waiver of Appearance), will resolve a case and be forced to make payment immediately, within 5 or 10 days. This type of sanction does not allow for the defendant to be notified by counsel in a reasonable amount of time. The amendment relieves the defendant from this undue hardship.

**RULE 6.490. CORRECTION AND REDUCTION OF PENALTY**

**(a) Correction of Penalty.** An official may at any time correct an illegal penalty.

**(b) Reduction of Penalty.** An official may reduce a legal penalty:

(1) within 60 days after its imposition, or thereafter with good cause shown;

(2) within 60 days after the appellate court issues a mandate affirming the judgment and/or penalty;

(3) within 60 days after the appellate court issues a mandate dismissing an appeal from the judgment and/or penalty; or

(4) if further appellate review is sought in a higher court or in successively higher courts, then within 60 days after the highest state or federal court to which a timely appeal has been taken under authority of law, or in which a petition for certiorari has been timely filed under authority of law, has entered an order of affirmance or an order dismissing the appeal and/or denying certiorari.

**RULE 6.500. ENTRY OF DISPOSITION**

Upon disposition of a case without hearing, the clerk or the official shall enter a notation on the docket. Following any hearing of a case, the disposition shall be pronounced in open court and issued in writing, and shall also be docketed.

**RULE 6.510. DETERMINATION THAT INFRACTION WAS NOT COMMITTED; BOND REFUNDED**

If an official determines that the defendant did not commit an alleged traffic infraction and a bond has been posted, the bond shall be released to the defendant, pursuant to law.

**RULE 6.520. EFFECT OF GRANTING NEW HEARING**

If a new hearing is granted, the case shall proceed in all respects as if no former hearing had been held.

**RULE 6.530. IMPOSITION OF PENALTY BEFORE OR AFTER MOTION FILED**

The official may impose the civil penalty either before or after the filing of a motion for new hearing or arrest of judgment.

**RULE 6.540. TIME FOR AND METHOD OF MAKING MOTIONS; PROCEDURE**

(a) **Time.** A motion for new hearing or in arrest of judgment, or both, may be made within 10 days, or such greater time as the official may allow, not to exceed 30 days, after the finding of the official.

(b) **Method.** When the defendant has been found to have committed the infraction, the motion may be dictated into the record, if a court reporter is present, and may be argued immediately after the finding of the official. The official may immediately rule on the motion.

(c) **Procedure.** The motion may be in writing, filed with the clerk or violations bureau and shall state the grounds on which it is based. When the official sets a time for the hearing, the clerk or bureau shall notify the counsel, if any, for the defendant or, if no attorney has been retained, the defendant.

**Committee Notes**

**1988 Amendment.** The Committee changed the time period to become uniform with Florida Rule of Criminal Procedure 3.590.

**RULE 6.550. OFFICIAL MAY GRANT NEW HEARING**

When, after a hearing, the official determines the traffic infraction was committed, the official may grant a new hearing on a motion of the defendant or on the official's own motion.

**RULE 6.560. CONVICTION OF TRAFFIC INFRACTION**

A defendant’s admission or an official’s determination that the defendant committed a traffic infraction constitutes a “conviction” as that term is used in chapters 318 and 322, Florida Statutes, and section 943.25, Florida Statutes, unless the official withheld adjudication as permitted by law. Elections under section 318.14(9) or (10), Florida Statutes, when adjudication is withheld, do not constitute convictions, but require collection of assessments under section 943.25, Florida Statutes.

**RULE 6.570. REPORTING ACTION REQUIRING SUSPENSION OF DRIVER LICENSE**

The clerk shall report to the department a defendant’s failure to comply as required by section 318.15 or 322.245, Florida Statutes. Unless required by law, a hearing is not necessary to determine noncompliance.

**RULE 6.575. RETENTION OF CASE FILES**

Case files shall be retained as required by Florida Rule of Judicial Administration 2.430.

**Committee Notes**

**1988 Amendment.** In light of a recent statutory change providing for the 6 year (rather than 4) renewal of driver licenses, a corresponding change in records retention was deemed appropriate.

**RULE 6.590. FAILURE TO COMPLETE DRIVER IMPROVEMENT COURSE; REINSTATEMENT OF DRIVER LICENSE**

**(a) Notice of Failure to Complete Driver Improvement Course.** If a defendant elects to attend a driver improvement course but fails to appear for or timely complete the course, the clerk must send a notice of the failure to complete the course to the department within 10 days after the failure to comply, as required by section 318.15(1), Florida Statutes.

**(b) Appearance After Notice Sent.** If the defendant appears before the clerk after the failure notice was sent but before the department suspends the driver license, the clerk shall so notify the department immediately after the defendant satisfies the civil penalty required by section 318.15(1)(b), Florida Statutes. The

clerk shall refer the case to the official who shall adjudicate the defendant guilty of the infraction as required by section 318.15(1)(b), Florida Statutes.

**(c) Reinstatement of License.** If the defendant appears before the clerk after the department suspends the driver license, the clerk shall refer the case to the official who shall adjudicate the defendant guilty of the infraction, and shall assess all applicable civil penalties as required by section 318.15(1)(b), Florida Statutes. The official may require the defendant to attend a driver improvement course. The clerk shall give notice that the defendant is in compliance upon satisfaction of the penalties, and shall indicate that the defendant's driving privileges are eligible for reinstatement.

#### Committee Note

**2018 Amendment.** Section 318.15(1)(b), Florida Statutes, requires adjudication of guilt for a defendant who elects a driver improvement course and fails to attend the course within the time required by the court.

#### **RULE 6.600. FAILURE TO APPEAR OR PAY CIVIL PENALTY; REINSTATEMENT OF DRIVER LICENSE**

**(a) Notice of Failure to Appear or Pay.** If no mandatory hearing is required and the defendant has been cited but fails to pay the civil penalty or appear, the clerk must send the department notice of such failure as required by section 318.15(1), Florida Statutes.

**(b) Appearance After Notice Sent.** If the defendant appears before the clerk after the notice was sent but before the department suspends the driver license, the defendant may pay the civil penalty together with any additional penalty required by section 318.18(8)(a), Florida Statutes, or may request a hearing. If the defendant requests a hearing, the clerk shall set the case for hearing upon payment of the costs specified in section 318.18(8)(a), Florida Statutes.

**(c) Reinstatement of License.** If the defendant appears before the clerk after the department suspends the driver license, the defendant may pay the civil penalty together with any additional penalty required by section 318(8)(a), Florida Statutes, or request a hearing. A request for a hearing must be made as provided by section 318.15(1)(c), Florida Statutes. If the official grants the defendant's request for a hearing and determines that the defendant committed the infraction, the defendant shall be subject to the penalty provisions of section 318.14(5), Florida Statutes.

## Committee Notes

**1988 Amendment.** It was thought that a defendant who fails to appear until after his or her driver license has been suspended (which could be years later) should not be allowed to elect a hearing in those cases where the state has been prejudiced by the passage of time.

### **RULE 6.610. FAILURE TO SATISFY PENALTY IMPOSED AFTER A HEARING; REINSTATEMENT OF DRIVER LICENSE**

**(a) Notice of Failure to Comply.** If a hearing is held, and the official determines that the infraction was committed, and a penalty is imposed but the penalty is not satisfied within the time set by the court, the clerk shall send notice of such failure to the department as required by section 318.15(1), Florida Statutes.

**(b) Appearance After Notice Sent.** If the defendant appears before the clerk after notice was sent but before the department suspends the driver license, the clerk shall notify the department immediately after the defendant satisfies the penalty imposed by the official together with additional penalties as required by sections 318.15 and 318.18, Florida Statutes.

**(c) Reinstatement of License.** If the defendant appears before the clerk after the department suspends the driver license, the defendant must satisfy the penalty and, any other penalties required by section 318.15 and 318.18, Florida Statutes. The official may require the defendant to attend a driver improvement course, if available, if it was not a part of the penalty originally imposed. The clerk shall give notice that the defendant is in compliance upon satisfaction of the penalties, and shall indicate that the defendant's driving privileges are eligible for reinstatement.

### **RULE 6.620. FAILURE TO APPEAR FOR MANDATORY HEARING; REINSTATEMENT OF DRIVER LICENSE**

**(a) Notice of Failure to Appear.** If a defendant fails to appear for a mandatory hearing, the clerk shall send notice of such failure to appear to the department, as required by section 318.15(1), Florida Statutes.

**(b) Appearance After Notice Sent.** If the defendant appears before the clerk after notice was sent, but before the department suspends the driver license, the clerk shall schedule a hearing for the official to determine whether the defendant committed the violation. If, after the hearing, the official finds the defendant committed the violation, the defendant shall be subject to the penalty provisions of section 318.14(5), Florida Statutes.

(c) **Reinstatement of License.** If the department suspended the defendant's driver license, as authorized by law and upon request, the clerk shall set the case for hearing and, if after a hearing, the official finds the defendant committed the violation, the defendant shall be subject to the penalty provisions of section 318.14(5), Florida Statutes. If the defendant's driving privileges were not reinstated prior to the hearing, the clerk shall give notice that the defendant is in compliance upon satisfaction of the penalties, and shall indicate that the defendant's driving privileges are eligible for reinstatement.

**RULE 6.630. CIVIL TRAFFIC INFRACTION HEARING OFFICER PROGRAM; TRAFFIC HEARING OFFICERS**

Under the authority of sections 318.30–318.38, Florida Statutes, and article V, section 2, Florida Constitution, this court adopts the following rules and procedure for the Civil Traffic Infraction Hearing Officer Program:

(a) **Eligibility of County.** Pursuant to section 318.30, Florida Statutes, any county shall be eligible to participate in the Civil Traffic Infraction Hearing Officer Program. The chief judge shall make the decision on whether to participate in the program. Any county electing to participate in the program shall be subject to the supervision of the supreme court.

(b) **Appointment of Traffic Hearing Officers.** The chief judge shall appoint hearing officers after consultation with the county judges in the county affected; all appointments must be approved by the chief justice. Once the chief justice grants approval, the traffic hearing officers shall serve at the pleasure of the chief judge. Traffic hearing officers may serve either full-time or part-time at the discretion of the chief judge.

(c) **Jurisdiction.** Traffic hearing officers shall have the power to accept pleas from defendants, hear and rule upon motions, decide whether a defendant has committed an infraction, and adjudicate or withhold adjudication in the same manner as a county court judge. However, a traffic hearing officer shall not:

(1) have the power to hold any person in contempt of court, but shall be permitted to file a verified motion for order of contempt with an appropriate state trial court judge pursuant to Florida Rule of Criminal Procedure 3.840;

(2) hear a case involving an accident resulting in injury or death; or

(3) hear a criminal traffic offense case or a case involving a civil traffic infraction issued in conjunction with a criminal traffic offense.

**(d) Appeals.** Appeals from decisions of a traffic hearing officer shall be made to the circuit court pursuant to the relevant provisions of the Florida Rules of Appellate Procedure in the same manner as appeals from the county court, except that traffic hearing officers shall not have the power to certify questions to district courts of appeal. The appellant shall be responsible for producing the record for any appeal.

**(e) Membership in The Florida Bar.** A traffic hearing officer shall be a member in good standing of The Florida Bar.

**(f) Training.** Traffic hearing officers must complete 40 hours of standardized training that has been approved by the supreme court. Instructors must be judges, hearing officers, and persons with expertise or knowledge with regard to specific traffic violations or traffic court. Curriculum and materials must be submitted to the Office of the State Courts Administrator. The standardized training must contain, at a minimum, all of the following:

(1) 28 hours of lecture sessions including 2.5 hours of ethics, 5 hours of courtroom control management, 11 hours of basic traffic court law and evidence (which must include handling of situations in which a defendant's constitutional right against self-incrimination may be implicated), 3 hours of clerk's office/DMV training, 2 hours of participant perspective sessions/demonstrations, 3 hours of dispositions/penalties, and 1.5 hours of civil infractions/jurisdiction;

(2) 4 hours of role playing including mock opening statements, pretrial and trial sessions, and direct observation;

(3) 4 hours of observation including 2 hours of on-road observation of traffic enforcement;

(4) 4 hours of mentored participation in traffic court proceedings in the hiring county. Mentors must be county court judges or traffic hearing officers; and

(5) written training manuals for reference.



**(g) Continuing Legal Education.** Traffic hearing officers must complete 4 hours of continuing legal education per year. The continuing legal education program must be approved by the supreme court and must contain a minimum of 2 hours of ethics or professionalism, and 2 hours of civil traffic infraction related education. Curriculum materials must be submitted to the Office of the State Courts Administrator.

**(h) Code of Judicial Conduct.** All traffic hearing officers shall be subject to the Code of Judicial Conduct as provided in the application section of the code.

**(i) Robes.** Traffic hearing officers shall not wear robes.

**(j) Concurrent Jurisdiction.** A county judge may exercise concurrent jurisdiction with a traffic hearing officer.

**(k) Assignment to County Judge.** On written request of the defendant, within 30 days of the issuance of the uniform traffic citation, the case shall be assigned to a county judge.

#### **Committee Notes**

**1990 Adoption.** The rule attempts to incorporate relevant provisions of chapter 89-337, Laws of Florida, with minor modifications.

The provision in subdivision (c) that the traffic magistrate shall serve at the will of the chief judge is implicit in chapter 89-337, and is believed to be a good policy since it makes irrelevant consideration of the necessity of any involvement by the Judicial Qualifications Commission.

(d)(1) See 1990 Committee Note concerning rule 6.080.

In relation to subdivision (e) on appeals, the subcommittee believes that the addition of the language on the certifications to district courts, while making an obvious point, would avoid any possible confusion. It was also the consensus that there would be no need to recommend amendments to the Florida Rules of Appellate Procedure since rules 9.030(b)(4)(A) and 9.030(c)(1)(A) would appear to cover the matter adequately without further amendment.

Subdivision (g) goes into less detail concerning the actual length of training (40 hours preservice/10 hours continuing) required by chapter 89-337. A special plan for such training will be provided separately, including a recommendation for the waiver of such training for recently retired county court judges.

This rule expands the statutory prohibition of chapter 89-337, section 7, which prohibits traffic magistrates from practicing before other civil traffic magistrates and handling traffic

appeals. The committee expressed concern that a limited prohibition extending only to practice before other magistrates might be read as condoning magistrate practice in traffic cases in front of county court judges. Given the contemplated relationship between county court judges and magistrates in education, training, and professional duties, such practice would give the appearance of conflict and should be prohibited.

In relation to subdivision (k), it was the opinion of the subcommittee that the wearing of robes might lead to confusion and interfere with the informal setting of the hearings.

**1990 Amendment.** Amendment of section 318.30, Florida Statutes (1990), reduced the case load requirement from 20,000 to 15,000 for purposes of allowing a county's participation in the Civil Traffic Infraction Hearing Officer Program. This amendment is necessary to conform the rule to the provisions of the amended statute.

**1995 Amendment.** Language was added to subdivision (d) to make it clear that hearing officers/magistrates can hear and rule upon motions, such as continuance motions, and otherwise handle normal motion practice in infraction cases.

**1996 Amendment.** Enactment of chapter 94-202, Laws of Florida, necessitated the deletion of all references in the rules to traffic "magistrates" in favor of the term traffic "hearing officers."

Subsection (a) reflects the legislative intent of section 318.30, Florida Statutes (1994). No longer is a minimum number of cases required before a county can establish a traffic infraction hearing officer program.

Changes to subsection (m) are intended to make uniform the procedure for assignment to a county judge for hearing.

**2001 Amendment.** Subdivision (g) provides detailed requirements for standardized initial training of traffic hearing officers. A statewide survey of judges and traffic hearing officers was taken and the rule then amended to incorporate the current statewide practice.

Subdivision (h) was added to resolve a conflict that existed between the rules and section 318.34, Florida Statutes.

Subdivision (i) was amended to conform the rule to the current practice prohibitions for hearing officers contained in the Code of Judicial Conduct. The code reflects the consensus of the committee as to appropriate prohibitions.