

IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC

IN RE: AMENDMENTS TO THE
 FLORIDA RULES OF TRAFFIC COURT

**REGULAR CYCLE REPORT OF THE FLORIDA BAR
TRAFFIC COURT RULES COMMITTEE**

Kathy A. Jimenez-Morales, Chair of the Traffic Court Rules Committee, and John F. Harkness, Jr., Executive Director of The Florida Bar, file this triennial rules report with the Supreme Court of Florida under *Fla. R. Jud. Admin.* 2.140(b)(4). This is a matter within the exclusive jurisdiction of this court under Article V, Section 2 of the Florida Constitution.

The Traffic Court Rules Committee has met on a regularly scheduled basis and through the work of the full committee, has approved and made recommendations for changes to the Florida Rules of Traffic Court as shown below. The Florida Bar Board of Governors has duly considered the Traffic Court Rules Committee's proposed rule changes and has approved them as indicated by the board vote included in this report. The report includes a presentation of each proposed rule change in the two-column format requested by the court.

The committee recommends:

1. an amendment to Rule 6.115 to correct statutory references;
2. an amendment to Rule 6.291 to correct statutory references;
3. an amendment to Rule 6.330 to give a defendant a uniform time period within which to elect to attend a driver improvement school;
4. an amendment to Rule 6.445 to require a citing officer to identify in the citation any speed measuring device used;
5. an amendment to Rule 6.480 to give a defendant adequate time to pay any penalty imposed;
6. an amendment to Rule 6.600 to give a defendant an opportunity to request a hearing, and to give a defendant a reasonable amount of time to seek reinstatement of a driver's license; and
7. an amendment to Rule 6.630 to expressly give traffic hearing officers authority to hear noncriminal boating infraction cases.

The amendments to Rules 6.115(a) and (d) were suggested by a committee member to bring the rule into conformity with Chapter 93-246, Laws of Florida, which repealed section 25.387, Florida Statutes, and created section 322.293,

Florida Statutes, in its place. A copy of the relevant portion of the session law is attached to this report as Appendix A. The committee unanimously approved the revision by a vote of 24-0-0, and The Florida Bar Board of Governors likewise unanimously approved the amendment by a vote of 31-0-0.

The amendment to Rule 6.291(a) was suggested by a committee member to bring the rule into conformity with Chapter 97-271, Laws of Florida, which transferred sections 960.20 and 960.25, Florida Statutes to sections 938.03 and 938.04, Florida Statutes, respectively. A copy of the relevant portion of the session law is attached to this report as Appendix B. The committee unanimously approved the proposed amendment by a vote of 24-0-0, and The Florida Bar Board of Governors likewise unanimously approved the rule revision by a vote of 31-0-0.

The amendment to Rule 6.330(a) was suggested by a committee member to create a uniform time period throughout the state by which a clerk of court must allow a defendant to elect to attend a driver improvement school. The committee members noted that under the present rule, defendants often do not realize they have only 30 days after issuance of the citation to make the election. Amending the rule would give them additional time to make the election, especially in light of a request for hearing and likely employment of an attorney who can then advise them of the choices available. The committee unanimously approved the amendment by a vote of 18-0-0, and The Florida Bar Board of Governors likewise unanimously approved the rule revision by a vote of 31-0-0.

The amendment to Rule 6.445 was suggested by a committee member to ensure that a defendant who receives a citation for speeding can refer to the citation to discover the type of device used to measure the defendant's speed and the manufacturer's serial number for that device. Providing this information in the citation rather than later at trial will avoid prejudice to the defendant and aid in the preparation of a defense. The committee considered the effect of this requirement on the citing officer and determined that it was not unduly burdensome. This amendment allows the use of all current speed measuring devices (including Radar, Laser, Pace Car, Vascar, and airplane with stopwatch), and any new speed measuring devices to be used as long as they are disclosed on the citation. The committee unanimously approved the proposed revision by a vote of 27-0-0, and The Florida Bar Board of Governors likewise unanimously approved the rule revision by a vote of 31-0-0.

The amendment to Rule 6.480(a) was suggested by a committee member to ensure that, upon request, a defendant has a minimum of 60 days within which to pay a penalty. Committee members revealed that without the amendment, counsel representing a nonappearing defendant (as authorized by Rule 6.340 — Waiver of Appearance) did not always have sufficient time to notify the defendant/client of the payment deadline. The amendment provides a method to relieve the defendant from the undue hardship of having to pay an imposed fine within only a few days. The committee vote on the amendment was 19-1-0. The committee member who voted not to approve the amendment believed some recent legislation had passed that possibly rendered the need for the amendment moot. He did not elaborate and

did not report back to the committee regarding any such legislation. The Florida Bar Board of Governors unanimously approved the rule revision by a vote of 31-0-0.

The amendments to Rules 6.600(b) and (c) were suggested by a committee member to allow defendants access to court within a reasonable amount of time and to enlarge the time within which defendants can get their licenses reinstated. The amendments will benefit the defendant who is often unaware of time limits, and allow the defendant to confer with an attorney, request a hearing, and establish a basis to set the suspension aside. The committee unanimously approved the proposed revision by a vote of 27-0-0, and The Florida Bar Board of Governors unanimously approved the rule revision by a vote of 31-0-0.

The amendments to Rules 6.630, 6.630(d), 6.630(g), and 6.630(n) were recommended by a committee member to specifically authorize traffic hearing officers to hear and assign noncriminal boating infractions and to include boating infraction issues in training sessions. The amendments allow uniform boating citations to be treated the same as uniform traffic citations, and conforms the rule to the current practice throughout the state. The committee initially approved the proposed revision to Rule 6.630(d) by a vote of 27-0-0. Afterward, a committee member suggested further revisions to the proposed amendment to include appropriate statutory references within the rule and to provide for training and assignment of cases for boating infractions. The committee again unanimously approved the revisions by a vote of 16-0-0. The Florida Bar Board of Governors, voting on all revisions to the rule, unanimously approved the amendments by a vote of 31-0-0.

Notice of the proposed rule changes for Rules 6.115 through 6.600 and 6.630(d) was published in The Florida Bar News on July 1, 2008 (see Appendix C). No comments were received by the Traffic Court Rules Committee Chair. Notice of the additional proposed rule changes to 6.630, and 6.630(d), (g), and (n) was published in The Florida Bar News on September 1, 2008 (see Appendix D). Again, no comments were received by the Traffic Court Rules Committee Chair.

The Traffic Court Rules Committee believes that the proposed rule changes, as fully presented in Appendix E and as set forth in the two-column chart at Appendix F, are non-controversial in nature, and it respectfully requests that the Court adopt these proposed changes to the Florida Traffic Court Rules.

Respectfully submitted,

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CERTIFICATION OF COMPLIANCE

I certify that these rules were read against *West's Florida Rules of Court – State* (2008).

I certify that this report was prepared in compliance with the font requirements of *Fla. R. App. P. 9.210(a)(2)*.

Ann Chittenden

Staff Liaison, Traffic Court Rules Committee

Florida Bar No. 311456

MOTOR VEHICLES—DUI PROGRAMS

Chapter 93-246

C.S.H.B. No. 989

AN ACT relating to DUI programs; creating s. 322.292, F.S.; describing the responsibility of the Department of Highway Safety and Motor Vehicles in the supervision of DUI programs; creating s. 322.293, F.S.; transferring the DUI Programs Coordination Office and the DUI Programs Coordination Trust Fund to the Department of Highway Safety and Motor Vehicles; providing for assessments against DUI offenders to be deposited in the DUI Programs Coordination Trust Fund; amending s. 316.193, F.S.; placing supervision of DUI programs under the department; requiring licensed substance abuse treatment providers; amending s. 322.095, F.S.; deleting reference to Traffic Court Review Committee; requiring certified instructors and an independent evaluation; amending s. 322.271, F.S.; transferring certain supervisory authority over persons under license revocation to the department; requiring specified supervision activities; requiring adoption of rules; repealing s. 25.387, F.S., relating to the DUI Programs Coordination Trust Fund; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 2. Section 322.293, Florida Statutes, is created to read:

322.293. DUI Programs Coordination Trust Fund; assessment; disposition

(1) The DUI Programs Coordination Trust Fund, created pursuant to chapter 81-208, Laws of Florida, shall be transferred to the department with all funds therein on the effective date of this act. The DUI Programs Coordination Office shall be transferred from the budget of the Supreme Court to the Department of Highway Safety and Motor Vehicles Division of Driver Licenses. The transfer shall include all of the statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds. All personnel shall be transferred at their current classifications and levels of compensation. Any legal commitments, contracts, and other obligations heretofore entered into on behalf of or assumed by the DUI Programs Coordination Office in connection with the performance of its functions and duties are charged to and shall be performed by the department.

(2) The DUI Programs Coordination Trust Fund shall be administered by the department and the costs of administration shall be borne by the fund. All funds received by the DUI Programs Coordination Trust Fund shall be used solely for the purposes set forth in this section and s. 322.292. However, if the Legislature passes legislation consolidating existing trust funds assigned to the department, all funds remaining in and deposited to the DUI Programs Coordination Trust Fund shall be transferred to the consolidated trust funds, subject to their being earmarked for use solely for the purposes set forth in this section and s. 322.292.

(3) Each DUI program shall assess \$12 against each person enrolling in a DUI program at the time of enrollment, including persons who transfer to or from a program in another state. In addition, second and third offenders and those offenders under permanent driver license revocation who are evaluated for eligibility for restricted licenses pursuant to s. 322.271(2)(b) and (4) shall be assessed \$12 upon enrollment in the program and upon each subsequent anniversary date while they are in the program, for the duration of the restricted license period.

(4) All assessments collected under this section shall be forwarded to the DUI Programs Coordination Trust Fund within 30 days after the last day of the month in which the assessment was received.

Section 2. Section 25.387, Florida Statutes, as amended by chapter 92-94, Laws of Florida, is hereby repealed.

Section 3. This act shall take effect January 1, 1994.

Became a law without the Governor's approval May 15, 1993.

Filed in Office Secretary of State May 14, 1993.

COURT COSTS

Chapter 97-271

S.B. No. 388

An act relating to court costs; providing legislative intent; creating chapter 938, F.S.; providing for certain mandatory costs in all cases; providing for certain mandatory costs in specific types of cases; providing for mandatory costs as authorized by local governmental entities; providing discretionary costs in specific types of cases; providing miscellaneous provisions; amending and renumbering s. 943.25(3), F.S., relating to certain additional costs deposited in Additional Court Cost Clearing Trust Fund; conforming terminology and references; amending and renumbering s. 960.20, F.S., relating to assessment of certain additional costs deposited in Crimes Compensation Trust Fund; conforming terminology; amending and renumbering s. 960.25, F.S., relating to surcharge on fines and bail bonds; conforming terminology; amending s. 775.0835, F.S.; removing provisions relating to deposit of certain surcharges in the Crimes Compensation Trust Fund; conforming a reference; amending and renumbering s. 27.3455(1), (2), (3), F.S., relating to certain additional court costs in special local government trust fund for criminal justice purposes; conforming terminology and references; providing for certain costs with respect to fines imposed under s. 316.193, F.S., relating to fines and other penalties for driving under the influence, and amending s. 316.193, F.S., to conform; renumbering and amending s. 939.015, F.S., relating to certain additional costs in cases in which victim is handicapped or elderly; conforming terminology; amending and renumbering s. 775.0836, F.S., relating to certain surcharges in cases in which victim is handicapped or elderly; conforming terminology; renumbering s. 939.017, F.S., relating to certain additional costs for misdemeanor convictions involving drugs or alcohol; amending and renumbering s. 943.25(13), F.S., relating to certain assessments for criminal justice education for local government; conforming terminology; amending and renumbering s. 775.0833, F.S., relating to certain costs for county delinquency prevention; conforming terminology; amending and renumbering s. 39.019, F.S., relating to certain costs for teen court operation and maintenance; conforming terminology; amending and renumbering s. 893.16, F.S., relating to certain additional assessments for alcohol and other drug abuse programs; conforming terminology and references; renumbering s. 939.01, F.S., relating to judgment for costs on conviction; amending and renumbering s. 27.56, F.S., relating to lien for payment of attorney's fees and costs in connection with certain legal assistance; conforming a reference; providing for incorporation of references to the new chapter or subdivisions thereof; amending ss. 11.45, 27.3455, 27.52, 27.562, 39.041, 142.01, 142.03, 318.21, 397.321, 401.113, 426.003, 893.165, 921.187, 943.08, 943.17, 943.25, 943.361, 947.18, 948.03, 948.0345, and 960.14, F.S., to conform; repealing s. 893.13(8), F.S., relating to additional assessments against certain violators for alcohol and other drug abuse programs; providing for construction; amending s. 327.35, F.S.; assessing an additional fine for boating while under the influence, to be deposited in the Brain and Spinal Cord Rehabilitation Trust Fund; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 4. Section 960.20, Florida Statutes, is renumbered as section 938.03, Florida Statutes, and amended to read:

938.03. 960.20 Crimes Compensation Trust Fund Additional costs

(1) When any person pleads guilty or nolo contendere to, or is convicted of or adjudicated delinquent for, any felony, misdemeanor, delinquent act, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as an additional cost in the case, in addition and prior to any other cost required to be imposed by law, the sum of \$50. Any person whose adjudication is withheld shall also be assessed such cost.

(2) These costs are considered assessed unless specifically waived by the court. If the court does not order these costs, it shall state on the record, in detail, the reasons therefor.

(3) In the event that the individual has been ordered to pay restitution in accordance with s. 775.089, costs referenced in this section shall be included in a judgment.

(4) The clerk of the court shall collect and forward \$49 of each \$50 collected to the Treasurer, to be deposited in the Crimes Compensation Trust Fund. The clerk shall retain the remaining \$1 of each \$50 collected as a service charge of the clerk's office. Under no condition shall a political subdivision be held liable for the payment of this sum of \$50.

Section 5. Section 960.25, Florida Statutes, is renumbered as section 938.04, Florida Statutes, and amended to read:

938.04. 960.25 Additional cost with respect to criminal Surcharge on fines and bail bonds.—In addition to any fine for any criminal offense prescribed by law, including a criminal traffic offense, and in addition to the cost imposed pursuant to the provisions of s. 318.14(10), there is hereby established and created as a court cost an additional 5-percent surcharge thereon which shall be imposed, levied, and collected together with such fine or cost imposed pursuant to s. 318.14(10). The additional court cost created under this section shall be deposited in the Crimes Compensation Trust Fund created by s. 960.21.

Section 50. This act shall take effect July 1, 1997.

Approved by the Governor May 30, 1997.

Filed in Office Secretary of State May 30, 1997.

The Florida Bar News
July 1, 2008
Proposed traffic court rules

The Traffic Court Rules Committee invites comment on the proposed three-year cycle amendments to the Florida Traffic Court Rules shown below. After reviewing comments received in response to this publication, the committee will make its final proposal to the Florida Supreme Court. The full text of the proposals can be found at the Bar's Web site at <http://www.floridabar.org>. Interested persons have until August 1 to submit comments electronically to Kathy Jimenez-Morales, chair of the Traffic Court Rules Committee, at KathyJimenez@flhsmv.gov.

FLORIDA RULES OF TRAFFIC COURT
2009 THREE-YEAR CYCLE AMENDMENTS

RULE	COMMITTEE VOTE	REASONS FOR CHANGE
6.115	24-0-0	Amended to correct the statutory reference.
6.291(a)	24-0-0	Amended to correct the statutory reference.
6.330(a)	18-0-0	Amended 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.
6.445	27-0-0	Amended to require the identification of the measuring device used and thereby avoid undue prejudice as well as aid in preparation of a defense.
6.480	19-1-0	Amended to provide adequate time for a defendant to pay penalties imposed and thereby avoid possible financial hardship.
6.600(b)–(c)	27-0-0	Amended (b) to provide to the defendant an opportunity to request a hearing, and amended (c) to provide to defendant a reasonable amount of time to obtain access to court for the purpose of getting a driver's license reinstated.
6.630(d)	27-0-0	Amended to bring the rule into conformity with practice under F.S. 327.73(7), by which jurisdictions are setting noncriminal boating violations to be heard by Civil Traffic Infraction Hearing Officers.

The Florida Bar News
September 1, 2008
Proposed traffic court rules

The Traffic Court Rules Committee invites comment on the following revised rule amendment, which is part of its previously published three-year cycle amendment proposals for the Florida Traffic Court Rules. After reviewing comments received in response to this publication, the committee will make its final proposal to the Florida Supreme Court. The full text of the proposals are below. Interested persons have until October 1 to submit comments electronically to Kathy Jimenez-Morales, chair of the Traffic Court Rules Committee, at KathyJimenez@flhsmv.gov.

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

Under the authority of sections 318.30–318.38, 327.73, and 327.74, 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) NO CHANGE

(b) NO CHANGE

(c) NO CHANGE

(d) 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 with regard to all traffic and boating noncriminal violations. 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 or boating offense case or a case involving a civil traffic or boating infraction issued in conjunction with a criminal traffic or boating offense.

(e) NO CHANGE

(f) NO CHANGE

(g) Training. Traffic hearing officers must complete 40 hours of standardized training that has been approved by the supreme court. Instructors must be county court judges, hearing officers, and persons with expertise or knowledge with regard to specific traffic or boating 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 procedure and control, 11 hours of basic traffic court law and evidence, 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 or on-water observation of boating 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.

(h) NO CHANGE

(i) NO CHANGE

(j) NO CHANGE

(k) NO CHANGE

(l) NO CHANGE

(m) NO CHANGE

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

Committee Notes

1990 Adoption through 2001 Amendment. NO CHANGE

2009 Amendment. Section 327.74(3), entitled “Uniform boating citations,” specifically requires that all boating citations be filed “with a court having jurisdiction over the alleged offense or with its traffic violations bureau.” An informal survey found that the majority of jurisdictions participating in the Civil Traffic Infraction Hearing Officer Program are currently setting their noncriminal boating violations before hearing officers. Section 327.73(7), Florida Statutes, addressing “Vessel Safety, Noncriminal infractions,” refers to a “hearing official” as the person hearing the infractions. It seems these jurisdictions are reading this term to mean “Civil Traffic Infraction Hearing Officer.” The revision of subdivision (d) brings the rule in line with practical reality.

References to sections 327.73 and 327.74, Florida Statutes, are added to the recitation of authority in the statute’s introductory paragraph.

Subdivision (d) is amended to expressly state the authority of hearing officers so that the rule is conformed to the current practice of assigning boating infraction cases to traffic hearing officers.

Subdivision (g) is amended to allow training on boating infractions to be included in the curriculum for hearing officers.

Subdivision (n) is amended to allow defendants to request that uniform boating citations be assigned to a county court judge. The present rule mentions only uniform traffic citations.

RULE 6.115. DUI PROGRAM COORDINATION TRUST FUND

(a) Monthly Assessments. Each DUI program approved by the DUI Programs Director is required to remit monthly the assessments collected ~~pursuant to~~under section ~~25.387~~322.293, Florida Statutes, to the DUI Programs Director of the supreme court on a form provided by the supreme court.

(b) Records and Accounts. Each certified DUI program shall cause records and accounts to be kept in accordance with procedures prescribed by the supreme court. Such records and accounts will be subject to audit by the designated representative of the supreme court.

(c) Collection of Trust Fund. Each DUI program shall collect the trust fund in accordance with the plan attached hereto.

(d) Plan for Implementation of DUI Programs Coordination Trust Fund. ~~Pursuant to~~Under section ~~25.387~~322.293, Florida Statutes, the supreme court adopts the following plan for the implementation of the DUI Programs Coordination Trust Fund.

(1) All DUI programs in the State of Florida shall assess \$10 against every individual enrolling in a DUI course at the time of the enrollment, including those who transfer to or from a program in another state. Federal military employees, their dependents, and retired military personnel who attend a federal military DUI program shall be subject to the assessment. In addition, effective October 1, 1986, second and third offenders evaluated for eligibility for restricted licenses pursuant to section 322.271(2)(b), Florida Statutes, shall be assessed \$10 upon enrollment in the program and upon each subsequent anniversary date of such enrollment for the duration of the restricted license period. For administrative convenience, the DUI program may establish an annual remittance date for submission of the assessment fee as long as neither the DUI Trust Fund Commission collections nor the client is detrimentally affected.

(2) In no case shall the assessment be waived.

(3) Each program shall remit on a monthly basis the assessment collected.

The remittance shall be received by the supreme court within 30 days following the last day of the month in which the assessment was collected. The remittance shall be in the form of a check or money order payable to the State of Florida and be sent with a form entitled “DUI Programs Coordination Trust Fund-Remittance of \$10 Additional Assessment.” This form shall be subject to the approval of the DUI Program Trust Fund Commission.

(4) Each DUI program shall cause records and accounts to be kept that show the collection of each assessment and that will be subject to audit by the supreme court. The records of the assessments shall be in a form specified by the supreme court. This form shall be subject to the approval of the DUI Program Trust Fund Commission.

(5) Each program shall be responsible for all costs, if any, incurred through compliance with the requirements of the fund.

(6) Each DUI program may request an increase in the fee charged for enrollment in the DUI course to cover the assessment. The DUI Programs Coordination Office shall determine whether a change in the fee is appropriate.

(7) Monies collected by the fund shall be used by the DUI Programs Coordination Office to pay for staff salaries, travel, and other expenses related to the functioning of the office. The fund also will be used to pay for programs in which the director’s office engages, including, but not limited to, interstate reciprocity, training, certification, monitoring, and technical assistance. The supreme court may assess the fund for reasonable costs for the administration of the fund.

(8) The DUI Program Trust Fund Commission shall be the administrator of the fund.

Committee Notes

1988 Amendment. The offense of driving while intoxicated was abolished by statute, thereby making references to DWI schools inappropriate; title of position coordinating such program has similarly been changed.

The forms (Appendixes A and B) have been removed from the rules because their possibly frequent need for amendments does not seem to be of sufficient importance to invoke the amendatory rule process of the court. Under the proposed amendment any changes could be made by the court-appointed Trust Fund Commission.

The function of administering the trust fund is also placed with the Trust Fund Commission.

1990 Amendment. Present wording of this rule has created considerable accounting inconvenience to Florida's DUI/Substance Abuse Schools due to the hundreds of varied anniversary dates that result from the intake of thousands of defendants applying for reinstatement of driving privileges under Florida's Multiple Offender DUI Relicensing Law. The proposed rule would provide for a more convenient and economical annual remittance date for submission of assessment fees to the DUI Trust Commission.

**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 pursuant to ~~under~~ sections ~~960.20 and 960.25~~ 938.03 and 938.04, Florida Statutes, ~~shall~~ 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 6.330. ELECTION TO ATTEND TRAFFIC SCHOOL

(a) Attendance at School. Unless a mandatory hearing is required, or the defendant appears at a hearing before an official, a defendant may elect to attend a driver improvement school 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. Attendance at a driver improvement school shall not operate to waive the law enforcement education assessments under section 943.25, Florida Statutes. Any defendant electing to attend driver improvement school under section 318.14(9), Florida Statutes, will receive a withheld adjudication and not be assessed points.

(b) Location of School. A defendant who is sentenced to or elects to attend a driver improvement school shall have the right to attend an approved school in the location of the defendant's choice.

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 6.445. 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 the electronic or mechanical speed measuring device used by the citing officer is in said the officer's possession at the time of trial, the defendant or defendant's attorney shall be entitled to review said 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 6.480. DEFERRED PAYMENT OF PENALTY IMPOSED

(a) Procedure. On motion of the defendant or on the official's own motion, an official ~~may~~must allow a reasonable amount of time, no less than 60 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 6.600. FAILURE TO APPEAR OR PAY CIVIL PENALTY; REINSTATEMENT OF DRIVER LICENSE

(a) Notice of Failure to Comply. In any case in which no mandatory hearing is required and the defendant has signed and accepted a citation but fails to pay the civil penalty or appear, notice of such failure shall be sent to the department within 5 days after the failure to comply, in order to comply with the requirements of section 318.15(1), Florida Statutes.

(b) Appearance After Notice Sent. If the defendant appears after the notice has been sent but before the department has suspended the driver license, the civil penalty may be paid without a hearing or the defendant may ~~agree to attend~~ request a hearing. If the defendant requests a hearing, the clerk must set the case for hearing upon payment of the costs specified in section 318.18(8)(a), Florida Statutes. The department ~~shall~~ must be notified immediately on a form to be supplied by the department.

(c) Reinstatement of License. If the defendant appears after the driver license has been suspended, the defendant may pay the civil penalty, elect to attend a driver improvement school, or request a hearing. Any request for a hearing ~~shall~~ must be made within 12 months after the commission of the alleged offense, or within a reasonable period of time thereafter ~~the commission of the alleged offense. If an election to attend a hearing is granted and it is determined that the infraction was committed, the defendant shall be subject to the penalty provisions of section 318.14(5), Florida Statutes.~~ If the defendant requests a hearing within 12 months of the offense, the clerk must set the case for hearing upon payment of the costs specified in section 318.18(8)(a), Florida Statutes. The court may grant a request for hearing made after 12 months of the alleged offense. The defendant shall ~~must~~ be given a form supplied by the department, certified by the official clerk, to be taken to the nearest driver license examining station to have the driving privilege reinstated. If an election to attend a hearing is granted and it is determined that the infraction was committed, 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 6.630. CIVIL TRAFFIC INFRACTION HEARING OFFICER PROGRAM; TRAFFIC HEARING OFFICERS

Under the authority of sections 318.30–318.38, 327.73, and 327.74, 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.

(b) Participation. Any county electing to participate in the program shall be subject to the supervision of the Florida Supreme Court. The decision on whether to participate shall be made by the chief judge.

(c) Appointment of Traffic Hearing Officers. The appointment of such hearing officers shall be made by the chief judge, after consultation with the county judges in the county affected, and shall be approved by the chief justice. Once approval has been granted by the chief justice, the traffic hearing officers shall serve at the will of the chief judge.

(d) 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 with regard to all traffic and boating noncriminal violations. 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 or boating offense case or a case involving a civil traffic or boating infraction issued in conjunction with a criminal traffic or boating offense.

(e) Appeals. Appeals from decisions of a traffic hearing officer shall be to 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 such appeal.

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

(g) Training. Traffic hearing officers must complete 40 hours of standardized training that has been approved by the supreme court. Instructors must be county court judges, hearing officers, and persons with expertise or knowledge with regard to specific traffic or boating 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 procedure and control, 11 hours of basic traffic court law and evidence, 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 or on-water observation of boating 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.

(h) 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. Curriculum materials must be submitted to the Office of the State Courts Administrator.

(i) Hours. Traffic hearing officers may serve either full time or part time at the discretion of the chief judge.

(j) 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.

(k) Implementation of Program. In any county electing to establish a program, the chief judge shall develop a plan for its implementation and shall submit the plan to the Office of the State Courts Administrator. Funds for the program shall be used for traffic hearing officer program salaries and other necessary expenses, such as training, office rental, furniture, and administrative staff salaries. Any county electing to establish a traffic hearing officer program shall provide the funds necessary to operate the program.

(l) Robes. Traffic hearing officers shall not wear robes.

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

(n) Assignment to County Judge. On written request of the defendant, within 30 days of the issuance of the uniform traffic citation or uniform boating 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.

2009 Amendment. Section 327.74(3), Florida Statutes, titled “Uniform boating citations,” specifically requires that all boating citations be filed “with a court having jurisdiction over the alleged offense or with its traffic violations bureau.” An informal survey found that the majority of jurisdictions participating in the Civil Traffic Infraction Hearing Officer Program are currently setting their noncriminal boating violations before hearing officers. Section 327.73(7), Florida Statutes, addressing Vessel Safety, “Noncriminal infractions,” refers to a “hearing official” as the person hearing the infractions. It seems these jurisdictions are reading this term to mean “Civil Traffic Infraction Hearing Officer.” The revision of subdivision (d) brings the rule in line with practical reality.

References to sections 327.73 and 327.74, Florida Statutes, are added to the recitation of authority in the statute’s introductory paragraph.

Subdivision (d) is amended to expressly state the authority of hearing officers so that the rule is conformed to the current practice of assigning boating infraction cases to traffic hearing officers.

Subdivision (g) is amended to allow training on boating infractions to be included in the curriculum for hearing officers.

Subdivision (n) is amended to allow defendants to request that uniform boating citations be assigned to a county court judge. The present rule mentions only uniform traffic citations.

Proposed Rule	Reasons for Change
<p>RULE 6.115. DUI PROGRAM COORDINATION TRUST FUND</p> <p>(a) Monthly Assessments. Each DUI program approved by the DUI Programs Director is required to remit monthly the assessments collected pursuant to<u>under</u> section 25.387<u>322.293</u>, Florida Statutes, to the DUI Programs Director of the supreme court on a form provided by the supreme court.</p> <p>(b) Records and Accounts. [NO CHANGE]</p> <p>(c) Collection of Trust Fund. [NO CHANGE]</p> <p>(d) Plan for Implementation of DUI Programs Coordination Trust Fund. Pursuant to<u>Under</u> section 25.387<u>322.293</u>, Florida Statutes, the supreme court adopts the following plan for the implementation of the DUI Programs Coordination Trust Fund.</p>	<p>To correct the statutory reference and insert editorial change.</p> <p>To correct the statutory reference and insert editorial change.</p>

Proposed Rule

Reasons for Change

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 pursuant to under sections ~~960.20 and 960.25~~ 938.03 and 938.04, Florida Statutes, ~~shall~~ must be assessed, in addition to the court costs assessed by section 318.14(10), Florida Statutes.

(b) Additional Costs. [NO CHANGE]

(c) Time to Comply. [NO CHANGE]

(d) Convictions. [NO CHANGE]

To correct the statutory references and insert editorial changes.

Proposed Rule

RULE 6.330. ELECTION TO ATTEND TRAFFIC SCHOOL

(a) Attendance at School. Unless a mandatory hearing is required, or the defendant appears at a hearing before an official, a defendant may elect to attend a driver improvement school 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. Attendance at a driver improvement school shall not operate to waive the law enforcement education assessments under section 943.25, Florida Statutes. Any defendant electing to attend driver improvement school under section 318.14(9), Florida Statutes, will receive a withheld adjudication and not be assessed points.

(b) Location of School. [NO CHANGE]

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.

Reasons for Change

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.

Proposed Rule

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 the electronic or mechanical speed measuring device used by the citing officer is in said the officer's possession at the time of trial, the defendant or defendant's attorney shall be entitled to review said 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.

Reasons for Change

To require a citing officer to identify in the citation any speed measuring device used, and to insert editorial changes.

Proposed Rule

RULE 6.480. DEFERRED PAYMENT OF PENALTY IMPOSED

(a) Procedure. On motion of the defendant or on the official's own motion, an official ~~may~~must allow a reasonable amount of time, no less than 60 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. [NO CHANGE]

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.

Reasons for Change

To provide a uniform, reasonable amount of time within which a defendant may pay any penalty imposed.

Proposed Rule

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

(a) Notice of Failure to Comply. [NO CHANGE]

(b) Appearance After Notice Sent. If the defendant appears after the notice has been sent but before the department has suspended the driver license, the civil penalty may be paid without a hearing or the defendant may ~~agree to attend~~ request a hearing. If the defendant requests a hearing, the clerk must set the case for hearing upon payment of the costs specified in section 318.18(8)(a), Florida Statutes. The department ~~shall~~ must be notified immediately on a form to be supplied by the department.

(c) Reinstatement of License. If the defendant appears after the driver license has been suspended, the defendant may pay the civil penalty, elect to attend a driver improvement school, or request a hearing. Any request for a hearing ~~shall~~ must be made within 12 months after the commission of the alleged offense, or within a reasonable period of time thereafter the commission of the alleged offense. ~~If an election to attend a hearing is granted and it is determined that the infraction was committed, the defendant shall be subject to the penalty provisions of section 318.14(5), Florida Statutes.~~ If the defendant requests a hearing within 12 months of the offense, the clerk must set the case for hearing upon payment of the

Reasons for Change

To give the defendant a reasonable amount of time to request a hearing, and to insert editorial change.

To give the defendant a reasonable amount of time to request a hearing and to seek reinstatement of a driver's license, and to insert editorial changes.

Proposed Rule

costs specified in section 318.18(8)(a), Florida Statutes. The court may grant a request for hearing made after 12 months of the alleged offense. The defendant shall must be given a form supplied by the department, certified by the official clerk, to be taken to the nearest driver license examining station to have the driving privilege reinstated. If an election to attend a hearing is granted and it is determined that the infraction was committed, the defendant shall be subject to the penalty provisions of section 318.14(5), Florida Statutes.

Reasons for Change

Proposed Rule

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

Under the authority of sections 318.30–318.38, 327.73, and 327.74, 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. [NO CHANGE]

(b) Participation. [NO CHANGE]

(c) Appointment of Traffic Hearing Officers. [NO CHANGE]

(d) 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 with regard to all traffic and boating noncriminal violations. 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;

Proposed Rule

Reasons for Change

To add appropriate statutory references for boating infractions.

To authorize traffic hearing officers to hear noncriminal boating infraction cases, and to insert editorial change.

Reasons for Change

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

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

(e) Appeals. [NO CHANGE]

(f) Membership in The Florida Bar. [NO CHANGE]

(g) Training. Traffic hearing officers must complete 40 hours of standardized training that has been approved by the supreme court. Instructors must be county court judges, hearing officers, and persons with expertise or knowledge with regard to specific traffic or boating 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 procedure and control, 11 hours of basic traffic court law and evidence, 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;

To prohibit traffic hearing officers from hearing criminal boating offenses or civil traffic or boating infractions issued along with criminal traffic or boating offenses.

To add boating violations to the instructors' expertise or knowledge requirement.

Proposed Rule

Reasons for Change

(3) 4 hours of observation including 2 hours of on-road observation of traffic enforcement or on-water observation of boating 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.

(h) Continuing Legal Education. [NO CHANGE]

(i) Hours. [NO CHANGE]

(j) Code of Judicial Conduct. [NO CHANGE]

(k) Implementation of Program. [NO CHANGE]

(l) Robes. [NO CHANGE]

(m) Concurrent Jurisdiction. [NO CHANGE]

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

To add on-water observation of boating enforcement to the training subdivision.

To allow uniform boating citation cases to be assigned to a county judge.

Proposed Rule

Reasons for Change

Committee Notes

2009 Amendment. Section 327.74(3), Florida Statutes, titled “Uniform boating citations,” specifically requires that all boating citations be filed “with a court having jurisdiction over the alleged offense or with its traffic violations bureau.” An informal survey found that the majority of jurisdictions participating in the Civil Traffic Infraction Hearing Officer Program are currently setting their noncriminal boating violations before hearing officers. Section 327.73(7), Florida Statutes, addressing Vessel Safety, “Noncriminal infractions,” refers to a “hearing official” as the person hearing the infractions. It seems these jurisdictions are reading this term to mean “Civil Traffic Infraction Hearing Officer.” The revision of subdivision (d) brings the rule in line with practical reality.

References to sections 327.73 and 327.74, Florida Statutes, are added to the recitation of authority in the statute’s introductory paragraph.

Subdivision (d) is amended to expressly state the authority of hearing officers so that the rule is conformed to the current practice of assigning boating infraction cases to traffic hearing officers.

Subdivision (g) is amended to allow training on boating infractions to be included in the curriculum for hearing officers.

Proposed Rule

Reasons for Change

Subdivision (n) is amended to allow defendants to request that uniform boating citations be assigned to a county court judge. The present rule mentions only uniform traffic citations.