

1989

## Session Law 89-337

Florida Senate & House of Representatives

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**H 1356 GENERAL BILL/CS/1ST ENG by Judiciary; Cosgrove  
(Compare S 756)**

**Traffic Infraction Hearing Officers;** provides legislative intent; establishes pilot program to study feasibility of establishing statewide program; authorizes counties to establish such programs using their own funds under specified conditions; provides for jurisdiction, appeals, qualifications, term of office, code of conduct, & funding; provides for nonseverability. Effective Date: 07/05/89.

03/24/89 HOUSE Prefiled  
03/27/89 HOUSE Referred to Judiciary; Appropriations  
03/30/89 HOUSE Subreferred to Subcommittee on Court Systems, Probate and Consumer Law  
04/04/89 HOUSE Introduced, referred to Judiciary; Appropriations -HJ 130; Subreferred to Subcommittee on Court Systems, Probate and Consumer Law; On subcommittee agenda—Judiciary, 04/05/89, 1:15 pm, 413-C  
04/05/89 HOUSE Subcommittee Recommendation: Favorable with 3 amendments  
04/10/89 HOUSE On Committee agenda—Judiciary, 04/12/89, 1:15 pm, 413-C  
04/12/89 HOUSE Preliminary Committee Action by Judiciary: Favorable as a CS  
05/01/89 HOUSE Comm. Report: CS by Judiciary -HJ 338; CS read first time -HJ 337; Now in Appropriations -HJ 338  
06/29/89 HOUSE Withdrawn from Appropriations -HJ 769; Placed on Calendar  
05/31/89 HOUSE Placed on Special Order Calendar  
06/01/89 HOUSE Read second time -HJ 1036; Amendments adopted; Read third time; CS passed as amended; YEAS 111 NAYS 0 -HJ 1037; Recalled from Engrossing; Reconsidered; Amendment reconsidered, failed; CS passed as amended; YEAS 107 NAYS 0 -HJ 1038  
06/01/89 SENATE In Messages  
06/02/89 SENATE Received -SJ 868; Substituted for SB 756; CS passed; YEAS 35 NAYS 0 -SJ 919  
06/02/89 Ordered enrolled  
06/20/89 Signed by Officers and presented to Governor  
07/05/89 Approved by Governor; Chapter No. 89-337

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

\*\*AS PASSED BY THE 1989 LEGISLATURE\*\*

STORAGE NAME: h1356-f.jud  
 DATE: July 7, 1989

HOUSE OF REPRESENTATIVES  
 COMMITTEE ON JUDICIARY  
 FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1356

RELATING TO: Civil Traffic Infraction Hearing Officers

SPONSOR(S): Committee on Judiciary and Cosgrove

EFFECTIVE DATE: July 1, 1989, or upon becoming a law, whichever occurs later.

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-337, Laws of Florida

COMPANION BILL(S): SB 756

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2)

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I. SUMMARY:

A. PRESENT SITUATION:

Florida law divides violations of traffic law into criminal offenses and noncriminal (civil) infractions. Civil traffic infractions carry a fine and are distinguished from criminal traffic offenses in that they do not subject the violator to imprisonment. In 1988, there were approximately 2.7 million civil traffic infraction citations and 500,000 criminal offenses.

Most civil infraction violators pay a fine (by mail) or elect, if eligible, to attend the safe driver school; however, the violator may request a judicial hearing and, in the case of an infraction causing an accident involving death or serious bodily injury, the violator is required to appear before a judge (section 318.19, Florida Statutes). Last year there were approximately 391,000 civil traffic infraction hearings.

In 1988, pursuant to HJR 1608, Florida voters adopted an amendment to Article V, Section 1 of the Florida Constitution authorizing the Legislature to establish a civil traffic infraction hearing officer system.

B. EFFECT OF PROPOSED CHANGES:

Committee Substitute for House Bill 1356 authorizes the Florida Supreme Court to establish a pilot program to determine the feasibility of using a civil traffic infraction hearing officer system on a statewide basis.

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**DATE:** July 7, 1989

**PAGE:** 2

**C. SECTION-BY-SECTION ANALYSIS:**

**Section 1** of Committee Substitute for House Bill 1356 provides legislative intent and requests the Florida Supreme Court to adopt rules and procedures for the establishment of pilot Civil Traffic Infraction Hearing Officer Programs in those counties willing to fund a pilot program and where the case load exceeds 20,000 infraction hearings per year. Participating counties must assist with the feasibility study and follow the procedures established by the Florida Supreme Court.

**Section 2** provides the Florida Supreme Court with specific authority to establish a civil traffic infraction hearing officer pilot program and requires the court to report to the Legislature on the feasibility of establishing a statewide program by February 1, 1991.

**Section 3** pertains to the jurisdiction of the civil traffic infraction hearing officer (magistrate). The magistrate is empowered to adjudicate civil traffic cases in the same manner as a county judge except that a magistrate may not: find a defendant in contempt of court, hear a case involving an accident resulting in injury or property damage, hear criminal cases, or hear civil infractions issued in conjunction with a criminal offense.

**Section 4** provides that civil traffic infraction appeals can be taken to the circuit court and shall be based upon the record (and not a de novo hearing).

**Section 5** requires magistrates to be members of the Florida Bar and to complete a 40-hour training program with 10 hours per year continuing education thereafter.

**Section 6** provides that magistrates shall be full or part time independent contractors serving at the pleasure of the chief judge of the county and circuit in which they are to hear cases.

**Section 7** establishes the Florida Bar Code of Professional Responsibility as the code of ethics for magistrates. Magistrates are also required to avoid conflicting or improper practices or occupations and are specifically prohibited from practicing law before any other civil traffic magistrate.

**Section 8** provides that the cost of the programs shall be born by the counties electing to establish them and that the compensation for a magistrate shall not exceed \$20 per hour.

**Section 9** provides a nonseverability clause which, in effect, would abolish the program if the magistrates' authority to impose the same sanctions as a county judge was found unconstitutional by the Florida Supreme Court.

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DATE: July 7, 1989

PAGE: 3

Section 10 provides an effective date for the bill of July 1, 1989, or upon becoming a law, whichever occurs later.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

This legislation would alleviate future need for additional county judges in counties operating the program thus saving state funds as it is estimated that the cost of funding a magistrate is about 1/2 to 1/3 that of funding a county judge.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

This legislation sets a \$20 per hour compensation rate for the magistrates which would make a full time equivalent position cost just over \$40,000. The Office of the State Court Administrator estimates that an additional \$10,000 per position would be needed for administrative and operating expense. Therefore, counties electing to operate a pilot program will need to expend approximately \$50,000 per magistrate.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

Committee Substitute for House Bill 1356 is generally consistent with the Governmental Efficiency Goal of the State Comprehensive Plan (s.187.201(21)(a), F.S.) in that its purpose is to save court system costs, as funding a civil traffic infraction hearing officer is approximately 1/2 to 1/3 that of a county judge. In addition, county judges will be able to spend more time on other county court matters or assisting the circuit judges.

IV. COMMENTS:

This legislation is generally consistent with the House Policy Statement on Government Efficiency and Effectiveness in that it seeks to establish a pilot program which will be reviewed prior to implementation of a statewide program. In addition, the goal of a statewide civil traffic infraction hearing officer program is a more efficient use of county judge time and a cost savings as mentioned in III above. The committee substitute does not directly affect the Mission Statement of the House Judiciary Committee.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

David K. Sigerson, Jr.

Staff Director:

Richard Hixson

SECOND COMMITTEE OF REFERENCE:

Prepared by:

David K. Sigerson, Jr.

Staff Director:

[Signature]

APPROPRIATIONS:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_

REVISED: April 19, 1989

BILL NO. SB 756

DATE: April 14, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Wiehle</u>	<u>Smawley</u>	1. <u>JCI</u>	<u>Fav/1 amend.</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Noncriminal Traffic Infraction

BILL NO. AND SPONSOR:

SB 756 by  
Judiciary Civil

I. SUMMARY:

A. Present Situation:

Chapter 316, F.S., provides for uniform state traffic control. Additional provisions regulating the use of motor vehicles are contained in various other sections of the statutes.

Chapter 318, F.S., provides for the disposition of traffic infractions. For the purposes of that chapter, an "infraction" is a noncriminal violation which is not punishable by incarceration and for which there is no right to a trial by jury or a right to court appointed counsel, s. 318.13(3), F.S. In general, a person cited for a violation of chapter 316, F.S., or for a violation of other specified statutes regulating the use of motor vehicles is deemed to be charged with a noncriminal infraction and is cited to appear before an official, s. 318.14(1), F.S. An "official" is any judge authorized by law to preside over a court or hearing adjudicating traffic infractions, s. 318.13(4), F.S. Appeals from noncriminal infraction hearings are taken in circuit court, s. 318.16, F.S.

During the 1988 Regular Session, the Legislature passed HJR 1608, which submitted to the electors of Florida a proposed constitutional amendment allowing the Legislature to establish a civil traffic hearing officer system to hear civil traffic infractions. This proposed amendment was approved by the electors at the 1988 general election.

B. Effect of Proposed Changes:

The bill would direct the Supreme Court to establish a pilot project in a judicial circuit or county of its choice to allow adjudication of noncriminal traffic infractions by hearing officers. In making this selection, the Court would be directed to choose a circuit or county within which the county court system is currently organized so as to have a separate traffic division. In addition, the circuit or court chosen should be urban and should be among those with the highest number of filings per judge in general in county court.

Persons cited for noncriminal traffic infractions within the chosen circuit or county would have the option to elect to have their case heard by a judge.

The hearing officers would be required to be members of the Florida Bar for five years, to complete a 40 hour training course approved by the Supreme Court, and to meet other requirements as may be contained in rules of the Supreme Court.

Hearing officers would be selected by the Chief Judge of the judicial circuit within which the pilot project is to be conducted and would serve at his pleasure. They would be paid

no more than \$20 per hour and would not be employees of the state but rather would be independent contractors.

Hearing officers would not be allowed to practice in traffic court in the circuit or county in which they serve as hearing officers.

Hearing officers would have jurisdiction over noncriminal traffic infractions as defined in s. 318.14, F.S. They would be empowered to adjudicate or withhold adjudication of guilt in the same fashion as a county judge under existing statutes and rules. Hearing officers would not have contempt powers. All charges or allegations of contempt would be heard in circuit court. Hearing officers would not be authorized to hear any case in which the accused is charged with both noncriminal traffic infractions and criminal offenses or any case in which the infraction resulted in an accident which caused a physical injury. Appeals would be heard in circuit court and would be on the record, not a hearing de novo.

The bill would require that the hearing officers be appointed no later than January 1, 1990. They would serve until December 31, 1990.

The bill would direct the Supreme Court to report to the Legislature on the results of the pilot project no later than February 15, 1991. It would also direct the Court to certify the number of hearing officers it recommends for each judicial circuit based upon its findings. This certification would be made in conjunction with the judicial certification for 1991.

The bill would appropriate \$200,000 from the General Revenue Fund to be used to pay hearing officer salaries and other necessary expenses.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The traffic infraction hearing officer system may quicken disposition of traffic infraction hearings, and, due to a decrease in judicial workload, may also quicken disposition of those cases remaining in county court.

B. Government:

The state would fund the project through the \$200,000 appropriation. If the traffic infraction hearing officer system does in fact quicken disposition of traffic infraction hearings and the remaining county court cases, the increased efficiency should result in an undetermined benefit to the state.

III. COMMENTS:

None.

IV. AMENDMENTS:

#1 by Judiciary-Civil:

Provides that hearing officers cannot hear a case involving an accident which caused property damage.



SENATE COMMITTEE AMENDMENT

SB 756

No. 1  
(reported favorably)

HB \_\_\_\_\_

The Committee on...Judiciary-Civil....recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page 3....., line 5.....,  
after "Injury"

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	Yes	No
				-

insert:

or property damage

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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\* Amendment No. 1, taken up by committee: Adopted    x

\* Offered by Senator Casas Failed    \*

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(Amendment No. \_\_\_\_\_ Adopted    Failed    Date   /  /  )