

Explanation About Informal Hearings

- **What is an informal hearing?**

An informal hearing is a court proceeding held to decide whether you committed and whether you are responsible for the traffic offense with which you are charged. It is your opportunity to defend yourself, to ask questions, and to have witnesses testify in your favor. The testimony is under oath but the hearing is much less formal than a trial.

- **How is the hearing different from a trial?**

The magistrate, rather than the district judge, usually presides over the hearing. Neither side may be represented by an attorney. There is no jury and no court reporter. The magistrate's final decision will be passed on a preponderance (a 51 to 49 percent majority) of the evidence, not on proof beyond a reasonable doubt. In general, the hearing will be less formal than a trial.

- **How do I defend myself at the hearing?**

You may testify on your own behalf, have witnesses testify on your behalf, and ask questions of the witnesses against you. It is expected that any questioning will be concise, courteous, and not argumentative. You should also present any documents or other physical evidence you might have that supports your case. Remember that the hearing is your "day in court," so come prepared. Have your defense and questions ready.

- **How do I get my witnesses to appear?**

You may ask witnesses to come in voluntarily, or if necessary, you may use the subpoena power of the court to obtain their attendance. Subpoena forms may be obtained from the court clerk.

- **Must I pay witnesses for appearing?**

Yes, if you are the party ordering the attendance of the witness.

- **May the citing officer bring witnesses?**

Yes.

- **What are the possible outcomes of the hearing?**

You may be found not responsible, responsible, or responsible for a lesser infraction than the one charged.

- **What happens if the citing officer fails to appear?**

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If the officer does not appear, the case will be either adjourned (postponed), or dismissed. (This court requires a 15 minute wait for either party from the scheduled hearing time.)

- **What happens if I fail to appear?**

If you fail to appear, the court will enter a default judgment against you. This means the court will automatically find you responsible for the infraction charged, set the fine and costs, and mail you a judgment notice requiring you to pay. (A \$25.00 default fee is added to the original fine amount.) If you do not pay the judgment within 28 days, the court will send you a 14 day notice. If you do not pay within the 14 days of receiving the notice, your driver's license may be suspended by the Secretary of State and the court may issue a warrant for your arrest.

- **What are the penalties if I am found responsible?**

The fine amount remains the same as originally quoted. In addition, you must pay court costs to cover such expenses (not to exceed \$100) as the citing officer's call-in-time and other fees if required by law. The magistrate may also require you to attend a program such as a driving school if it is necessary to make you a safer driver.

- **What about violation points?**

Points are assessed by the **Secretary of State's** office when it receives notice from the court that you committed a moving traffic offense. The magistrate who finds you responsible cannot adjust the number of points assessed against you. The court informs you of the point value as a courtesy.

- **Do I have a right to appeal?**

If you are found responsible by the magistrate after an informal hearing, you have the right to appeal for a formal hearing before the district judge. If the judge finds you responsible after a formal hearing, you have the right to appeal again to circuit court.

- **How do I appeal the decision made at an informal hearing?**

Within 7 days of the judgment, you must complete an appeal form and file it with the court, together with an appeal bond equal to the fine and costs imposed by the magistrate. You do not have to pay a filing fee for an appeal.

- **What if I have further questions about informal hearings?**

Ask any court employee. He or she will answer your question or find someone who can. There is one exception: **They cannot give legal advice.**