

# Council of the District of Columbia Report

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To COUNCILMEMBERS

From DAVID A. CLARKE, CHAIRPERSON

Date MAY 24, 1978

Subject REPORT ON BILL NO. 2-195, DISTRICT OF COLUMBIA TRAFFIC ADJUDICATION ACT

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OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA JUDICIARY

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The Committee on the Judiciary, to which Titles I, II, III, IV, VI, and VII of Bill No. 2-195, District of Columbia Traffic Adjudication Act, were referred, reports favorably on the same as amended.

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### BACKGROUND AND PURPOSE OF THIS LEGISLATION

Chairman Sterling Tucker introduced Bill No. 2-195 in behalf of the Mayor on July 21, 1977. Chairman Tucker referred Titles I, II, III, IV, VI, and VII of the bill to the Committee on the Judiciary and Title V to the Committee on Transportation and Environmental Affairs.

The titles referred to the Committee on the Judiciary decriminalize parking and minor traffic infractions. These titles replace the current criminal adjudication system for parking and minor traffic violations with an administrative adjudication system. These titles transfer jurisdiction for adjudication of parking and minor traffic infractions from the Superior Court of the District of Columbia to the D.C. Department of Transportation.

### NEED FOR THIS LEGISLATION

Bill No. 2-195 addresses four major problems in the current system for adjudication of parking and minor traffic infractions. Currently the criminal justice system copes with a voluminous caseload. Nonchronic offenders endure unnecessary inconveniences. Chronic offenders remain undetected. Dispositions of cases lack consistency.

Bill No. 2-195 would reduce the traffic caseload of the criminal justice system and free judges, prosecutors and others for more important work. Currently the Superior Court processes an average of 300 to 400 cases each day. Bill No. 2-195 would eliminate this caseload except in the most serious cases. Bill No. 2-195 would also eliminate the involvement of prosecutors, bailiffs, clerks, and other court personnel in the adjudication of traffic and parking infractions. As a result, these officials will be able to concentrate on more serious crimes.

The administrative system created under this bill would minimize the inconvenience to nonchronic offenders. At the public hearing on November 18, 1977, several citizens discussed their personal experiences in the current system and criticized the bureaucratic delays they had encountered. Currently two to three months elapse between the issuance of a ticket and its adjudication. Currently citizens wait up to seven hours after reporting to court before hearings actually begin. In other jurisdictions which have enacted administrative adjudication system such as New York City, these waiting times have been sharply reduced.

Bill No. 2-195 would facilitate the identification of chronic offenders. Currently it takes up to three weeks to update a driver record. Under the new system, up to date driver histories would be available to hearing examiners when setting sanctions. As a result,

hearing examiners will be able to identify chronic offenders and deal with them accordingly.

The administrative adjudication system would provide greater consistency in the disposition of cases. Currently dispositions vary widely from judge to judge. As a result, judge shopping has become a problem. Bill No. 2-195 would impose set penalties for each infraction and would eliminate many of the inconsistencies of the current system. Thus shopping for hearing examiners would accomplish little.

In conclusion, Bill No. 2-195 would reduce the burden on the criminal justice system. It would eliminate unnecessary inconveniences for non-chronic offenders. The bill would aid detection of chronic offenders. Finally, Bill No. 2-195 would provide greater consistency for disposition of cases.

#### IMPACT ON EXISTING LAW

Bill No. 2-195 replaces the current criminal adjudication of parking and minor traffic infractions with an administrative adjudication system. The bill changes jurisdiction, appeal procedures and the standard of proof. Bill No. 2-195 limits the need for appearance of police officers. The bill also changes the procedures for scheduling hearings and answering tickets. Finally, Bill No. 2-195 changes the consequences of failing to appear.

Bill No. 2-195 changes the initial jurisdiction for parking and minor traffic infractions. At present, the process for adjudicating parking and minor traffic infractions begins in the Criminal Division of the Superior Court. Bill No. 2-195 would shift this jurisdiction to the D.C. Department of Transportation. Consequently, the first decisions in these cases would no longer be handed down by a judge. Instead these decisions would be rendered in an informal setting by a hearing examiner.

Appeals are presently handled by the D.C. Court of Appeals. Bill No. 2-195 would shift responsibility for appeals to Appeals Boards within the Department of Transportation. Appeals from decisions of the Appeals Boards would be handled by the Superior Court. At present when the penalty imposed is less than \$50, an appeal must be filed within three days of the judgment. When the penalty is more than \$50 or involves imprisonment, an appeal must be filed within 10 days of the judgment. Bill No. 2-195 would allow a longer period for appeals. Under the new system, appeals must be filed within 15 days.

Bill No. 2-195 would provide a lesser standard of proof. Currently infractions must be proven beyond a reasonable doubt. Under the new system moving infractions must be proven by clear and convincing evidence and parking infractions must be proven by a preponderance of the evidence.

Bill No. 2-195 would eliminate the role of the Corporation Counsel except in cases involving serious offenders. Currently the Corporation Counsel prosecutes parking and traffic infractions. Under the new system, this function would be handled by the Department of Transportation.

Bill No. 2-195 would eliminate some required appearances by police officers. Under the present law, a police officer must be present during the hearing. Under the new system, prehearing conferences would be available to prevent unnecessary police appearances. Further a police officer would be required to appear only if a respondent denies the commission of a moving infraction or if the hearing examiner decides to call the officer.

At present, a person who contests a parking or traffic ticket is assigned a court date only after he or she appears in person. The administrative adjudication system would allow a person to answer (1) in person, (2) by mail, or (3) by telephone. The option of answering by mail or telephone would not be available in all situations.

Under the existing system a respondent either pleads guilty or not guilty. There is no opportunity to explain without contesting the ticket. Bill No. 2-195 would allow a person to answer by (1) admitting, (2) admitting with an explanation, or (3) denying. Thus a person would be given an opportunity to explain even if he or she admitted the charges.

Under the present system if a person fails to appear in court, a judicial summons is issued. Failure to respond to the summons leads to the issuance of an arrest warrant. Bill No. 2-195 does not provide for issuing judicial summons and arrest warrants for failure to respond. Instead a person who does not answer would have his or her driver's permit suspended until he or she answers.

Currently the penalty for some moving infractions includes imprisonment. Also a respondent may be imprisoned for failure to pay a fine. Bill No. 2-195 would eliminate imprisonment for all infractions within its jurisdiction except those committed by serious offenders.

Currently if a defendant fails to appear, a default judgment may be entered against him. Under Bill No. 2-195, there will be no default judgments in cases involving moving infractions. Instead failure to appear for a moving infraction would subject a respondent to suspension.

In addition to changing the jurisdiction for adjudication of parking and minor traffic infraction, Bill No. 2-195 also makes other procedural changes. These changes are designed to provide an administrative system while affording safeguards for the rights of respondents.

FISCAL IMPACT

After adding the estimated start-up costs (non-recurring) for FY'78 and FY'79 and the annual operating expenses for implementation of Titles I through IV and VI through VII of Bill 2-195 and then subtracting the estimated revenues generated by the new traffic adjudication program under Bill 2-195, your committee discerns a net negative fiscal impact upon the District of Columbia of approximately \$1,025,600 during FY'78 and FY'79 for start-up expenses and approximately \$602,000 annually for operating costs.

This conclusion is based upon the following fiscal data submitted to your committee staff by the Department of Transportation and the Superior Court of the District of Columbia.

I. Start Up Costs (Non-Recurring) For traffic Adjudication:

A. FY'78

Space modification (leased space)	46,500
Office furnishing & equipment	27,500
Computer Software Development (Consultant)	450,000
Computer Center Relocation	120,600
Temporary keypunch services	50,000
Computer terminals (clerks, cashiers, hearings)	93,500
Police computer communications	21,000

FY'78 - 809,000

B. FY'79

Telephone installation	1,100
Audio and microfilm equipment	30,000
Computer terminals (data entry room)	52,500
Temporary - keypunch	133,000

FY'79 - 216,000

TOTAL \$1,025,600

II. Net Estimated Annual Operating Costs for Traffic Adjudication

A. Annual Operating Costs

Personal services (49 + 2 data proc.) \$802,500