

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1343

(Delegates Atterbary and Rosenberg)

Judiciary

Judicial Proceedings

Public Safety - Handgun Permit Review Board - Repeal

This emergency bill repeals the Handgun Permit Review Board in the Department of Public Safety and Correctional Services (DPSCS). A person who is denied a permit to wear, carry, or transport a handgun, or a renewal of such a permit, or whose permit is revoked or issued with restrictions by the Secretary of State Police, may request to appeal the decision to the Office of Administrative Hearings (OAH), instead of requesting that the board review the decision and then appealing the board’s decision to OAH. The bill (1) authorizes an individual with a hearing request pending before the board on the effective date of the bill, after specified notice by DPSCS, to file an amended request for a hearing by OAH and (2) requires OAH to schedule and conduct a *de novo* hearing on the matter, as specified. By January 1, 2019, 2020, 2021, and 2022, OAH must report to the Governor and the General Assembly on specified items relating to such hearings.

Fiscal Summary

State Effect: General fund expenditures decrease by approximately \$5,800 in FY 2019 and by approximately \$23,000 annually thereafter due to the repeal of the board. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(5,800)	(23,000)	(23,000)	(23,000)	(23,000)
Net Effect	\$5,800	\$23,000	\$23,000	\$23,000	\$23,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submission of the application may request a hearing before OAH (instead of the board) by filing a written request with the Secretary and OAH (instead of the board). OAH must schedule and conduct a *de novo* hearing on the matter within time periods specified under existing law.

Within 30 days after the effective date of the bill, DPSCS must provide written notice to each individual whose request to review a decision of the Secretary remains pending before the board on the effective date of the bill. The notice must inform the individual that the individual, within 30 days of receipt of the notice, may file an amended request that the matter pending before the board be heard by OAH in accordance with the bill's provisions. Within 30 days after receiving the notice, the individual may file an amended request that the matter be heard by OAH. Within 45 days after the receipt of an amended request, OAH must schedule and conduct a *de novo* hearing on the matter, at which witness testimony and other evidence may be provided.

Current Law:

Appeal Process

Informal Review by Secretary of State Police: A person who is denied a permit to carry, wear, or transport a handgun, or a renewal of such a permit, or whose permit is revoked or issued with restrictions by the Secretary, may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary's initial action. An informal review may include a personal interview with the person requesting the review. The Secretary must sustain, reverse, or modify the action under informal review and provide written notification within 30 days after receipt of the request for informal review. A person is not required to file a request for an informal review before requesting review by the board.

Review by Handgun Permit Review Board: A person whose application for a handgun permit or a renewal of a permit has been rejected, or whose permit has been revoked or limited by the Secretary, may request the board to review the decision of the Secretary by filing a written request with the board within 10 days after receipt of written notice of the Secretary's action. In addition, a person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submission may request a hearing before the board by filing a written request with the board.

Within 90 days after receiving a request to review the decision of the Secretary of State Police by a person who is denied a permit to wear, carry, or transport a handgun, or a

renewal of such a permit, or whose permit is revoked or issued with restrictions by the Secretary, the board must (1) review the record developed by the Secretary and (2) conduct a hearing. Within 60 days after the last hearing in the matter, the board must submit, in writing, the reasons for the board's decision to the applicant, the permit holder, and the Secretary.

Chapter 253 of 2018 authorizes the applicant, the permit holder, or the Secretary to appeal the board's decision to OAH within 30 days after the issuance of the board's written reasons for its decision in the matter. Within 60 days after the receipt of such a request from the applicant, permit holder, or the Secretary, OAH must schedule and conduct a *de novo* hearing on the appeal, at which witness testimony and other evidence may be provided. Within 90 days after the conclusion of the last hearing on the matter, OAH must issue a finding of facts and a decision. A party aggrieved by the decision of OAH may appeal the decision to the circuit court.

Handgun Permit Review Board

The Handgun Permit Review Board is a State government entity within DPSCS. It was created by Chapter 13 of 1972. The board consists of five members appointed by the Governor from the general public, with advice and consent of the Senate. The Governor designates the chairman. Members serve three-year terms and are eligible for reappointment. Board members are entitled to compensation in accordance with the State budget for each day that they are engaged in the discharge of their duties as well as reimbursement for expenses.

The board is subject to the Open Meetings Act, and generally, any hearing and any subsequent proceedings of judicial review must be conducted in accordance with the Administrative Procedure Act.

By December 1 of each year, the board must report to the Governor and the General Assembly:

- the number of appeals of decisions by the Secretary that have been filed with the board within the previous year;
- the number of decisions by the Secretary that have been sustained, modified, or reversed by the board within the previous year;
- the number of appeals that are pending; and
- the number of appeals that have been withdrawn within the previous year.

Background: In the [2018 Handgun Permit Review Board Appeal Report](#), the board reported that between December 2017 and November 2018, 622 appeals had been received

and 100 had been withdrawn. Of the 269 appeals heard by the board in the same period, the board reversed 77, modified 145, sustained 37, and continued 10. The Department of State Police (DSP) advises that, since the enactment of Chapter 253, the Secretary of State Police has appealed 22 cases to OAH.

State Expenditures: General fund expenditures for DPSCS decrease by approximately \$5,750 in fiscal 2019 (assuming the emergency measure is enacted April 1, 2019) and by \$23,000 annually thereafter, as DPSCS no longer has to provide space to accommodate hearings and pay stipends/expenses to board members. DPSCS estimates that the board holds approximately 26 meetings annually. For each meeting, the chairman of the board receives \$150 and each of the four members receive \$125. In addition, the chairman and board members are eligible for travel reimbursement.

Staffing for the board is currently provided by staff within the Office of the Secretary of Public Safety and Correctional Services. Such staff will continue to provide staff support to the Office of the Secretary. DPSCS can conduct the required notifications relating to pending requests with existing resources.

DSP and OAH can implement the bill's changes with existing budgeted resources.

Additional Information

Prior Introductions: HB 819 of 2018 and its cross file, SB 741, as introduced, were similar; the bills were amended and passed by the General Assembly. HB 819 was signed into law as Chapter 253. SB 741 was vetoed by the Governor as duplicative. SB 1180 of 2017, another similar bill, was referred to the Senate Rules Committee, but no further action was taken.

Cross File: SB 1000 (Senator Beidle, *et al.*) - Executive Nominations and Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services; Department of State Police; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2019
mag/lgc Third Reader - April 5, 2019
Revised - Amendment(s) - April 5, 2019

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