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GOVERNOR

BOYD K. RUTHERFORD
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CHUNG K. PAK
CHIEF ADMINISTRATIVE LAW JUDGE

OFFICE OF ADMINISTRATIVE HEARINGS

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December 31, 2020

The Honorable Bill Ferguson
President of the Senate
H-107, State Circle
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101, State Circle
Annapolis, Maryland 21401

RE: HB 1343 (Chapter 0002 of the Acts of 2020) – Public Safety – Handgun Permit Review Board - Repeal

Dear President Ferguson and Speaker Jones:

Enclosed please find a report pursuant to HB 1343 – *Public Safety – Handgun Permit Review Board – Repeal*. The report provides information on the number of Handgun Permit appeals filed for the period January 1, 2020 through December 15, 2020.

Thank you for your consideration of this information. If you have any questions or need more information on the caseload statistics included in this report, please contact Administrative Law Judge John Leidig, Deputy Director of Operations. at 410-229-4175 or john.leidig@maryland.gov.

Sincerely,

A handwritten signature in black ink that reads 'Chung K. Pak'. The signature is fluid and cursive.

Chung K. Pak
Chief Administrative Law Judge

Cc: The Honorable Larry Hogan, Governor
Sarah Alpert, Mandated Reports Specialist, Department of Legislative Services
(5 copies)

**REPORT ON HANDGUN PERMIT APPEALS
2020 CASELOAD STATISTICS**

OFFICE OF ADMINISTRATIVE HEARINGS

House Bill 1343 – Chapter 0002 of the Acts of 2020
December 31, 2020

2020 REPORT REQUIREMENT

Section 5-312(d) of the Public Safety Article provides that, on or before January 1, 2019, 2020, 2021, and 2022, the Office of Administrative Hearings (OAH) shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly: (1) the number of appeals of decisions by the Secretary that have been filed with the Office of Administrative Hearings within the previous year; (2) the number of decisions by the Secretary that have been sustained, modified, or reversed by the Office of Administrative Hearings within the previous year; (3) the number of appeals that are pending; and (4) the number of appeals that have been withdrawn within the previous year.

OVERVIEW

In 2018, the Legislature passed House Bill (HB) 1343 which provided for the repeal of the Handgun Permit Review Board and that appeals from certain decisions by the Secretary of State Police or the Secretary's designee may be made to the OAH. The Governor vetoed HB 1343 and the Legislature voted to override the Governor's veto during the 2020 Legislative Session.

OAH has been collecting data to comply with Section 5-312. On March 16, 2020, however OAH suspended all hearings as a result of the COVID shutdown. Only essential hearings, including involuntary psychiatric admissions, clinical review panel appeals, and special education disputes, resumed on March 30, 2020. Motor vehicle driver's licensing hearings (MVA) resumed on an opt-in basis in April, and all MVA hearings began to proceed remotely on August 3, 2020. Other hearing types were consistently, safely, and thoughtfully added to the workload through the spring and summer. OAH's Hunt Valley Office resumed in-person hearings on July 6, 2020. Many other hearing locations throughout the State remain closed or inaccessible for OAH hearings. OAH staff converted and continues to convert many in-person hearings to remote hearings.

The majority of the Handgun Permit appeal hearings which were held after July 6, 2020 were in-person hearings. The data that follows reflects this anomalous year for the period January 1, 2020 through December 15, 2020.

Number of appeals of decisions by the Secretary that have been filed with the Office of Administrative Hearings in 2020

167

Number of decisions by the Secretary that have been sustained, modified, or reversed by the Office of Administrative Hearings within the previous year

57 - Sustained

0 - Modified

7 - Reversed

64 - this number includes appeals filed in 2019¹

Number of appeals that are pending

58 – this includes cases awaiting decisions (90 day timeline) and cases awaiting hearing.

Number of appeals that have been withdrawn within the previous year

38

In addition, Appellants failed to appear in eight scheduled hearings.

**OFFICE OF ADMINISTRATIVE HEARINGS
LEGISLATIVE HISTORY AND BACKGROUND**

In 1990, the General Assembly created the OAH to guarantee fundamental fairness in the administrative hearing process and to combat the pervasive perception of unfairness that predated its establishment. Prior to 1990, hearing officers were employees of the agency as well as the decision makers in appeals from agency decisions. This created the well-founded public perception that it was not possible to receive a fair and impartial administrative hearing. As a result, under section 10-205 of the Administrative Procedure Act (APA), the General Assembly required that, in most instances, an agency or board delegate hearing authority to the OAH. *See Anderson v. Dept. of Public Safety*, 330 Md. 187, 213 (1993) (“One of the main objectives of the legislature in establishing the OAH was to provide an impartial hearing officer in contested cases. A hearing officer employed by and under the control of the agency where the contested case or other disputed action arose, often results in the appearance of an inherent unfairness or bias against the aggrieved.”)

¹ This number includes the following case types: HPRB; Handgun Permit – Transfer from HPRB; Handgun Permit Denial/Revocation/Limitation; Handgun Qualification License Application

The OAH steadfastly adheres to this mission across all aspects of its operations. It consistently issues over 99% of its decisions timely, and citizens of Maryland and State agencies report substantial satisfaction with the fairness of OAH proceedings, the competence of OAH staff and the quality of the decisions issued. Currently, the OAH conducts hearings for over 30 State agencies and in over 500 different case types. An Administrative Law Judge's workload includes bench decisions, written decisions, and mediations.