

# HOUSE BILL 1343

E4

EMERGENCY BILL

9lr3260  
CF SB 1000

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By: **Delegates Atterbeary and Rosenberg**

Introduced and read first time: February 18, 2019

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, February 25, 2019

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 26, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety – Handgun Permit Review Board – Repeal**

3 FOR the purpose of altering the process by which a person who is denied a certain handgun  
4 permit or renewal of a permit or whose permit is revoked or limited by the Secretary  
5 of State Police or the Secretary's designee may appeal the decision; repealing  
6 provisions of law relating to the Handgun Permit Review Board; providing that  
7 appeals from a certain decision by the Secretary or the Secretary's designee may be  
8 made to the Office of Administrative Hearings in a certain manner; providing that a  
9 person whose application for a certain permit or renewal of a permit is not acted on  
10 by the Secretary within a certain period of time may request a certain hearing before  
11 the Office of Administrative Hearings; requiring the Office of Administrative  
12 Hearings to make a certain annual report to the Governor and the General Assembly;  
13 making conforming changes; requiring the Department of Public Safety and  
14 Correctional Services, within a certain period of time, to provide certain notice to  
15 certain individuals; authorizing certain individuals to file a certain request for a  
16 hearing before the Office of Administrative Hearings under certain circumstances;  
17 requiring the Office of Administrative Hearings to schedule a certain hearing within  
18 a certain period of time under certain circumstances; making this Act an emergency  
19 measure; and generally relating to handgun permits.

20 BY repealing and reenacting, with amendments,

21 Article – Public Safety

22 Section 5–301 and 5–312

23 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2018 Replacement Volume)

2 BY repealing

3 Article – Public Safety

4 Section 5–302

5 Annotated Code of Maryland

6 (2018 Replacement Volume)

7 BY repealing and reenacting, without amendments,

8 Article – Public Safety

9 Section 5–311

10 Annotated Code of Maryland

11 (2018 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
13 That the Laws of Maryland read as follows:

14 **Article – Public Safety**

15 5–301.

16 (a) In this subtitle the following words have the meanings indicated.

17 [(b) “Board” means the Handgun Permit Review Board.]

18 [(c) (B) “Handgun” has the meaning stated in § 4–201 of the Criminal Law  
19 Article.

20 [(d) (C) “Permit” means a permit issued by the Secretary to carry, wear, or  
21 transport a handgun.

22 [(e) (D) “Qualified handgun instructor” has the meaning stated in § 5–101 of  
23 this title.

24 [(f) (E) “Secretary” means the Secretary of State Police or the Secretary’s  
25 designee.

26 [5–302.

27 (a) There is a Handgun Permit Review Board in the Department of Public Safety  
28 and Correctional Services.

29 (b) The Board consists of five members appointed from the public by the Governor  
30 with the advice and consent of the Senate.

31 (c) (1) The term of a member is 3 years.

1           (2)    The terms of the members are staggered as required by the terms  
2 provided for members of the Board on October 1, 2003.

3           (3)    At the end of a term, a member continues to serve until a successor is  
4 appointed and qualifies.

5           (4)    A member who is appointed after a term has begun serves only for the  
6 rest of the term and until a successor is appointed and qualifies.

7           (5)    A member of the Board is eligible for reappointment.

8           (d)    A member of the Board is entitled to:

9                (1)    compensation in accordance with the State budget for each day that the  
10 member actually is engaged in the discharge of the member's official duties; and

11               (2)    reimbursement for expenses under the Standard State Travel  
12 Regulations, as provided in the State budget.]

13 5-311.

14           (a)    A person who is denied a permit or renewal of a permit or whose permit is  
15 revoked or limited may request the Secretary to conduct an informal review by filing a  
16 written request within 10 days after receipt of written notice of the Secretary's initial  
17 action.

18           (b)    An informal review:

19                (1)    may include a personal interview of the person who requested the  
20 informal review; and

21                (2)    is not subject to Title 10, Subtitle 2 of the State Government Article.

22           (c)    In an informal review, the Secretary shall sustain, reverse, or modify the  
23 initial action taken and notify the person who requested the informal review of the decision  
24 in writing within 30 days after receipt of the request for informal review.

25           (d)    A person need not file a request for an informal review under this section  
26 before requesting review under § 5-312 of this subtitle.

27 5-312.

28           (a)    (1)    A person who is denied a permit or renewal of a permit or whose permit  
29 is revoked or limited may request [the Board to review] **TO APPEAL** the decision of the  
30 Secretary **TO THE OFFICE OF ADMINISTRATIVE HEARINGS** by filing a written request

1 with the [Board] SECRETARY AND THE OFFICE OF ADMINISTRATIVE HEARINGS  
 2 within 10 days after receipt of written notice of the Secretary's final action.

3 (2) A person whose application for a permit or renewal of a permit is not  
 4 acted on by the Secretary within 90 days after submitting the application to the Secretary  
 5 may request a hearing before the [Board] OFFICE OF ADMINISTRATIVE HEARINGS by  
 6 filing a written request with the [Board] SECRETARY AND THE OFFICE OF  
 7 ADMINISTRATIVE HEARINGS.

8 ~~[(b) Within 90 days after receiving a request to review a decision of the Secretary,~~  
 9 ~~the Board shall:~~

10 ~~(1) review the record developed by the Secretary; and~~

11 ~~(2) conduct a hearing.~~

12 ~~(c) The Board may receive and consider additional evidence submitted by a party~~  
 13 ~~in conducting a review of the decision of the Secretary.~~

14 ~~(d) (1) Based on the Board's consideration of the record and any additional~~  
 15 ~~evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.~~

16 ~~(2) Within 60 days after the last hearing in the matter conducted by the~~  
 17 ~~Board, the Board shall submit in writing to the applicant, the holder of the permit, and the~~  
 18 ~~Secretary the reasons for the decision of the Board.~~

19 ~~(e) (1) The applicant, the holder of the permit, or the Secretary may appeal~~  
 20 ~~the decision of the Board to the Office of Administrative Hearings within 30 days after the~~  
 21 ~~issuance of the Board's reasons under subsection (d)(2) of this section.~~

22 ~~(2) (B) (1)~~ Within 60 days after the receipt of a request UNDER  
 23 SUBSECTION (A) OF THIS SECTION from the applicant, OR the holder of the permit, ~~or~~  
 24 ~~the Secretary,~~ the Office of Administrative Hearings shall schedule and conduct a de novo  
 25 hearing on the appeal MATTER, at which witness testimony and other evidence may be  
 26 provided.

27 ~~(3) (2)~~ Within 90 days after the conclusion of the last hearing on the matter,  
 28 the Office of Administrative Hearings shall issue a finding of facts and a decision.

29 ~~(4) (3)~~ A party that is aggrieved by the decision of the Office of  
 30 Administrative Hearings may appeal the decision to the circuit court.}]

31 [(f) ~~(B) (C)~~ (1) [Subject to subsections (d) and (e) of this section, any] ANY  
 32 SUBJECT TO SUBSECTION (B) OF THIS SECTION, ANY hearing and any subsequent  
 33 proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of  
 34 the State Government Article.

1 (2) Notwithstanding paragraph (1) of this subsection, a court may not order  
2 the issuance or renewal of a permit or alter a limitation on a permit pending a final  
3 determination of the proceeding.

4 ~~(e) (D)~~ On or before ~~December 1 each year~~ **JANUARY 1, 2019, 2020, 2021,**  
5 **AND 2022**, the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** shall report to the  
6 Governor and, in accordance with § 2-1246 of the State Government Article, the General  
7 Assembly:

8 (1) the number of appeals of decisions by the Secretary that have been filed  
9 with the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the previous year;

10 (2) the number of decisions by the Secretary that have been sustained,  
11 modified, or reversed by the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the  
12 previous year;

13 (3) the number of appeals that are pending; and

14 (4) the number of appeals that have been withdrawn within the previous  
15 year.

16 ~~(h) The Board is subject to Title 3 (Open Meetings Act) of the General Provisions~~  
17 ~~Article.]~~

18 SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect~~  
19 ~~October 1, 2019;~~

20 (a) (1) Subject to paragraph (2) of this subsection, within 30 days after this Act  
21 takes effect, the Department of Public Safety and Correctional Services shall provide  
22 written notice to each individual whose request to review a decision of the Secretary of  
23 State Police under § 5-312 of the Public Safety Article remains pending before the Handgun  
24 Permit Review Board on the taking effect of this Act.

25 (2) The notice required under paragraph (1) of this subsection shall inform  
26 the individual that the individual, within 30 days of receipt of the notice, may file an  
27 amended request that the matter pending before the Handgun Permit Review Board be  
28 heard by the Office of Administrative Hearings in accordance with § 5-312(b) of the Public  
29 Safety Article, as enacted by Section 1 of this Act.

30 (b) Within 30 days after receiving the notice described under subsection (a) of this  
31 section, the individual may file an amended request that the matter be heard by the Office  
32 of Administrative Hearings in accordance with § 5-312(b) of the Public Safety Article, as  
33 enacted by Section 1 of this Act.

34 (c) Notwithstanding § 5-312(b)(1) of the Public Safety Article, as enacted by  
35 Section 1 of this Act, within 45 days after the receipt of an amended request under this

1 section, the Office of Administrative Hearings shall schedule and conduct a de novo hearing  
2 on the matter, at which witness testimony and other evidence may be provided.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
4 measure, is necessary for the immediate preservation of the public health or safety, has  
5 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
6 each of the two Houses of the General Assembly, and shall take effect from the date it is  
7 enacted.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.