

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 512**

4 (By Senators Palumbo and Beach)

5 _____
6 [Originating in the Committee on the Judiciary;
7 reported February 24, 2012.]
8 _____

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10
11 A BILL to amend and reenact §17C-5A-2 of the Code of West Virginia,
12 1931, as amended; and to amend said code by adding thereto two
13 new sections, designated §17C-5C-4a and §17C-5C-4b, all
14 relating to updating statutory provisions relating to
15 procedures of the Office of Administrative Hearings; providing
16 written objections to revocation notices may be filed by
17 facsimile or e-mail; providing notices of hearing are sent to
18 the parties and their legal counsel; providing that the Office
19 of Administrative Hearings has subpoena authority; providing
20 that parties may enforce Office of Administrative Hearings
21 subpoenas in circuit court; providing that the Division of
22 Motor Vehicles may serve subpoenas to law-enforcement officers
23 by electronic mail; deleting language indicating that a notice
24 of hearing sent by certified or registered mail to a

1 law-enforcement officer constitutes a subpoena to appear;
2 authorizing the Office of Administrative Hearings to propose
3 legislative rules to implement the provisions of this article
4 and to carry out the duties prescribed therein; and requiring
5 persons with pending contested matters to provide notice of
6 change of address.

7 *Be it enacted by the Legislature of West Virginia:*

8 That §17C-5A-2 of the Code of West Virginia, 1931, as amended,
9 be amended and reenacted; and that said code be amended by adding
10 thereto two new sections, designated §17C-5C-4a and §17C-5C-4b, all
11 to read as follows:

12 **ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND**
13 **REVOCAION OF LICENSES FOR DRIVING UNDER THE**
14 **INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR**
15 **DRUGS.**

16 **§17C-5A-2. Hearing; revocation; review.**

17 (a) Written objections to an order of revocation or suspension
18 under the provisions of section one of this article or section
19 seven, article five of this chapter shall be filed with the Office
20 of Administrative Hearings. Upon the receipt of an objection, the
21 Office of Administrative Hearings shall notify the Commissioner of
22 the Division of Motor Vehicles, who shall stay the imposition of
23 the period of revocation or suspension and afford the person an
24 opportunity to be heard by the Office of Administrative Hearings. The

1 written objection must be filed with Office of Administrative
2 Hearings in person, ~~or~~ by registered or certified mail, return
3 receipt requested, or by facsimile transmission or electronic mail
4 within thirty calendar days after receipt of a copy of the order of
5 revocation or suspension or no hearing will be granted: Provided,
6 That a successful transmittal sheet shall be necessary for proof of
7 written objection in the case of filing by fax. The hearing shall
8 be before a hearing examiner employed by the Office of
9 Administrative Hearings who shall rule on evidentiary issues. Upon
10 consideration of the designated record, the hearing examiner shall,
11 based on the determination of the facts of the case and applicable
12 law, render a decision affirming, reversing or modifying the
13 action protested. The decision shall contain findings of fact and
14 conclusions of law and shall be provided to all parties by registered
15 or certified mail, return receipt requested.

16 (b) The hearing shall be held at an office of the Division of
17 Motor Vehicles located in or near the county in which the arrest was
18 made in this state or at some other suitable place in the county in
19 which the arrest was made if an office of the division is not
20 available. The Office of Administrative Hearings shall send a notice
21 of hearing to the person whose ~~license is~~ driving privileges are at
22 issue and the person's legal counsel if the person is represented by
23 legal counsel, the ~~appropriate~~ investigating or arresting law-
24 enforcement officers, the Division of Motor Vehicles, ~~the prosecuting~~
25 ~~attorney~~ and the Attorney General's Office, if the Attorney General

1 has filed a notice of appearance of counsel on behalf of the Division
2 of Motor Vehicles.

3 (c) (1) Any hearing shall be held within one hundred eighty days
4 after the date upon which the Office of Administrative Hearings
5 received the timely written objection unless there is a postponement
6 or continuance.

7 (2) The Office of Administrative Hearings may postpone or
8 continue any hearing on its own motion or upon application by the
9 party whose license is at issue in that hearing or by the
10 commissioner for good cause shown.

11 (3) The Office of Administrative Hearings may issue subpoenas
12 commanding the appearance of witnesses and subpoenas duces tecum
13 commanding the submission of documents, items or other things.
14 Subpoenas duces tecum shall be returnable on the date of the next
15 scheduled hearing unless otherwise specified. The Office of
16 Administrative hearings shall issue subpoenas and subpoenas duces
17 tecum at the request of a party or the party's legal representative.
18 The party requesting the subpoena shall be responsible for service of
19 the subpoena upon the appropriate individual. Every subpoena or
20 subpoena duces tecum shall be served at least five days before the
21 return date thereof, either by personal service made by a person over
22 eighteen years of age or by registered or certified mail, return
23 receipt requested, and received by the party responsible for serving
24 the subpoena or subpoena duces tecum: Provided, That the Division of
25 Motor Vehicles may serve subpoenas to law-enforcement officers

1 through electronic mail to the department of his or her employer. If
2 a person does not obey the subpoena or fails to appear, the party who
3 issued the subpoena to the person may petition the circuit court
4 wherein the action lies for enforcement of the subpoena.

5 ~~(3) A notice of hearing to the appropriate law-enforcement~~
6 ~~officers by registered or certified mail, return receipt requested,~~
7 ~~constitutes a subpoena to appear at the hearing without the necessity~~
8 ~~of payment of fees by the Division of Motor Vehicles.~~

9 (d) Law-enforcement officers shall be compensated for the time
10 expended in their travel and appearance before the Office of
11 Administrative Hearings by the law-enforcement agency by whom they
12 are employed at their regular rate if they are scheduled to be on
13 duty during said time or at their regular overtime rate if they are
14 scheduled to be off duty during said time.

15 (e) The principal question at the hearing shall be whether ~~there~~
16 ~~are reasonable grounds to believe that~~ the person did drive a motor
17 vehicle while under the influence of alcohol, controlled substances
18 or drugs, or did drive a motor vehicle while having an alcohol
19 concentration in the person's blood of eight hundredths of one
20 percent or more, by weight, or did refuse to submit to the designated
21 secondary chemical test, or did drive a motor vehicle while under the
22 age of twenty-one years with an alcohol concentration in his or her
23 blood of two hundredths of one percent or more, by weight, but less
24 than eight hundredths of one percent, by weight.

25 (f) In the case of a hearing in which a person is accused of

1 driving a motor vehicle while under the influence of alcohol,
2 controlled substances or drugs, or accused of driving a motor vehicle
3 while having an alcohol concentration in the person's blood of eight
4 hundredths of one percent or more, by weight, or accused of driving
5 a motor vehicle while under the age of twenty-one years with an
6 alcohol concentration in his or her blood of two hundredths of one
7 percent or more, by weight, but less than eight hundredths of one
8 percent, by weight, the Office of Administrative Hearings shall make
9 specific findings as to: (1) Whether the investigating law-
10 enforcement officer had reasonable grounds to believe the person to
11 have been driving while under the influence of alcohol, controlled
12 substances or drugs, or while having an alcohol concentration in the
13 person's blood of eight hundredths of one percent or more, by weight,
14 or to have been driving a motor vehicle while under the age of
15 twenty-one years with an alcohol concentration in his or her blood of
16 two hundredths of one percent or more, by weight, but less than eight
17 hundredths of one percent, by weight; (2) whether the person was
18 lawfully placed under arrest for an offense involving driving under
19 the influence of alcohol, controlled substances or drugs, or was
20 lawfully taken into custody for the purpose of administering a
21 secondary test: *Provided*, That this element shall be waived in cases
22 where no arrest occurred due to driver incapacitation; (3) whether
23 the person committed an offense involving driving under the influence
24 of alcohol, controlled substances or drugs, or was lawfully taken
25 into custody for the purpose of administering a secondary test; and

1 (4) whether the tests, if any, were administered in accordance with
2 the provisions of this article and article five of this chapter.

3 (g) If, in addition to a finding that the person did drive a
4 motor vehicle while under the influence of alcohol, controlled
5 substances or drugs, or did drive a motor vehicle while having an
6 alcohol concentration in the person's blood of eight hundredths of
7 one percent or more, by weight, or did drive a motor vehicle while
8 under the age of twenty-one years with an alcohol concentration in
9 his or her blood of two hundredths of one percent or more, by weight,
10 but less than eight hundredths of one percent, by weight, the Office
11 of Administrative Hearings also finds by a preponderance of the
12 evidence that the person when driving did an act forbidden by law or
13 failed to perform a duty imposed by law, which act or failure
14 proximately caused the death of a person and was committed in
15 reckless disregard of the safety of others and if the Office of
16 Administrative Hearings further finds that the influence of alcohol,
17 controlled substances or drugs or the alcohol concentration in the
18 blood was a contributing cause to the death, the commissioner shall
19 revoke the person's license for a period of ten years: *Provided*, That
20 if the person's license has previously been suspended or revoked
21 under the provisions of this section or section one of this article
22 within the ten years immediately preceding the date of arrest, the
23 period of revocation shall be for the life of the person.

24 (h) If, in addition to a finding that the person did drive a
25 motor vehicle while under the influence of alcohol, controlled

1 substances or drugs, or did drive a motor vehicle while having an
2 alcohol concentration in the person's blood of eight hundredths of
3 one percent or more, by weight, the Office of Administrative Hearings
4 also finds by a preponderance of the evidence that the person when
5 driving did an act forbidden by law or failed to perform a duty
6 imposed by law, which act or failure proximately caused the death of
7 a person, the commissioner shall revoke the person's license for a
8 period of five years: *Provided*, That if the person's license has
9 previously been suspended or revoked under the provisions of this
10 section or section one of this article within the ten years
11 immediately preceding the date of arrest, the period of revocation
12 shall be for the life of the person.

13 (i) If, in addition to a finding that the person did drive a
14 motor vehicle while under the influence of alcohol, controlled
15 substances or drugs, or did drive a motor vehicle while having an
16 alcohol concentration in the person's blood of eight hundredths of
17 one percent or more, by weight, the Office of Administrative Hearings
18 also finds by a preponderance of the evidence that the person when
19 driving did an act forbidden by law or failed to perform a duty
20 imposed by law, which act or failure proximately caused bodily injury
21 to a person other than himself or herself, the commissioner shall
22 revoke the person's license for a period of two years: *Provided*, That
23 if the license has previously been suspended or revoked under the
24 provisions of this section or section one of this article within the
25 ten years immediately preceding the date of arrest, the period of

1 revocation shall be ten years: *Provided, however,* That if the
2 person's license has previously been suspended or revoked more than
3 once under the provisions of this section or section one of this
4 article within the ten years immediately preceding the date of
5 arrest, the period of revocation shall be for the life of the person.

6 (j) If the Office of Administrative Hearings finds by a
7 preponderance of the evidence that the person did drive a motor
8 vehicle while under the influence of alcohol, controlled substances
9 or drugs, or did drive a motor vehicle while having an alcohol
10 concentration in the person's blood of eight hundredths of one
11 percent or more, by weight, but less than fifteen hundredths of one
12 percent or more, by weight, or finds that the person knowingly
13 permitted the persons vehicle to be driven by another person who was
14 under the influence of alcohol, controlled substances or drugs, or
15 knowingly permitted the person's vehicle to be driven by another
16 person who had an alcohol concentration in his or her blood of eight
17 hundredths of one percent or more, by weight the commissioner shall
18 revoke the person's license for a period of six months or a period of
19 fifteen days with an additional one hundred and twenty days of
20 participation in the Motor Vehicle Alcohol Test and Lock Program in
21 accordance with the provisions of section three-a of this article:
22 *Provided,* That any period of participation in the Motor Vehicle
23 Alcohol Test and Lock Program that has been imposed by a court
24 pursuant to section two-b, article five of this chapter shall be
25 credited against any period of participation imposed by the

1 commissioner: *Provided, ~~further~~ however*, That a person whose license
2 is revoked for driving while under the influence of drugs is not
3 eligible to participate in the Motor Vehicle Alcohol Test and Lock
4 Program: *Provided ~~however~~ further*, That if the person's license has
5 previously been suspended or revoked under the provisions of this
6 section or section one of this article within the ten years
7 immediately preceding the date of arrest, the period of revocation
8 shall be ten years: *And provided further*, That if the person's
9 license has previously been suspended or revoked more than once under
10 the provisions of this section or section one of this article within
11 the ten years immediately preceding the date of arrest, the period of
12 revocation shall be for the life of the person.

13 (k) (1) If in addition to finding by a preponderance of the
14 evidence that the person did drive a motor vehicle while under the
15 influence of alcohol, controlled substance or drugs, the Office of
16 Administrative Hearings also finds by a preponderance of the evidence
17 that the person did drive a motor vehicle while having an alcohol
18 concentration in the person's blood of fifteen hundredths of one
19 percent or more, by weight, the commissioner shall revoke the
20 person's license for a period of forty-five days with an additional
21 two hundred and seventy days of participation in the Motor Vehicle
22 Alcohol Test and Lock Program in accordance with the provisions of
23 article three-a, article five-a, chapter seventeen-c of this code:
24 *Provided*, That if the person's license has previously been suspended
25 or revoked under the provisions of this section or section one of

1 this article within the ten years immediately preceding the date of
2 arrest, the period of revocation shall be ten years: *Provided,*
3 *however,* That if the person's license has previously been suspended
4 or revoked the person's license more than once under the provisions
5 of this section or section one of this article within the ten years
6 immediately preceding the date of arrest, the period of revocation
7 shall be for the life of the person.

8 (2) If a person whose license is revoked pursuant to subdivision
9 (1) of this subsection proves by clear and convincing evidence that
10 they do not own a motor vehicle upon which the alcohol test and lock
11 device may be installed or is otherwise incapable of participating in
12 the Motor Vehicle Alcohol Test and Lock Program, the period of
13 revocation shall be one hundred eighty days: *Provided,* That if the
14 person's license has previously been suspended or revoked under the
15 provisions of this section or section one of this article within the
16 ten years immediately preceding the date of arrest, the period of
17 revocation shall be ten years: *Provided, however,* That if the
18 person's license has previously been suspended or revoked more than
19 once under the provisions of this section or section one of this
20 article within the ten years immediately preceding the date of
21 arrest, the period of revocation shall be for the life of the person.

22 (1) If, in addition to a finding that the person did drive a
23 motor vehicle while under the age of twenty-one years with an alcohol
24 concentration in his or her blood of two hundredths of one percent or
25 more, by weight, but less than eight hundredths of one percent, by

1 weight, the Office of Administrative Hearings also finds by a
2 preponderance of the evidence that the person when driving did an act
3 forbidden by law or failed to perform a duty imposed by law, which
4 act or failure proximately caused the death of a person, and if the
5 Office of Administrative Hearings further finds that the alcohol
6 concentration in the blood was a contributing cause to the death, the
7 commissioner shall revoke the person's license for a period of five
8 years: *Provided*, That if the person's license has previously been
9 suspended or revoked under the provisions of this section or section
10 one of this article within the ten years immediately preceding the
11 date of arrest, the period of revocation shall be for the life of the
12 person.

13 (m) If, in addition to a finding that the person did drive a
14 motor vehicle while under the age of twenty-one years with an alcohol
15 concentration in his or her blood of two hundredths of one percent or
16 more, by weight, but less than eight hundredths of one percent, by
17 weight, the Office of Administrative Hearings also finds by a
18 preponderance of the evidence that the person when driving did an act
19 forbidden by law or failed to perform a duty imposed by law, which
20 act or failure proximately caused bodily injury to a person other
21 than himself or herself, and if the Office of Administrative Hearings
22 further finds that the alcohol concentration in the blood was a
23 contributing cause to the bodily injury, the commissioner shall
24 revoke the person's license for a period of two years: *Provided*, That
25 if the person's license has previously been suspended or revoked

1 under the provisions of this section or section one of this article
2 within the ten years immediately preceding the date of arrest, the
3 period of revocation shall be ten years: *Provided, however,* That if
4 the person's license has previously been suspended or revoked more
5 than once under the provisions of this section or section one of this
6 article within the ten years immediately preceding the date of
7 arrest, the period of revocation shall be for the life of the person.

8 (n) If the Office of Administrative Hearings finds by a
9 preponderance of the evidence that the person did drive a motor
10 vehicle while under the age of twenty-one years with an alcohol
11 concentration in his or her blood of two hundredths of one percent or
12 more, by weight, but less than eight hundredths of one percent, by
13 weight, the commissioner shall suspend the person's license for a
14 period of sixty days: *Provided,* That if the person's license has
15 previously been suspended or revoked under the provisions of this
16 section or section one of this article, the period of revocation
17 shall be for one year, or until the person's twenty-first birthday,
18 whichever period is longer.

19 (o) If, in addition to a finding that the person did drive a
20 motor vehicle while under the influence of alcohol, controlled
21 substances or drugs, or did drive a motor vehicle while having an
22 alcohol concentration in the person's blood of eight hundredths of
23 one percent or more, by weight, the Office of Administrative Hearings
24 also finds by a preponderance of the evidence that the person when
25 driving did have on or within the Motor vehicle another person who

1 has not reached his or her sixteenth birthday, the commissioner shall
2 revoke the person's license for a period of one year: *Provided, That*
3 if the person's license has previously been suspended or revoked
4 under the provisions of this section or section one of this article
5 within the ten years immediately preceding the date of arrest, the
6 period of revocation shall be ten years: *Provided, however, That* if
7 the person's license has previously been suspended or revoked more
8 than once under the provisions of this section or section one of this
9 article within the ten years immediately preceding the date of
10 arrest, the period of revocation shall be for the life of the person.

11 (p) For purposes of this section, where reference is made to
12 previous suspensions or revocations under this section, the following
13 types of criminal convictions or administrative suspensions or
14 revocations shall also be regarded as suspensions or revocations
15 under this section or section one of this article:

16 (1) Any administrative revocation under the provisions of the
17 prior enactment of this section for conduct which occurred within
18 the ten years immediately preceding the date of arrest;

19 (2) Any suspension or revocation on the basis of a conviction
20 under a municipal ordinance of another state or a statute of the
21 United States or of any other state of an offense which has the same
22 elements as an offense described in section two, article five of this
23 chapter for conduct which occurred within the ten years immediately
24 preceding the date of arrest; or

25 (3) Any revocation under the provisions of section seven,

1 article five of this chapter for conduct which occurred within the
2 ten years immediately preceding the date of arrest.

3 (q) In the case of a hearing in which a person is accused of
4 refusing to submit to a designated secondary test, the Office of
5 Administrative Hearings shall make specific findings as to: (1)
6 Whether the arresting law-enforcement officer had reasonable grounds
7 to believe the person had been driving a motor vehicle in this state
8 while under the influence of alcohol, controlled substances or drugs;
9 (2) whether the person was lawfully placed under arrest for an
10 offense involving driving under the influence of alcohol, controlled
11 substances or drugs, or was lawfully taken into custody for the
12 purpose of administering a secondary test: *Provided*, That this
13 element shall be waived in cases where no arrest occurred due to
14 driver incapacitation; (3) whether the person committed an offense
15 relating to driving a motor vehicle in this state while under the
16 influence of alcohol, controlled substances or drugs; (4) whether the
17 person refused to submit to the secondary test finally designated in
18 the manner provided in section four, article five of this chapter;
19 and (5) whether the person had been given a written statement
20 advising the person that the person's license to operate a motor
21 vehicle in this state would be revoked for at least forty-five days
22 and up to life if the person refused to submit to the test finally
23 designated in the manner provided in said section.

24 (r) If the Office of Administrative Hearings finds by a
25 preponderance of the evidence that: (1) The investigating officer had

1 reasonable grounds to believe the person had been driving a motor
2 vehicle in this state while under the influence of alcohol,
3 controlled substances or drugs; (2) whether the person was lawfully
4 placed under arrest for an offense involving driving under the
5 influence of alcohol, controlled substances or drugs, or was lawfully
6 taken into custody for the purpose of administering a secondary test:
7 *Provided*, That this element shall be waived in cases where no arrest
8 occurred due to driver incapacitation; (3) the person committed an
9 offense relating to driving a motor vehicle in this state while under
10 the influence of alcohol, controlled substances or drugs; (4) the
11 person refused to submit to the secondary test finally designated in
12 the manner provided in section four, article five of this chapter;
13 and (5) the person had been given a written statement advising the
14 person that the person's license to operate a motor vehicle in this
15 state would be revoked for at least forty-five days and up to life if
16 the person refused to submit to the test finally designated, the
17 commissioner shall revoke the person's license to operate a motor
18 vehicle in this state for the periods specified in section seven,
19 article five of this chapter. The revocation period prescribed in
20 this subsection shall run concurrently with any other revocation
21 period ordered under this section or section one of this article
22 arising out of the same occurrence. The revocation period prescribed
23 in this subsection shall run concurrently with any other revocation
24 period ordered under this section or section one of this article
25 arising out of the same occurrence.

1 (s) If the Office of Administrative Hearings finds to the
2 contrary with respect to the above issues the commissioner shall
3 rescind his or her earlier order of revocation or shall reduce the
4 order of revocation to the appropriate period of revocation under
5 this section or section seven, article five of this chapter. A copy
6 of the Office of Administrative Hearings' final order containing its
7 findings of fact and conclusions of law made and entered following
8 the hearing shall be served upon the person whose license is at issue
9 ~~and the commissioner~~ or upon the person's legal counsel if the person
10 is represented by legal counsel by registered or certified mail,
11 return receipt requested or by electronic mail if available. The
12 final order shall be served upon the commissioner by electronic mail.
13 During the pendency of any hearing, the revocation of the person's
14 license to operate a motor vehicle in this state shall be stayed.

15 A person whose license is at issue and the commissioner shall be
16 entitled to judicial review as set forth in chapter twenty-nine-a of
17 this code. Neither the Commissioner nor the Office of Administrative
18 Hearings may stay enforcement of the order. The court may grant a
19 stay or supersede as of the order only upon motion and hearing, and
20 a finding by the court upon the evidence presented, that there is a
21 substantial probability that the appellant shall prevail upon the
22 merits and the appellant will suffer irreparable harm if the order is
23 not stayed: *Provided*, That in no event shall the stay or supersede as
24 of the order exceed one hundred fifty days. Notwithstanding the
25 provisions of section four, article five of said chapter, the Office

1 of Administrative Hearings may not be compelled to transmit a
2 certified copy of the file or the transcript of the hearing to the
3 circuit court in less than sixty days.

4 (t) In any revocation or suspension pursuant to this section, if
5 the driver whose license is revoked or suspended had not reached the
6 driver's eighteenth birthday at the time of the conduct for which the
7 license is revoked or suspended, the driver's license shall be
8 revoked or suspended until the driver's eighteenth birthday or the
9 applicable statutory period of revocation or suspension prescribed by
10 this section, whichever is longer.

11 (u) Funds for this section's hearing and appeal process may be
12 provided from the Drunk Driving Prevention Fund, as created by
13 section forty-one, article two, chapter fifteen of this code, upon
14 application for the funds to the Commission on Drunk Driving
15 Prevention.

16 **ARTICLE 5C. OFFICE OF ADMINISTRATIVE HEARINGS.**

17 **§17C-5C-4a. Rule-making authority.**

18 The Office of Administrative Hearings may propose legislative
19 and procedural rules in accordance with the provisions of article
20 three, chapter twenty-nine-a of this code in order to implement the
21 provisions of this article and to carry out the duties prescribed
22 therein.

23 **§17C-5C-4b. Duty to provide notice of change of address.**

24 Any person who has any pending contested matter before the
25 Office of Administrative Hearings is required to provide written

1 notice of a change in address by written notice at least ten days
2 prior to any scheduled hearing in which they are a party. If the
3 person's final hearing is held prior to the person's change in
4 address, then the person is required to provide the written notice
5 prior to the issuance of the final order in their case. Written
6 notice must be provided by certified mail, return receipt requested,
7 facsimile, or by electronic mail, to the Office of Administrative
8 Hearings.

(NOTE: The purpose of this bill is to update statutory provisions relating to procedures of the Office of Administrative Hearings. The bill provides that written objections to revocation notices may be filed by facsimile or e-mail. It requires notices of hearing to be sent to the parties and their legal counsel. The bill provides that the Office of Administrative Hearings has subpoena authority and that parties may enforce subpoenas in circuit court. The bill deletes language indicating that a notice of hearing sent by certified or registered mail to a law-enforcement officer constitutes a subpoena to appear. It authorizes the Office of Administrative Hearings to propose legislative rules "to implement the provisions of this article and to carry out the duties prescribed therein." And the bill requires persons with pending cases to provide written notice of change of address.

§17C-5C-4a and §17C-5C-4b are new; therefore, strike-throughs and underscoring have been omitted.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)