

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 512**

(By Senators Palumbo and Beach)

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[Originating in the Committee on the Judiciary;  
reported February 24, 2012.]

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A BILL to amend and reenact §17C-5A-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §17C-5C-4a and §17C-5C-4b, all relating to updating statutory provisions relating to procedures of the Office of Administrative Hearings; providing written objections to revocation notices may be filed by facsimile or e-mail; providing notices of hearing are sent to the parties and their legal counsel; providing that the Office of Administrative Hearings has subpoena authority; providing that parties may enforce Office of Administrative Hearings subpoenas in circuit court; providing that the Division of

Motor Vehicles may serve subpoenas to law-enforcement officers by electronic mail; deleting language indicating that a notice of hearing sent by certified or registered mail to a law-enforcement officer constitutes a subpoena to appear; authorizing 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 requiring persons with pending contested matters to provide notice of change of address.

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

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

**ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION  
AND REVOCATION OF LICENSES FOR DRIVING  
UNDER THE INFLUENCE OF ALCOHOL, CON-  
TROLLED SUBSTANCES OR DRUGS.**

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

- 1 (a) Written objections to an order of revocation or
- 2 suspension under the provisions of section one of this article
- 3 or section seven, article five of this chapter shall be filed

4 with the Office of Administrative Hearings. Upon the receipt  
5 of an objection, the Office of Administrative Hearings shall  
6 notify the Commissioner of the Division of Motor Vehicles,  
7 who shall stay the imposition of the period of revocation or  
8 suspension and afford the person an opportunity to be heard by  
9 the Office of Administrative Hearings. The written objec-  
10 tion must be filed with Office of Administrative Hearings in  
11 person, ~~or~~ by registered or certified mail, return receipt  
12 requested, or by facsimile transmission or electronic mail  
13 within thirty calendar days after receipt of a copy of the order  
14 of revocation or suspension or no hearing will be granted:  
15 Provided, That a successful transmittal sheet shall be  
16 necessary for proof of written objection in the case of filing  
17 by fax. The hearing shall be before a hearing examiner  
18 employed by the Office of Administrative Hearings who  
19 shall rule on evidentiary issues. Upon consideration of the  
20 designated record, the hearing examiner shall, based on the  
21 determination of the facts of the case and applicable law,  
22 render a decision affirming, reversing or modifying the  
23 action protested. The decision shall contain findings of fact  
24 and conclusions of law and shall be provided to all parties by  
25 registered or certified mail, return receipt requested.

26 (b) The hearing shall be held at an office of the Division of  
27 Motor Vehicles located in or near the county in which the  
28 arrest was made in this state or at some other suitable place in  
29 the county in which the arrest was made if an office of the  
30 division is not available. The Office of Administrative Hear-  
31 ings shall send a notice of hearing to the person whose ~~license~~  
32 ~~is~~ driving privileges are at issue and the person's legal counsel  
33 if the person is represented by legal counsel, the appropriate  
34 investigating or arresting law-enforcement officers, the  
35 Division of Motor Vehicles, the prosecuting attorney and the  
36 Attorney General's Office, if the Attorney General has filed a  
37 notice of appearance of counsel on behalf of the Division of  
38 Motor Vehicles.

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

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

47       (3) The Office of Administrative Hearings may issue  
48 subpoenas commanding the appearance of witnesses and  
49 subpoenas duces tecum commanding the submission of  
50 documents, items or other things. Subpoenas duces tecum  
51 shall be returnable on the date of the next scheduled hearing  
52 unless otherwise specified. The Office of Administrative  
53 hearings shall issue subpoenas and subpoenas duces tecum at  
54 the request of a party or the party's legal representative. The  
55 party requesting the subpoena shall be responsible for service  
56 of the subpoena upon the appropriate individual. Every  
57 subpoena or subpoena duces tecum shall be served at least five  
58 days before the return date thereof, either by personal service  
59 made by a person over eighteen years of age or by registered  
60 or certified mail, return receipt requested, and received by the  
61 party responsible for serving the subpoena or subpoena duces  
62 tecum: *Provided*, That the Division of Motor Vehicles may  
63 serve subpoenas to law-enforcement officers through elec-  
64 tronic mail to the department of his or her employer. If a  
65 person does not obey the subpoena or fails to appear, the party  
66 who issued the subpoena to the person may petition the circuit  
67 court wherein the action lies for enforcement of the subpoena.

68       ~~(3) A notice of hearing to the appropriate law-enforcement~~  
69 ~~officers by registered or certified mail, return receipt re-~~  
70 ~~quested, constitutes a subpoena to appear at the hearing~~  
71 ~~without the necessity of payment of fees by the Division of~~  
72 ~~Motor Vehicles.~~

73       (d) Law-enforcement officers shall be compensated for the  
74 time expended in their travel and appearance before the Office  
75 of Administrative Hearings by the law-enforcement agency by  
76 whom they are employed at their regular rate if they are  
77 scheduled to be on duty during said time or at their regular  
78 overtime rate if they are scheduled to be off duty during said  
79 time.

80       (e) The principal question at the hearing shall be whether  
81 ~~there are reasonable grounds to believe that~~ the person did  
82 drive a motor vehicle while under the influence of alcohol,  
83 controlled substances or drugs, or did drive a motor vehicle  
84 while having an alcohol concentration in the person's blood of  
85 eight hundredths of one percent or more, by weight, or did  
86 refuse to submit to the designated secondary chemical test, or  
87 did drive a motor vehicle while under the age of twenty-one  
88 years with an alcohol concentration in his or her blood of two

89 hundredths of one percent or more, by weight, but less than  
90 eight hundredths of one percent, by weight.

91 (f) In the case of a hearing in which a person is accused of  
92 driving a motor vehicle while under the influence of alcohol,  
93 controlled substances or drugs, or accused of driving a motor  
94 vehicle while having an alcohol concentration in the person's  
95 blood of eight hundredths of one percent or more, by weight,  
96 or accused of driving a motor vehicle while under the age of  
97 twenty-one years with an alcohol concentration in his or her  
98 blood of two hundredths of one percent or more, by weight,  
99 but less than eight hundredths of one percent, by weight, the  
100 Office of Administrative Hearings shall make specific findings  
101 as to: (1) Whether the investigating law-enforcement officer  
102 had reasonable grounds to believe the person to have been  
103 driving while under the influence of alcohol, controlled  
104 substances or drugs, or while having an alcohol concentration  
105 in the person's blood of eight hundredths of one percent or  
106 more, by weight, or to have been driving a motor vehicle while  
107 under the age of twenty-one years with an alcohol concentra-  
108 tion in his or her blood of two hundredths of one percent or  
109 more, by weight, but less than eight hundredths of one  
110 percent, by weight; (2) whether the person was lawfully placed

111 under arrest for an offense involving driving under the  
112 influence of alcohol, controlled substances or drugs, or was  
113 lawfully taken into custody for the purpose of administering  
114 a secondary test: *Provided*, That this element shall be waived  
115 in cases where no arrest occurred due to driver incapacitation;  
116 (3) whether the person committed an offense involving driving  
117 under the influence of alcohol, controlled substances or drugs,  
118 or was lawfully taken into custody for the purpose of adminis-  
119 tering a secondary test; and (4) whether the tests, if any, were  
120 administered in accordance with the provisions of this article  
121 and article five of this chapter.

122 (g) If, in addition to a finding that the person did drive a  
123 motor vehicle while under the influence of alcohol, controlled  
124 substances or drugs, or did drive a motor vehicle while having  
125 an alcohol concentration in the person's blood of eight  
126 hundredths of one percent or more, by weight, or did drive a  
127 motor vehicle while under the age of twenty-one years with an  
128 alcohol concentration in his or her blood of two hundredths of  
129 one percent or more, by weight, but less than eight hundredths  
130 of one percent, by weight, the Office of Administrative  
131 Hearings also finds by a preponderance of the evidence that  
132 the person when driving did an act forbidden by law or failed



133 to perform a duty imposed by law, which act or failure  
134 proximately caused the death of a person and was committed  
135 in reckless disregard of the safety of others and if the Office of  
136 Administrative Hearings further finds that the influence of  
137 alcohol, controlled substances or drugs or the alcohol concen-  
138 tration in the blood was a contributing cause to the death, the  
139 commissioner shall revoke the person's license for a period of  
140 ten years: *Provided*, That if the person's license has previously  
141 been suspended or revoked under the provisions of this section  
142 or section one of this article within the ten years immediately  
143 preceding the date of arrest, the period of revocation shall be  
144 for the life of the person.

145 (h) If, in addition to a finding that the person did drive a  
146 motor vehicle while under the influence of alcohol, controlled  
147 substances or drugs, or did drive a motor vehicle while having  
148 an alcohol concentration in the person's blood of eight  
149 hundredths of one percent or more, by weight, the Office of  
150 Administrative Hearings also finds by a preponderance of the  
151 evidence that the person when driving did an act forbidden by  
152 law or failed to perform a duty imposed by law, which act or  
153 failure proximately caused the death of a person, the commis-  
154 sioner shall revoke the person's license for a period of five

155 years: *Provided*, That if the person's license has previously  
156 been suspended or revoked under the provisions of this section  
157 or section one of this article within the ten years immediately  
158 preceding the date of arrest, the period of revocation shall be  
159 for the life of the person.

160 (i) If, in addition to a finding that the person did drive a  
161 motor vehicle while under the influence of alcohol, controlled  
162 substances or drugs, or did drive a motor vehicle while having  
163 an alcohol concentration in the person's blood of eight  
164 hundredths of one percent or more, by weight, the Office of  
165 Administrative Hearings also finds by a preponderance of the  
166 evidence that the person when driving did an act forbidden by  
167 law or failed to perform a duty imposed by law, which act or  
168 failure proximately caused bodily injury to a person other  
169 than himself or herself, the commissioner shall revoke the  
170 person's license for a period of two years: *Provided*, That if the  
171 license has previously been suspended or revoked under the  
172 provisions of this section or section one of this article within  
173 the ten years immediately preceding the date of arrest, the  
174 period of revocation shall be ten years: *Provided, however*,  
175 That if the person's license has previously been suspended or  
176 revoked more than once under the provisions of this section or

177 section one of this article within the ten years immediately  
178 preceding the date of arrest, the period of revocation shall be  
179 for the life of the person.

180 (j) If the Office of Administrative Hearings finds by a  
181 preponderance of the evidence that the person did drive a  
182 motor vehicle while under the influence of alcohol, controlled  
183 substances or drugs, or did drive a motor vehicle while having  
184 an alcohol concentration in the person's blood of eight  
185 hundredths of one percent or more, by weight, but less than  
186 fifteen hundredths of one percent or more, by weight, or finds  
187 that the person knowingly permitted the persons vehicle to be  
188 driven by another person who was under the influence of  
189 alcohol, controlled substances or drugs, or knowingly permit-  
190 ted the person's vehicle to be driven by another person who  
191 had an alcohol concentration in his or her blood of eight  
192 hundredths of one percent or more, by weight the commis-  
193 sioner shall revoke the person's license for a period of six  
194 months or a period of fifteen days with an additional one  
195 hundred and twenty days of participation in the Motor Vehicle  
196 Alcohol Test and Lock Program in accordance with the  
197 provisions of section three-a of this article: *Provided*, That any  
198 period of participation in the Motor Vehicle Alcohol Test and

199 Lock Program that has been imposed by a court pursuant to  
200 section two-b, article five of this chapter shall be credited  
201 against any period of participation imposed by the commis-  
202 sioner: *Provided, further however*, That a person whose license  
203 is revoked for driving while under the influence of drugs is not  
204 eligible to participate in the Motor Vehicle Alcohol Test and  
205 Lock Program: *Provided however further*, That if the person's  
206 license has previously been suspended or revoked under the  
207 provisions of this section or section one of this article within  
208 the ten years immediately preceding the date of arrest, the  
209 period of revocation shall be ten years: *And provided further*,  
210 That if the person's license has previously been suspended or  
211 revoked more than once under the provisions of this section or  
212 section one of this article within the ten years immediately  
213 preceding the date of arrest, the period of revocation shall be  
214 for the life of the person.

215 (k) (1) If in addition to finding by a preponderance of the  
216 evidence that the person did drive a motor vehicle while under  
217 the influence of alcohol, controlled substance or drugs, the  
218 Office of Administrative Hearings also finds by a preponder-  
219 ance of the evidence that the person did drive a motor vehicle  
220 while having an alcohol concentration in the person's blood of

221 fifteen hundredths of one percent or more, by weight, the  
222 commissioner shall revoke the person's license for a period of  
223 forty-five days with an additional two hundred and seventy  
224 days of participation in the Motor Vehicle Alcohol Test and  
225 Lock Program in accordance with the provisions of article  
226 three-a, article five-a, chapter seventeen-c of this code:  
227 *Provided*, That if the person's license has previously been  
228 suspended or revoked under the provisions of this section or  
229 section one of this article within the ten years immediately  
230 preceding the date of arrest, the period of revocation shall be  
231 ten years: *Provided, however*, That if the person's license has  
232 previously been suspended or revoked the person's license  
233 more than once under the provisions of this section or section  
234 one of this article within the ten years immediately preceding  
235 the date of arrest, the period of revocation shall be for the life  
236 of the person.

237 (2) If a person whose license is revoked pursuant to  
238 subdivision (1) of this subsection proves by clear and convinc-  
239 ing evidence that they do not own a motor vehicle upon which  
240 the alcohol test and lock device may be installed or is other-  
241 wise incapable of participating in the Motor Vehicle Alcohol  
242 Test and Lock Program, the period of revocation shall be one

243 hundred eighty days: *Provided*, That if the person's license has  
244 previously been suspended or revoked under the provisions of  
245 this section or section one of this article within the ten years  
246 immediately preceding the date of arrest, the period of  
247 revocation shall be ten years: *Provided, however*, That if the  
248 person's license has previously been suspended or revoked  
249 more than once under the provisions of this section or section  
250 one of this article within the ten years immediately preceding  
251 the date of arrest, the period of revocation shall be for the life  
252 of the person.

253 (1) If, in addition to a finding that the person did drive a  
254 motor vehicle while under the age of twenty-one years with an  
255 alcohol concentration in his or her blood of two hundredths of  
256 one percent or more, by weight, but less than eight hundredths  
257 of one percent, by weight, the Office of Administrative  
258 Hearings also finds by a preponderance of the evidence that  
259 the person when driving did an act forbidden by law or failed  
260 to perform a duty imposed by law, which act or failure  
261 proximately caused the death of a person, and if the Office of  
262 Administrative Hearings further finds that the alcohol  
263 concentration in the blood was a contributing cause to the  
264 death, the commissioner shall revoke the person's license for

265 a period of five years: *Provided*, That if the person's license  
266 has previously been suspended or revoked under the provi-  
267 sions of this section or section one of this article within the ten  
268 years immediately preceding the date of arrest, the period of  
269 revocation shall be for the life of the person.

270 (m) If, in addition to a finding that the person did drive a  
271 motor vehicle while under the age of twenty-one years with an  
272 alcohol concentration in his or her blood of two hundredths of  
273 one percent or more, by weight, but less than eight hundredths  
274 of one percent, by weight, the Office of Administrative  
275 Hearings also finds by a preponderance of the evidence that  
276 the person when driving did an act forbidden by law or failed  
277 to perform a duty imposed by law, which act or failure  
278 proximately caused bodily injury to a person other than  
279 himself or herself, and if the Office of Administrative Hearings  
280 further finds that the alcohol concentration in the blood was  
281 a contributing cause to the bodily injury, the commissioner  
282 shall revoke the person's license for a period of two years:  
283 *Provided*, That if the person's license has previously been  
284 suspended or revoked under the provisions of this section or  
285 section one of this article within the ten years immediately  
286 preceding the date of arrest, the period of revocation shall be

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

292 (n) If the Office of Administrative Hearings finds by a  
293 preponderance of the evidence that the person did drive a  
294 motor vehicle while under the age of twenty-one years with an  
295 alcohol concentration in his or her blood of two hundredths of  
296 one percent or more, by weight, but less than eight hundredths  
297 of one percent, by weight, the commissioner shall suspend the  
298 person's license for a period of sixty days: *Provided,* That if  
299 the person's license has previously been suspended or revoked  
300 under the provisions of this section or section one of this  
301 article, the period of revocation shall be for one year, or until  
302 the person's twenty-first birthday, whichever period is longer.

303 (o) If, in addition to a finding that the person did drive a  
304 motor vehicle while under the influence of alcohol, controlled  
305 substances or drugs, or did drive a motor vehicle while having  
306 an alcohol concentration in the person's blood of eight  
307 hundredths of one percent or more, by weight, the Office of  
308 Administrative Hearings also finds by a preponderance of the



309 evidence that the person when driving did have on or within  
310 the Motor vehicle another person who has not reached his or  
311 her sixteenth birthday, the commissioner shall revoke the  
312 person's license for a period of one year: *Provided*, That if the  
313 person's license has previously been suspended or revoked  
314 under the provisions of this section or section one of this  
315 article within the ten years immediately preceding the date of  
316 arrest, the period of revocation shall be ten years: *Provided*,  
317 *however*, That if the person's license has previously been  
318 suspended or revoked more than once under the provisions of  
319 this section or section one of this article within the ten years  
320 immediately preceding the date of arrest, the period of  
321 revocation shall be for the life of the person.

322 (p) For purposes of this section, where reference is made to  
323 previous suspensions or revocations under this section, the  
324 following types of criminal convictions or administrative  
325 suspensions or revocations shall also be regarded as suspen-  
326 sions or revocations under this section or section one of this  
327 article:

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

331 (2) Any suspension or revocation on the basis of a convic-  
332 tion under a municipal ordinance of another state or a statute  
333 of the United States or of any other state of an offense which  
334 has the same elements as an offense described in section two,  
335 article five of this chapter for conduct which occurred within  
336 the ten years immediately preceding the date of arrest; or

337 (3) Any revocation under the provisions of section seven,  
338 article five of this chapter for conduct which occurred within  
339 the ten years immediately preceding the date of arrest.

340 (q) In the case of a hearing in which a person is accused of  
341 refusing to submit to a designated secondary test, the Office of  
342 Administrative Hearings shall make specific findings as to: (1)  
343 Whether the arresting law-enforcement officer had reasonable  
344 grounds to believe the person had been driving a motor vehicle  
345 in this state while under the influence of alcohol, controlled  
346 substances or drugs; (2) whether the person was lawfully  
347 placed under arrest for an offense involving driving under the  
348 influence of alcohol, controlled substances or drugs, or was  
349 lawfully taken into custody for the purpose of administering  
350 a secondary test: *Provided*, That this element shall be waived  
351 in cases where no arrest occurred due to driver incapacitation;  
352 (3) whether the person committed an offense relating to

353 driving a motor vehicle in this state while under the influence  
354 of alcohol, controlled substances or drugs; (4) whether the  
355 person refused to submit to the secondary test finally desig-  
356 nated in the manner provided in section four, article five of  
357 this chapter; and (5) whether the person had been given a  
358 written statement advising the person that the person's license  
359 to operate a motor vehicle in this state would be revoked for  
360 at least forty-five days and up to life if the person refused to  
361 submit to the test finally designated in the manner provided in  
362 said section.

363 (r) If the Office of Administrative Hearings finds by a  
364 preponderance of the evidence that: (1) The investigating  
365 officer had reasonable grounds to believe the person had been  
366 driving a motor vehicle in this state while under the influence  
367 of alcohol, controlled substances or drugs; (2) whether the  
368 person was lawfully placed under arrest for an offense  
369 involving driving under the influence of alcohol, controlled  
370 substances or drugs, or was lawfully taken into custody for the  
371 purpose of administering a secondary test: *Provided*, That this  
372 element shall be waived in cases where no arrest occurred due  
373 to driver incapacitation; (3) the person committed an offense  
374 relating to driving a motor vehicle in this state while under the

375 influence of alcohol, controlled substances or drugs; (4) the  
376 person refused to submit to the secondary test finally desig-  
377 nated in the manner provided in section four, article five of  
378 this chapter; and (5) the person had been given a written  
379 statement advising the person that the person's license to  
380 operate a motor vehicle in this state would be revoked for at  
381 least forty-five days and up to life if the person refused to  
382 submit to the test finally designated, the commissioner shall  
383 revoke the person's license to operate a motor vehicle in this  
384 state for the periods specified in section seven, article five of  
385 this chapter. The revocation period prescribed in this subsec-  
386 tion shall run concurrently with any other revocation period  
387 ordered under this section or section one of this article arising  
388 out of the same occurrence. The revocation period prescribed  
389 in this subsection shall run concurrently with any other  
390 revocation period ordered under this section or section one of  
391 this article arising out of the same occurrence.

392 (s) If the Office of Administrative Hearings finds to the  
393 contrary with respect to the above issues the commissioner  
394 shall rescind his or her earlier order of revocation or shall  
395 reduce the order of revocation to the appropriate period of  
396 revocation under this section or section seven, article five of

397 this chapter. A copy of the Office of Administrative Hearings’  
398 final order containing its findings of fact and conclusions of  
399 law made and entered following the hearing shall be served  
400 upon the person whose license is at issue ~~and the commis-~~  
401 ~~sioner~~ or upon the person’s legal counsel if the person is  
402 represented by legal counsel by registered or certified mail,  
403 return receipt requested or by electronic mail if available. The  
404 final order shall be served upon the commissioner by elec-  
405 tronic mail. During the pendency of any hearing, the revoca-  
406 tion of the person’s license to operate a motor vehicle in this  
407 state shall be stayed.

408       A person whose license is at issue and the commissioner  
409 shall be entitled to judicial review as set forth in chapter  
410 twenty-nine-a of this code. Neither the Commissioner nor the  
411 Office of Administrative Hearings may stay enforcement of the  
412 order. The court may grant a stay or supersede as of the order  
413 only upon motion and hearing, and a finding by the court upon  
414 the evidence presented, that there is a substantial probability  
415 that the appellant shall prevail upon the merits and the  
416 appellant will suffer irreparable harm if the order is not  
417 stayed: *Provided*, That in no event shall the stay or supersede  
418 as of the order exceed one hundred fifty days. Notwithstand-

419 ing the provisions of section four, article five of said chapter,  
420 the Office of Administrative Hearings may not be compelled  
421 to transmit a certified copy of the file or the transcript of the  
422 hearing to the circuit court in less than sixty days.

423 (t) In any revocation or suspension pursuant to this  
424 section, if the driver whose license is revoked or suspended  
425 had not reached the driver's eighteenth birthday at the time of  
426 the conduct for which the license is revoked or suspended, the  
427 driver's license shall be revoked or suspended until the driver's  
428 eighteenth birthday or the applicable statutory period of  
429 revocation or suspension prescribed by this section, whichever  
430 is longer.

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

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

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

1 The Office of Administrative Hearings may propose  
2 legislative and procedural rules in accordance with the  
3 provisions of article three, chapter twenty-nine-a of this code

4 in order to implement the provisions of this article and to  
 5 carry out the duties prescribed therein.

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

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

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(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.)