HOUSE BILL 1495

D3, P3, P4

6lr2108

CF SB 942

By: Delegates Cullison, Haynes, Healey, Kelly, Pena-Melnyk, Reznik, Sample-Hughes, and Vallario

Introduced and read first time: February 12, 2016 Assigned to: Health and Government Operations

A BILL ENTITLED

1	AN ACT concerning
2 3	State Government - Administrative Procedure Act - Contested Cases - Judicial Review
4 5 6 7 8	FOR the purpose of altering the circumstances under which a court may reverse or modify the decision of an agency on judicial review under the Administrative Procedure Act in a case in which an employee is disciplined, suspended, or terminated from employment; and generally relating to judicial review of contested cases under the Administrative Procedure Act.
9 10 11 12 13	BY repealing and reenacting, with amendments, Article – State Government Section 10–222 Annotated Code of Maryland (2014 Replacement Volume and 2015 Supplement)
14 15	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND That the Laws of Maryland read as follows:
16	Article - State Government
17	10–222.
18 19 20	(a) (1) Except as provided in subsection (b) of this section, a party who is aggrieved by the final decision in a contested case is entitled to judicial review of the decision as provided in this section.
21 22	(2) An agency, including an agency that has delegated a contested case to the Office, is entitled to judicial review of a decision as provided in this section if the agency

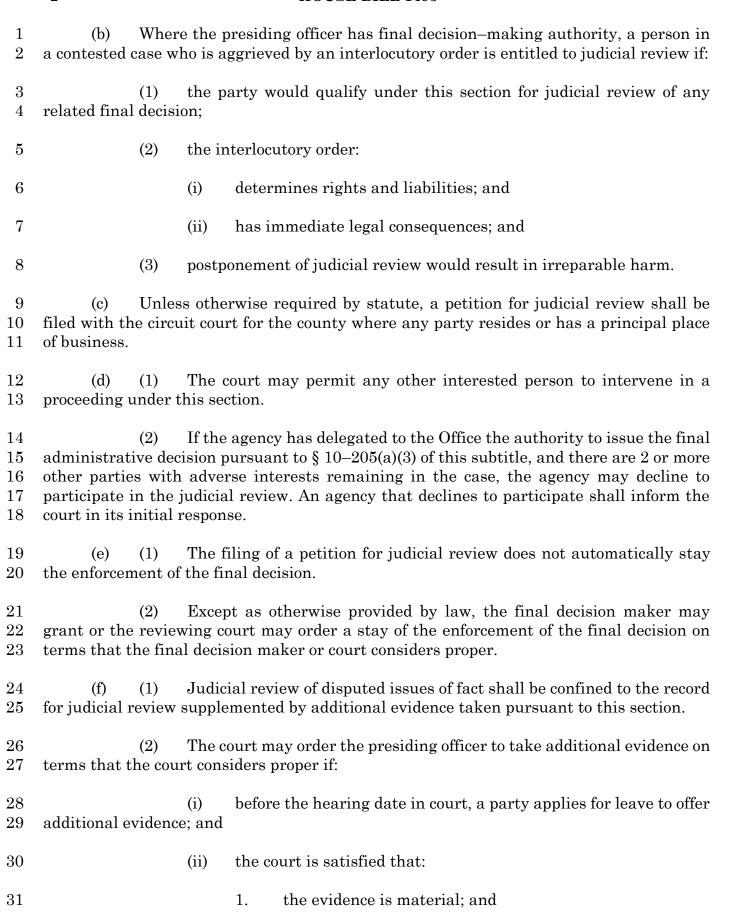
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

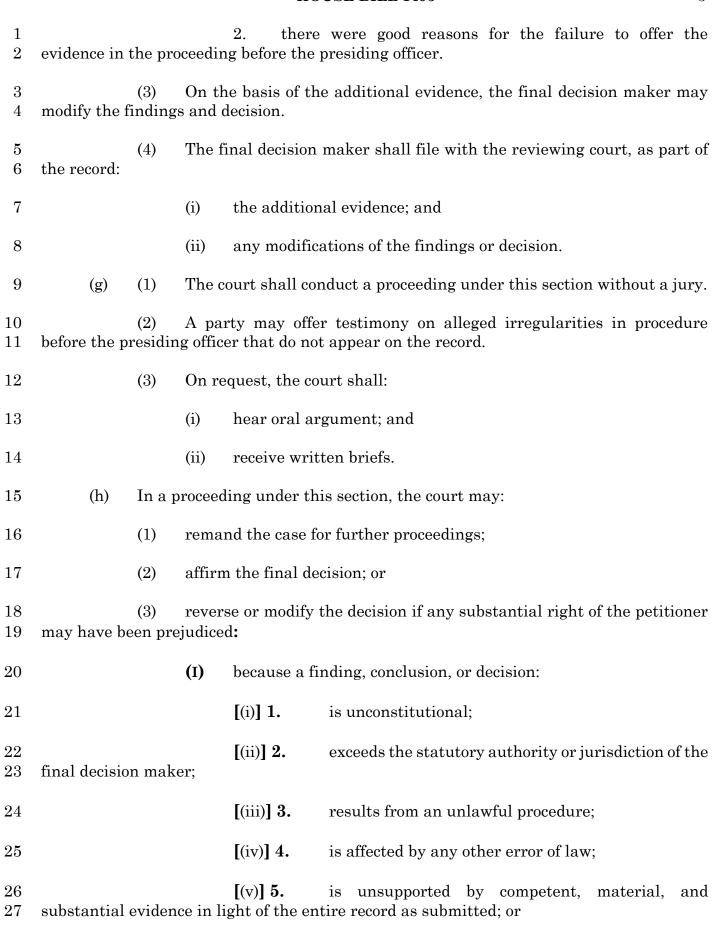
[Brackets] indicate matter deleted from existing law.

was a party before the agency or the Office.

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1	[(vi)] 6. is arbitrary or capricious; AND
2	(II) IN A CASE INVOLVING A FINAL DECISION BY WHICH AN
3	EMPLOYEE OF AN AGENCY IS DISCIPLINED, SUSPENDED, OR TERMINATED FROM
4	EMPLOYMENT, BECAUSE THE DECISION:
5	1. FAILS TO REASONABLY STATE THE BASIS FOR THE
6	AGENCY'S DETERMINATION OF EMPLOYEE MISCONDUCT;
7	2. IS NOT CONSISTENT WITH THE AGENCY'S PAST
8	PRACTICES, RULES, OR REGULATIONS;
9	3. FAILS TO INCLUDE FINDINGS OF FACT OR TO EXPLAIN
10	THE RATIONALE FOR THE SANCTION ADOPTED; OR
11	4. PROVIDES FOR A SANCTION THAT IS NOT CONSISTENT
12	OR IN PROPORTION WITH THE EMPLOYEE MISCONDUCT FOUND OR WITH PENALTIES
13	IMPOSED BY THE AGENCY PREVIOUSLY FOR SIMILAR EMPLOYEE MISCONDUCT.
14	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15	October 1, 2016.