

## (G) CHAIRPERSON.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL DESIGNATE A CHAIRPERSON OF THE COMMISSION FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-502(b), (c), and (d).

In subsection (d)(2) of this section, the reference to serving until a successor is "appointed" and qualifies is added to state expressly that which was only implied in the former law.

In subsection (d)(3) of this section, the reference to serving "until a successor is appointed and qualifies" is standard language added to avoid gaps in membership by indicating that a member serves until a successor takes office. This addition is supported by the holdings in Benson v. Mellor, 152 Md. 481 (1927) and Grooms v. LaVale Zoning Board, 27 Md. App. 266 (1975).

In subsection (f)(3) of this section, the reference to a "proceeding" is substituted for the former reference to a "case" to clarify that a hearing examiner is not forever barred from sitting as a commissioner in a case in which the hearing examiner previously participated as a hearing examiner. The Correctional Services Article Review Committee assumed that a hearing examiner is prohibited from sitting as a commissioner in a proceeding before the Commission involving a review of that particular hearing examiner's decision to grant or deny parole to an inmate but is not prohibited from sitting as a commissioner in a proceeding before the Commission involving a review of another hearing examiner's subsequent decision to grant or deny parole to the same inmate. If the General Assembly intended that subsection (f)(3) be interpreted in a different way, it should be amended to clearly reflect that intent.

Also in subsection (f)(3) of this section, the prohibition against a hearing examiner participating in a proceeding "before the Commission" is added to state expressly that which was only implied in the former law. A hearing examiner who sits as a commissioner is prohibited from participating in a proceeding "before the Commission" in which the hearing examiner participated as a hearing examiner. However, the hearing examiner is not prohibited from handling matters relating to the inmate's case after resuming duties as a hearing examiner.

Defined terms: "Commission" § 7-101

"Commissioner" § 7-101

"Secretary" § 1-101

## 7-203. COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

## (A) IN GENERAL.

EACH COMMISSIONER IS ENTITLED TO: