

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 255
Judiciary

(Delegate Moon, *et al.*)

Correctional Services - Medical Parole - Approval of Governor

This bill repeals the requirement that the Governor approve medical parole for a person serving a life sentence. The bill requires the Maryland Parole Commission (MPC) to require as a condition of release on medical parole that the parolee (1) agree to placement for a definite or indefinite period of time in a hospital or hospice or other housing accommodation suitable to the parolee's medical condition as specified by MPC; (2) forward authentic copies of applicable medical records to indicate that the particular medical condition giving rise to the release continues to exist; and (3) is enrolled in an appropriate medical program, including Medicare or Medicaid, before release.

Fiscal Summary

State Effect: General fund incarceration expenditures decrease to the extent any inmates are granted parole as a result of the bill or granted parole earlier than they otherwise would be, but these savings are likely offset by increased Medicaid expenditures (60% federal funds, 40% general funds) due to increased enrollment. Federal matching fund revenues increase accordingly.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Chapter 299 of 2008 established medical parole as a form of release from incarceration in a State or local correctional facility for incapacitated inmates who, as a result of a medical or mental health condition, disease, or syndrome, pose no danger to

public safety. Currently, MPC is *authorized* to require as a condition of release on medical parole that the parolee (1) agree to placement for a definite or indefinite period of time in a hospital or hospice or other housing accommodation suitable to the parolee's medical condition as specified by MPC and (2) forward authentic copies of applicable medical records to indicate that the particular medical condition giving rise to the release continues to exist. A medical parole for a person serving a life sentence requires the approval of the Governor.

MPC has the exclusive power to authorize the parole of an inmate in State correctional facilities. The Patuxent Board of Review (PBR) has the exclusive power to recommend an inmate of the Patuxent Institution for parole to the Secretary of Public Safety and Correctional Services or the Governor. The parole of any person serving a parole-eligible term of life in either a State correctional facility or the Patuxent Institution requires the approval of the Governor.

A person sentenced to a term of incarceration of six months or more is entitled to a parole hearing after having served one-fourth of the term or consecutive terms. A person serving a sentence for a crime of violence is not entitled to a parole hearing until after having served one-half of the term. Certain persons are not eligible for parole while serving a mandatory minimum sentence. A person sentenced to life imprisonment is not eligible for parole consideration until that person has served 15 years. Under specified circumstances, a person sentenced to life imprisonment for first-degree murder is not eligible for parole consideration until that person has served 25 years. An inmate sentenced to life imprisonment without the possibility of parole is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence. This does not restrict the authority of the Governor to pardon or remit any part of a sentence.

Chapter 623 of 2011 provided that, if MPC or PBR decides to grant parole to an inmate sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, the decision must be transmitted to the Governor, who may disapprove the decision in writing within 180 days. However, if the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective. For individuals whose parole recommendation was pending approval by the Governor on October 1, 2011, and who had served 25 years without consideration for diminution credits, the Governor had 180 days after that date to disapprove the recommendation or the parole became effective. Chapter 623 retained provisions requiring gubernatorial approval for parole of an eligible person or inmate serving a term of life imprisonment who has served 15 years, considering allowances for diminution credits (or 25 years in the case of a person whose case started as a death penalty proceeding).

Background: Exhibit 1 shows recent data on the number of inmates approved for medical parole.

Exhibit 1
Number of Inmates Approved for Medical Parole

<u>Calendar Year</u>	<u>Inmates Approved</u>
2014	8
2015	8
2016	1

Source: Department of Public Safety and Correctional Services

State Fiscal Effect: The Department of Health and Mental Hygiene (DHMH) advises that the department currently works with other State agencies to enroll incarcerated individuals in Medicare and Medicaid upon release. DHMH further advises that the Department of Public Safety and Correctional Services (DPSCS) works with DPSCS' medical vendor, Wexford, to facilitate Medicaid eligibility. Both Wexford and the Department of Human Resources have funded positions to assist applicants in applying for benefits while incarcerated and during pre-release planning. As a result, the bill's requirement for the parolee to be enrolled in an appropriate medical program before release can be handled with existing resources. However, MPC reports that the requirement could result in a delay in release depending on obstacles encountered during the enrollment process.

In addition, MPC advises that the bill's requirement for offenders being considered for medical parole to be placed in a hospital, hospice, or other housing suitable to the parolee's medical condition results in operational impacts for MPC. Such placements are challenging as many facilities are not willing to accept someone on parole due to concerns from other patients and families. In most cases, the family of the offender does not have the financial, emotional, or physical resources to care for the offender at home.

Despite these potential operational impacts, because approval of the Governor, which requires time for executive staff review, is currently necessary for medical parole for a person serving a life sentence, shifting the authority solely to MPC may expedite the process for such offenders.

Based on the data shown in Exhibit 1, it is assumed that the number of offenders granted medical parole under the bill is minimal. However, to the extent any inmates are granted parole as a result of the bill or granted parole earlier than they otherwise would be, general fund expenditures related to incarceration decrease. Persons serving a sentence longer than

18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,300 per month. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$770 per month, or \$9,240 per year. Excluding all health care, the average variable costs total \$200 per month.

While incarceration expenditures may decrease under the bill, Medicaid expenditures (60% federal funds, 40% general funds) likely increase due to increased enrollment by released inmates who may not have otherwise been released or are released earlier than they otherwise would be. Federal fund matching revenues increase accordingly.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office, Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

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