

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 719
Judiciary

(The Speaker, *et al.*) (By Request - Administration)

Crimes - Life Imprisonment - Parole Eligibility

This Administration bill increases the amount of time that an inmate who has been sentenced to life imprisonment, after being convicted of a crime committed on or after October 1, 2019, must serve before being eligible for parole consideration from 15 to 25 years (or from 25 to 30 years for cases in which life without parole was sought, but not imposed by the court), *without* application of diminution of confinement credits.

Fiscal Summary

State Effect: The bill's changes can be accommodated with existing budgeted resources, as discussed below.

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law:

Parole

The Maryland Parole Commission (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 third or subsequent felony drug crime committed on or after October 1, 2017, or 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 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. Chapter 515 of 2016 requires that, if MPC decides to grant medical parole, the decision be transmitted to the Governor. The Governor is then required to disapprove a recommendation for medical parole within 180 days of the decision by MPC. If the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective.

If eligible for parole, an inmate serving a life term may only be paroled with the approval of the Governor. 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 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).

Diminution Credits

Generally, inmates sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. The following types of inmates may not earn diminution credits:

- an inmate who is serving a sentence for first- or second-degree rape or sexual offense against a victim younger than 16;
- an inmate who is serving a repeat sentence for third-degree sexual offense against a victim younger than 16; and
- an inmate imprisoned for a lifetime sexual offender supervision violation.

In addition, an inmate whose mandatory supervision release has been revoked may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision release.

Diminution credits are deducted from an inmate's "term of confinement," which is defined as (1) the length of the sentence, for a single sentence, or (2) the period from the first day of the sentence that begins first through the last day of the sentence that ends last, for concurrent sentences, partially concurrent sentences, consecutive sentences, or a combination of concurrent and consecutive sentences.

Diminution credits are made for good conduct, work tasks, education, and special projects or programs.

Background: In fiscal 2018, the Division of Correction (DOC) received 126 inmates serving life sentences. Of that number, 14 inmates entered DOC given a sentence of life that are eligible for parole in 15 years, and 38 are eligible for parole after serving 25 years.

State Expenditures: The Department of Public Safety and Correctional Services (DPSCS) has advised in the past that parole *eligibility* does not necessarily result in a parole *release*, especially for inmates serving life sentences. Under current law, inmates sentenced to life imprisonment must serve 15 years minus diminution credits or 25 years minus diminution credits (for cases in which a life without parole or death sentence was sought, but not imposed by the court) to be eligible for parole.

Although DPSCS is unable to reliably predict the pace of potential parole approvals by MPC under the bill, parole of such inmates still requires approval of the Governor. Generally, governors have denied parole to all persons serving a life term. While some initial parole hearings may be delayed under the bill, the delayed hearings can be absorbed

by MPC over time. Thus, it is assumed that the bill's requirements can be handled with the existing budgeted resources of DPSCS and that State finances are not significantly affected.

Additional Information

Prior Introductions: SB 225 of 2018, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: SB 874 (The President, *et al.*) (By Request - Administration) - Rules.

Information Source(s): Governor's Office; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Crimes - Life Imprisonment - Parole Eligibility**

BILL NUMBER: HB719/SB874

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS