

**Department of Legislative Services**  
 Maryland General Assembly  
 2020 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1391  
 Judiciary

(Delegate Dumais)

**Correctional Services - Geriatric Parole**

This bill requires the Maryland Parole Commission (MPC) to develop a dynamic risk assessment instrument to assist in predicting the risk of specified inmates to violate the law if released on parole. At least annually, MPC must complete an assessment of such an inmate using that instrument, and within six months after doing so, MPC must conduct a hearing to determine the inmate’s suitability for parole, as specified. Any savings realized by the Department of Public Safety and Correctional Services (DPSCS) as a result of the bill must revert to DPSCS to be used for developing the dynamic risk assessment instrument, conducting the required assessments, and providing prerelease and reentry case management and resources for inmates released on parole pursuant to the bill. MPC must submit a related report, as specified.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$559,000 in FY 2021 for staff; this estimate does not reflect any costs to develop the dynamic risk assessment instrument or any potential savings in incarceration costs. Future years reflect annualization and ongoing costs. Revenues are not directly affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	559,000	662,200	677,700	701,200	725,500
Net Effect	(\$559,000)	(\$662,200)	(\$677,700)	(\$701,200)	(\$725,500)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The bill applies only to an inmate who is at least age 60, eligible for parole under a specified provision of current law and not registered or eligible for registration on the State Sex Offender Registry.

The dynamic risk assessment instrument must include a strength-based needs assessment component to assist in determining what, if any, conditions for release should apply if the inmate is released on parole.

In addition to factors specified under current law for an MPC hearing examiner and commissioner in determining whether an inmate is suitable for parole, each MPC panel determining whether an inmate is suitable for parole under the bill must consider and give significant weight to:

- the inmate's age and the impact that the inmate's age has on reducing the risk that the inmate will violate the law if released on parole;
- the results of the most recent dynamic risk assessment completed; and
- the results of any mental health evaluations of the inmate determined to be relevant.

Every six months, MPC must report to the Justice Reinvestment Oversight Board on the outcomes of parole considerations made under the bill as specified.

**Current Law:** 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 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, beginning October 1, 2017, 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.

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).

Medicaid may reimburse covered health care costs for parolees who are moved to hospitals or nursing facilities. However, among other requirements, such individuals must be placed in medical institutions that are generally available to the public and not operated primarily or exclusively to care for those involved with the criminal justice system. Residents must be free from physical restraint imposed solely for the purposes of discipline or convenience, free to choose visitors, live in an unlocked unit unless otherwise necessary for medical reasons, and be able to conduct private telephone conversations. Medicaid payment is only available when an inmate is an inpatient in a medical institution not under the control of the correctional system.

**Background:** Chapter 515 of 2016 requires the Justice Reinvestment Oversight Board, in collaboration with DPSCS, to determine the annual savings from the implementation of the recommendations of the Justice Reinvestment Coordinating Council based on the difference between the prison population as measured on October 1, 2017, the baseline day, and the prison population as measured on October 1, 2018, the comparison day, and the variable cost of incarceration. If the prison population on the comparison day is less than the prison population on the baseline day, the board must determine a savings based on the difference in the prison population multiplied by the variable cost. The board

must annually determine the difference between the prison population on October 1, 2017, and the prison population on October 1 of the current year and calculate any savings based on the difference in the prison population multiplied by the variable cost. If a prison population decline causes a correctional unit, wing, or facility to close, the board must conduct an assessment to determine the savings from the closure.

The board must recommend annually that the savings be distributed to implement specified programs and services, including implementing recidivism reduction programming, implementing reentry programs, and ensuring that the rights of crime victims are protected and enhanced, among other purposes. However, the Governor is not required to follow the board’s recommendations. Thus, the Governor has significant discretion as to how to use the savings.

**State Expenditures:** General fund expenditures for MPC increase by \$558,967 in fiscal 2021, which accounts for the bill’s October 1, 2020 effective date. This estimate reflects the cost of hiring two parole commissioners, one clinical psychologist, three social workers, two office clerks, and one administrative officer to conduct the required assessments, make determinations, handle additional parole hearings, and submit the required reports. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- MPC advises that there are approximately 667 inmates in the custody of the Division of Correction who may be subject to the bill;
- in order to administer the dynamic strength based needs assessment, MPC needs one social worker for each of three established regions in the State;
- a clinical psychologist is needed to administer mental health evaluations of inmates;
- two parole commissioners are needed to conduct the anticipated increase in parole hearings;
- two office clerks are needed to handle scheduling of the additional parole hearings and other required notifications relating to parole hearings; and
- an administrative officer is needed to submit the required reports to the Justice Reinvestment Oversight Board.

Positions	9
Salaries and Fringe Benefits	\$510,671
Operating Expenses	<u>48,296</u>
<b>Total FY 2021 State Expenditures</b>	<b>\$558,967</b>

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

This analysis does not include any costs for the actual *development* of the dynamic risk assessment instrument or any potential savings that may be realized as of result of the bill; reliable estimates regarding those effects cannot be made at this time.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services;  
Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2020  
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