

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 3
Judiciary

(Delegates Clippinger and Queen)

Judicial Proceedings

Correctional Services - Parole - Life Imprisonment

This 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, 2021, must serve before being eligible for parole consideration from 15 to 20 years, or its equivalent considering allowances for diminution credits. The bill also eliminates a requirement that the parole of a person serving a parole-eligible life sentence in a State correctional facility or the Patuxent Institution, subsequent to a recommendation for that parole by the Maryland Parole Commission (MPC) or the Patuxent Board of Review (PBR), be approved by the Governor.

Fiscal Summary

State Effect: Overall, the bill is not anticipated to significantly affect State finances in the near term. The bill's changes that alter the time period that certain inmates sentenced to life imprisonment must serve before becoming eligible for parole consideration may increase general fund incarceration expenditures in the future, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Parole

MPC has the exclusive power to authorize the parole of an inmate in State correctional facilities. 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 less diminution credits earned. A person sentenced to life imprisonment for first-degree murder whose case started as a death penalty proceeding is not eligible for parole consideration until that person has served 25 years less diminution credits earned. 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).

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 against a victim younger than 16;
- an inmate who is serving a sentence for first- or second-degree sexual offense, as the offenses existed before October 1, 2017, against a victim younger than 16;
- an inmate who is serving a sentence for a subsequent conviction of third-degree sexual offense against a victim younger than 16; and
- an inmate imprisoned for a lifetime sexual offender supervision violation.

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. For additional information on diminution credits, see the [Maryland Diminution Credit System](#) report published by the Department of Legislative Services in December 2020.

State Fiscal Effect: The Department of Public Safety and Correctional Services (DPSCS) is unable to reliably predict the pace of potential parole approvals by MPC under the bill. Overall, the bill is not anticipated to significantly affect State finances in the near term. The bill's changes that alter the time period that certain inmates sentenced to life imprisonment must serve before becoming eligible for parole consideration may increase general fund incarceration expenditures in the future, as discussed below.

Increasing Minimum Time Served for Parole Eligibility

DPSCS notes 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. According to DPSCS, in fiscal 2020, 54 inmates entered State correctional facilities given a sentence of life that are eligible for parole in 15 years.

While these provisions have no fiscal impact within the next five years, there may be an increase in incarceration expenditures beginning in 2036 (not taking into account any potential diminution credits), when inmates who otherwise might be released on parole will remain incarcerated for longer periods of time under the bill. In addition, some initial parole hearings may be delayed under these provisions, but any impact on parole hearings from these provisions is not anticipated to materially affect State expenditures at that time.

Eliminating the Governor's Approval for the Parole of Inmates Serving Life Sentences

With respect to bills introduced during prior sessions that eliminated gubernatorial approval for these same inmates, MPC advised that the bill's changes would not alter other parole eligibility considerations. To the extent that additional paroles of inmates serving life terms are granted by removing the need for the Governor's approval, DPSCS could experience minimal savings; however, any savings are not anticipated to significantly affect State finances.

Additional Information

Prior Introductions: HB 1219 of 2020 passed the House and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, SB 817, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Governor's Office; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - January 14, 2021
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