
By: Delegates Harkins, Owings, Poole, Kach, Bonsack, Stup, and Jacobs

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 26, 1996

CHAPTER ____

1 AN ACT concerning

2 ~~Maryland Parole Commission-- Parole Hearings - Procedures~~ Oral Testimony by Victims 3 of Violent Crime

4 ~~FOR the purpose of requiring that rules and regulations adopted by the Maryland Parole~~
5 ~~Commission for the conduct of parole hearings ensure that oral or written~~
6 ~~statements by certain individuals may be given, subject to certain restrictions;~~
7 ~~authorizing certain persons who conduct parole hearings to limit the length of each~~
8 ~~statement given at a parole hearing; authorizing certain persons who conduct parole~~
9 ~~hearings to close a parole hearing after formal action for certain purposes; allowing~~
10 ~~a representative of the Division of Correction to informally advise or testify before~~
11 ~~certain persons who conduct parole hearings; providing for the notice of parole~~
12 ~~hearings and their outcomes; providing that this Act does not affect certain rights of~~
13 ~~victims; and generally relating to the rules and regulations for parole hearings of the~~
14 ~~Maryland Parole Commission.~~

15 FOR the purpose of allowing certain victims or designated representatives, at certain
16 parole release hearings, to present oral testimony; requiring the Parole Commission
17 to consider any oral testimony made by these victims or designated representatives
18 when making a parole determination; and generally relating to parole release
19 hearings.

20 BY repealing and reenacting, with amendments,
21 Article 41 - Governor - Executive and Administrative Departments
22 Section ~~4-507~~ 4-504(d) and 4-506
23 Annotated Code of Maryland
24 (1993 Replacement Volume and 1995 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article 41 - Governor - Executive and Administrative Departments**

2 ~~4-507.~~

3 (a) ~~The Commission or its hearing examiners shall hear cases for parole release at~~
4 ~~least once each month at penal institutions under the Division of Correction and as often~~
5 ~~as necessary at other places of penal confinement within this State at which inmates~~
6 ~~eligible for parole consideration are confined.~~

7 (b) ~~(1) The Commission may adopt rules and regulations for the conduct of~~
8 ~~proceedings before it and the hearing examiners.~~

9 ~~(2) SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE RULES AND~~
10 ~~REGULATIONS SHALL ENSURE THAT ORAL OR WRITTEN STATEMENTS BY~~
11 ~~INDIVIDUALS OTHER THAN REPRESENTATIVES OF THE DIVISION OF CORRECTION~~
12 ~~MAY BE GIVEN AT PAROLE HEARINGS.~~

13 (c) ~~(1) If a victim of a violent crime makes a written request for notification~~
14 ~~under § 4-504 of this subtitle and also makes a written request within a reasonable~~
15 ~~amount of time before a scheduled hearing for the inmate convicted of the violent crime~~
16 ~~that the hearing before the Commission or the hearing examiners be open to the public,~~
17 ~~the hearing shall be open to the public.~~

18 (2) ~~The vote of each member of the Commission when acting collectively or~~
19 ~~in panels or the decision of an individual commissioner or hearing examiner on a formal~~
20 ~~action, including an action to close or restrict access to a parole hearing under subsection~~
21 ~~(e) of this section, shall be made available to the public.~~

22 (3) ~~Nothing in this section limits the ability of the Commission to hold a~~
23 ~~parole hearing through the use of video conferences or other means of electronic~~
24 ~~transmission.~~

25 (d) ~~Subject to [the provisions of] subsection (e) of this section, the victim or~~
26 ~~victim's representative has the right to attend the hearing.~~

27 (e) ~~The Commission, a panel of commissioners, an individual commissioner, or a~~
28 ~~hearing examiner, may:~~

29 (1) ~~Restrict the number of individuals allowed to attend a parole hearing in~~
30 ~~accordance with physical limitations or security requirements of the facility where the~~
31 ~~hearing is held;~~

32 (2) ~~Deny admission or continued attendance at a parole hearing to an~~
33 ~~individual who:~~

34 (i) ~~Threatens or presents a danger to the security of the institution in~~
35 ~~which the hearing is being held;~~

36 (ii) ~~Threatens or presents a danger to other attendees or participants;~~
37 ~~or~~

38 (iii) ~~Disrupts the hearing;~~

1 ~~(3) LIMIT THE LENGTH OF EACH STATEMENT GIVEN AT A PAROLE~~
2 HEARING;

3 ~~(4) Close a parole hearing on formal action to deliberate upon the oral OR~~
4 ~~WRITTEN~~ testimony and any other relevant information received at the hearing; ~~for~~

5 ~~(4)] (5) After formal action, hold a closed parole hearing:~~

6 ~~(I) [on] ON~~ written request of the chief law enforcement official
7 responsible for an ongoing criminal investigation related to the inmate, if the ongoing
8 investigation could be compromised;

9 ~~(II) TO PROVIDE AN OPPORTUNITY FOR APPLICANTS FOR PAROLE~~
10 ~~RELEASE TO CHALLENGE CONFIDENTIAL INFORMATION; OR~~

11 ~~(III) TO COMPLY WITH THE REQUEST OF THE VICTIM OR, IN THE~~
12 ~~CASE OF FIRST DEGREE MURDER, THE IMMEDIATE FAMILY OF THE VICTIM.~~

13 ~~(F) A REPRESENTATIVE OF THE DIVISION OF CORRECTION MAY~~
14 ~~INFORMALLY ADVISE OR TESTIFY BEFORE THE COMMISSION, A PANEL OF~~
15 ~~COMMISSIONERS, AN INDIVIDUAL COMMISSIONER, OR A HEARING EXAMINER~~
16 ~~ABOUT THE APPLICATION FOR PAROLE UNDER CONSIDERATION.~~

17 ~~(G) AT LEAST 30 DAYS BEFORE A SCHEDULED PAROLE HEARING FOR AN~~
18 ~~INMATE CONVICTED OF A FELONY OFFENSE, THE COMMISSION SHALL:~~

19 ~~(1) SEND A NOTICE OF THE DATE, TIME, AND PLACE OF THE HEARING~~
20 ~~TO THE ATTORNEY GENERAL; AND~~

21 ~~(2) CAUSE TO HAVE A DAILY NEWSPAPER WITH A STATEWIDE~~
22 ~~CIRCULATION TO PUBLISH A COPY OF THE NOTICE.~~

23 ~~(H) IF A PARTY THAT IS REQUIRED TO BE SENT A NOTICE UNDER~~
24 ~~SUBSECTION (G)(1) OF THIS SECTION FAILS TO RECEIVE ONE WITHIN THE REQUIRED~~
25 ~~TIME, THE PARTY MAY REQUEST THAT THE COMMISSION POSTPONE THE HEARING~~
26 ~~FOR UP TO 45 DAYS.~~

27 ~~(I) NOT LATER THAN 10 DAYS AFTER A PAROLE HEARING, THE COMMISSION~~
28 ~~SHALL:~~

29 ~~(1) SEND A NOTICE OF THE DECISION TO THE ATTORNEY GENERAL,~~
30 ~~THE APPROPRIATE STATE'S ATTORNEY, AND THE VICTIM; AND~~

31 ~~(2) CAUSE TO HAVE A DAILY NEWSPAPER WITH A STATEWIDE~~
32 ~~CIRCULATION TO PUBLISH A COPY OF THE DECISION.~~

33 ~~(J) THIS SECTION DOES NOT AFFECT THE RIGHT OF A VICTIM TO BE~~
34 ~~NOTIFIED THAT AN INMATE IS BEING CONSIDERED FOR A COMMUTATION, PARDON,~~
35 ~~OR REMISSION OF SENTENCE, AS PROVIDED UNDER § 4-511A OF THIS SUBTITLE.~~

4

1 4-504.

2 (d) (1) In this subsection, "victim" means a person who suffers personal physical
3 injury or death as a direct result of a crime or, if the victim is deceased, a designated
4 family member of the victim.

5 (2) (i) In cases where a defendant is sentenced to the Division of
6 Correction, if the victim makes a written request to the Commission for notification and
7 maintains a current address on file with the Commission, the Commission, at least 90 days
8 before the parole release hearing, shall notify the victim or designated representative in
9 writing, directed to the most current address on file, that a parole release hearing has
10 been scheduled for the inmate convicted of the commission of the violent crime.

11 (ii) If the inmate was convicted of a violent crime:

12 1. The victim may submit to the Commission, in writing, not
13 later than 30 days from the date of the Commission's notice, a request to require the
14 Division of Parole and Probation to complete an updated victim impact statement.

15 2. The Division of Parole and Probation shall complete the
16 updated statement at least 30 days prior to the parole release hearing.

17 3. The Division of Parole and Probation shall promptly send the
18 updated victim impact statement to the Commission.

19 (iii) At least 30 days before the parole release hearing, the victim may:

20 1. Make a written recommendation to the Commission on the
21 advisability of releasing the inmate on parole; and

22 2. Request that an inmate be prohibited from having any
23 contact with a victim as a condition of parole.

24 (iv) The Commission shall make the updated victim impact statement
25 or recommendation available for the inmate's review under § 4-505 of this subtitle.

26 (v) If an updated victim impact statement or recommendation is
27 prepared under this subsection, the Commission shall consider the updated victim impact
28 statement or recommendation at the parole release hearing.

29 (vi) The victim may designate, in writing to the Commission, the name
30 and address of a representative who is a resident of this State to receive notice for the
31 victim.

32 (3) The victim may request a meeting with a Commission member.

33 (4) AT THE PAROLE RELEASE HEARING FOR AN INMATE CONVICTED OF
34 THE VIOLENT CRIME, THE VICTIM OR A DESIGNATED REPRESENTATIVE MAY
35 PRESENT ORAL TESTIMONY IN A MANNER ESTABLISHED IN REGULATIONS
36 PROMULGATED BY THE COMMISSION.

37 [(4)] (5) The Commission shall promptly notify the victim or the victim's
38 designated representative of the decision of the Commission regarding parole for the
39 inmate convicted of the violent crime.

5

1 4-506.

2 Each hearing examiner and Commission member determining if an inmate is
3 suitable for release on parole shall consider:

4 (1) The circumstances surrounding the crime;

5 (2) The physical, mental, and moral qualification of the inmate eligible for
6 parole;

7 (3) The progress of the inmate during his confinement, including the
8 academic progress of the inmate in the mandatory education program required in §
9 22-102 of the Education Article;

10 (4) Whether or not there is reasonable probability that the inmate, if
11 released on parole, will remain at liberty without violating the law;

12 (5) Whether or not release on parole of the inmate is compatible with the
13 welfare of society;

14 (6) An updated victim impact statement or recommendation prepared
15 under § 4-504(d) of this subtitle;

16 (7) Any recommendation made by the sentencing judge at the time of
17 sentencing; [and]

18 (8) Any information that is presented to a Commission member at a meeting
19 with the victim; AND

20 (9) ANY TESTIMONY PRESENTED TO THE COMMISSION BY THE VICTIM
21 OR THE VICTIM'S DESIGNATED REPRESENTATIVE UNDER § 4-504(D)(4) OF THIS
22 SUBTITLE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1996.