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**By: Senator McFadden**

Introduced and read first time: February 19, 1996

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Parole Eligibility - Repeal of Governor's Approval**

3 FOR the purpose of repealing the requirement that the Governor approve parole for  
4 certain inmates at facilities of the Division of Correction or eligible persons at the  
5 Patuxent Institution who have served at least a certain number of years of  
6 imprisonment; giving the Board of Review the exclusive authority to parole eligible  
7 persons who have served at least a certain number of years at the Patuxent  
8 Institution; giving the Maryland Parole Commission the exclusive authority to grant  
9 parole to certain inmates who have served at least a certain number of years at a  
10 facility of the Division of Correction; repealing the requirement that the Secretary  
11 of Public Safety and Correctional Services grant approval before the Board of  
12 Review releases an eligible person on parole; requiring the Maryland Parole  
13 Commission to order certain testing for appropriate community placement for  
14 inmates eligible for parole; requiring certain Division of Correction facilities to  
15 carry out the final decisions of the Maryland Parole Commission concerning the  
16 parole of inmates; providing for the applicability of this Act; and generally relating  
17 to parole eligibility for certain inmates and certain eligible persons.

18 BY repealing and reenacting, with amendments,  
19 Article 31B - Patuxent Institution  
20 Section 11(b)(5) and (d)  
21 Annotated Code of Maryland  
22 (1993 Replacement Volume and 1995 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article 41 - Governor - Executive and Administrative Departments  
25 Section 4-504(b) and 4-516(d)  
26 Annotated Code of Maryland  
27 (1993 Replacement Volume and 1995 Supplement)

28 BY adding to  
29 Article 41 - Governor - Executive and Administrative Departments  
30 Section 4-504(b-1)  
31 Annotated Code of Maryland  
32 (1993 Replacement Volume and 1995 Supplement)

2

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

3 **Article 31B - Patuxent Institution**

4 11.

5 (b) After transfer of a person to the Institution for treatment as an eligible person  
6 but prior to the expiration of the person's sentence, the board of review, upon review of  
7 the person may take the following action:

8 (5) (I) [An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
9 PARAGRAPH, AN eligible person who is serving a term of life imprisonment shall only be  
10 paroled with the approval of the Governor.

11 (II) THE BOARD OF REVIEW HAS THE EXCLUSIVE AUTHORITY TO  
12 PAROLE AN ELIGIBLE PERSON WHO HAS SERVED AT LEAST 20 YEARS.

13 (d) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
14 SUBSECTION, THE board of review may not release an eligible person on parole until the  
15 parole decision has been approved by the Secretary.

16 (2) THE SECRETARY NEED NOT APPROVE A DECISION BY THE BOARD  
17 OF REVIEW TO RELEASE ON PAROLE AN ELIGIBLE PERSON WHO HAS SERVED AT  
18 LEAST 20 YEARS.

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

20 4-504.

21 (b) The Commission shall:

22 (1) Evaluate information on the activities of parolees as reported by the  
23 Division of Parole and Probation;

24 (2) Issue warrants or delegate to the Director of the Division of Parole and  
25 Probation the authority to issue warrants for the retaking of parolees who are charged  
26 with having violated the conditions of parole or having committed a new offense against  
27 the law;

28 (3) Review and make recommendations to the Governor concerning  
29 applications for pardon, parole of a person under a sentence of life imprisonment,  
30 commutation of sentence, or clemency;

31 (4) Establish and modify from time to time general policy governing the  
32 conduct of parolees; [and]

33 (5) Arrange for psychiatric or psychological examination of applicants for  
34 parole when the Commission feels that an examination will better enable it to decide on  
35 the advisability of parole and include the expense for the examination in its annual  
36 budget; AND

37 (6) AS A PRE-CONDITION OF PAROLE RELEASE, ORDER TESTING FOR  
38 APPROPRIATE COMMUNITY PLACEMENT, INCLUDING WORK RELEASE, SUBSTANCE

3

1 ABUSE TREATMENT, AND HOME DETENTION, FOR EACH INMATE FOR WHOM THE  
2 COMMISSION, BY ITS FINAL DECISION, AUTHORIZES PAROLE RELEASE.

3 (B-1) THE FINAL DECISION OF THE COMMISSION CONCERNING THE PAROLE  
4 RELEASE OF AN INMATE SHALL BE CARRIED OUT BY THE DIVISION OF CORRECTION  
5 FACILITY IN WHICH THE INMATE IS INCARCERATED.

6 4-516.

7 (d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person  
8 who has been sentenced to life imprisonment is not eligible for parole consideration until  
9 the person has served 15 years or the equal of 15 years when considering the allowances  
10 for diminution of period of confinement provided for in Article 27, § 700 and Article 27,  
11 § 638C, of the Code.

12 (2) A person who has been sentenced to life imprisonment as a result of a  
13 proceeding under Article 27, § 413 is not eligible for parole consideration until the person  
14 has served 25 years or the equal of 25 years when considering the allowances for  
15 diminution of period of confinement provided for in Article 27, § 700 and Article 27, §  
16 638C, of the Code.

17 (3) (i) If a person is sentenced to imprisonment for life without the  
18 possibility of parole under Article 27, § 412 or § 413 of the Code, the person is not eligible  
19 for parole consideration and may not be granted parole at any time during the term of the  
20 sentence.

21 (ii) Nothing contained in this paragraph may be construed to restrict  
22 the authority of the Governor to pardon or remit any part of a sentence under the  
23 provisions of § 4-513 of this article.

24 (4) (I) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
25 PARAGRAPH, IF eligible for parole under this subsection, an inmate serving a term of life  
26 imprisonment and a person serving a term of life imprisonment who is confined at  
27 Patuxent Institution as an eligible person shall only be paroled with the approval of the  
28 Governor.

29 (II) THE MARYLAND PAROLE COMMISSION MAY PAROLE AN  
30 INMATE WHO HAS SERVED AT LEAST 20 YEARS WITHOUT THE APPROVAL OF THE  
31 GOVERNOR.

32 (III) THE BOARD OF REVIEW MAY PAROLE AN ELIGIBLE PERSON  
33 WHO HAS SERVED AT LEAST 20 YEARS AT PATUXENT INSTITUTION WITHOUT THE  
34 APPROVAL OF THE GOVERNOR.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed  
36 both prospectively and retroactively and shall be applied to and interpreted to affect the  
37 parole status of all inmates in a facility of the Division of Correction and eligible persons  
38 in the Patuxent Institution, regardless of whether their offenses were committed before,  
39 on, or after the effective date of this Act.

40 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
41 October 1, 1996.

