
By: **Chairman, Judiciary Committee (Departmental - Public Safety and
Correctional Services)**

Introduced and read first time: January 27, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Parole Commission - Hearing Examiners - Review of**
3 **Recommendations**

4 FOR the purpose of repealing a provision that authorizes an inmate and the
5 Commissioner of Correction to file exceptions to a hearing examiner's
6 recommendation for parole or denial of parole to the inmate; repealing a
7 provision that authorizes the Maryland Parole Commission to schedule a
8 hearing on the record after the filing of exceptions to a hearing examiner's
9 recommendation for parole or denial of parole; repealing a provision that gives
10 the Maryland Parole Commission exclusive power to hear exceptions to
11 recommendations of a hearing examiner or a commissioner sitting as a hearing
12 examiner; requiring a hearing examiner to inform an inmate in writing of the
13 hearing examiner's recommendation for parole or denial of parole at the
14 conclusion of the hearing or as soon as practicable after the hearing and to give
15 a copy of the recommendation to the Maryland Parole Commission; establishing
16 new procedures for the review of the hearing examiner's recommendation; and
17 generally relating to parole and review of a hearing examiner's recommendation
18 for parole or denial of parole.

19 BY repealing and reenacting, with amendments,
20 Article - Correctional Services
21 Section 7-205, 7-207, and 7-306
22 Annotated Code of Maryland
23 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
24 1999)

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

27 **Article - Correctional Services**

28 7-205.

29 (a) The Commission has the exclusive power to:

1 (1) authorize the parole of an individual sentenced under the laws of the
2 State to any correctional facility in the State;

3 (2) negotiate, enter into, and sign predetermined parole release
4 agreements as provided under subsection (b) of this section;

5 (3) hear cases for parole in which:

6 (i) the Commissioner of Correction, after reviewing the
7 recommendation of the appropriate managing official, objects to a parole;

8 (ii) the inmate was convicted of a homicide; or

9 (iii) the inmate is serving a sentence of life imprisonment;

10 (4) [hear exceptions to recommendations of a hearing examiner or a
11 commissioner acting as a hearing examiner;

12 (5)] review [summarily] all recommendations of a hearing examiner or a
13 commissioner acting as a hearing examiner [to which an exception has not been
14 filed];

15 [(6)] (5) hear a case for parole in absentia when an individual who was
16 sentenced in this State to serve a term of imprisonment is in a correctional facility of
17 a jurisdiction other than this State;

18 [(7)] (6) hear cases of parole suspension or revocation; and

19 [(8)] (7) if delegated by the Governor, hear cases involving an alleged
20 violation of a conditional pardon.

21 (b) (1) (i) The Commission may negotiate, enter into, and sign a
22 predetermined parole release agreement with the Commissioner of Correction and an
23 inmate under the jurisdiction of the Commission.

24 (ii) The agreement may provide for the release of the inmate on
25 parole at a predetermined time if, during the inmate's term of confinement, the
26 inmate participates in the programs designated by the Commission and fulfills any
27 other conditions specified in the agreement.

28 (2) This subsection does not affect any diminution of an inmate's term of
29 confinement awarded under Title 3, Subtitle 7 and §§ 9-506 and 9-513 of this article.

30 (c) Each commissioner has visitorial powers over any correctional facility in
31 which an individual is confined on a criminal charge, whether the correctional facility
32 is operated by the State or by a county or municipal corporation of the State.

33 (d) As necessary to carry out its duties, the Commission may:

34 (1) issue subpoenas requiring the attendance and testimony of
35 witnesses;

1 (2) administer oaths; and

2 (3) examine witnesses under oath, including any inmate who is confined
3 in a correctional facility operated by the State or by a county or municipal corporation
4 of the State.

5 (e) (1) A person who is personally served with a subpoena and who fails to
6 appear or refuses to testify before the Commission is guilty of a misdemeanor and on
7 conviction is subject to a fine of not less than \$25 and not more than \$100.

8 (2) The fine imposed under paragraph (1) of this subsection shall be paid
9 into the General Fund of the State.

10 (f) A witness who makes a false statement relating to a matter that is
11 material to the Commission's inquiry while testifying before the Commission is guilty
12 of perjury and on conviction is subject to the penalty established under Article 27, §
13 439 of the Code.

14 7-207.

15 (a) (1) Subject to the approval of the Secretary, the Commission shall adopt
16 regulations governing its policies and activities under this title.

17 (2) Notwithstanding the provisions of § 10-101(g)(2)(i) of the State
18 Government Article, regulations adopted under paragraph (1) of this subsection shall
19 comply with Title 10, Subtitle 1 of the State Government Article.

20 (b) The Commission may adopt regulations governing[:

21 (1)] the conduct of proceedings before it or the hearing examiners[: and

22 (2) the review and disposition of written exceptions to the
23 recommendation of a hearing examiner].

24 7-306.

25 (a) (1) The chairperson of the Commission shall assign hearing examiners,
26 or commissioners acting as hearing examiners, as required to hear cases for parole.

27 (2) Each proceeding before a hearing examiner shall be conducted in
28 accordance with this section.

29 (b) The Commission shall keep a record of each hearing conducted by a
30 hearing examiner.

31 (c) A hearing examiner shall determine if an inmate is suitable for parole in
32 accordance with the standards specified in § 7-305 of this subtitle.

33 (d) [(1)] At the conclusion of the hearing OR AS SOON AS PRACTICABLE AFTER
34 THE HEARING, the hearing examiner shall:

1 (1) inform the inmate IN WRITING of the hearing examiner's
2 recommendation for parole or denial of [parole.] PAROLE; AND

3 (2) [Within 21 days after the hearing, the hearing examiner shall] give
4 A COPY OF THE HEARING EXAMINER'S RECOMMENDATION FOR PAROLE OR DENIAL
5 OF PAROLE to the Commission[, the Commissioner of Correction, and the inmate a
6 written report of the hearing examiner's findings and recommendation for parole or
7 denial of parole.

8 (3) The Commissioner of Correction or the inmate may file with the
9 Commission written exceptions to the report of a hearing examiner no later than 5
10 days after the report is received.

11 (e) (1) Subject to paragraph (2) of this subsection, one commissioner
12 assigned by the chairperson of the Commission shall review summarily the
13 recommendation of the hearing examiner.

14 (2) (i) The Commission, on its own initiative or on the filing of an
15 exception, may schedule a hearing on the record by the entire Commission or by a
16 panel of at least two commissioners assigned by the chairperson of the Commission.

17 (ii) The Commission or panel shall render a written decision on the
18 appeal.

19 (iii) The decision of the Commission or panel is final.

20 (3) If an exception is not filed and the Commission does not act on its
21 own initiative within the 5-day appeal period established under subsection (d)(3) of
22 this section, the recommendation of the hearing examiner is approved].

23 (E) (1) THE CHAIRPERSON OF THE COMMISSION SHALL ASSIGN ONE
24 COMMISSIONER TO REVIEW THE RECOMMENDATION OF THE HEARING EXAMINER.

25 (2) IF THE REVIEWING COMMISSIONER ADOPTS THE RECOMMENDATION
26 OF THE HEARING EXAMINER, THE DECISION IS FINAL.

27 (3) (I) IF THE REVIEWING COMMISSIONER MODIFIES OR REJECTS THE
28 RECOMMENDATION OF THE HEARING EXAMINER, THE CHAIRPERSON OF THE
29 COMMISSION SHALL ASSIGN A SECOND COMMISSIONER TO AFFIRM IN WRITING:

30 1. THE RECOMMENDATION OF THE HEARING EXAMINER; OR

31 2. THE DECISION MADE BY THE REVIEWING COMMISSIONER.

32 (II) THE DECISION OF THE SECOND COMMISSIONER IS FINAL.

33 (III) A COPY OF THE FINAL DECISION SHALL BE DELIVERED TO THE
34 INMATE AS SOON AS PRACTICABLE.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1999.

