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

Introduced and read first time: February 10, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Patuxent Institution - Board of Review - Eligible Persons**

3 FOR the purpose of clarifying and altering the definition of eligible person; extending
4 the duration of parole under certain circumstances; allowing for the abrogation
5 of parole supervision under certain circumstances; limiting the Board of
6 Review's authority to request that a court vacate or suspend the remainder of a
7 sentence; granting the Board of Review the authority to impose special
8 conditions on mandatory supervision releases; and generally relating to the
9 Patuxent Institution programs.

10 BY repealing and reenacting, with amendments,
11 Article - Correctional Services
12 Section 4-101(e), 4-305, and 7-502
13 Annotated Code of Maryland
14 (1999 Volume)

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

17 **Article - Correctional Services**

18 4-101.

19 (e) (1) "Eligible person" means an individual who:

20 (i) has been convicted of a crime and is serving a sentence of
21 imprisonment with at least 3 years remaining on the sentence;

22 (ii) has an intellectual impairment or emotional imbalance;

23 (iii) is likely to respond favorably to the programs and services that
24 the Institution provides;

25 (iv) can better respond to remediation through those programs and
26 services than by other incarceration; and

1 (v) meets the eligibility criteria that the Secretary establishes
2 under § 4-208(b) of this title.

3 (2) "Eligible person" does not include an individual who:

4 (i) is serving two or more sentences of imprisonment for life under
5 Article 27, § 412 of the Code;

6 (ii) is serving one or more sentences of imprisonment for life when a
7 court or jury has found under Article 27, § 413 of the Code, beyond a reasonable doubt,
8 that one or more aggravating circumstances existed; [or]

9 (iii) has been convicted of murder in the first degree, rape in the
10 first degree, or a sexual offense in the first degree, unless the sentencing judge, at the
11 time of sentencing or in the exercise of the judge's revisory power under the Maryland
12 Rules, recommends that the individual be referred to the Institution for evaluation;

13 (IV) AFTER A SUBSTANTIAL PERIOD IN A PATUXENT INSTITUTION
14 PROGRAM, FAILS TO DEMONSTRATE SUFFICIENT PROGRESS TO MAKE PAROLE
15 RELEASE THROUGH THE PROGRAM LIKELY; OR

16 (V) ENGAGES IN CONDUCT OR BEHAVIOR THAT THWARTS
17 PROGRESS IN A PROGRAM TO THE EXTENT THAT PAROLE RELEASE THROUGH THE
18 PROGRAM IS NOT LIKELY.

19 4-305.

20 (a) (1) After transfer of an inmate to the Institution for treatment as an
21 eligible person but before expiration of the inmate's sentence, the Board of Review
22 may grant a parole from the Institution [for a period not exceeding 1 year] if the
23 Board of Review concludes that the parole:

24 [(1)] (I) will not impose an unreasonable risk on society; and

25 [(2)] (II) will assist in the remediation of the eligible person.

26 (2) A PAROLE BY THE BOARD OF REVIEW MAY NOT EXCEED 1 YEAR IN
27 DURATION UNTIL THE INDIVIDUAL ON PAROLE HAS COMPLETED SUCCESSFULLY
28 THE GREATER OF 5 YEARS ON PAROLE OR 50% OF THE AGGREGATE SENTENCE.

29 (3) AFTER AN INDIVIDUAL HAS COMPLETED SUCCESSFULLY THE
30 GREATER OF 5 YEARS ON PAROLE OR 50% OF THE AGGREGATE SENTENCE, THE
31 BOARD OF REVIEW MAY ESTABLISH ANY FIXED DURATION FOR A SUBSEQUENT
32 PAROLE.

33 (b) (1) Except as provided in paragraph (2) of this subsection, an inmate
34 sentenced to life imprisonment is not eligible for parole consideration until the inmate
35 has served 15 years or the equivalent of 15 years when considering allowances for
36 diminution of the inmate's period of confinement as provided under Title 3, Subtitle 7
37 of this article and Article 27, § 638C of the Code.

1 (2) An inmate sentenced to life imprisonment as a result of a proceeding
2 under Article 27, § 413 is not eligible for parole consideration until the inmate has
3 served 25 years or the equivalent of 25 years when considering allowances for
4 diminution of the inmate's period of confinement as provided under Title 3, Subtitle 7
5 of this article and Article 27, § 638C of the Code.

6 (3) An eligible person who is serving a term of life imprisonment may be
7 paroled only with the Governor's approval.

8 (c) (1) The Board of Review may:

9 (i) attach reasonable conditions to parole granted under this
10 section;

11 (ii) make reasonable and appropriate modifications of the
12 conditions at any time; [and]

13 (iii) revoke the parole if the Board of Review finds that the
14 individual has violated a condition of the parole; AND

15 (IV) ABROGATE SUPERVISION IF THE BOARD DETERMINES THAT
16 SUPERVISION IS NO LONGER NECESSARY AFTER THE INMATE HAS SUCCESSFULLY
17 COMPLETED THE GREATER OF 5 YEARS ON PAROLE OR MORE THAN 50% OF THE
18 AGGREGATE SENTENCE.

19 (2) The Board of Review:

20 (i) shall review an individual's status before the expiration of the
21 parole period; and

22 (ii) may extend the parole.

23 (d) (1) The Board of Review shall mail to the victim written notice of an
24 eligible person's parole hearing.

25 (2) Before the Board decides whether to grant parole to an eligible
26 person, the Board of Review shall give the victim a reasonable opportunity to
27 comment on the parole in writing or to present oral testimony in the manner that the
28 Board of Review establishes by regulation.

29 (3) The Board of Review promptly shall notify the victim of the decision
30 of the Board of Review regarding parole.

31 (4) The victim may designate, in writing to the Board of Review, the
32 name and address of a representative who is a resident of the State to receive notice
33 for the victim.

34 (5) The Board of Review shall delete the victim's address and phone
35 number from a document before the Board of Review allows examination of the
36 document by the eligible person or the eligible person's representative.

1 (e) The Board of Review may not release an eligible person on parole until the
2 Secretary approves the parole decision.

3 (f) (1) If an individual COMMITTED AN OFFENSE ON OR BEFORE OCTOBER
4 1, 1999 FOR WHICH PAROLE HAS BEEN GRANTED AND has completed successfully 3
5 years on THAT parole without violation and the Board of Review concludes that the
6 individual is safe to be permanently released, the Board of Review, through the
7 Director, may petition the court that last sentenced the individual to:

8 (i) suspend the individual's remaining sentence and terminate
9 parole supervision on the conditions the court considers appropriate; or

10 (ii) vacate the individual's remaining sentence.

11 (2) (i) The Director shall serve notice of the petition on the victim and
12 the State's Attorney who last prosecuted the individual.

13 (ii) The State's Attorney shall be a party to the proceeding.

14 (3) After a hearing, the court may either grant or deny the relief
15 requested in the petition.

16 7-502.

17 (a) An individual on mandatory supervision remains in legal custody until the
18 expiration of the individual's full term.

19 (b) An individual on mandatory supervision is subject to:

20 (1) all laws, rules, regulations, and conditions that apply to parolees; and

21 (2) any special conditions established by a commissioner OR, IF
22 RELEASED FROM A PATUXENT INSTITUTION PROGRAM, THE PATUXENT INSTITUTION
23 BOARD OF REVIEW.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2000.