

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 611 (Delegate Marriott, *et al.*)
Judiciary

Parole - Extension of Jurisdiction of Maryland Parole Commission and Patuxent Institution Board of Review

This bill authorizes the Maryland Parole Commission and the Patuxent Institution Board of Review to grant parole to an inmate serving a life sentence without the approval of the Governor.

Fiscal Summary

State Effect: The extent to which this bill could lead to the parole of more persons is unknown. However, since the number of persons who are granted parole, even without the imposition of a life sentence, is relatively small, this bill would not be expected to have a significant effect on the operations and finances of the Division of Correction (DOC) or the Maryland Parole Commission.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Board of Review has the power to authorize the parole of an inmate in the Patuxent Institution. The Maryland Parole Commission has this authority for inmates in DOC. The Governor must approve parole for an inmate serving a life sentence. An inmate serving a life sentence is not eligible for parole consideration until having served 15 years or the equivalent of 15 years after the diminution of a sentence. An inmate serving a life sentence for first degree murder, in a case in which the State

sought the death penalty, is not eligible for parole consideration until having served 25 years or the equivalent of 25 years after the diminution of a sentence. An allowance for diminution may include credit for time served before a verdict, credit for time served for a concurrent sentence in a foreign jurisdiction, or diminution credits for good behavior, employment, education, or special projects. The Parole Commission may not grant parole to an inmate serving a life sentence without the possibility of parole.

Background: On September 1, 1995, the Governor stated that he would approve parole for inmates sentenced to life imprisonment only if the inmates were very old or terminally ill. The Governor directed the Parole Commission not to recommend parole for inmates serving life sentences. In 1999, Maryland's Commission on Criminal Sentencing Policy, then a study commission, recommended an end to that policy.

In *Walter E. Lomax v. Warden, Maryland Correctional Training Center* (1998) it was alleged that the policy of the Governor constituted an impermissible *ex post facto* law, essentially converting the sentences of life imprisonment to sentences of life imprisonment without the possibility of parole. In an opinion filed November 9, 1999, the Court of Appeals held that the Governor's statement was no more than "an announcement of guidelines as to how the Governor would exercise the discretion which he has under the law." Since the statement did not carry the force of law and did not bind the Governor from employing different guidelines if he chose, the court ruled that the statement did not constitute an impermissible *ex post facto* provision.

On February 19, 2002, the U.S. Supreme Court announced that it was declining to hear a convicted rapist's challenge to Governor Glendening's policy of not granting parole to violent criminals serving life terms.

There are currently about 1,950 persons serving a life sentence in DOC facilities (not including those serving a sentence of life without parole).

Additional Information

Prior Introductions: A similar bill, HB 541, was introduced in 2001 and received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Maryland Parole Commission), Department of Legislative Services

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