
By: **Senator McFadden**

Introduced and read first time: January 23, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Parole - Eligibility - Rehearing**

3 FOR the purpose of requiring the Maryland Parole Commission periodically to review,
4 guide, and recommend individuals for parole; requiring the Commission to
5 establish a schedule for rehearing of certain parole cases, not to exceed a certain
6 period; prohibiting the placement of certain conditions in a parole order under
7 certain circumstances; providing for the application of this Act; and generally
8 relating to the review of and conditions of parole.

9 BY repealing and reenacting, with amendments,
10 Article - Correctional Services
11 Section 7-206, 7-302, and 7-308
12 Annotated Code of Maryland
13 (1999 Volume and 2003 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Correctional Services
16 Section 7-301
17 Annotated Code of Maryland
18 (1999 Volume and 2003 Supplement)

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

21 **Article - Correctional Services**

22 7-206.

23 The Commission shall:

24 (1) evaluate information on the activities of parolees that the Division of
25 Parole and Probation reports;

1 (2) issue warrants or delegate to the Director of the Division of Parole
2 and Probation the authority to issue warrants to retake parolees who are charged
3 with violating a condition of parole;

4 (3) review and make recommendations to the Governor:

5 (i) concerning parole of an inmate under a sentence of life
6 imprisonment; and

7 (ii) if requested by the Governor, concerning a pardon, commutation
8 of sentence, or other clemency;

9 (4) establish and modify general policy governing the conduct of
10 parolees; [and]

11 (5) arrange for psychiatric or psychological examination of applicants for
12 parole whenever the Commission believes that an examination will better enable it to
13 decide on the advisability of parole and include the expense for the examination in its
14 annual budget; AND

15 (6) PERIODICALLY REVIEW, GUIDE, AND RECOMMEND INDIVIDUALS
16 ELIGIBLE FOR PAROLE UNDER § 7-301 OF THIS TITLE.

17 7-301.

18 (a) (1) Except as otherwise provided in this section, the Commission shall
19 request that the Division of Parole and Probation make an investigation for inmates
20 in a local correctional facility and the Division of Correction make an investigation for
21 inmates in a State correctional facility that will enable the Commission to determine
22 the advisability of granting parole to an inmate who:

23 (i) has been sentenced under the laws of the State to serve a term
24 of 6 months or more in a correctional facility; and

25 (ii) has served in confinement one-fourth of the inmate's aggregate
26 sentence.

27 (2) Except as otherwise provided by law or in a predetermined parole
28 release agreement, an inmate is not eligible for parole until the inmate has served in
29 confinement one-fourth of the inmate's aggregate sentence.

30 (b) Except as provided in subsection (c) of this section, if an inmate has been
31 sentenced to a term of imprisonment during which the inmate is eligible for parole
32 and a term of imprisonment during which the inmate is not eligible for parole, the
33 inmate is not eligible for parole consideration under subsection (a) of this section until
34 the inmate has served the greater of:

35 (1) one-fourth of the inmate's aggregate sentence; or

1 (2) a period equal to the term during which the inmate is not eligible for
2 parole.

3 (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an
4 inmate who has been sentenced to the Division of Correction after being convicted of
5 a violent crime committed on or after October 1, 1994, is not eligible for parole until
6 the inmate has served the greater of:

7 1. one-half of the inmate's aggregate sentence for violent
8 crimes; or

9 2. one-fourth of the inmate's total aggregate sentence.

10 (ii) An inmate who has been sentenced to the Division of Correction
11 after being convicted of a violent crime committed on or after October 1, 1994, and
12 who has been sentenced to more than one term of imprisonment, including a term
13 during which the inmate is eligible for parole and a term during which the inmate is
14 not eligible for parole, is not eligible for parole until the inmate has served the greater
15 of:

16 1. one-half of the inmate's aggregate sentence for violent
17 crimes;

18 2. one-fourth of the inmate's total aggregate sentence; or

19 3. a period equal to the term during which the inmate is not
20 eligible for parole.

21 (2) An inmate who is serving a term of imprisonment for a violent crime
22 committed on or after October 1, 1994, shall receive an administrative review of the
23 inmate's progress in the correctional facility after the inmate has served the greater
24 of:

25 (i) one-fourth of the inmate's aggregate sentence; or

26 (ii) if the inmate is serving a term of imprisonment that includes a
27 mandatory term during which the inmate is not eligible for parole, a period equal to
28 the term during which the inmate is not eligible for parole.

29 (d) (1) Except as provided in paragraphs (2) and (3) of this subsection, an
30 inmate who has been sentenced to life imprisonment is not eligible for parole
31 consideration until the inmate has served 15 years or the equivalent of 15 years
32 considering the allowances for diminution of the inmate's term of confinement under
33 § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

34 (2) An inmate who has been sentenced to life imprisonment as a result of
35 a proceeding under § 2-303 or § 2-304 of the Criminal Law Article is not eligible for
36 parole consideration until the inmate has served 25 years or the equivalent of 25
37 years considering the allowances for diminution of the inmate's term of confinement
38 under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

1 (3) (i) If an inmate has been sentenced to imprisonment for life
2 without the possibility of parole under § 2-203 or § 2-304 of the Criminal Law Article,
3 the inmate is not eligible for parole consideration and may not be granted parole at
4 any time during the inmate's sentence.

5 (ii) This paragraph does not restrict the authority of the Governor
6 to pardon or remit any part of a sentence under § 7-601 of this title.

7 (4) If eligible for parole under this subsection, an inmate serving a term
8 of life imprisonment may only be paroled with the approval of the Governor.

9 7-302.

10 (A) The Commission or the Commission's hearing examiners shall hear cases
11 for parole release:

12 (1) at least once each month at each correctional facility in the Division
13 of Correction; and

14 (2) as often as necessary at other correctional facilities in the State at
15 which inmates eligible for parole consideration are confined.

16 (B) (1) (I) THE COMMISSION SHALL DETERMINE A SCHEDULE FOR
17 REHEARING CASES FOR PAROLE RELEASE.

18 (II) THE SCHEDULE MAY DIFFERENTIATE AMONG CLASSES OF
19 INMATES.

20 (2) THE DATE FOR REHEARING ON PAROLE RELEASE OF AN INMATE
21 MAY NOT BE LATER THAN 3 YEARS AFTER THE DATE OF THE INMATE'S LAST
22 PRECEDING PAROLE HEARING.

23 7-308.

24 (a) A parole shall be evidenced by a written order.

25 (b) Parole entitles the recipient:

26 (1) to leave the correctional facility in which the recipient was confined;
27 and

28 (2) if the recipient satisfactorily complies with all the terms and
29 conditions provided in the parole order, to serve the remainder of the recipient's term
30 of confinement outside the confines of the correctional facility.

31 (c) A parolee remains in legal custody until the expiration of the parolee's full,
32 undiminished term.

33 (d) The chairperson of the Commission shall file a copy of the parole order
34 with the clerk of the court in which the parolee was sentenced.

1 (E) A PAROLE ORDER MAY NOT BE CONDITIONED ON PARTICIPATION IN OR
2 COMPLETION OF A PROGRAM THAT DOES NOT EXIST OR IS NOT PLANNED TO BE
3 AVAILABLE IN THE DIVISION OF CORRECTION OR THE DEPARTMENT, INCLUDING
4 WORK RELEASE OR A VOCATIONAL OPPORTUNITY.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
6 inmates in the custody of the Division of Correction on or after October 1, 2004.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2004.