

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

Senate Bill 132 (Chairman, Judicial Proceedings Committee)  
(By Request – Departmental – Public Safety and Correctional Services)  
Judicial Proceedings Judiciary

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**Correctional Services - Sanctions by the Patuxent Institution Board of Review**

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This departmental bill allows the Board of Review at the Patuxent Institution to impose “appropriate sanctions consistent with the best interests of public safety” on an “inmate in the Eligible Person Program or the Patuxent Youth Program” who commits a major violation while on parole, work release, or leave.

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**Fiscal Summary**

**State Effect:** None. The bill’s provisions would have a negligible effect on the finances and operations of the Patuxent Institution.

**Local Effect:** None.

**Small Business Effect:** The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

**Current Law:** If an eligible person commits a major violation while on parole, work release, or leave, the eligible person must be confined to the institution and is ineligible for parole, work release, or leave for at least six months. If the Board of Review or the Secretary determines that a major violation was severe enough to warrant removing an eligible person from the institution, the eligible person may be removed from the institution and returned to the Division of Correction (DOC) to serve the remainder of the

eligible person's original sentence. If an eligible person commits a second major violation while on parole, work release, or leave, the eligible person must be removed from the institution and returned to DOC to serve the remainder of the eligible person's original sentence.

Eligible person means an individual who:

- has been convicted of a crime and is serving a sentence of imprisonment with at least three years remaining on the sentence;
- has an intellectual impairment or emotional imbalance;
- is likely to respond favorably to the programs and services that the institution provides;
- can better respond to remediation through those programs and services than by other incarceration; and
- meets the eligibility criteria established by the Secretary of Public Safety and Correctional Services.

Eligible person does not include an individual who:

- is serving two or more sentences of imprisonment for life for first or second degree murder;
- is serving one or more sentences of imprisonment for life when a court or jury has found, beyond a reasonable doubt, that one or more aggravating circumstances existed; or
- has been convicted of first degree murder, first degree rape, or a first degree sexual offense, unless the sentencing judge, at the time of sentencing or in the exercise of the judge's revisory power under the Maryland Rules, recommends that the individual be referred to the institution for evaluation.

A major violation is defined to include: (1) escape from parole, work release, or leave; (2) failure to return from parole, work release, or leave within one hour of the time due, unless the failure was due to causes beyond the person's control; (3) commission of a new crime, other than a minor traffic violation, while on parole, work release, or leave; (4) commission of a Category I violation of the department's disciplinary rules; and (5) use of a controlled dangerous substance that the person is not entitled to use under Maryland law.

**Background:** According to DPSCS, the vast majority of offenders who commit a major violation will have their release status revoked and be reincarcerated. However, there are

instances where the mandatory six-month reincarceration is not necessarily, in the judgment of DPSCS, in the best interests of public safety, or the eligible person. The agency believes that current law prohibits the Board of Review from exercising the best “clinical and administrative judgment” associated with such offenders.

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### **Additional Information**

**Prior Introductions:** SB 42 of 2004, a similar bill, passed the Senate and received an unfavorable report from the House Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2005  
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