

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 62

(Senator Brochin, *et al.*)

Judicial Proceedings

Crimes of Violence - Parole

This bill increases the amount of an inmate's sentence for a violent crime that must be served for parole eligibility from one-half to two-thirds of the applicable sentence for violent crimes committed on or after October 1, 2006. The bill also increases the amount of an inmate's sentence for a violent crime that must be served for an administrative review of progress in the correctional facility from one-fourth to one-half of the aggregate sentence for violent crimes committed on or after October 1, 2006.

The bill's provisions are applied prospectively, only.

Fiscal Summary

State Effect: Increased general fund incarceration costs for the Division of Correction (DOC) of \$409,200 in FY 2009. Revenues would not be affected. Future year costs level out by FY 2012, and remain constant at about \$1.6 million annually thereafter.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	409,200	818,400	1,227,600	1,636,800	1,636,800
Net Effect	(\$409,200)	(\$818,400)	(\$1,227,600)	(\$1,636,800)	(\$1,636,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local correctional facilities would incur additional costs resulting from increases in actual time served before parole eligibility. Those costs cannot be reliably estimated at this time. However, since violent crime offenders are usually sentenced to State facilities for lengthier sentences, any potential impact on local correctional costs are not assumed to be significant.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill provides that parole eligibility for persons incarcerated for commission of a violent crime on or after October 1, 2006 is as follows:

- an inmate who has been sentenced to DOC after being convicted of a violent crime is not eligible for parole until having served the greater of two-thirds of the aggregate sentence for violent crimes, or one-fourth of the total aggregate sentence;
- an inmate sentenced to DOC after conviction for a violent crime and who has been sentenced to more than one term of imprisonment, including a term during which the person is eligible for parole and a term during which the person is not eligible for parole, is not eligible for parole until having served the greater of two-thirds of the inmate's aggregate sentence for violent crimes, one-fourth of the inmate's total aggregate sentence, or a period equal to the term during which the inmate is not eligible for parole;
- an inmate who is serving a term for a violent crime must receive an administrative review of the inmate's progress in the correctional facility after having served the greater of one-half of the inmate's aggregate sentence or, if the inmate is serving a term that includes a mandatory term with parole ineligibility, a period equal to the term during which the inmate is not eligible for parole.

Current Law: The Maryland Parole Commission has the power to authorize the parole of an inmate in DOC. The Secretary of Public Safety and Correctional Services must also approve each parole.

A person sentenced to a term of incarceration of six months or more is entitled to a parole hearing after having served one-fourth of the term or consecutive terms. A person sentenced to more than one term, including a term during which the person is eligible for parole and a term during which the person is not eligible for parole, cannot be considered for parole unless the person has served the greater of one-fourth of the aggregate term or a period equal to the term during which the inmate is not eligible for parole.

For purposes of parole eligibility for a violent crime, a crime of violence means:

- abduction;
- first degree arson;
- first or second degree assault;
- first, second, or third degree burglary;
- carjacking and armed carjacking;
- first degree escape;
- kidnapping;
- voluntary manslaughter;
- maiming;
- mayhem;
- first or second degree murder;
- first or second degree rape;
- robbery;
- robbery with a dangerous weapon;
- first, second, or third degree sexual offense;
- an attempt to commit any of the above crimes; or
- assault with intent to commit any of the above crimes or a crime punishable by imprisonment for more than one year.

Parole eligibility for persons incarcerated for commission of a violent crime is as follows:

- an inmate who has been sentenced to DOC after being convicted of a violent crime committed on or after October 1, 1994 is not eligible for parole until the inmate has served the greater of one-half of the inmate's aggregate sentence for violent crimes, or one-fourth of the inmate's total aggregate sentence;
- an inmate who has been sentenced to DOC after being convicted of a violent crime committed on or after October 1, 1994 and who has been sentenced to more than one term of imprisonment, including a term during which the inmate is eligible for parole and a term during which the inmate is not eligible for parole, is not eligible for parole until the inmate has served the greater of one-half of the inmate's aggregate sentence for violent crimes; one-fourth of the inmate's total aggregate sentence; or a period equal to the term during which the inmate is not eligible for parole;

- an inmate who is serving a term of imprisonment for a violent crime committed on or after October 1, 1994 must receive an administrative review of the inmate's progress in the correctional facility after the inmate has served the greater of one-fourth of the inmate's aggregate sentence; or if the inmate is serving a term of imprisonment that includes a mandatory term during which the inmate is not eligible for parole, a period equal to the term during which the inmate is not eligible for parole.

A person sentenced to life imprisonment is not eligible for parole consideration until that person has served 15 years. A person sentenced to life imprisonment for first degree murder is not eligible for parole consideration until that person has served 25 years. An inmate sentenced to life imprisonment without the possibility of parole is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence. This does not restrict the authority of the Governor to pardon or remit any part of a sentence. If eligible for parole, an inmate serving a life term may only be paroled with the approval of the Governor.

Background: DOC has an annual intake of about 2,000 persons convicted for violent crimes with average annual sentences of 10 years. In fiscal 2005, about 20% of inmates with a conviction for a violent crime (400) were released on parole or on mandatory supervision release after having served less than two-thirds of their sentence.

State Expenditures: General fund expenditures would increase significantly in future years as a result of the bill's changes to parole eligibility due to more people being committed to DOC facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,974 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month. Excluding medical care, the average variable costs total \$134 per month.

The Department of Public Safety and Correctional Services estimates that this bill would add one year to the actual time served for affected inmates. No effects would be felt until fiscal 2009, when about 100 inmates would begin serving the additional time. This number would increase by about 100 each year until fiscal 2012, when about 400 inmates per year would begin serving the additional year before parole eligibility. That number is estimated to remain relatively constant thereafter. In any case, assuming the variable inmate costs and medical care costs of \$341 per month per inmate, State costs would

increase by \$4,092 annually (\$341 x 12) for each inmate affected under the bill, beginning in fiscal 2009. By fiscal 2012, these costs for 400 inmates per year would total \$1,636,800.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2007 are estimated to range from \$17 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

For the Parole Commission, there should be no adverse fiscal impact resulting from this bill. Any need to rewrite and reissue current policies and procedures could be accommodated with existing budgeted resources. The bill is not expected to have a significant operational or fiscal impact on the Division of Parole and Probation or the courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Public Defender, Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

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