

Department of Legislative Services  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 900 (Senator McFadden)  
Judicial Proceedings

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**Inmates - In Banc Review of Sentences - Parole Eligibility**

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This bill authorizes the parole of an eligible person who is serving a term of life imprisonment with the approval of the Governor or a three-judge panel sitting in banc. The bill authorizes a person to seek review of any point or question relating to a conviction or sentence by a three-judge panel sitting in banc, so long as the in banc review is authorized by the Maryland Constitution. The person seeking review may file a notice for in banc review any time after having served at least 20 continuous years of imprisonment without being released on parole as a result of the conviction and sentence.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in expenditures in FY 2010 only for the Judiciary to provide training to judges on review of parole determinations. Revenues are not affected.

**Local Effect:** Any increase in circuit court proceedings as a result of the bill can be handled with existing local budgeted resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** 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. Under these circumstances, the person may only be paroled with the approval of the Governor.

In general, Article IV, § 22, of the Maryland Constitution allows a party in a circuit court trial conducted by less than three judges of the circuit to have a judgment or determination of any point or question reviewed by three judges of the circuit, who constitute a court in banc. The party requesting the in banc review must make a timely motion to do so. The decision of the court in banc is considered final against the party who requested the in banc review.

Article IV, § 22 does not apply to: (1) circuit court trials that are appeals from judgments of the District Court; or (2) misdemeanors not punishable by confinement in the penitentiary.

**Background:** The Maryland Parole Commission advises that there are 2,330 offenders serving life sentences in the Division of Correction. The names of 30 of these offenders have been forwarded to the Governor for parole review. After an offender becomes eligible for parole, several hearings may be conducted before a recommendation to parole is forwarded to the Governor. Parole hearings are not formal evidentiary hearings, but are conducted more like interviews. Attorneys are not permitted to make formal presentations at parole hearings. This is not the case for hearings conducted by three-judge panels. At these hearings, attorneys are allowed to make formal presentations and the rules of evidence apply.

**State Fiscal Effect:** The bill is not clear as to how a three-judge panel chartered to review and/or change a sentence will be constituted to perform the executive function of making a parole determination. It is assumed that the Court of Appeals will have to promulgate rules for this procedure and that general fund expenditures will increase minimally in fiscal 2010 only for the Judiciary to provide training on this function. In future years this training can be provided with existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 24, 2009  
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