

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 172

(Senator McFadden, *et al.*)

Judicial Proceedings

Judiciary

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**Inmates - Life Imprisonment - Parole Approval**

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This bill specifies that, if the Parole Commission or the Patuxent Institution's Board of Review decides to grant parole to an inmate sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, the decision must be transmitted to the Governor, who may disapprove the decision in writing within 180 days. However, if the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective. For individuals whose parole recommendation is pending approval by the Governor on October 1, 2011, and who have served 25 years without consideration for diminution credits, the Governor has 180 days after that date to disapprove the recommendation or the parole becomes effective.

The bill retains current law provisions requiring gubernatorial approval for parole of an eligible person or inmate serving a term of life imprisonment who has served 15 years considering allowances for diminution credits (or 25 years in the case of a person whose case started as a death penalty proceeding).

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**Fiscal Summary**

**State Effect:** Minimal. Any eventual fiscal impact on State correctional facility costs or the costs of supervision of parolees resulting from the parole release of additional persons is assumed to be negligible.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Current Law:** The Maryland Parole Commission has the exclusive power to authorize the parole of an inmate in DOC. The Board of Review of the Patuxent Institution has the exclusive power to recommend an inmate for parole to the Secretary of Public Safety and Correctional Services or the Governor.

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 serving a sentence for a crime of violence is not entitled to a parole hearing until after having served one-half of the term. Certain persons are not eligible for parole while serving a mandatory minimum sentence.

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.

Chapter 299 of 2008 established medical parole as a form of release from incarceration in a State or local correctional facility for incapacitated inmates who, as a result of a medical or mental health condition, disease, or syndrome, pose no danger to public safety. A medical parole for a person serving a life sentence requires the approval of the Governor.

**Background:** There are currently 2,657 DOC inmates incarcerated serving life sentences. Of that number, 588 inmates are serving split life sentences in which the life sentence is suspended, but for a fixed term of years. There are 50 inmates serving a life term who are currently awaiting gubernatorial commutation of sentence or approval for parole. Of the 50, 42 have been recommended by the commission for a commutation of sentence and eight have been recommended for parole. On March 17, 2011, the Governor denied requests for commutation of seven of these individuals. At Patuxent, there are currently 15 persons serving a life sentence. None are awaiting gubernatorial approval for parole.

On September 21, 1995, Governor Glendening announced that he would not approve parole for any inmate sentenced to a term of life imprisonment unless the inmate was very old or terminally ill. The Governor also stated that he had "directed the Parole [Commission] not to even recommend – to not even send to [his] desk – a request for

parole for murderers and rapists.” The Parole Commission was subsequently sued by an inmate serving a life sentence who was denied parole. In 1999, the Court of Appeals ruled that the Governor has full discretion with regards to a decision on a recommendation for parole, but the Parole Commission is statutorily obligated to forward files to the Governor. See *Walter E. Lomax v. Warden, Maryland Correctional Training Center*, 356 Md. 469, 741 A.2d 476 (1998). The ruling as it pertained to the Parole Commission was consistent with circuit court decisions and concessions by the Attorney General and the Parole Commission.

According to the Maryland Parole Commission, since 1995, although commutations of sentences have been made by the Governor, no inmate serving a term of life imprisonment has been paroled outright. During the four-year term of Governor Ehrlich, 17 persons serving a life sentence were denied parole by the Governor and five sentences were commuted.

**State Fiscal Effect:** Eliminating the requirement for the Governor to approve parole for persons serving a life sentence does not change statutory eligibility for parole or the statutory factors considered in determining suitability for parole. Two commissioners are required to conduct such a hearing and the bill does not limit the discretion of the Parole Commission. Under the bill, the commissioners conducting the hearing would still have to agree to recommend parole and these recommendations would still be forwarded to the entire commission for *en banc* review. Granting parole would continue to require a majority vote of the commissioners present at a regularly scheduled meeting of the Parole Commission.

Accordingly, there is no discernable fiscal impact on the Parole Commission. Any additional persons who may be granted parole as a result of this bill is assumed to be few and the bill’s impact on correctional costs or the costs of the Division of Parole and Probation is assumed to be negligible.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 302 (Delegate Anderson, *et al.*) - Judiciary.

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

**Fiscal Note History:** First Reader - February 3, 2011  
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