

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 934

(Senator Smith)

Judicial Proceedings

Criminal Procedure - Postsentencing - Victim Notification

This bill expands who is regarded as a victim for the purpose of notification of parole release hearings, commutations, pardons, or sentence remissions. It also expands post sentencing victim notification requirements regarding an offender's mandatory supervision release, parole, predetermined parole release agreement, violation of a condition of parole or mandatory supervision, commutation of sentence, pardon, or remission of sentence to apply to a conviction of *any crime* rather than only a *violent crime*. The bill similarly expands the types of crimes for which a victim may submit a victim impact statement to the Maryland Parole Commission (MPC) or the Division of Parole and Probation (DPP) within the Department of Public Safety and Correctional Services (DPSCS). The bill also limits those who may be designated as a victim representative for the purpose of specified expanded notifications.

Fiscal Summary

State Effect: General fund expenditures increase, potentially significantly, to the extent that MPC must hire additional clerical staff to meet the bill's requirements beginning as early as FY 2019. DPP can handle the bill's requirements with existing resources. Revenues are not affected.

Local Effect: Local governments need to accommodate additional hearings at local detention centers pursuant to the bill, but it is anticipated that they can comply with the bill's requirements with existing resources.

Small Business Effect: None.

Analysis

Bill Summary:

Release on Mandatory Supervision: If an inmate is released on mandatory supervision and the victim made a specified written request for notification or if the victim or the victim's representative filed a specified notification request form, DPSCS must notify a victim or victim's representative:

- if a warrant or subpoena is issued by MPC for an alleged violation of a condition of mandatory supervision;
- if the individual has been found in violation or not in violation of a condition of mandatory supervision; and
- of any punishment imposed for the individual's violation of a condition of mandatory supervision.

Parole Release or Parole Violation: Within 30 days after notice from DPSCS regarding an inmate's parole release hearing, the victim of any crime may submit a written request to DPSCS that DPP must complete an updated victim impact statement. If an individual was convicted of a crime and the victim or victim's representative made a written request for notification, DPSCS must notify the victim or victim's representative (1) that a warrant or subpoena was issued by MPC for the individual's alleged violation of a condition of parole; (2) that the individual has been found in violation or not in violation of a condition of parole; and (3) of the punishment imposed on the individual for violating a condition of parole.

Notice to Victim: A victim of any crime may submit a victim impact statement and recommendation to MPC regarding a commutation, pardon, or remission of sentence.

Current Law: A number of definitions pertain to "victim" relative to post sentencing determinations. For determinations relating to release on mandatory supervision and violations of parole, "victim" means a person who suffers actual or threatened physical, emotional, or financial harm as a direct result of a crime or delinquent act, and "victim's representative" includes a family member or guardian of a victim who is a minor, deceased, or disabled.

For determinations relating to commutation, pardon, and remission of sentence, "victim" means an individual who suffers personal physical injury or death as a direct result of a crime or, if the victim is deceased, a designated family member of the victim.

For the purpose of determinations relating to release on parole, “victim” means:

- an individual who suffers personal physical injury or death as a direct result of a crime;
- a victim of child abuse under § 3-601 or § 3-602 of the Criminal Law Article;
- a victim of a violent crime; or
- if the victim is deceased, disabled, or a minor, a designated family member or other representative of the victim.

Under Maryland law, a victim of a crime or delinquent act (or a representative in the event the victim is deceased, disabled, or a minor) has a broad range of specific rights during the criminal justice process. Many of the rights afforded a victim of crime depend on a victim completing a notification request form or requesting notice.

If an inmate who was convicted of a violent crime is released on mandatory supervision and the victim made a specified written request for notification or if the victim or the victim’s representative filed a specified notification request form, DPSCS must notify a victim or victim’s representative:

- if a warrant or subpoena is issued by MPC for an alleged violation of a condition of mandatory supervision;
- if the individual has been found guilty or not guilty of violating a condition of mandatory supervision; and
- of any punishment imposed for the individual’s violation of a condition of mandatory supervision.

Within 30 days after notice from DPSCS regarding an inmate’s parole release hearing, the victim of a violent crime may submit a written request to DPSCS that DPP must complete an updated victim impact statement. If an individual was convicted of a violent crime and the victim or victim’s representative made a written request for notification, DPSCS must notify the victim or victim’s representative (1) that a warrant or subpoena was issued by MPC for the individual’s alleged violation of a condition of parole; (2) that the individual has been found guilty or not guilty of violating a condition of parole; and (3) of the punishment imposed on the individual for violating a condition of parole.

A victim of a violent crime may submit a victim impact statement and recommendation to MPC regarding a commutation, pardon, or remission of sentence. At least 30 days before a parole release hearing, a victim may make a written recommendation to MPC on the advisability of releasing the inmate on parole and request that the inmate be prohibited from having any contact with the victim. A victim may also request a meeting with a commissioner.

MPC has jurisdiction regarding parole for eligible inmates sentenced to State correctional facilities and local detention centers. Inmates in the Patuxent Institution who are eligible for parole are under the jurisdiction of the Patuxent Board of Review.

A parole hearing must be open to the public if (1) a victim or victim's representative makes a written request to DPSCS for notification and maintains a current address on file with DPSCS and (2) the victim makes a written request that the hearing be open to the public within a reasonable time before a scheduled hearing. Unless a parole hearing is closed or restricted, a victim or victim's representative has the right to attend an open parole hearing.

The commission is composed of 10 commissioners who are appointed for six-year terms by the Secretary of Public Safety and Correctional Services, with the advice and consent of the Senate. The Secretary, with the approval of the Governor, also appoints the chairperson of the commission. In addition to the commissioners, there are 11 hearing officers.

State Expenditures: MPC advises that, in fiscal 2018, it can handle any increased notifications required under the bill as well as any additional requests for open hearings that may result. However, depending on the number of additional requests that MPC receives from victims or victim representatives in fiscal 2019 and future years, MPC may require additional clerical staff to respond and coordinate hearing schedules in State and local correctional facilities. Thus, general fund expenditures may increase, potentially significantly, as early as fiscal 2019. However, the actual need for personnel depends on the volume of notification requests and resulting hearings under the bill, which can only be determined with actual experience under the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 1526 (Delegates Angel and Vallario) - Rules and Executive Nominations.

Information Source(s): Charles, Frederick, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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