

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 890
Judiciary

(Delegate Malone, *et al.*)

Correctional Services - Parole Eligibility - Violent Crime Involving a Firearm

This bill alters parole eligibility for an inmate sentenced for a violent crime involving a firearm committed on or after October 1, 2018.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) if individuals serve longer sentences under the bill, partially offset by a minimal decrease in expenditures for the Maryland Parole Commission (MPC). Revenues are not affected.

Local Effect: Offenders sentenced for violent crimes typically are not sentenced to local correctional facilities; therefore, local finances are not anticipated to be materially affected.

Small Business Effect: None.

Analysis

Bill Summary: An inmate sentenced to the Division of Correction (DOC) for a violent crime involving a firearm committed on or after October 1, 2018, is not eligible for parole consideration until the inmate has served the greater of 70% of the inmate's aggregate sentence for violent crimes or one-third of the inmate's total aggregate sentence. An inmate sentenced to DOC for a violent crime involving a firearm committed on or after October 1, 2018, and who has been sentenced to more than one term of imprisonment, including a term for which the inmate is not eligible for parole, is not eligible for parole until the inmate has served the greater of 70% of the inmate's aggregate sentence for violent

crimes, one-third of the inmate's total aggregate sentence, or a period equal to the term during which the inmate is not eligible for parole.

Current Law: Parole is a discretionary and conditional release from imprisonment determined after a hearing for an inmate who is eligible to be considered for parole. If parole is granted, the inmate is allowed to serve the remainder of the sentence in the community, subject to the terms and conditions specified in a written parole order.

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.

An inmate sentenced to serve less than six months is not eligible for parole. When an inmate serving a sentence of incarceration of six months or more has served one-fourth of the inmate's sentence, the inmate is entitled to be considered for parole, with several significant exceptions. These exceptions are set forth below.

- An inmate serving a term of incarceration that includes a mandatory minimum sentence that a statute specifies is not subject to parole (*e.g.*, use of a handgun in a felony or crime of violence, subsequent violent offenders with more stringent sentences, and subsequent felony drug offenders with more stringent sentences) and who is not eligible for parole until the inmate served that mandatory minimum sentence. Diminution credits may not be applied toward this minimum requirement.
- Any of the following inmates who do not receive a mandatory minimum sentence are required to serve at least one-half of their sentences for violent crimes before becoming eligible for parole: (1) an inmate convicted of a violent crime committed on or after October 1, 1994; (2) an inmate convicted of child abuse in the first degree committed on or after October 1, 2006; and (3) an inmate convicted of sexual abuse of a child younger than age 13 or a continuing course of conduct with a child committed on or after October 1, 2007.
- Chapter 515 of 2016 (also known as the Justice Reinvestment Act) established that an inmate serving a term of imprisonment for a third or subsequent conviction for specified felony drug offenses committed on or after October 1, 2017, is not eligible for parole until the inmate has served one-half of the aggregate sentence.
- An offender sentenced to life imprisonment must serve a minimum of 15 years less diminution credits before becoming eligible for parole and may be paroled only with approval of the Governor.
- An offender sentenced to life imprisonment for first-degree murder, instead of a sentence of life imprisonment without the possibility of parole, must serve a minimum of 25 years less diminution credits before becoming eligible for parole and may generally be paroled only with approval of the Governor. However, if

MPC or the Patuxent Board of Review decides to grant parole to an inmate who has served 25 years without application of diminution credits and the Secretary of Public Safety and Correctional Services approves the decision, the decision must be transmitted to the Governor, who may disapprove the decision in writing within 180 days. If the Governor does not disapprove the decision to grant parole within that timeframe, the decision to grant parole becomes effective.

- Inmates serving a sentence of life without the possibility of parole may not be granted parole unless the Governor commutes the sentence to allow for the possibility of parole or pardons the individual.
- Effective October 1, 2017, offenders who are age 60 or older and have served at least 15 years of a sentence for a crime of violence may petition for and be granted parole. The provisions do not apply to individuals who are registered or eligible for registration on the sex offender registry.
- Also effective October 1, 2017, an inmate who is so chronically debilitated or incapacitated by a medical or mental health condition, disease, or syndrome as to be physically incapable of presenting a danger to society may be released on medical parole. If MPC decides to grant medical parole, the decision must be transmitted to the Governor. The Governor is then required to disapprove a recommendation for medical parole within 180 days of the decision by MPC. If the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective.

State Expenditures: General fund expenditures for DPSCS increase minimally if individuals serve longer sentences as a result of the bill's provisions. However, this increase is partially offset by a decrease in general fund expenditures for MPC due to fewer parole hearings.

Under current law, inmates sentenced for violent crimes committed on or after October 1, 1994, are not eligible for parole until after having 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. Under the bill, the time period for parole eligibility is increased by approximately 10% to 20%. If the inmate has been sentenced to more than one term of imprisonment, including a term during which the inmate is not eligible for parole, the inmate is also not eligible for parole until the inmate has served a period equal to the term during which the inmate is not eligible for parole. For this group of inmates, the bill does not change the period during which the inmate is not eligible for parole.

DPSCS advises that inmates serving sentences for violent crimes typically serve 70% to 75% of their sentence before release, which is equal to or greater than that required under the bill; therefore, any increase in expenditures for DPSCS is anticipated to be minimal.

Currently, the average total cost per inmate, including overhead, is estimated at \$3,800 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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