

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1480
 Judiciary

(Delegates Anderson and Crutchfield)

Correctional Services - Elder Parole

This bill authorizes the release of an “elder inmate” on parole at any time during the term of the inmate’s sentence, without regard to the eligibility standards for parole under current law. A request for parole must be in writing and may be filed with the Maryland Parole Commission (MPC) by the inmate seeking parole or by an attorney. Following review of the request, MPC must provide notice to the inmate and conduct a hearing to determine if the inmate is suitable for parole, as specified. There is a rebuttable presumption that an elder inmate is suitable for parole; the presumption may be rebutted by a determination by an MPC panel that a specified factor or factors make the inmate unsuitable for parole. MPC must adopt implementing regulations.

Fiscal Summary

State Effect: General fund expenditures increase by \$600,900 in FY 2021 for staff; this estimate does not reflect any potential savings in incarceration costs. Future years reflect annualization and ongoing costs. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	600,900	704,700	720,800	745,800	771,700
Net Effect	(\$600,900)	(\$704,700)	(\$720,800)	(\$745,800)	(\$771,700)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Elder inmate” means an inmate who is at least age 60 who has not been sentenced to life imprisonment or imprisonment for life without the possibility of parole.

The provisions of law relating to victim notification and opportunity to be heard apply to proceedings under the bill.

Current Law: MPC has the exclusive power to authorize the parole of an inmate in State correctional facilities. The Patuxent Board of Review (PBR) has the exclusive power to recommend an inmate of the Patuxent Institution for parole to the Secretary of Public Safety and Correctional Services or the Governor. The parole of any person serving a parole-eligible term of life in either a State correctional facility or the Patuxent Institution requires the approval of 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. Under specified circumstances, 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.

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. Chapter 515 of 2016 requires that, beginning October 1, 2017, if MPC decides to grant medical parole, the decision 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.

Chapter 623 of 2011 provided that if MPC or PBR 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 was pending approval by the

Governor on October 1, 2011, and who had served 25 years without consideration for diminution credits, the Governor had 180 days after that date to disapprove the recommendation or the parole became effective.

Chapter 623 retained 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).

Medicaid may reimburse covered health care costs for parolees who are moved to hospitals or nursing facilities. However, among other requirements, such individuals must be placed in medical institutions that are generally available to the public and not operated primarily or exclusively to care for those involved with the criminal justice system. Residents must be free from physical restraint imposed solely for the purposes of discipline or convenience, free to choose visitors, live in an unlocked unit unless otherwise necessary for medical reasons, and be able to conduct private telephone conversations. Medicaid payment is only available when an inmate is an inpatient in a medical institution not under the control of the correctional system.

State Expenditures: General fund expenditures for MPC increase by \$600,858 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost of hiring three parole commissioners, three parole assistants, and five office clerks to handle the additional parole hearings and required notifications resulting from the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- MPC advises that there are approximately 1,189 inmates in the custody of the Division of Correction who potentially qualify for parole under the bill;
- three parole commissioners are needed to conduct the anticipated increase in parole hearings;
- one parole assistant in each of three regions of the State is needed to provide the required notifications related to parole hearings and to serve and process parole decisions and releases; and
- five office clerks are needed to handle scheduling of the additional parole hearings, conduct the required victim notifications, and perform general clerical duties relating to parole hearings.

Positions	11
Salaries and Fringe Benefits	\$541,829
Operating Expenses	<u>59,029</u>
Total FY 2021 State Expenditures	\$600,858

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. This analysis does not reflect any costs for attorneys for inmates to request parole; it is not clear who retains an attorney under this provision.

The analysis also does not reflect any potential savings in incarceration costs that may result from the bill's changes.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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