

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1134
(Delegate Boteler)
Judiciary

Correctional Services – Parole Eligibility – Child Abuse

This bill alters the parole eligibility for an inmate sentenced to the Division of Correction (DOC) for child abuse involving a victim younger than age 14 committed on or after October 1, 2022.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances in the near term. In the future, general fund expenditures increase for the Department of Public Safety and Correctional Services (DPSCS) as individuals serve longer sentences under the bill. Revenues are not affected.

Local Effect: Local finances are not anticipated to be materially affected.

Small Business Effect: None.

Analysis

Bill Summary: An inmate sentenced to DOC for child abuse under § 6-601 of the Criminal Law Article involving a victim younger than age 14 committed on or after October 1, 2022, is not eligible for parole until the inmate has served three-fourths of the inmate's total aggregate sentence. In addition, an inmate sentenced to more than one term of imprisonment, including a term during which the inmate is eligible for parole and a term during which the inmate is not eligible for parole, is not eligible for parole until the inmate has served the greater of (1) three-fourths of the inmate's total aggregate sentence or (2) a period equal to the term during which the inmate is not eligible for parole. Further, an

inmate sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 30 years without application of diminution of confinement credits.

Current Law:

Parole: 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.

The Maryland Parole Commission 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. Generally, when an inmate serving a sentence of six months or more has served one-fourth of the inmate's sentence, the inmate is entitled to be considered for parole, subject to specified exceptions.

An inmate sentenced for a violent crime committed on or after October 1, 1994, is 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. 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.

An inmate who has been sentenced to life imprisonment after being convicted of a crime committed on or after October 1, 2021, is not eligible for parole consideration until the inmate has served 20 years or the equivalent of 20 years less diminution credits earned. If the inmate was sentenced to life imprisonment for a crime committed before October 1, 2021, the inmate is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years less diminution credits earned. A person sentenced to life imprisonment for first-degree murder whose case started as a death penalty proceeding is not eligible for parole consideration until that person has served 25 years less diminution credits earned. 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.

Child Abuse: First-degree child abuse occurs when a parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor commits abuse resulting in severe physical injury to or the death of the minor. "Abuse"

and “severe physical injury” have specific statutory definitions. A violator is guilty of a felony and subject to imprisonment for up to 25 years. If the violation results in the death of a victim who was at least age 13, a violator is subject to imprisonment for up to 40 years. A violator is subject to life imprisonment if the violation results in the death of a victim who was younger than age 13.

Second-degree child abuse occurs when a parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor causes abuse to a minor. A violator is guilty of a felony and subject to imprisonment for up to 15 years.

A person who violates these child abuse prohibitions after being convicted of a prior violation of these provisions is guilty of a felony, punishable by imprisonment for up to 25 years. If the violation results in the death of the victim, the violator is subject to life imprisonment.

A sentence imposed for child abuse may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the child abuse violation.

State Expenditures: First-degree child abuse is classified as a crime of violence under § 14-101 of the Criminal Law Article. DPSCS advises that inmates serving sentences for violent crimes typically serve 70% of their sentence before release. Under the bill, an inmate must serve at least 75% of the inmate’s total aggregate sentence. Accordingly, general fund incarceration expenditures increase in the future as individuals serve longer sentences due to the bill’s changes.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$4,700 per month. Excluding overhead, the average cost of housing a new State inmate (including health care costs) is about \$1,233 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$289 per month.

DOC advises that there are currently 254 inmates serving sentences for child abuse; however, the ages of the victims in the cases are not readily known. *For illustrative purposes only*, for each inmate that remains incarcerated for one additional year as a result of the bill, based on the *current* average variable inmate costs of \$289 per month (excluding health care), State incarceration costs increase by approximately \$3,470.

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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