

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1137
(Delegate Boteler)
Judiciary

Correctional Services - Parole Eligibility - Sexual Offenses Against Minors

This bill alters the parole eligibility for an inmate sentenced to the Division of Correction (DOC) for specified sexual crimes or sexual abuse of a minor involving a victim younger than age 17 committed on or after October 1, 2022.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances in the short 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, partially offset by a minimal decrease in expenditures for the Maryland Parole Commission (MPC), as discussed below. 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 a sexual crime under Title 3, Subtitle 3 of the Criminal Law Article, or sexual abuse of a minor under § 3-602 of the Criminal Law Article involving a victim younger than age 17 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. 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. 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.

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. 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.

Sexual Crimes: Title 3, Subtitle 3 of the Criminal Law Article contains statutory provisions pertaining to several sexual crimes, ranging from rape in the first degree to sexual offense in the fourth degree.

Sexual Abuse of a Minor: “Sexual abuse” is an act that involves sexual molestation or exploitation of a minor, whether physical injuries are sustained or not. Sexual abuse includes incest, rape, sexual offense in any degree, sodomy, and unnatural or perverted sexual practices. A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor. A household member or family member is also prohibited from causing sexual abuse to a minor. A violator is guilty of a felony, punishable by imprisonment for up to 25 years. A sentence imposed for child sexual abuse may be separate from and consecutive to or concurrent with a sentence for any crime based on the act that establishes the sexual abuse violation or an act of child abuse separate from the sexual abuse.

State Expenditures: Several crimes under Title 3, Subtitle 3 of the Criminal Law Article (including rape and sexual offense in the first and second degrees) and sexual abuse of a minor under some circumstances are 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. However, the increase in incarceration expenditures may be partially offset by a minimal decrease in expenditures for MPC as parole hearings are delayed.

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 44 inmates serving sentences for sexual abuse of a minor; however, the ages of the victims in the cases are not readily known. *For illustrative purposes only*, for each inmate that remains incarcerated for five additional years 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 \$17,300.

Additional Comments: Although the bill establishes that an inmate sentenced to life imprisonment after being convicted of a sexual crime under Title 3, Subtitle 3 of the Criminal Law Article or sexual abuse of a minor involving a victim younger than age 17 committed on or after October 1, 2022, is not eligible for parole consideration until the

inmate has served 30 years without application of diminution credits, the maximum sentence for several of the included crimes is less than 30 years.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

Fiscal Note History: First Reader - March 4, 2022
fnu2/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510