

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1123
 Judiciary

(Delegate Bartlett, *et al.*)

Judicial Proceedings

Correctional Services - Medical and Elder Parole

This bill makes various changes relating to medical and elder parole. Specifically, the bill (1) alters the factors that the Maryland Parole Commission (MPC) must consider in determining whether an individual is suitable for medical parole; (2) repeals provisions related to gubernatorial approval of a decision of MPC to grant medical parole under specified circumstances; (3) establishes a process for MPC to determine suitability for parole for specified individuals who are at least age 60 and meet other specified conditions (which includes, among other things, a requirement for MPC to conduct a risk assessment for the incarcerated individual); and (4) authorizes the Justice Reinvestment Oversight Board (JROB) to recommend that a portion of the annual savings from the implementation of the recommendations of the Justice Reinvestment Coordinating Council (JRCC) be distributed to MPC for the purpose of hiring psychologists to perform the risk assessments of candidates for elder parole under the bill.

Fiscal Summary

State Effect: General fund expenditures increase by \$407,300 in FY 2026 for MPC to hire psychologists to conduct risk assessments. Future years reflect annualization, inflation, and ongoing costs. To the extent the Governor’s Office of Crime Prevention and Policy (GOCPP) distributes funding to MPC for this purpose, as authorized by the bill, the need for general funds decreases, as discussed below. Revenues are not affected.

| (in dollars) | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 407,300 | 497,300 | 519,200 | 542,100 | 565,400 |
| Net Effect | (\$407,300) | (\$497,300) | (\$519,200) | (\$542,100) | (\$565,400) |

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:

Medical Parole: The bill makes the following changes to the medical parole process:

- an incarcerated individual may be released on medical parole at any time during the term of that incarcerated individual's sentence, without regard to specified eligibility standards, if a licensed medical professional has made specified determinations regarding the incarcerated individual's health;
- if a medical evaluation is requested pursuant to current law, the evaluation must consist of an in-person examination of the incarcerated individual, and MPC must give equal consideration to the findings of the evaluation and any medical condition detailed in the evaluation in considering whether to grant medical parole;
- the incarcerated individual or the incarcerated individual's representative may request a meeting with MPC, and MPC must grant the request for a meeting for any incarcerated individual (1) housed in an infirmary of a correctional facility; (2) currently hospitalized outside a correctional facility; or (3) who has been frequently housed in an infirmary of a correctional facility or hospitalized outside a correctional facility in the preceding six months. However, MPC may, at its discretion, grant the request for a meeting for any incarcerated individual who does not meet these requirements;
- MPC may require as a condition of release on medical parole that the parolee agree to placement for a definite or indefinite period of time *under the care of a medical provider*, as specified (instead of *in a hospital or hospice*);
- "imminent death," as it pertains to provisions of current law regarding victim notification and opportunity to be heard, is defined to mean death that is likely to occur within six months; and
- the requirement for MPC to transmit to the Governor a decision to grant medical parole to an incarcerated individual sentenced to life imprisonment is repealed.

Elder Parole: On an ongoing basis, the Department of Public Safety and Correctional Services (DPSCS) must submit to MPC the names of each incarcerated individual who (1) is at least age 60; (2) has been incarcerated continuously for at least 20 years; (3) has not had major disciplinary infractions within the previous three-year period; and (4) is not serving a sentence of life without the possibility of parole. Within 60 days of receipt of such a name, MPC must conduct a risk assessment for the incarcerated individual. On

completion of the risk assessment, MPC must conduct a parole release hearing and determine whether the incarcerated individual is suitable for parole.

Current Law:

Parole

Powers and Duties: MPC has the exclusive power to authorize the parole of an incarcerated individual in State correctional facilities. The Patuxent Board of Review (PBR) has the exclusive power to recommend an incarcerated individual 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.

Each hearing examiner and commissioner determining whether an incarcerated individual is suitable for parole, and MPC before entering into a predetermined parole release agreement, must consider several specified factors, including, among others, (1) the circumstances surrounding the crime; (2) the physical, mental, and moral qualifications of the incarcerated individual; (3) the progress of the incarcerated individual during confinement, as specified; (4) whether there is reasonable probability that the incarcerated individual, if released on parole, will remain at liberty without violating the law; and (5) whether release of the incarcerated individual on parole is compatible with the welfare of society.

Parole Eligibility: 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. With the exception of a person registered as or eligible to register as a sexual offender, offenders who are age 60 or older who have served at least 15 years of a sentence for a subsequent crime of violence may apply for and be granted geriatric parole. An incarcerated individual 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 incarcerated individual's sentence. This does not restrict the authority of the Governor to pardon or remit any part of a sentence.

Medical Parole: Chapter 299 of 2008 established medical parole as a form of release from incarceration in a State or local correctional facility for incapacitated incarcerated

individuals 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.

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. Medicaid payment is only available when an incarcerated individual is an inpatient in a medical institution not under the control of the correctional system.

Governor Approval: Chapter 623 of 2011 provided that if MPC or PBR decides to grant parole to an incarcerated individual 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 30 of 2021 eliminated the requirement that the parole of a person serving a parole-eligible life sentence in a State correctional facility or the Patuxent Institution, subsequent to a recommendation for that parole by MPC or PBR, be approved by the Governor.

Crimes of Violence – § 14-101 of the Criminal Law Article

Section 14-101(a) of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor under specified circumstances; (15) home invasion; (16) felony sex trafficking and forced marriage; (17) an attempt to commit crimes (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Justice Reinvestment Act

Chapter 42 of 2015 established JRCC within GOCPP. JRCC was required to use a data-driven approach to develop a statewide policy framework for sentencing and corrections policies to further reduce the State's incarcerated population, reduce spending on corrections, and reinvest in strategies to increase public safety and reduce recidivism. The council and its subcommittees met numerous times in 2015 to analyze criminal justice data and review relevant research. Based on its findings, JRCC developed a comprehensive set of recommendations intended to focus prison resources on serious and violent offenders, strengthen community supervision efforts, improve and enhance release and reentry practices, support local corrections systems, and ensure oversight and accountability.

Chapter 515 of 2016, the Justice Reinvestment Act, generally implemented many of the recommendations of JRCC by altering provisions relating to sentencing, corrections, parole, and offender supervision. In addition, the Justice Reinvestment Act, among other things, provided for the reinvestment of savings from changes in incarceration policies. Chapter 515 also established the Performance Incentive Grant Fund, a special fund intended to make use of the savings from the implementation of the Justice Reinvestment Act to provide grants for specified programs and services, including providing for pretrial risk assessments, services to reduce pretrial detention, specialty courts, and ensuring that the rights of crime victims are protected and enhanced.

JROB is required to annually recommend that the savings identified from the implementation of the Act be distributed as follows: (1) up to 50% of the savings must be placed in the Performance Incentive Grant Fund; and (2) generally, the remaining savings must be used for additional services identified as reinvestment priorities in JRCC's final report. JROB may recommend that a portion of the remaining savings be used for the development and implementation of a post-secondary education and work force training program for each correctional institution in the Division of Correction (DOC) that provides incarcerated individuals with the requisite training certifications, and experience to obtain careers in in-demand job sectors. (For fiscal 2025 only, JROB was authorized to recommend that a portion of the remaining savings be distributed to the Office of the Correctional Ombudsman.)

The fiscal 2026 budget as introduced includes \$11.2 million for the Performance Incentive Grant Fund.

State Expenditures: General fund expenditures for MPC increase by \$407,336 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring three psychologists to perform the required risk assessments for candidates for elder parole under the bill. It includes salaries, fringe benefits, one-time

start-up costs, and ongoing operating expenses. DPSCS advises that DOC currently has 67 individuals that meet the requirements to qualify for a risk assessment under the bill. DPSCS further advises that each risk assessment takes a significant amount of time to conduct.

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|---|------------------|
| Positions | 3.0 |
| Salaries and Fringe Benefits | \$385,230 |
| Operating Expenses | <u>22,106</u> |
| Total FY 2026 State Expenditures | \$407,336 |

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

DPSCS can handle the required submission of names to MPC, on an ongoing basis, with existing resources.

MPC can handle any changes resulting from the bill related to parole hearings with existing resources.

Although this analysis assumes that general funds are used to cover MPC's costs (as estimated above), the bill authorizes JROB to recommend that a portion of the annual savings from the implementation of the recommendations of JRCC be distributed to MPC for the purpose of hiring psychologists to perform the required risk assessments of candidates for elder parole. To the extent MPC secures funding from GOCPP from the Performance Incentive Grant Fund for this purpose, the need for general funds decreases, and less funding is available for other authorized uses of the Performance Incentive Grant Fund.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Governor's Office; Governor's Office of Crime Prevention and Policy; Department of Public Safety and Correctional Services; Department of Legislative Services

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