

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

House Bill 1123  
Judiciary

(Delegate Bartlett, *et al.*)

Judicial Proceedings

Correctional Services - Geriatric and Medical Parole

This bill makes various changes to the parole process, including (1) altering the factors that must be considered in determining whether an individual is suitable for parole and before a predetermined parole release agreement is entered into; (2) altering the factors that the Maryland Parole Commission (MPC) must consider in determining whether an individual is suitable for medical parole; and (3) altering the process for individuals granted medical parole to be returned to the custody of the Division of Correction (DOC) or a local correctional facility. In addition, the bill (1) establishes a process for MPC to determine suitability for geriatric parole for specified individuals; (2) requires MPC to report specified information relating to the outcomes of such geriatric parole considerations to the Justice Reinvestment Oversight Board (JROB); (3) requires savings realized by the Department of Public Safety and Correctional Services (DPSCS) as a result of the geriatric parole process to be used for specified purposes; and (4) authorizes 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 risk assessments of candidates for geriatric parole under the bill.

Fiscal Summary

**State Effect:** General fund expenditures increase by \$474,500 in FY 2026 for MPC; this estimate does not reflect any potential savings in incarceration costs. To the extent the Governor’s Office of Crime Prevention and Policy (GOCPP) distributes funding to MPC, as authorized by the bill, the need for general funds decreases, as discussed below. Future year estimates are annualized and reflect inflation. Revenues are not directly affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	474,500	575,600	601,000	627,600	654,500
Net Effect	(\$474,500)	(\$575,600)	(\$601,000)	(\$627,600)	(\$654,500)

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

**Local Effect:** The bill does not materially affect local operations or finances.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

*Parole:* Among other considerations, 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 (1) whether, *taking into account the totality of the circumstances including the age of the incarcerated individual*, there is reasonable probability that the incarcerated individual, if released on parole, will *not recidivate* (instead of *remain at liberty without violating the law*) and (2) whether release of the incarcerated individual on parole is compatible with *public safety* (instead of *the welfare of society*).

*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 physician 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*);

- if a licensed physician makes specified determinations regarding an individual granted medical parole, the parolee must be returned to the custody of DOC or the local correctional facility from which the parolee was released;
- “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.

*Geriatric Parole:* The following provisions apply only to an incarcerated individual who is at least age 65, has served at least 20 years of incarceration, is not a specified sex offender, is serving a term of confinement for which all sentences being served (including any life sentence) are with the possibility of parole, and has had no category 1A disciplinary infractions (the most serious category for correctional facility rule violations) within the previous 3-year period. On an ongoing basis, DPSCS must submit to MPC the name of each incarcerated individual who meets those qualifications, and within 60 days after receipt of such a name, MPC must order a risk assessment for the incarcerated individual if the individual is serving sentences for multiple crimes of violence with an aggregate term of confinement of 40 years or more. MPC may also order a risk assessment for any other incarcerated individual eligible for parole under these provisions. MPC must conduct a parole release hearing by a hearing examiner or a commission panel, as provided under current law, for each individual whose name is submitted under these provisions and determine whether the incarcerated individual is suitable for parole. The hearing must be conducted as soon as possible, if no risk assessment is ordered, or on completion of any risk assessment ordered.

Generally, an incarcerated individual who has been denied parole under these provisions may not have a subsequent parole hearing for five years; however, if MPC determines that extraordinary and compelling circumstances justify the subsequent parole hearing, the incarcerated individual may have a subsequent parole hearing at any time.

In addition to factors specified under current law for an MPC hearing examiner and commissioner in determining whether an incarcerated individual is suitable for parole, each MPC panel determining whether an incarcerated individual is suitable for parole must consider and give significant weight to the incarcerated individual’s age and the impact that the incarcerated individual’s age has on reducing the risk that the incarcerated individual will recidivate.

Any savings realized by DPSCS as a result of these provisions must be used for conducting risk assessments, conducting parole hearings, and providing prerelease and reentry case management and resources for incarcerated individuals released on parole.

Every year, MPC must report to JROB on the outcomes of parole considerations made under these provisions, including (1) the number of incarcerated individuals who are subject to these provisions who are denied parole and released on parole; (2) the reason for each decision to release an incarcerated individual on parole; (3) the reason for each decision to deny parole to an incarcerated individual; (4) of the number of incarcerated individuals who are released on parole, the number of individuals who are convicted of an offense committed after release; (5) the average time between when an incarcerated individual becomes eligible for parole consideration under these provisions and when the incarcerated individual receives the first required parole hearing; and (6) the average time between parole hearings for incarcerated individuals subject to these provisions.

MPC must adopt implementing regulations, as specified.

The bill repeals existing provisions authorizing geriatric parole for individuals serving a sentence for a crime of violence under specified circumstances.

In addition, the bill requires MPC to make efforts to prioritize conducting parole hearings and issuing recommendations for individuals eligible for medical and geriatric 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. A parolee must be returned to the custody of DOC or the local correctional facility from which the incarcerated individual was released if MPC has reason to believe that the parolee is no longer so debilitated or incapacitated as to be physically incapable of presenting a danger to society. A parole hearing for a parolee returned to custody must be held promptly to consider whether the parolee remains incapacitated. A parolee returned to custody under these circumstances must remain in custody if the incapacitation is found to no longer exist. However, the individual may be considered under other parole provisions discussed above.

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, 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 DOC that provides incarcerated individuals with the requisite training certifications, and experience to obtain careers in in-demand job sectors. (For fiscal 2026 and each fiscal year thereafter, the Budget Reconciliation and Financing Act of 2025 as passed by the General Assembly authorizes the use of up to \$1.0 million of the fund to support the agency operations of Office of the Correctional Ombudsman.)

The fiscal 2026 budget as passed by the General Assembly includes \$11.2 million for the Performance Incentive Grant Fund.

**State Expenditures:** General fund expenditures increase by \$474,494 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring three psychologists and one administrative officer to perform the required risk assessments for candidates for geriatric parole under the bill and to submit the required reports to JROB. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. DPSCS advises that DOC currently has 245 individuals that are eligible to be considered for a risk assessment under the bill. DPSCS further advises that each risk assessment takes a significant amount of time to conduct. In addition, given the complexity of the required reports, existing staff cannot handle the additional workload stemming from the reporting requirement.

Positions	4.0
Salaries and Fringe Benefits	\$445,019
Operating Expenses	<u>29,475</u>
<b>Total FY 2026 State Expenditures</b>	<b>\$474,494</b>

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

This estimate does not include any potential savings that may be realized as of result of the bill; reliable estimates regarding those effects cannot be made at this time. For contextual

purposes, however, currently, the average total cost to house a State incarcerated individual in a DOC facility, including overhead, is estimated at \$5,339 per month. Excluding overhead, the average cost of housing a State incarcerated individual (including health care costs) is about \$1,268 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$312 per month.

As noted above, any savings realized by DPSCS due to the bill's provisions relating to geriatric parole must be used for conducting risk assessments, conducting parole hearings, and providing prerelease and reentry case management and resources for incarcerated individuals released on parole.

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

MPC can prioritize conducting parole hearings and issuing recommendations for individuals eligible for geriatric and medical parole 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 risk assessments of candidates for geriatric 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.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has been introduced within the last three years. See SB 128 and HB 118 of 2024; HB 157 and SB 98 of 2023; and SB 562 and HB 600 of 2022.

**Designated Cross File:** None.

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



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rh/lgc

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