

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 36 (Senator Hough)
Judicial Proceedings

Correctional Services - Eligibility for Parole - Life Imprisonment

This bill increases the amount of time that an inmate who has been sentenced to life imprisonment, after being convicted of a crime committed on or after October 1, 2020, must serve before being eligible for parole consideration from 15 to 25 years, or its equivalent considering allowances for diminution credits.

Fiscal Summary

State Effect: The bill has no immediate impact on State finances. In future years, general fund incarceration expenditures may increase, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Parole

The Maryland Parole Commission (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 third or subsequent felony drug crime committed on or after October 1, 2017, or 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, 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.

If eligible for parole, an inmate serving a life term may only be paroled with the approval of the Governor. 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 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).

Diminution Credits

Generally, inmates sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. The following types of inmates may not earn diminution credits:

- an inmate who is serving a sentence for first- or second-degree rape or sexual offense against a victim younger than 16;
- an inmate who is serving a repeat sentence for third-degree sexual offense against a victim younger than 16; and
- an inmate imprisoned for a lifetime sexual offender supervision violation.

In addition, an inmate whose mandatory supervision release has been revoked may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision release.

Diminution credits are deducted from an inmate's "term of confinement," which is defined as (1) the length of the sentence, for a single sentence or (2) the period from the first day of the sentence that begins first through the last day of the sentence that ends last, for concurrent sentences, partially concurrent sentences, consecutive sentences, or a combination of concurrent and consecutive sentences.

Diminution credits are made for good conduct, work tasks, education, and special projects or programs.

State Expenditures: The Department of Public Safety and Correctional Services (DPSCS) has advised in the past that parole *eligibility* does not necessarily result in a parole *release*, especially for inmates serving life sentences. Under current law, inmates sentenced to life imprisonment must serve 15 years minus diminution credits or 25 years minus diminution credits (for cases in which a life without parole or death sentence was sought, but not imposed by the court) to be eligible for parole.

According to DPSCS, in fiscal 2019, 35 inmates entered State correctional facilities given a sentence of life that are eligible for parole in 15 years. Although DPSCS is unable to reliably predict the pace of potential parole approvals by MPC under the bill, parole of such inmates still requires approval of the Governor.

Generally, governors have denied parole to all persons serving a life term. MPC has advised that the commission has only paroled one individual who was serving a life sentence of less than 25 years. However, a news report in November 2019 stated that

Governor Lawrence J. Hogan, Jr. paroled 3 individuals who were given life sentences as juveniles. Additionally, recent information provided by the Governor's Office indicates that Governor Hogan has paroled 16 individuals serving life sentences, whether by approving their parole or allowing parole to go into effect without his approval.

While the bill has no fiscal impact within the next five years, there may be an increase in incarceration expenditures beginning in 2035 (not taking into account any potential diminution credits), when inmates who otherwise might be released on parole will remain incarcerated for longer periods of time under the bill. In addition, some initial parole hearings may be delayed under the bill, but any impact on parole hearings is not anticipated to materially affect State expenditures at that time.

Additional Information

Prior Introductions: SB 150 of 2019 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 225 of 2018, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Governor's Office; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; *The Washington Post*; Department of Legislative Services

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Analysis by: Thomas S. Elder

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