

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 531 (Senator Kelley, *et al.*)  
Judicial Proceedings

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**Criminal Procedure - Life Without Parole - Imposition**

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This bill prohibits a court from imposing a sentence of life imprisonment without the possibility of parole on an individual who was younger than age 18 at the time that the offense was committed.

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**Fiscal Summary**

**State Effect:** Potential minimal decrease in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) if individuals are paroled as a result of the bill's provisions. Any such decrease is not experienced until well into the future when individuals sentenced under the bill are eligible for parole. Revenues are not affected.

**Local Effect:** The bill is not expected to materially affect local finances or operations.

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*Life Imprisonment without the Possibility of Parole*

Individuals convicted of the following offenses may be subject to imprisonment for life without the possibility of parole: (1) murder in the first degree; and (2) specified instances of rape in the first degree (the defendant was previously convicted of first-degree rape or first-degree sexual offense, the offense was committed in conjunction with kidnapping a

child younger than age 16, or the defendant is at least age 18, and the violation involved a victim younger than age 13).

### *Life without Parole for Juvenile Offenders*

In *Graham v. Florida*, 560 U.S. 48 (2010), the Supreme Court held that it is unconstitutional to sentence a juvenile offender to life without the possibility of parole for nonhomicide crimes. In *Miller v. Alabama*, 567 U.S. 460 (2012), the U.S. Supreme Court held that a *mandatory* sentence of life without the possibility of parole may not be imposed on a juvenile offender. However, courts may still impose life imprisonment without the possibility of parole on a juvenile offender after considering mitigating factors. In *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), the court held that *Miller* applies retroactively and that states may remedy sentences that are in violation of *Miller* by extending parole eligibility to, rather than resentencing, offenders mandatorily sentenced to life without the possibility of parole for crimes they committed as juveniles.

### *Parole and Parole Eligibility*

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 (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.

In general, a person sentenced to life imprisonment must serve a minimum of 15 years, less diminution credits, before becoming eligible for parole and may be paroled only with the approval of the Governor. However, offenders sentenced to life imprisonment for first-degree murder, instead of a sentence of life imprisonment without the possibility of parole, must serve a minimum of 25 years less diminution credits before becoming eligible for parole and may generally be paroled only with approval of the Governor. However, if MPC or the Patuxent Board of Review decides to grant parole to an inmate who has served 25 years *without* application of diminution credits and the Secretary of Public Safety and Correctional Services approves the decision, the decision must be transmitted to the Governor, who may disapprove the decision in writing within 180 days. If the Governor does not disapprove the decision to grant parole within that timeframe, the decision to grant parole becomes effective.

Inmates serving a sentence of life without the possibility of parole may not be granted parole unless the Governor commutes the sentence to allow for the possibility of parole or pardons the individual.

**State Expenditures:** General fund expenditures for DPSCS may decrease minimally if individuals who would otherwise be sentenced to life without the possibility of parole are sentenced to life imprisonment and are granted parole. However, any such decrease is not realized until well into the future, since the bill does not apply retroactively, and inmates sentenced to life imprisonment are generally required to serve at least 15 years, considering allowances for diminution credits, before becoming eligible for parole. Given the number of juvenile offenders sentenced to life imprisonment without the possibility of parole in recent years, this bill is expected to apply to a small number of cases.

According to DPSCS, during fiscal 2019 and 2020, the Division of Correction received a total of 21 inmates sentenced to life imprisonment for an offense committed when the individual was younger than age 18. None of these inmates was sentenced to life *without* the possibility of parole; all of the inmates were sentenced to life *with* the possibility of parole.

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### Additional Information

**Prior Introductions:** SB 196 of 2017 received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 401, received a hearing in the House Judiciary Committee but was withdrawn. SB 259 of 2016 received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 518, received an unfavorable report from the House Judiciary Committee.

**Cross File:** None.

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

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