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HOUSE/SENATE BILL _____

2015 Regular Session

By:
Introduced and read first time:
Assigned to:

A BILL ENTITLED

AN ACT concerning

PAROLE BEHAVIOR INCENTIVE FOR LIFE OFFENDERS

FOR the purpose of

repealing certain provisions that provide that inmates serving a term of life imprisonment may be paroled only with the Governor's approval; and generally relating to sentences of life imprisonment.

BY amending

Article – Correctional Services
Sections 4-305, 7-301 and 7-309
Annotated Code of Maryland
(Replacement Volume)

SECTION 1. Whereas the Laws of Maryland have provided two types of life sentences – those eligible for parole and those without the possibility of parole; whereas some Governors have nullified this distinction by uniformly denying parole to any offender given a parole-eligible life sentence; whereas the public policy of the State of Maryland offers parole to all eligible offenders as a means to encourage and reward positive behavior and rehabilitation so that ex-offenders may become model inmates and may reenter the community with the maximum possible rehabilitation and ability to support themselves, to assist their families, to pay taxes, and to avoid future offense in the interests of public safety, it is found that a Governor's most effective role in the parole process will be to select the most capable Parole Commissioners and to support their professional, evidence-based decision-making to prescribe the most appropriate conditions for safe parole and supervision of parolees.

SECTION 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Correctional Services

§ 4-305. Parole

(a) After transfer of an inmate to the Institution for treatment as an eligible person but before expiration of the inmate's sentence, the Board of Review may grant a parole from the Institution for a period not exceeding 1 year if the Board of Review concludes that the parole:

- (1) will not impose an unreasonable risk on society; and
- (2) will assist in the remediation of the eligible person.

(b)(1) Except as provided in paragraph (2) of this subsection, an inmate sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years when considering allowances for diminution of the inmate's period of confinement as provided under Title 3, Subtitle 7 of this article and § 6-218 of the Criminal Procedure Article.

(2) An inmate sentenced to life imprisonment as a result of a proceeding under former § 2-303 or § 2-304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years when considering allowances for diminution of the inmate's period of confinement as provided under Title 3, Subtitle 7 of this article and § 6-218 of the Criminal Procedure Article.

~~(3) Subject to paragraph (4) of this subsection, an eligible person who is serving a term of life imprisonment may be paroled only with the Governor's approval.~~

~~(4)(i) If the Board of Review decides to grant parole to an eligible person sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, and the Secretary approves the decision, the decision shall be transmitted to the Governor.~~

~~(ii) The Governor may disapprove the decision by written transmittal to the Board of Review.~~

~~(iii) If the Governor does not disapprove the decision within 180 days after receipt, the decision becomes effective.~~

(c)(1) The Board of Review may:

(i) attach reasonable conditions to parole granted under this section;

(ii) make reasonable and appropriate modifications of the conditions at any time; and

(iii) revoke the parole if the Board of Review finds that the individual has violated a condition of the parole.

(2) The Board of Review:

(i) shall review an individual's status before the expiration of the parole period; and

(ii) may extend the parole.

(d)(1) The Board of Review shall mail to the victim written notice of an eligible person's parole hearing.

(2) Before the Board decides whether to grant parole to an eligible person, the Board of Review shall give the victim a reasonable opportunity to comment on the parole in writing or to present oral testimony in the manner that the Board of Review establishes by regulation.

(3) The Board of Review promptly shall notify the victim of the decision of the Board of Review regarding parole.

(4) The victim may designate, in writing to the Board of Review, the name and address of a representative who is a resident of the State to receive notice for the victim.

(5) The Board of Review shall delete the victim's address and phone number from a document before the Board of Review allows examination of the document by the eligible person or the eligible person's representative.

(e) The Board of Review may not release an eligible person on parole until the Secretary approves the parole decision.

(f)(1) If an individual has completed successfully 3 years on parole without violation and the Board of Review concludes that the individual is safe to be permanently released, the Board of Review, through the Director, may petition the court that last sentenced the individual to:

(i) suspend the individual's remaining sentence and terminate parole supervision on the conditions the court considers appropriate; or

(ii) vacate the individual's remaining sentence.

(2)(i) The Director shall serve notice of the petition on the victim and the State's Attorney who last prosecuted the individual.

(ii) The State's Attorney shall be a party to the proceeding.

(3) After a hearing, the court may either grant or deny the relief requested in the petition.

§ 7-301. Eligibility for parole

(a)(1) Except as otherwise provided in this section, the Commission shall request that the Division of Parole and Probation make an investigation for inmates in a local correctional facility and the Division of Correction make an investigation for inmates in a State correctional facility that will enable the Commission to determine the advisability of granting parole to an inmate who:

(i) has been sentenced under the laws of the State to serve a term of 6 months or more in a correctional facility; and

(ii) has served in confinement one-fourth of the inmate's aggregate sentence.

(2) Except as provided in paragraph (3) of this subsection, or as otherwise provided by law or in a predetermined parole release agreement, an inmate is not eligible for parole until the inmate has served in confinement one-fourth of the inmate's aggregate sentence.

(3) An inmate may be released on parole at any time in order to undergo drug or alcohol treatment, mental health treatment, or to participate in a residential program of treatment in the best interest of an inmate's expected or newborn child if the inmate:

(i) is not serving a sentence for a crime of violence, as defined in § 14-101 of the Criminal Law Article;

(ii) is not serving a sentence for a violation of Title 3, Subtitle 6, § 5-608(d), § 5-609(d), § 5-612, § 5-613, § 5-614, § 5-621, § 5-622, or § 5-628 of the Criminal Law Article; and

(iii) has been determined to be amenable to treatment.

(4) The Division of Parole and Probation shall complete and submit to the Commission each investigation of an inmate in a local correctional facility required under paragraph (1) of this subsection within 60 days of commitment.

(b) Except as provided in subsection (c) of this section, if an inmate has been sentenced to a term of imprisonment during which the inmate is eligible for parole and a term of imprisonment during which the inmate is not eligible for parole, the inmate is not eligible for parole consideration under subsection (a) of this section until the inmate has served the greater of:

(1) one-fourth of the inmate's aggregate sentence; or

(2) a period equal to the term during which the inmate is not eligible for parole.

(c)(1)(i) Except as provided in subparagraph (ii) of this paragraph, an inmate who has been sentenced to the Division of Correction after being convicted of a violent crime committed on or after October 1, 1994, is not eligible for parole until the inmate has served the greater of:

1. one-half of the inmate's aggregate sentence for violent crimes; or
2. one-fourth of the inmate's total aggregate sentence.

(ii) An inmate who has been sentenced to the Division of Correction after being convicted of a violent crime committed on or after October 1, 1994, and who has been 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. one-half of the inmate's aggregate sentence for violent crimes;
2. one-fourth of the inmate's total aggregate sentence; or
3. a period equal to the term during which the inmate is not eligible for parole.

(2) An inmate who is serving a term of imprisonment for a violent crime committed on or after October 1, 1994, shall receive an administrative review of the inmate's progress in the correctional facility after the inmate has served the greater of:

- (i) one-fourth of the inmate's aggregate sentence; or
- (ii) if the inmate is serving a term of imprisonment that includes a mandatory term during which the inmate is not eligible for parole, a period equal to the term during which the inmate is not eligible for parole.

(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, an inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate's term of confinement under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

(2) An inmate who has been sentenced to life imprisonment as a result of a proceeding under former § 2-303 or § 2-304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years considering the allowances for diminution of the inmate's term of confinement under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

(3)(i) If an inmate has been sentenced to imprisonment for life without the possibility of parole under § 2-203 or § 2-304 of the Criminal Law Article, the inmate is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence.

(ii) This paragraph does not restrict the authority of the Governor to pardon or remit any part of a sentence under § 7-601 of this title.

~~(4) Subject to paragraph (5) of this subsection, if eligible for parole under this subsection, an inmate serving a term of life imprisonment may only be paroled with the approval of the Governor.~~

~~(5)(i) If the Commission decides to grant parole to an inmate sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, the decision shall be transmitted to the Governor.~~

~~(ii) The Governor may disapprove the decision by written transmittal to the Commission.~~

~~(iii) If the Governor does not disapprove the decision within 180 days after receipt, the decision becomes effective.~~

§ 7-309. Medical parole; requests, criteria

(a) This section applies to any inmate who is sentenced to a term of incarceration for which all sentences being served, including any life sentence, are with the possibility of parole.

(b) An inmate who is so debilitated or incapacitated by a medical or mental health condition, disease, or syndrome as to be physically incapable of presenting a danger to society may be released on medical parole at any time during the term of that inmate's sentence, without regard to the eligibility standards specified in § 7-301 of this subtitle.

(c)(1) A request for a medical parole under this section may be filed with the Maryland Parole Commission by:

(i) the inmate seeking the medical parole;

(ii) an attorney;

(iii) a prison official or employee;

(iv) a medical professional;

(v) a family member; or

(vi) any other person.

(2) The request shall be in writing and shall articulate the grounds that support the appropriateness of granting the medical parole.

(d) Following review of the request, the Commission may:

(1) find the request to be inconsistent with the best interests of public safety and take no further action; or

(2) request that department or local correctional facility personnel provide information for formal consideration of parole release.

(e) The information to be considered by the Commission before granting medical parole shall, at a minimum, include:

(1) the inmate's medical information, including:

(i) a description of the inmate's condition, disease, or syndrome;

(ii) a prognosis concerning the likelihood of recovery from the condition, disease, or syndrome;

(iii) a description of the inmate's physical incapacity and score on the Karnofsky Performance Scale Index or similar classification of physical impairment; and

(iv) a mental health evaluation, where relevant;

(2) discharge information, including:

(i) availability of treatment or professional services within the community;

(ii) family support within the community; and

(iii) housing availability, including hospital or hospice care; and

(3) case management information, including:

(i) the circumstances of the current offense;

(ii) institutional history;

(iii) pending charges, sentences and other jurisdictions, and any other detainees; and

(iv) criminal history information.

(f) The Commission may require as a condition of release on medical parole that:

(1) the parolee agree to placement for a definite or indefinite period of time in a hospital or hospice or other housing accommodation suitable to the parolee's medical condition, including the family home of the parolee, as specified by the Commission or the supervising agent; and

(2) the parolee forward authentic copies of applicable medical records to indicate that the particular medical condition giving rise to the release continues to exist.

(g)(1) If the Commission has reason to believe that a parolee is no longer so debilitated or incapacitated as to be physically incapable of presenting a danger to society, the parolee shall be returned to the custody of the Division of Correction or the local correctional facility from which the inmate was released.

(2)(i) A parole hearing for a parolee returned to custody shall be held to consider whether the parolee remains incapacitated and shall be heard promptly.

(ii) A parolee returned to custody under this subsection shall be maintained in custody, if the incapacitation is found to no longer exist.

(3) An inmate whose medical parole is revoked for lack of continued incapacitation may be considered for parole in accordance with the eligibility requirements specified in § 7-301 of this subtitle.

(h)(1) Subject to paragraph (2) of this subsection, provisions of law relating to victim notification and opportunity to be heard shall apply to proceedings relating to medical parole.

(2) In cases of imminent death, time limits relating to victim notification and opportunity to be heard may be waived in the discretion of the Commission.

~~(i) Consistent with § 7-301(d)(4) of this subtitle, a medical parole under this section for a person serving a life sentence shall require the approval of the Governor.~~

(j) The Commission shall issue regulations to implement the provisions of this section.

SECTION 3 . AND BE IT FURTHER ENACTED, That this Act shall take effect on July 1, 2015.

Last Revision: 11/12/14