

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 152 (Senator Colburn, *et al.*)  
Judicial Proceedings

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Corrections - First Degree Murder - Minimum Sentence

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This bill, by repealing allowances for diminution credits, requires a person convicted of first degree murder and sentenced to life imprisonment to serve a minimum of 25 years incarceration before being eligible for parole consideration. The bill also prohibits an inmate serving a concurrent or consecutive sentence for first degree murder from receiving diminution credits for good conduct in advance until having served 25 years.

The bill is applied prospectively only.

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Fiscal Summary

**State Effect:** Potential increases in incarceration costs beginning after FY 2020. Although additional mandatory minimum sentencing provisions generally result in additional contested hearings in the courts, it is assumed that any such increase resulting from this bill could be handled with existing resources of the Office of the Public Defender. It is unknown how this bill might affect plea bargain processes or actual sentencing practices.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** First degree murder is a felony and a violator must be sentenced to life imprisonment, life imprisonment without the possibility of parole, or death. Attempted

first degree murder is a felony that subjects the violator to life imprisonment. A murder that is not first degree murder is considered second degree murder. A violator is guilty of a felony and subject to imprisonment for up to 30 years. Attempted second degree murder is a felony that subjects the violator to maximum imprisonment for 30 years.

For Division of Correction (DOC) inmates whose terms of confinement include consecutive or concurrent sentences for a crime of violence or a crime involving a controlled dangerous substance, the deduction in the sentence for good conduct is calculated at five days per calendar month, which are awarded in advance. For all other inmates, the deduction is calculated at 10 days per calendar month. An inmate may also receive deductions calculated at five days per calendar month for work tasks and education and 10 days per calendar month for special projects. These credits are awarded as they are earned. However, the total deduction may not exceed 20 days per calendar month.

When an inmate's total number of diminution credits is equal to the remainder of sentence, including consideration for any losses of credits, the inmate is eligible for mandatory supervision release.

A deduction may not be allowed for a period during which an inmate does not receive credit for service of the inmate's term of confinement, including a period (1) during which the inmate's sentence is stayed; (2) during which the inmate is not in DOC custody because of escape; or (3) for which the Maryland Parole Commission has declined to grant credit after revocation of parole or mandatory supervision.

The commission has the exclusive power to authorize the parole of an inmate in DOC. The Board of Review of the Patuxent Institution has the exclusive power to recommend an inmate for parole to the Secretary of Public Safety and Correctional Services or 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 sentenced to more than one term, including a term during which the person is eligible for parole and a term during which the person is not eligible for parole, cannot be considered for parole unless the person has served the greater of one-fourth of the aggregate term or a period equal to the term during which the inmate is not eligible for parole.

A person sentenced for a violent crime may petition for and be granted parole if the person is at least 65 years old and has served at least 15 years of the sentence imposed.

**Background:** In 2007, DOC's intake for first degree murder was 136 persons, with 58 receiving a life sentence.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to people convicted of first degree murder being committed to DOC facilities for longer periods of time. The number of people sentenced under the provisions of the bill is expected to be relatively small.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

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### **Additional Information**

**Prior Introductions:** SB 213 of 2007 received a hearing before the Senate Judicial Proceedings Committee and had no further action taken on it.

**Cross File:** None.

**Information Source(s):** Office of the Public Defender, Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2008  
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