

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 822

(Senator Smith)

Judicial Proceedings

Judiciary

**Correctional Services - Maryland Parole Commission and Erroneously
 Convicted Individuals - Improvements in Transparency and Equity**

This bill establishes that the Maryland Parole Commission (MPC) does not have the authority to permanently deny parole and that an incarcerated individual is entitled to a subsequent parole hearing at specified intervals, based on length of sentence, after each parole hearing that results in a denial of parole. In addition, the bill (1) alters various requirements for parole hearings, hearing examiner and MPC panel decisions, hearing recordings, and appeals of MPC decisions and (2) requires MPC’s annual report to the Governor to include specified information. Further, for an administrative proceeding involving a person who was erroneously convicted, the bill prohibits a county from being a party to the proceeding and a State’s Attorney from designating a county as a party to the proceeding. The bill’s provisions relating to erroneous convictions apply retroactively and must be applied and interpreted to affect any proceeding before an administrative law judge (ALJ) brought before October 1, 2026.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$346,800 in FY 2027. Future years reflect annualization, inflation, and ongoing costs. General fund revenues may decrease due to foregone fee revenues, as discussed below.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
GF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$346,800	\$416,700	\$429,800	\$442,900	\$456,000
Net Effect	(\$346,800)	(\$416,700)	(\$429,800)	(\$442,900)	(\$456,000)

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

Local Effect: Local government finances are not anticipated to be materially affected.

Small Business Effect: None.

Analysis

Bill Summary:

Information Provided to the Incarcerated Individual and the Incarcerated Individual's Representative: Before any hearing on parole release, the bill requires MPC to give adequate and timely written notice of the hearing, as specified, to the incarcerated individual's representative (instead of just to the incarcerated individual). In addition, except as specified, the bill requires MPC to provide an incarcerated individual and the incarcerated individual's representative copies of all documents that MPC or the hearing examiner will use in determining whether the incarcerated individual is suitable for parole, as specified (instead of allowing the incarcerated individual or the incarcerated individual's representative, on request, access to examine any documents before the hearing).

The bill modifies a provision regarding when a document (or a portion of a document) is not available for examination. Specifically, regarding a document (or portion of a document) that contains a diagnostic opinion, for it to not be available for examination, the diagnosing clinician must have determined in writing that disclosure of the diagnostic opinion is contraindicated. Other existing provisions regarding documents (or portions of documents) not available for examination still apply.

Victim Impact Statement: 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, in addition to an updated victim impact statement, any victim's original or subsequently filed victim impact statement and any victim recommendation prepared for the parole release hearing, as specified.

Parole Decision by a Hearing Examiner: The period of time after a hearing within which the hearing examiner must give a written report of its findings and recommendation to approve or deny parole to MPC, the Commissioner of Correction, and the incarcerated individual is reduced from 21 days to 14 days. The report must include the reasoning and justifications for the recommendation. The time period within which the Commissioner of Correction or an incarcerated individual may file with MPC written exceptions to the hearing examiner's report is increased from no later than 5 days to no later than 30 days after the report is received. If an exception is not filed and MPC does not act on its own initiative within the appeal period (as increased by the bill), the recommendation of the hearing examiner is approved. The bill requires MPC to promptly give the incarcerated

individual written notice of its final decision regarding the appeal. If the final decision is to deny parole, the notice provided to the incarcerated individual must include the date of the incarcerated individual's next parole hearing.

Parole Decision by Commission Panel: The MPC panel must inform an incarcerated individual and the appropriate correctional authority of MPC's final decision as soon as possible, but not later than 12 months after the date of the parole hearing, including any subsequent information gathering or review. If the final decision is to deny parole, within 14 days after the hearing, MPC must give the incarcerated individual a written report of its findings, including the reasoning and justifications for the decision, and written notice of the date of the incarcerated individual's next parole hearing.

The MPC panel's reasoning and justifications for a decision to approve or deny parole must be made available to the public.

Hearings and Hearing Recordings: An incarcerated individual is entitled to a subsequent parole hearing after each parole hearing that results in a denial of parole at the following intervals:

- not later than 2 years after the parole hearing for an incarcerated individual sentenced to a period of incarceration of 10 years or less;
- not later than 3 years after the parole hearing for an incarcerated individual sentenced to a period of incarceration exceeding 10 years but not more than 20 years; and
- not later than 3 years after the first parole hearing and not later than 5 years thereafter for an incarcerated individual sentenced to a period of incarceration exceeding 20 years for a crime against an individual.

MPC must record each hearing. Each hearing recording must be (1) redacted of all personally identifiable information of the victim; (2) made readily available at no cost to the incarcerated individual; and (3) subject to specified disclosure provisions. Each hearing recording must be retained electronically for three years after the incarcerated individual is released from incarceration, all postincarceration supervision is completed, and all appeals are exhausted, whichever happens last.

Any statements, recommendations, and other materials considered by MPC must be incorporated into the recording of the hearing, unless confidentiality is necessary to preserve institutional security or the security of persons who might be endangered by disclosure.

At the conclusion of each hearing, the presiding commissioner must state MPC's findings, reasoning, and justifications on the record.

Annual Report to the Governor: The annual report that MPC must submit to the Governor pursuant to current law must include the following information, disaggregated by race of the relevant incarcerated individuals:

- the number of cases in which MPC granted parole;
- the number of cases in which MPC denied parole and the reason for each denial;
- the number of incarcerated individuals who were granted administrative release;
- the number of hearings held and the purpose of each hearing;
- the number of incarcerated individuals who are parole-eligible but have not been granted parole;
- the number of administrative reviews completed by MPC; and
- the number of parole revocation hearings held and the outcome of each parole revocation hearing.

Current Law:

Parole – Generally: Parole is a discretionary and conditional release from imprisonment determined after a hearing for an incarcerated individual who is eligible to be considered for parole. If parole is granted, the incarcerated individual is allowed to serve the remainder of the sentence in the community, subject to the terms and conditions specified in a written parole order.

MPC has jurisdiction regarding parole for eligible incarcerated individuals sentenced to State correctional facilities and local detention centers. Incarcerated individuals in the Patuxent Institution who are eligible for parole are under the jurisdiction of the Patuxent Board of Review.

Maryland Parole Commission: Among other powers, MPC has the exclusive power to hear cases for parole or administrative release in which:

- the Commissioner of Correction, after reviewing the recommendation of the appropriate managing official, objects to a parole;
- the incarcerated individual was convicted of a homicide;
- the incarcerated individual is serving a sentence of life imprisonment;
- the parole hearing is open to the public, as specified;
- the incarcerated individual fails to meet the requirements of the administrative release process, as specified;
- a victim requests a hearing, as specified; or
- MPC finds that a hearing for administrative release is necessary, as specified.

In addition, MPC has the exclusive power to (1) hear exceptions to recommendations of a hearing examiner or a commissioner acting as a hearing examiner and (2) review summarily all recommendations of a hearing examiner or a commissioner acting as a hearing examiner to which an exception has not been filed.

MPC may adopt regulations governing the conduct of proceedings before it or the hearing examiners and the review and disposition of written exceptions to the recommendation of a hearing examiner.

Parole Eligibility: Incarcerated individuals sentenced to serve less than six months are not eligible for parole. When incarcerated individuals serving sentences of incarceration of six months or more have served one-fourth of their sentences, they are entitled to be considered for parole, with specified exceptions.

Parole Hearings: MPC or its hearing examiners must hear cases for parole release at least once each month at each correctional facility in the Division of Correction and as often as necessary at other correctional facilities in the State at which incarcerated individuals eligible for parole consideration are confined.

Before any hearing on parole release, MPC must give the incarcerated individual adequate and timely written notice of (1) the date, time, and place of the hearing, and (2) the factors that MPC or the hearing examiner will consider in determining whether the incarcerated individual is suitable for parole. The notice must also indicate that, before the hearing, the incarcerated individual or the incarcerated individual's representative may, on request, examine any document that MPC or a hearing examiner will use in determining whether the incarcerated individual is suitable for parole. However, a document, or a portion of it, is not available for examination under specified conditions.

MPC must delete the address and phone number of the victim or the victim's designated representative from a document before the incarcerated individual or the incarcerated individual's representative examines the document.

A parole hearing must be open to the public if a victim makes a written request and maintains a current address on file or a victim or a victim's representative files a notification request form, as specified, and within a reasonable amount of time before a scheduled hearing, the victim makes a written request that the hearing be open to the public.

The vote of each commissioner when acting collectively or in a panel, to approve or deny parole, and a vote to close or restrict access to a parole hearing must be made available to the public. Generally, the victim or victim's representative has the right to attend an open parole hearing; however, MPC or a panel of commissioners may (1) restrict the number of individuals allowed to attend a parole hearing because of facility physical limitations or

security requirements; (2) deny admission or continued attendance at a parole hearing to an individual who is disruptive or threatens or presents a danger to the security of the facility in which the hearing is being held or to other attendees or participants; (3) close a parole hearing to deliberate on the evidence and any other relevant information received at the hearing; or (4) close a parole hearing on written request of the chief law enforcement official responsible for an ongoing criminal investigation related to the incarcerated individual, if the ongoing investigation could be compromised. These provisions do not limit MPC's authority to hold a parole hearing through a video conference or other means of electronic transmission.

Generally, a parole hearing is held before a single hearing examiner or a parole commissioner acting as a hearing examiner. However, if the incarcerated individual is serving a sentence for homicide or is serving a sentence of life imprisonment or if a victim requested that the hearing be opened to public attendance, a parole hearing is held before a panel of at least two commissioners.

Consideration of Factors in Determining Suitability for Parole: 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:

- the circumstances surrounding the crime;
- the physical, mental, and moral qualifications of the incarcerated individual;
- the progress of the incarcerated individual during confinement, including the academic progress of the incarcerated individual in the mandatory education program, as specified;
- a report on a drug or alcohol evaluation that has been conducted on the incarcerated individual, including any recommendations concerning the incarcerated individual's amenability for treatment and the availability of an appropriate treatment program;
- 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;
- whether release of the incarcerated individual on parole is compatible with public safety;
- an updated victim impact statement or recommendation, as specified;
- any recommendation made by the sentencing judge at the time of sentencing;
- any information that is presented to a commissioner at a meeting with the victim;
- any testimony presented to MPC by the victim or the victim's designated representative; and
- compliance with the case plan, as specified.

Proceedings Before a Hearing Examiner: The MPC chairperson must assign hearing examiners, or commissioners acting as hearing examiners, as required to hear cases for parole. Each proceeding before a hearing examiner must be conducted in accordance with the following provisions:

- MPC must keep a record of each hearing conducted by a hearing examiner;
- a hearing examiner must determine if an incarcerated individual is suitable for parole in accordance with the factors and other information specified above; at the conclusion of the hearing, the hearing examiner must inform the incarcerated individual of the hearing examiner's recommendation for parole or denial of parole. Within 21 days after the hearing, the hearing examiner must give to MPC, the Commissioner of Correction, and the incarcerated individual a written report of the hearing examiner's findings and recommendation for parole or denial of parole. The Commissioner of Correction or the incarcerated individual may file with MPC written exceptions to the report of a hearing examiner no later than 5 days after the report is received;
- one commissioner assigned by the MPC chairperson must review summarily the recommendation of the hearing examiner. MPC, on its own initiative or on the filing of an exception, may schedule a hearing on the record by MPC in its entirety or by a panel of at least two commissioners assigned by the MPC chairperson. MPC or a panel must render a written decision on the appeal. The decision of MPC or the panel is final; and
- if an exception is not filed and MPC does not act on its own initiative within the five-day appeal period, the recommendation of the hearing examiner is approved.

Recommendations and Decisions: MPC may grant parole, deny parole, or decide to rehear the case at a future date. The hearing examiner must verbally inform the incarcerated individual of the hearing examiner's recommendation immediately after the hearing and submit a written report of findings and recommendations to MPC, the Commissioner of Correction, and the incarcerated individual within 21 days after the hearing. After receiving the recommendation, a parole commissioner is required to review the written recommendations of the hearing examiner. The commissioner may either approve or disapprove the hearing examiner's recommendation. If the recommendation is approved, the decision is sent to the incarcerated individual and to the Commissioner of Correction. If the recommendation is disapproved, the decision is sent to a two-commissioner panel for the issuance of a final decision.

The incarcerated individual and the Commissioner of Correction have five days after receipt of the hearing examiner's written decision to file with MPC a written exception to the hearing examiner's recommendations. If an exception is not filed, the recommendation of the hearing examiner is adopted. If an exception is filed, MPC or a panel of at least

two commissioners assigned by the chairperson of MPC may schedule an appeal hearing. The appeal hearing is on the record, and the decision of MPC or the panel is final.

Decisions of a two-commissioner panel must be unanimous. When the members of a two-commissioner panel disagree, the chairperson of MPC must convene a three-member panel to hear the case. Decisions by more than two commissioners are by majority vote.

MPC must inform the incarcerated individual and the appropriate correctional authority of MPC's decision as soon as possible. If parole is denied, MPC must give the incarcerated individual a written report of its findings within 30 days after the hearing.

Other Duties: MPC also reviews cases and makes recommendations to the Governor concerning medical parole of an incarcerated individual serving a sentence of life imprisonment. In addition, MPC reviews cases concerning pardons, commutations, or other clemency at the request of the Governor.

Case Record Disclosure: Generally, the contents of the case record of an incarcerated individual may not be disclosed. However, the contents of a case record may be disclosed (1) if the record is necessary to ensure proper medical treatment, to a provider of medical services to the incarcerated individual; (2) to the incarcerated individual's attorney; (3) to a person authorized by a court order; (4) to a person expressly authorized by law; (5) to a judge of a State court; (6) to a State's Attorney; (7) to an employee of any State unit or a federal or local law enforcement unit, if disclosure is in furtherance of the employee's lawful duties; and (8) on written request, to a person who has written authorization for the disclosure from the incarcerated individual. Except for a disclosure to a judge of a State court or to a State's Attorney, an incarcerated individual's case record may be disclosed only if the managing official of the correctional facility approves the disclosure and is satisfied that (1) each applicable condition authorizing disclosure has been met; (2) the record will be used solely for the legitimate purposes of the person or governmental unit that receives it and not for any improper or unauthorized purpose; and (3) the record will not be further disseminated to a person or governmental unit not authorized to receive it.

Compensation for Individuals Erroneously Convicted: On receipt of a petition or request filed within designated timelines and after following certain procedures, an ALJ must issue an order that an individual is eligible for compensation and benefits from the State/the Board of Public Works (BPW) for being erroneously convicted, sentenced, and confined if the individual meets specified criteria and if the ALJ makes certain findings. The required parties to the proceeding are (1) the State's Attorney of the county where the crime was committed or the State's Attorney's designee and (2) the State, represented by the Attorney General, or the Attorney General's designee.

If an ALJ issues an order of eligibility, the order must include (1) the monetary award owed the individual; (2) reasonable attorney's fees and expenses associated with the eligibility determination action; (3) depending on the ALJ's determination, additional benefits for which the individual is eligible and must receive free of charge (*e.g.*, housing accommodations for up to five years, higher education tuition, and fees for up to eight years); and (4) if the ALJ determines that it is in the interests of the individual, a recommendation for an expedited payment schedule. A copy of the order must be delivered to BPW and any State agency or service provider ordered to provide benefits. The decision to grant or deny an order of eligibility may be appealed by either party.

With respect to the monetary award, BPW must compensate an individual found to be eligible in an amount equal to the total number of days of wrongful confinement after the erroneous conviction multiplied by a daily rate based on the State's most recent median household income in the year the order of eligibility is issued, as published in the American Community Survey of the U.S. Census Bureau, as specified. Chapter 604 of 2025 requires the county government in which the conviction of an individual occurred to reimburse the State for 50% of the monetary award. Subject to specified procedural requirements, the individual may not receive compensation for any period of confinement during which the individual was serving a concurrent sentence for another conviction for which the individual was lawfully convicted and confined.

State Fiscal Effect: MPC advises that the commission conducts approximately 4,800 parole hearings per year. According to MPC, incarcerated individuals may request reconsideration approximately every one to two years after a hearing and denial of parole. MPC also advises that it does not currently permanently deny parole for any incarcerated individual serving a sentence eligible for parole. By policy, MPC records all parole hearings, and a copy of the audio recording may be requested by the incarcerated individual or the individual's representative for a fee of \$30 per recording.

MPC can handle any subsequent parole hearings at the intervals required by the bill with existing resources; however, in order for MPC to implement the bill's various other changes to the parole process, MPC needs additional staff. Therefore, general fund expenditures increase by at least \$346,843 in fiscal 2027, which accounts for the bill's October 1, 2026 effective date. This estimate reflects the cost of hiring four office secretaries to (1) redact all personally identifiable information of the victim from each hearing recording; (2) provide the additional required information to incarcerated individuals and their representatives within shortened timeframes; (3) provide additional information regarding decisions to approve or deny parole to the public; and (4) include additional information in its annual report, as required by the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including costs to make audio recordings of hearings readily available to incarcerated individuals *at no cost*.

Positions	4.0
Salaries and Fringe Benefits	\$202,280
Audio Recordings of Hearings	108,000
Other Operating Expenses	<u>36,563</u>
Minimum FY 2027 State Expenditures	\$346,843

Future year minimum expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including costs to make audio recordings of hearings readily available to incarcerated individuals *at no cost*.

This estimate does not include any costs for packaging and postage to provide copies of documents to incarcerated individuals and their representatives, as required by the bill. Accordingly, costs are likely higher.

This estimate also does not quantify any decrease in general fund revenues from fees that otherwise would be collected for providing audio recordings of hearings to incarcerated individuals upon request. (As noted above, MPC currently provides copies of audio recordings of hearings upon request for a fee of \$30 per recording.) Information regarding actual fees collected in recent years is not readily available.

The bill's changes to the administrative process involving a person who was erroneously convicted are not anticipated to materially affect State finances.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1147 of 2025.

Designated Cross File: HB 467 (Delegate Embry, *et al.*) - Judiciary.

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

Fiscal Note History: First Reader - February 24, 2026
 jg/lgc Third Reader - March 30, 2026
 Revised - Amendment(s) - March 30, 2026

Analysis by: Shirleen M. E. Pilgrim

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