



Bill C-266: Increasing the duration of parole ineligibility



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The Parliamentary Budget Officer (PBO) supports Parliament by providing economic and financial analysis for the purposes of raising the quality of parliamentary debate and promoting greater budget transparency and accountability.

In February 2016, the Standing Committee on Finance of the House of Commons requested that the PBO provide a detailed and comprehensive costing analysis of private members bills and motions appearing on the Private Member's Business Order of Precedence. Bill C-266, which increases parole ineligibility for certain offenders, was placed on the Order of Precedence on 1 November 2018. This report provides an estimate of the cost of implementing Bill C-266.

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Table of Contents

1. Introduction	1
2. Cost Estimate for Bill C-266	2
Notes	5

1. Introduction

Bill C-266 allows judges to impose longer periods of parole ineligibility for offenders convicted of the abduction, sexual assault and murder of a victim in respect of the same event or series of events.¹

At the second reading of the bill in the House of Commons, Mr. James Bezan, Member of Parliament for Selkirk—Interlake—Eastman, explained that the purpose of the bill is to avoid putting the families of victims of crime through unnecessary Parole Board hearings, since he did not believe that such inmates ever received full day parole.²

An offender convicted for the abduction, sexual assault and murder of a victim in respect of the same event or series of events would have been found guilty of first-degree murder, which entails a minimum sentence of imprisonment for life and automatic period of parole ineligibility of 25 years.³

Correctional Service of Canada (CSC) informed the PBO that every five years approximately three people are sentenced for all three of these offences with respect to the same victim and same event or series of events. CSC inferred that offences were committed with respect to the same victim and event or series of events based on the offender being sentenced for all three offences on the same date.⁴ This represents about 0.3% of the approximately 180 offenders admitted to federal correctional facilities with life or indeterminate sentences each year and a similarly small portion of the approximately 960 offenders serving sentences in federal custody for first-degree murder at the end of the 2016-17 fiscal year.⁵

2. Cost Estimate for Bill C-266

Under Bill C-266, judges will have the discretion to increase the period of parole ineligibly for affected offenders from 25 years to up to 40 years.⁶ Because Bill C-266 affects sentencing, it will not affect offenders who are already convicted and have been sentenced. As a result, it will not give rise to any costs for at least 26 years, (that is, until year 2044, assuming it comes into effect in 2019). 26 years is the point at which an affected offender sentenced this year would face a potential difference in parole eligibility.

The main cost risk associated with extending parole ineligibility is the cost associated with keeping an offender in custody who would have otherwise been allowed to serve their sentence in the community on parole. The difference in cost between keeping an offender in maximum security and allowing that offender to serve their sentence in the community through full parole is \$124,796 per year (in 2016 dollars).⁷ Keeping an inmate in custody in maximum security for 40 years would cost approximately \$1.9 million more (in 2016 dollars) than keeping them in custody in maximum security for 25 years and supervising them on parole for 15 years.

The PBO was not able to independently verify whether affected offenders currently receive full parole. If, as suggested by Mr. Bezan, the affected offenders are never released on full parole, these costs associated with keeping offenders in custody rather than allowing them to serve their sentence in the community on parole do not arise.⁸

As noted above, CSC informed the PBO that every five years approximately three people are sentenced who would be affected by Bill C-266.⁹ In light of the small number of offenders affected, the potential cost associated with Bill C-266 was estimated using highest-cost assumptions. More specifically, it is assumed that:

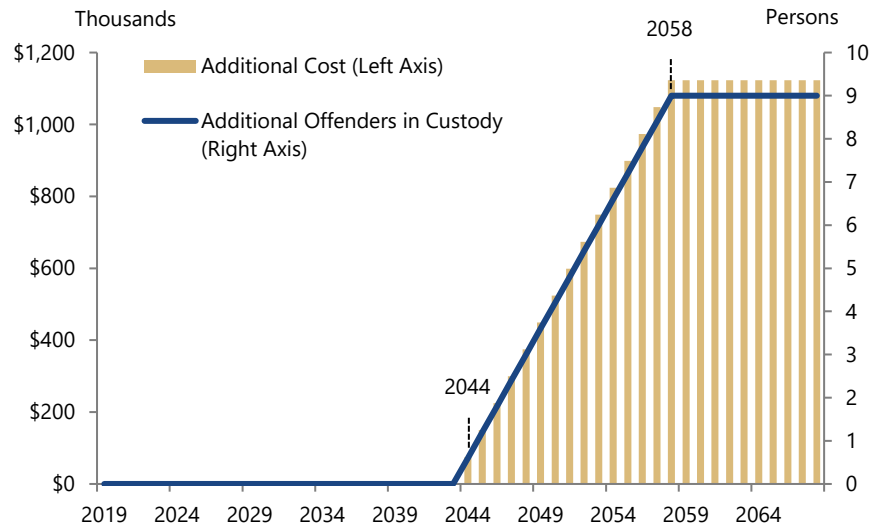
- all affected offenders would otherwise have been granted full parole at 25 years;
- all affected offenders would have been in maximum security;
- no affected offenders would have died or been reincarcerated for parole violations or new offences; and
- all affected offenders are granted full parole after 40 years.

Using the highest-cost assumptions noted above, Bill C-266 could result in up to 9 offenders being kept in custody rather than being on parole by 2058, entailing a cost of \$1.1 million per year indefinitely.

Figure 1-1 shows the number of additional offenders in custody over time under the above highest-cost assumptions. The first additional offender would be kept in custody in 2044, when an offender sentenced in 2019 would reach the end of the current 25-year period of parole ineligibility. The number of additional offenders being kept in custody increases over time until it stabilizes at 9 offenders in 2058, after which the first additional offender kept in custody reaches the maximum 40-year period of parole ineligibility and is granted full parole.

Figure 1-1 also shows the increase in expected cost over time. Under the highest cost assumptions outlined above, the cost of Bill C-266 is the difference between the cost of keeping affected offenders in custody and the cost of supervising affected offenders in the community on parole. This cost is \$124,796 per offender per year (in 2016 dollars). The cost of Bill C-266 increases from 2044 until 2058 in proportion to the number of additional offenders being kept in custody.

Figure 1-1 Additional Cost and Additional Offenders in Custody Over Time under Highest-Cost Assumptions



Source: PBO calculations.
 Note: Figures in constant 2016 dollars.

This analysis does not take into account the cost of parole hearings. For the 2017-18 fiscal year, the Parole Board of Canada conducted 15,299 conditional releasee reviews at a cost of \$35 million, or about \$2,300 per hearing.¹⁰ The cost of hearings for the offenders affected by Bill C-266 is likely higher due to their complexity and victim participation. Nevertheless, the total cost is unlikely to be fiscally significant in light of the low number of affected offenders.

This analysis does not take into account costs which might arise from the impact of this change on inmate behaviour while in custody or after their eventual release. A 2010 Department of Justice Research Report entitled "An Analysis of the use of the Faint Hope Clause", which was cited during parliamentary debate, suggests that persons convicted of first-degree murder who were released following an application under the faint-hope clause had lower rates of recidivism than those who were ineligible or did not apply. However, the methodology of that report does not allow the impact of earlier parole to be distinguished from parole decision-makers ability to assess an offender's risk of reoffending.

Research regarding the impact of extending parole ineligibility on murderers and serious sex offenders in Illinois found that the extension of parole ineligibility resulted in fewer disciplinary incidents among murderers but had no statistically significant impact on the frequency of serious disciplinary incidents or assaults among murderers or disciplinary incidents among serious sex offenders.¹¹ These results suggest that the impact of the bill on inmate behaviour is unlikely to be fiscally significant in light of the low number of affected offenders.

Notes

1. Bill C-266: An Act to amend the Criminal Code (increasing parole ineligibility), 1st Session, 42nd Parliament.
2. House of Commons, Debates, 1st session, 42nd Parliament, 5 February 2019.
3. Criminal Code, R.S.C. 1985, c. C-46, ss. 231(5)(b), 235(1), s. 745(b).
4. If offences are committed in relation to the same event or series of events, the offender would tend to be sentenced for the offences at the same time. However, it is possible that an offender would be sentenced on the same day for crimes affecting different victims or arising from different events. As a result, this estimate could be high.
5. Public Works and Government Services Canada, 2017 Corrections and Conditional Release Statistical Overview, at Figure C13. Prior to 2011, section 745.6 of the Criminal Code allowed offenders who were serving a sentence of life imprisonment with a parole ineligibility period of more than 15 year to apply to court after 15 years to request permission to apply for parole before the end of their period of parole ineligibility. In 2011, this section was removed, meaning offenders convicted of first-degree murder after that date would have to serve the full period of parole ineligibility before being able to apply for parole. Also see: Correctional Service Canada, Bill S-6: Legislation to Repeal the Faint Hope Clause.
6. Bill C-266: An Act to amend the Criminal Code (increasing parole ineligibility), 1st Session, 42nd Parliament, c. 2.
7. Public Works and Government Services Canada, 2017 Corrections and Conditional Release Statistical Overview at Figure B3.
8. House of Commons, Debates, 1st session, 42nd Parliament, 5 February 2019.
9. If offences are committed in relation to the same event or series of events, the offender would tend to be sentenced for the offences at the same time. However, it is possible that an offender would be sentenced on the same day for crimes affecting different victims or arising from different events. As a result, this estimate could be high.
10. Parole Board of Canada, 2017-2018 Departmental Results Report.
11. The Illinois Criminal Justice Information Authority, "The Impact of Illinois' Truth-in-Sentencing Law on Sentence Lengths, Time to Serve and Disciplinary Incidents of Convicted Murderers and Sex Offenders," June 2009.