HOUSE BILL 176

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CF 4lr1711

By: **Delegate Guzzone (Chair, Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities)**
Introduced and read first time: January 15, 2014
Assigned to: Appropriations

A BILL ENTITLED

AN ACT concerning

Correctional Services – Correctional Facilities – Officers and Inspection Standards

FOR the purpose of authorizing the appointing authority of a State correctional facility to impose on a correctional officer an emergency suspension of correctional powers without pay if the correctional officer is charged with a certain contraband violation; requiring the Secretary of Public Safety and Correctional Services to direct the Department of Public Safety and Correctional Services to study certain issues on or before a certain date; requiring the Secretary to adopt certain regulations, provide a certain schedule, and make a certain report to the Governor and General Assembly on or before a certain date; and generally relating to public safety and security in State and local correctional facilities.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 10–913
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 9–412, 9–415, 9–416, and 9–417
Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Correctional Services

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

10–913.

(a) This subtitle does not prohibit emergency suspension with pay by a correctional officer of higher rank as designated by the appointing authority.

(b) (1) The appointing authority may impose emergency suspension with pay if it appears that the action is in the best interest of the inmates, the public, and the correctional facility.

(2) If the correctional officer is suspended with pay, the appointing authority may suspend the correctional powers of the correctional officer and reassign the correctional officer to restricted duties pending:

(i) a determination by a court with respect to a criminal violation; or

(ii) a final determination by the hearing board or the Office of Administrative Hearings with respect to a correctional facility violation.

(3) A correctional officer who is suspended under this subsection is entitled to a prompt hearing.

(c) (1) **[**If a correctional officer is charged with a felony, the**]** **THE** appointing authority may impose an emergency suspension of correctional powers without pay **IF:**

(I) A CORRECTIONAL OFFICER IS CHARGED WITH A FELONY; OR

(II) A CORRECTIONAL OFFICER IS CHARGED WITH A VIOLATION OF § 9–412, § 9–415, § 9–416, OR § 9–417 OF THE CRIMINAL LAW ARTICLE.

(2) A correctional officer who is suspended under paragraph (1) of this subsection is entitled to a prompt hearing, held no more than 90 days after the suspension.

(3) Except as provided in paragraph (4) of this subsection, a correctional officer who is suspended under paragraph (1) of this subsection and who is not convicted of the felony for which the suspension was imposed shall have:

(i) the suspension rescinded; and

(ii) any lost time, compensation, status, and benefits restored.

(4) Paragraph (3) of this subsection does not apply to a correctional officer who:

(i) resigns before the disposition of the criminal matter for which the suspension was imposed; or

(ii) is no longer employed by the Department when a determination is made by a court with respect to the criminal matter for which the suspension was imposed.

Article – Criminal Law

9–412.

(a) A person may not:

(1) deliver any contraband to a person detained or confined in a place of confinement;

(2) possess any contraband with intent to deliver it to a person detained or confined in a place of confinement; or

(3) knowingly possess contraband in a place of confinement.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

9–415.

(a) This section does not apply to an alcoholic beverage delivered or possessed in a manner authorized by the managing official.

(b) A person may not:

(1) deliver an alcoholic beverage to a person detained or confined in a place of confinement; or

(2) possess an alcoholic beverage with the intent to deliver it to a person detained or confined in a place of confinement.

(c) A person detained or confined in a place of confinement may not knowingly possess or receive an alcoholic beverage.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

9–416.

(a) A person may not:

(1) deliver a controlled dangerous substance to a person detained or confined in a place of confinement; or

(2) possess a controlled dangerous substance with the intent to deliver it to a person detained or confined in a place of confinement.

(b) A person detained or confined in a place of confinement may not knowingly possess or receive a controlled dangerous substance.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

9–417.

(a) (1) A person may not deliver a telecommunication device to a person detained or confined in a place of confinement with signs posted indicating that such conduct is prohibited.

(2) A person may not possess a telecommunication device with the intent to deliver it to a person detained or confined in a place of confinement with signs posted indicating that such conduct is prohibited.

(3) A person may not deposit or conceal a telecommunication device in or about a place of confinement with signs posted indicating that such conduct is prohibited or on any land appurtenant to the place of confinement with the intent that it be obtained by a person detained or confined in the place of confinement.

(4) A person detained or confined in a place of confinement may not knowingly possess or receive a telecommunication device.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2014, the Secretary of Public Safety and Correctional Services shall:

(1) direct the Department to study:

(i) the extent to which correctional facilities in the State are in compliance with mandatory standards set by the Maryland Commission on Correctional Standards;

(ii) methods to prevent duplication of efforts and resources with facility evaluations conducted by both the Commission and the American Correctional Association; and

(iii) methods to align standards at all correctional facilities, regardless of whether the facility is accredited by the American Correctional Association;

(2) adopt regulations amending the Commission's standards in accordance with the results of the study;

(3) provide the proposed implementation schedule for American Correctional Association accreditation at each correctional facility; and

(4) report the study findings and accompanying regulatory changes to the Governor and General Assembly, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.