

By: **Chairman, Judicial Proceedings Committee (By Request -
Departmental - Public Safety and Correctional Services)**

Introduced and read first time: January 18, 2005

Rules suspended

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2005

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - ~~Contraband~~ - Places of Confinement - Telecommunication**
3 **Devices and Controlled Dangerous Substances**

4 FOR the purpose of ~~prohibiting a person from delivering or possessing with intent to~~
5 ~~deliver a telecommunication device to a person detained or confined in a place of~~
6 ~~confinement; prohibiting a person from depositing or concealing a~~
7 ~~telecommunication device in or about a place of confinement or on land~~
8 ~~appurtenant to a place of confinement with a certain intent; prohibiting a~~
9 ~~person detained in a place of confinement from receiving a telecommunication~~
10 ~~device; making a violation of this Act a felony; establishing a penalty for a~~
11 ~~violation of this Act; defining a certain term; altering the penalty for delivering~~
12 ~~a controlled dangerous substance to a person detained or confined in a place of~~
13 ~~confinement or for possessing a controlled dangerous substance with a certain~~
14 ~~intent; and generally relating to ~~contraband~~ controlled dangerous substances in~~
15 ~~places of confinement.~~

16 ~~BY renumbering~~
17 ~~Article - Criminal Law~~
18 ~~Section 9-417~~
19 ~~to be Section 9-418~~
20 ~~Annotated Code of Maryland~~
21 ~~(2002 Volume and 2004 Supplement)~~

22 BY repealing and reenacting, with amendments,
23 Article - Criminal Law

1 Section ~~9-410 and~~ 9-416
 2 Annotated Code of Maryland
 3 (2002 Volume and 2004 Supplement)

4 ~~BY adding to~~
 5 ~~Article - Criminal Law~~
 6 ~~Section 9-417~~
 7 ~~Annotated Code of Maryland~~
 8 ~~(2002 Volume and 2004 Supplement)~~

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 10 MARYLAND, That Section(s) ~~9-417 of Article - Criminal Law of the Annotated Code~~
 11 ~~of Maryland be renumbered to be Section(s) 9-418.~~

12 ~~SECTION 2. AND BE IT FURTHER ENACTED,~~ That the Laws of Maryland
 13 read as follows:

14 **Article - Criminal Law**

15 ~~9-410.~~

16 (a) ~~In this part the following words have the meanings indicated.~~

17 (b) ~~"Alcoholic beverage" means beer, wine, or distilled spirits.~~

18 (c) ~~"Contraband" means any item, material, substance, or other thing that:~~

19 (1) ~~is not authorized for inmate possession by the managing official; or~~

20 (2) ~~is brought into the correctional facility in a manner prohibited by the~~
 21 ~~managing official.~~

22 (d) ~~"Controlled dangerous substance" has the meaning stated in § 5-101 of~~
 23 ~~this article.~~

24 (e) ~~"Managing official" means the administrator, director, warden,~~
 25 ~~superintendent, sheriff, or other individual responsible for the management of a place~~
 26 ~~of confinement.~~

27 (f) (1) ~~"Place of confinement" means:~~

28 (i) ~~a correctional facility;~~

29 (ii) ~~a facility of the Department of Health and Mental Hygiene;~~

30 (iii) ~~a detention center for juveniles;~~

31 (iv) ~~a facility for juveniles listed in Article 83C, § 2-117(a)(2) of the~~
 32 ~~Code;~~

1 (v) a place identified in a juvenile community detention order; or

2 (vi) any other facility in which a person is confined under color of
3 law.

4 (2) "Place of confinement" does not include a place identified in a home
5 detention order or agreement.

6 (G) ~~"TELECOMMUNICATION DEVICE" MEANS:~~

7 (1) ~~ANY TYPE OF INSTRUMENT, DEVICE, MACHINE, OR EQUIPMENT
8 THAT IS CAPABLE OF TRANSMITTING TELEPHONIC, ELECTRONIC, DIGITAL,
9 CELLULAR, OR RADIO COMMUNICATIONS, INCLUDING A CELLULAR TELEPHONE,
10 DIGITAL TELEPHONE, PICTURE TELEPHONE, OR MODEM-EQUIPPED DEVICE; AND~~

11 (2) ~~ANY PART OF AN INSTRUMENT, DEVICE, MACHINE, OR EQUIPMENT
12 THAT IS CAPABLE OF FACILITATING THE TRANSMISSION OF TELEPHONIC,
13 ELECTRONIC, DIGITAL, CELLULAR, OR RADIO COMMUNICATIONS.~~

14 ~~(g)~~ (H) ~~"Weapon" means a gun, knife, club, explosive, or other article that
15 can be used to kill or inflict bodily injury.~~

16 9-416.

17 (a) A person may not:

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

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

22 (b) A person who violates this section is guilty of a [misdemeanor] FELONY
23 and on conviction is subject to imprisonment not exceeding [3] 10 years or a fine not
24 exceeding [\$1,000] \$5,000 or both.

25 9-417.

26 (A) (1) ~~A PERSON MAY NOT DELIVER A TELECOMMUNICATION DEVICE TO A
27 PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.~~

28 (2) ~~A PERSON MAY NOT POSSESS A TELECOMMUNICATION DEVICE WITH
29 THE INTENT TO DELIVER IT TO A PERSON DETAINED OR CONFINED IN A PLACE OF
30 CONFINEMENT.~~

31 (3) ~~A PERSON MAY NOT DEPOSIT OR CONCEAL A TELECOMMUNICATION
32 DEVICE IN OR ABOUT A PLACE OF CONFINEMENT OR ON ANY LAND APPURTENANT
33 TO THE PLACE OF CONFINEMENT WITH THE INTENT THAT THE
34 TELECOMMUNICATION DEVICE BE OBTAINED BY A PERSON DETAINED OR CONFINED
35 IN THE PLACE OF CONFINEMENT.~~

1 ~~(4) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT~~
2 ~~MAY NOT RECEIVE A TELECOMMUNICATION DEVICE.~~

3 ~~(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON~~
4 ~~CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE~~
5 ~~NOT EXCEEDING \$5,000 OR BOTH.~~

6 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 2005.