

HOUSE BILL 1194

E1

(71r0136)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by ~~Chair, Judiciary Committee (By Request — Departmental — Public Safety and Correctional Services)~~ Delegates Sophocleus, Barkley, Beidle, Benson, Cane, V. Clagett, DeBoy, Dumais, Dwyer, Elmore, George, Holmes, J. King, Kipke, Lee, Mathias, McComas, McConkey, McDonough, McHale, Minnick, Niemann, O'Donnell, Rosenberg, Schuh, and Smigiel

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Unauthorized Possession of Contraband – ~~Places~~ Place of**
3 **Confinement**

4 FOR the purpose of prohibiting a person from knowingly possessing certain
5 contraband in a place of confinement ~~without authorization by the managing~~
6 ~~official of the place of confinement~~; prohibiting a person detained or confined in

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 a place of confinement from knowingly possessing a weapon or contraband to
2 effect an escape; prohibiting a person detained or confined in a place of
3 confinement from knowingly possessing or receiving an alcoholic beverage or
4 controlled dangerous substance; prohibiting a person from delivering a certain
5 telecommunication device to a person detained or confined in a *certain* place of
6 confinement, possessing a certain telecommunication device with the intent to
7 deliver it to a person detained or confined in a *certain* place of confinement, or
8 depositing or concealing a certain telecommunication device in a certain manner
9 with a certain intent; prohibiting a person detained or confined in a place of
10 confinement from knowingly possessing or receiving a certain
11 telecommunication device; establishing certain criminal penalties; defining a
12 certain term; and generally relating to possession, receiving, or delivering of
13 contraband and other prohibited items in a place of confinement.

14 BY renumbering

15 Article – Criminal Law
16 Section 9–417
17 to be Section 9–418
18 Annotated Code of Maryland
19 (2002 Volume and 2006 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Criminal Law
22 Section 9–410, 9–412, 9–413, 9–414, 9–415, and 9–416
23 Annotated Code of Maryland
24 (2002 Volume and 2006 Supplement)

25 BY adding to

26 Article – Criminal Law
27 Section 9–417
28 Annotated Code of Maryland
29 (2002 Volume and 2006 Supplement)

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
34 read as follows:

35 **Article – Criminal Law**

1 9-410.

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

3 (b) “Alcoholic beverage” means beer, wine, or distilled spirits.

4 (c) “Contraband” means any item, material, substance, or other thing that:

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

6 (2) is brought into the correctional facility in a manner prohibited by
7 the managing official.

8 (d) “Controlled dangerous substance” has the meaning stated in § 5-101 of
9 this article.

10 (e) “Managing official” means the administrator, director, warden,
11 superintendent, sheriff, or other individual responsible for the management of a place
12 of confinement.

13 (f) (1) “Place of confinement” means:

14 (i) a correctional facility;

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

16 (iii) a detention center for juveniles;

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

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

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

23 (2) “Place of confinement” does not include a place identified in a home
24 detention order or agreement.

25 (G) (1) **“TELECOMMUNICATION DEVICE” MEANS:**

1 **(I) A DEVICE THAT IS ABLE TO TRANSMIT TELEPHONIC,**
2 **ELECTRONIC, DIGITAL, CELLULAR, OR RADIO COMMUNICATIONS; OR**

3 **(II) A PART OF A DEVICE THAT IS ABLE TO TRANSMIT**
4 **TELEPHONIC, ELECTRONIC, DIGITAL, CELLULAR, OR RADIO COMMUNICATIONS,**
5 **REGARDLESS OF WHETHER THE PART ITSELF IS ABLE TO TRANSMIT.**

6 **(2) “TELECOMMUNICATION DEVICE” INCLUDES A CELLULAR**
7 **TELEPHONE, DIGITAL TELEPHONE, PICTURE TELEPHONE, AND A MODEM**
8 **EQUIPPED DEVICE.**

9 **[(g)] (H) “Weapon” means a gun, knife, club, explosive, or other article that**
10 **can be used to kill or inflict bodily injury.**

11 9-412.

12 (a) A person may not:

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

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

17 **(3) ~~WITHOUT AUTHORIZATION BY THE MANAGING OFFICIAL,~~**
18 **KNOWINGLY POSSESS CONTRABAND IN A PLACE OF CONFINEMENT.**

19 (b) A person who violates this section is guilty of a misdemeanor and on
20 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
21 \$1,000 or both.

22 9-413.

23 (a) (1) A person may not deliver contraband to a person detained or
24 confined in a place of confinement with the intent to effect an escape.

25 (2) A person may not possess contraband with the intent to deliver it
26 to a person detained or confined in a place of confinement to effect an escape.

1 (3) A person may not deposit or conceal any contraband in or about a
2 place of confinement or on any land appurtenant to the place of confinement to effect
3 an escape.

4 (4) A person detained or confined in a place of confinement may not
5 **KNOWINGLY POSSESS OR** receive contraband to effect an escape.

6 (b) A person who violates this section is guilty of a felony and on conviction is
7 subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

8 9-414.

9 (a) (1) A person may not deliver a weapon to a person detained or
10 confined in a place of confinement.

11 (2) A person may not possess a weapon with the intent to deliver it to
12 a person detained or confined in a place of confinement.

13 (3) A person may not deposit or conceal a weapon in or about a place of
14 confinement or on any land appurtenant to the place of confinement to effect an
15 escape.

16 (4) A person detained or confined in a place of confinement may not
17 **KNOWINGLY POSSESS OR** receive a weapon.

18 (b) A person who violates this section is guilty of a felony and on conviction is
19 subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

20 9-415.

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

23 (b) A person may not:

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

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

1 **(C) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
2 **MAY NOT KNOWINGLY POSSESS OR RECEIVE AN ALCOHOLIC BEVERAGE.**

3 **[(c)] (D)** A person who violates this section is guilty of a misdemeanor and
4 on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
5 \$1,000 or both.

6 9-416.

7 (a) A person may not:

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

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

12 **(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
13 **MAY NOT KNOWINGLY POSSESS OR RECEIVE A CONTROLLED DANGEROUS**
14 **SUBSTANCE.**

15 **[(b)] (C)** A person who violates this section is guilty of a misdemeanor and
16 on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
17 \$1,000 or both.

18 **9-417.**

19 **(A) (1) A PERSON MAY NOT DELIVER A TELECOMMUNICATION**
20 **DEVICE TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
21 **WITH SIGNS POSTED INDICTING THAT SUCH CONDUCT IS PROHIBITED.**

22 **(2) A PERSON MAY NOT POSSESS A TELECOMMUNICATION DEVICE**
23 **WITH THE INTENT TO DELIVER IT TO A PERSON DETAINED OR CONFINED IN A**
24 **PLACE OF CONFINEMENT WITH SIGNS POSTED INDICTING THAT SUCH CONDUCT**
25 **IS PROHIBITED.**

26 **(3) A PERSON MAY NOT DEPOSIT OR CONCEAL A**
27 **TELECOMMUNICATION DEVICE IN OR ABOUT A PLACE OF CONFINEMENT WITH**
28 **SIGNS POSTED INDICTING THAT SUCH CONDUCT IS PROHIBITED OR ON ANY**
29 **LAND APPURTENANT TO THE PLACE OF CONFINEMENT WITH THE INTENT THAT**

1 IT BE OBTAINED BY A PERSON DETAINED OR CONFINED IN THE PLACE OF
2 CONFINEMENT.

3 (4) A PERSON DETAINED OR CONFINED IN A PLACE OF
4 CONFINEMENT MAY NOT KNOWINGLY POSSESS OR RECEIVE A
5 TELECOMMUNICATION DEVICE.

6 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A ~~FELONY~~
7 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
8 EXCEEDING ~~10~~ 3 YEARS OR A FINE NOT EXCEEDING ~~\$5,000~~ \$1,000 OR BOTH.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.