

HOUSE BILL 1194

E2

71r0136

By: **Chair, Judiciary Committee (By Request – Departmental – Public Safety and Correctional Services)**

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Unauthorized Possession of Contraband – Places 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
7 a place of confinement from knowingly possessing a weapon or contraband to
8 effect an escape; prohibiting a person detained or confined in a place of
9 confinement from knowingly possessing or receiving an alcoholic beverage or
10 controlled dangerous substance; prohibiting a person from delivering a certain
11 telecommunication device to a person detained or confined in a place of
12 confinement, possessing a certain telecommunication device with the intent to
13 deliver it to a person detained or confined in a place of confinement, or
14 depositing or concealing a certain telecommunication device in a certain manner
15 with a certain intent; prohibiting a person detained or confined in a place of
16 confinement from knowingly possessing or receiving a certain
17 telecommunication device; establishing certain criminal penalties; defining a
18 certain term; and generally relating to possession, receiving, or delivering of
19 contraband and other prohibited items in a place of confinement.

20 BY renumbering

21 Article – Criminal Law

22 Section 9–417

23 to be Section 9–418

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2002 Volume and 2006 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – Criminal Law
 4 Section 9–410, 9–412, 9–413, 9–414, 9–415, and 9–416
 5 Annotated Code of Maryland
 6 (2002 Volume and 2006 Supplement)

7 BY adding to
 8 Article – Criminal Law
 9 Section 9–417
 10 Annotated Code of Maryland
 11 (2002 Volume and 2006 Supplement)

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

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

17 **Article – Criminal Law**

18 9–410.

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

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

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

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

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

25 (d) “Controlled dangerous substance” has the meaning stated in § 5–101 of
 26 this article.

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

- 1 (f) (1) "Place of confinement" means:
- 2 (i) a correctional facility;
- 3 (ii) a facility of the Department of Health and Mental Hygiene;
- 4 (iii) a detention center for juveniles;
- 5 (iv) a facility for juveniles listed in Article 83C, § 2-117(a)(2) of
- 6 the Code;
- 7 (v) a place identified in a juvenile community detention order;
- 8 or
- 9 (vi) any other facility in which a person is confined under color of
- 10 law.

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

13 (G) (1) **"TELECOMMUNICATION DEVICE" MEANS:**

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

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

19 (2) **"TELECOMMUNICATION DEVICE" INCLUDES A CELLULAR**
 20 **TELEPHONE, DIGITAL TELEPHONE, PICTURE TELEPHONE, AND A MODEM**
 21 **EQUIPPED DEVICE.**

22 [(g)] (H) "Weapon" means a gun, knife, club, explosive, or other article that
 23 can be used to kill or inflict bodily injury.

24 9-412.

25 (a) A person may not:

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

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

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

7 (b) A person who violates this section is guilty of a misdemeanor and on
8 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
9 \$1,000 or both.

10 9-413.

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

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

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

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

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

22 9-414.

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

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

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

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

3 (b) A person who violates this section is guilty of a felony and on conviction is
4 subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.
5 9-415.

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

8 (b) A person may not:

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

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

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

15 **[(c)] (D)** 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 9-416.

19 (a) A person may not:

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

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

24 **(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
25 **MAY NOT KNOWINGLY POSSESS OR RECEIVE A CONTROLLED DANGEROUS**
26 **SUBSTANCE.**

27 **[(b)] (C)** A person who violates this section is guilty of a misdemeanor and

1 on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
2 \$1,000 or both.

3 **9-417.**

4 (A) (1) A PERSON MAY NOT DELIVER A TELECOMMUNICATION
5 DEVICE TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.

6 (2) A PERSON MAY NOT POSSESS A TELECOMMUNICATION DEVICE
7 WITH THE INTENT TO DELIVER IT TO A PERSON DETAINED OR CONFINED IN A
8 PLACE OF CONFINEMENT.

9 (3) A PERSON MAY NOT DEPOSIT OR CONCEAL A
10 TELECOMMUNICATION DEVICE IN OR ABOUT A PLACE OF CONFINEMENT OR ON
11 ANY LAND APPURTENANT TO THE PLACE OF CONFINEMENT WITH THE INTENT
12 THAT IT BE OBTAINED BY A PERSON DETAINED OR CONFINED IN THE PLACE OF
13 CONFINEMENT.

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

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

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