

HOUSE BILL 1194

E2

71r0136

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

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, February 26, 2007

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2007

CHAPTER _____

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

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.



1 confinement from knowingly possessing or receiving a certain
2 telecommunication device; establishing certain criminal penalties; defining a
3 certain term; and generally relating to possession, receiving, or delivering of
4 contraband and other prohibited items in a place of confinement.

5 BY renumbering
6 Article – Criminal Law
7 Section 9–417
8 to be Section 9–418
9 Annotated Code of Maryland
10 (2002 Volume and 2006 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 9–410, 9–412, 9–413, 9–414, 9–415, and 9–416
14 Annotated Code of Maryland
15 (2002 Volume and 2006 Supplement)

16 BY adding to
17 Article – Criminal Law
18 Section 9–417
19 Annotated Code of Maryland
20 (2002 Volume and 2006 Supplement)

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

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

26 **Article – Criminal Law**

27 9–410.

- 28 (a) In this part the following words have the meanings indicated.
- 29 (b) “Alcoholic beverage” means beer, wine, or distilled spirits.
- 30 (c) “Contraband” means any item, material, substance, or other thing that:
- 31 (1) is not authorized for inmate possession by the managing official; or

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

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

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

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

9 (i) a correctional facility;

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

11 (iii) a detention center for juveniles;

12 (iv) a facility for juveniles listed in Article 83C, § 2–117(a)(2) of
13 the Code;

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

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

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

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

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

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

1 **(2) “TELECOMMUNICATION DEVICE” INCLUDES A CELLULAR**
2 **TELEPHONE, DIGITAL TELEPHONE, PICTURE TELEPHONE, AND A MODEM**
3 **EQUIPPED DEVICE.**

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

6 9-412.

7 (a) A person may not:

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

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

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

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

17 9-413.

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

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

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

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

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

1 9-414.

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

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

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

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

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

13 9-415.

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

16 (b) A person may not:

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

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

21 (c) **A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
22 **MAY NOT KNOWINGLY POSSESS OR RECEIVE AN ALCOHOLIC BEVERAGE.**

23 [(c)] (D) A person who violates this section is guilty of a misdemeanor and
24 on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
25 \$1,000 or both.

26 9-416.

27 (a) A person may not:

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

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

5 **(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
6 **MAY NOT KNOWINGLY POSSESS OR RECEIVE A CONTROLLED DANGEROUS**
7 **SUBSTANCE.**

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

11 **9-417.**

12 **(A) (1) A PERSON MAY NOT DELIVER A TELECOMMUNICATION**
13 **DEVICE TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT.**

14 **(2) A PERSON MAY NOT POSSESS A TELECOMMUNICATION DEVICE**
15 **WITH THE INTENT TO DELIVER IT TO A PERSON DETAINED OR CONFINED IN A**
16 **PLACE OF CONFINEMENT.**

17 **(3) A PERSON MAY NOT DEPOSIT OR CONCEAL A**
18 **TELECOMMUNICATION DEVICE IN OR ABOUT A PLACE OF CONFINEMENT OR ON**
19 **ANY LAND APPURTENANT TO THE PLACE OF CONFINEMENT WITH THE INTENT**
20 **THAT IT BE OBTAINED BY A PERSON DETAINED OR CONFINED IN THE PLACE OF**
21 **CONFINEMENT.**

22 **(4) A PERSON DETAINED OR CONFINED IN A PLACE OF**
23 **CONFINEMENT MAY NOT KNOWINGLY POSSESS OR RECEIVE A**
24 **TELECOMMUNICATION DEVICE.**

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

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