

SENATE BILL 214

E1

(71r0988)

ENROLLED BILL

— *Judicial Proceedings / Judiciary* —

Introduced by **Senators Colburn, Harris, Jacobs, Jones, Middleton, Munson, Pugh, and Stone**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Crimes~~ **Criminal Law - Unauthorized Possession of Contraband of**
3 **Contraband - Place of Confinement**

4 FOR the purpose of prohibiting a person from knowingly possessing certain
5 ~~contraband to effect an escape, a weapon, an alcoholic beverage, a controlled~~
6 ~~dangerous substance, or a telecommunication device in a certain place of~~
7 ~~confinement without authorization by a certain managing official; prohibiting a~~
8 ~~person from knowingly possessing certain contraband to effect an escape, a~~
9 ~~weapon, or a telecommunication device in a certain place of confinement;~~
10 ~~prohibiting a person from knowingly receiving or possessing an alcoholic~~

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.



~~beverage or a controlled dangerous substance in a certain place of confinement; prohibiting a person from delivering a telecommunication device to a certain person in a certain place of confinement; establishing penalties for a violation of this Act; defining a certain term; and generally relating to possession of contraband certain items in a place of confinement. in a place of confinement; prohibiting a person detained or confined in a place of confinement from knowingly possessing a weapon or contraband to effect an escape; prohibiting a person detained or confined in a place of confinement from knowingly possessing or receiving an alcoholic beverage or controlled dangerous substance; prohibiting a person from delivering a certain telecommunication device to a person detained or confined in a certain place of confinement, possessing a certain telecommunication device with the intent to deliver it to a person detained or confined in a certain place of confinement, or depositing or concealing a certain telecommunication device in a certain manner with a certain intent; prohibiting a person detained or confined in a place of confinement from knowingly possessing or receiving a certain telecommunication device; establishing certain criminal penalties; defining a certain term; and generally relating to possession, receiving, or delivering of contraband and other prohibited items in a place of confinement.~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Criminal Law~~

~~Section 9-401(c), 9-410(a), (c), (e), and (f), 9-411, 9-413, 9-414, 9-415, and 9-416 and 9-411~~

~~Annotated Code of Maryland~~

~~(2002 Volume and 2006 Supplement)~~

BY renumbering

Article – Criminal Law

Section 9-417

to be Section 9-418

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 9-410(g) and 9-412, 9-412, 9-413, 9-414, 9-415, 9-416, and 9-417 and 9-416

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

BY adding to

Article – Criminal Law

1 Section ~~9-410(g)~~ and 9-417
 2 Annotated Code of Maryland
 3 (2002 Volume and 2006 Supplement)

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

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

9 **Article – Criminal Law**

10 ~~9-401.~~

11 ~~(e) “Escape” retains its judicially determined meaning.~~

12 9-410.

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

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

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

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

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

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

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

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

25 (i) a correctional facility;

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

- 1 (iii) a detention center for juveniles;
- 2 (iv) a facility for juveniles listed in Article 83C, § 2–117(a)(2) of
3 the Code;
- 4 (v) a place identified in a juvenile community detention order;
5 or
- 6 (vi) any other facility in which a person is confined under color of
7 law.

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

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

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

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

16 (2) **“TELECOMMUNICATION DEVICE” INCLUDES A CELLULAR**
17 **TELEPHONE, DIGITAL TELEPHONE, PICTURE TELEPHONE, AND**
18 **MODEM-EQUIPPED DEVICE.**

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

21 ~~9–411.~~

22 ~~This part does not apply to a drug or substance that is legally possessed by an~~
23 ~~individual under a written prescription issued by a person authorized by law and~~
24 ~~designated by the managing official to prescribe inmate medication.~~

25 9–412.

26 (a) A person may not:

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

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

3 **(3) ~~WITHOUT AUTHORIZATION BY THE MANAGING OFFICIAL,~~**
4 **KNOWINGLY POSSESS CONTRABAND TO EFFECT AN ESCAPE, A WEAPON, AN**
5 **ALCOHOLIC BEVERAGE, A CONTROLLED DANGEROUS SUBSTANCE, OR A**
6 **~~TELECOMMUNICATION DEVICE~~ 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 **OR KNOWINGLY POSSESS** contraband to effect an
20 escape.

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

23 9-414.

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

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

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

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

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 9-415.

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

11 (b) A person may not:

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

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

16 **(C) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
17 **MAY NOT ~~RECEIVE OR KNOWINGLY POSSESS~~ KNOWINGLY POSSESS OR RECEIVE**
18 **AN ALCOHOLIC BEVERAGE.**

19 ~~(D)~~ **(D)** 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 9-416.

23 (a) A person may not:

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

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

1 **(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT**
2 **MAY NOT RECEIVE OR KNOWINGLY POSSESS KNOWINGLY POSSESS OR RECEIVE A**
3 **CONTROLLED DANGEROUS SUBSTANCE.**

4 ~~(b)~~ **(C)** A person who violates this section is guilty of a misdemeanor and
5 on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
6 \$1,000 or both.

7 **9-417.**

8 ~~(A) A PERSON MAY NOT DELIVER A TELECOMMUNICATION DEVICE TO A~~
9 ~~PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT WITH SIGNS~~
10 ~~POSTED INDICATING THAT SUCH CONDUCT IS PROHIBITED.~~

11 ~~(B) A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT~~
12 ~~MAY NOT RECEIVE OR KNOWINGLY POSSESS A TELECOMMUNICATION DEVICE.~~

13 ~~(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A~~
14 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:~~

15 ~~(1) FOR A FIRST OFFENSE, IMPRISONMENT NOT EXCEEDING 90~~
16 ~~DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH; AND~~

17 ~~(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT~~
18 ~~NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.~~

19 ~~[9-417.]~~ **9-418.**

20 ~~A sentence imposed under this part may be separate from and consecutive to or~~
21 ~~concurrent with a sentence for any crime based on the act establishing the crime~~
22 ~~under this part.~~

23 **(A) (1) A PERSON MAY NOT DELIVER A TELECOMMUNICATION DEVICE**
24 **TO A PERSON DETAINED OR CONFINED IN A PLACE OF CONFINEMENT WITH**
25 **SIGNS POSTED INDICATING THAT SUCH CONDUCT IS PROHIBITED.**

26 **(2) A PERSON MAY NOT POSSESS A TELECOMMUNICATION DEVICE**
27 **WITH THE INTENT TO DELIVER IT TO A PERSON DETAINED OR CONFINED IN A**
28 **PLACE OF CONFINEMENT WITH SIGNS POSTED INDICATING THAT SUCH**
29 **CONDUCT IS PROHIBITED.**

1 **(3) A PERSON MAY NOT DEPOSIT OR CONCEAL A**
 2 **TELECOMMUNICATION DEVICE IN OR ABOUT A PLACE OF CONFINEMENT WITH**
 3 **SIGNS POSTED INDICATING THAT SUCH CONDUCT IS PROHIBITED OR ON ANY**
 4 **LAND APPURTENANT TO THE PLACE OF CONFINEMENT WITH THE INTENT THAT**
 5 **IT BE OBTAINED BY A PERSON DETAINED OR CONFINED IN THE PLACE OF**
 6 **CONFINEMENT.**

7 **(4) A PERSON DETAINED OR CONFINED IN A PLACE OF**
 8 **CONFINEMENT MAY NOT KNOWINGLY POSSESS OR RECEIVE A**
 9 **TELECOMMUNICATION DEVICE.**

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

13 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 14 effect October 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.