

SENATE BILL 214

E1
SB 38/06 – JPR

71r0988

By: **Senators Colburn, Harris, Jacobs, Jones, Middleton, Munson, Pugh, and Stone**

Introduced and read first time: January 29, 2007

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 2007

CHAPTER _____

1 AN ACT concerning

2 **Crimes – Unauthorized Possession of Contraband – Place of Confinement**

3 FOR the purpose of prohibiting a person from knowingly possessing certain
4 contraband ~~to effect an escape, a weapon, an alcoholic beverage, a controlled~~
5 ~~dangerous substance, or a telecommunication device~~ in a certain place of
6 confinement without authorization by a certain managing official; prohibiting a
7 person from knowingly possessing certain contraband to effect an escape, a
8 weapon, or a telecommunication device in a certain place of confinement;
9 prohibiting a person from knowingly receiving or possessing an alcoholic
10 beverage or a controlled dangerous substance in a certain place of confinement;
11 prohibiting a person from delivering a telecommunication device to a certain
12 person in a certain place of confinement; establishing penalties for a violation of
13 this Act; defining a certain term; and generally relating to possession of
14 ~~contraband~~ certain items in a place of confinement.

15 BY repealing and reenacting, without amendments,
16 Article – Criminal Law
17 Section 9-401(c), 9-410(a), (c), (e), and (f), ~~9-411, 9-413, 9-414, 9-415, and~~
18 ~~9-416~~ and 9-411
19 Annotated Code of Maryland

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 (2002 Volume and 2006 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – Criminal Law
 4 Section ~~9–410(g) and 9–412, 9–412, 9–413, 9–414, 9–415, 9–416, and 9–417~~
 5 Annotated Code of Maryland
 6 (2002 Volume and 2006 Supplement)

7 BY adding to
 8 Article – Criminal Law
 9 Section 9–410(g) and 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 the Laws of Maryland read as follows:

14 **Article – Criminal Law**

15 9–401.

16 (c) “Escape” retains its judicially determined meaning.

17 9–410.

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

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

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

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

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

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

27 (i) a correctional facility;

28 (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:

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 ~~TO EFFECT AN ESCAPE, A WEAPON, AN~~**
7 **~~ALCOHOLIC BEVERAGE, A CONTROLLED DANGEROUS SUBSTANCE, OR A~~**
8 **~~TELECOMMUNICATION DEVICE~~ IN A PLACE OF CONFINEMENT.**

9 (b) A person who violates this section is guilty of a misdemeanor and on
10 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
11 \$1,000 or both.

12 9-413.

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

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

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

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

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

24 9-414.

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

27 (2) A person may not possess a weapon with the intent to deliver it to
28 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 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 AN ALCOHOLIC BEVERAGE.**

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

21 9-416.

22 (a) A person may not:

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

25 (2) possess a controlled dangerous substance with the intent to deliver
26 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 A CONTROLLED DANGEROUS**
3 **SUBSTANCE.**

4 ~~(B)~~ **(C)** A person who violates this section is guilty of a misdemeanor and on
5 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2007.