

CHAPTER 535

(Senate Bill 214)

AN ACT concerning

~~Crimes~~ ***Criminal Law – Unauthorized Possession of Contraband of
Contraband – Place of Confinement***

FOR the purpose of prohibiting a person from knowingly possessing certain contraband ~~to effect an escape, a weapon, an alcoholic beverage, a controlled dangerous substance, or a telecommunication device in a certain place of confinement without authorization by a certain managing official; prohibiting a person from knowingly possessing certain contraband to effect an escape, a weapon, or a telecommunication device in a certain place of confinement; prohibiting a person from knowingly receiving or possessing an alcoholic 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), (e), (c), 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

Section ~~9–410(g) and 9–417~~

Annotated Code of Maryland

(2002 Volume and 2006 Supplement)

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

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

Article – Criminal Law

~~9–401.~~

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

9–410.

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

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

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

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

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

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

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

(f) (1) “Place of confinement” means:

(i) a correctional facility;

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

(iii) a detention center for juveniles;

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

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

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

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

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

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

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

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

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

~~9-411.~~

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

9-412.

(a) A person may not:

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

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

(3) ~~WITHOUT AUTHORIZATION BY THE MANAGING OFFICIAL, KNOWINGLY POSSESS CONTRABAND TO EFFECT AN ESCAPE, A WEAPON, AN ALCOHOLIC BEVERAGE, A CONTROLLED DANGEROUS SUBSTANCE, OR A TELECOMMUNICATION DEVICE IN A PLACE OF CONFINEMENT.~~

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

9-413.

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

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

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

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

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

9-414.

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

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

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

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

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

9-415.

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

(b) A person may not:

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

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

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

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

9-416.

(a) A person may not:

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

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

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

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

9-417.

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 17, 2007.