

# HOUSE BILL 539

E4

(9lr2411)

## **ENROLLED BILL**

—*Judiciary/Judicial Proceedings*—

Introduced by **Delegates Branch, Bronrott, Griffith, Jones, and Sossi**

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.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety - Electronic Control Devices - Requirements**

3 FOR the purpose of prohibiting a person from possessing or using a certain electronic  
4 control device unless the person meets certain requirements; prohibiting a  
5 certain electronic control device from being sold and activated, ~~possessed, or~~  
6 ~~used~~ in the State unless ~~the electronic control device meets~~ certain  
7 requirements are met; requiring a certain manufacturer to provide a certain law  
8 enforcement agency with prompt access to certain records; establishing  
9 penalties for a violation of this Act; providing for the construction of this Act;  
10 requiring the Police Training Commission to require that certain curriculum and  
11 minimum courses of study include certain training for certain officers; requiring  
12 the Correctional Training Commission to require that certain curriculum include  
13 certain training for certain officers; requiring the Governor's Office of Crime  
14 Control and Prevention to submit a certain report to certain committees on or  
15 before a certain date; ~~requiring the Police Training Commission to require that~~

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**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.



~~certain curriculum and minimum courses of study include certain training; requiring the Correctional Training Commission to require that certain curriculum include certain training; requiring the Governor's Office of Crime Control and Prevention to submit a certain report to certain committees on or before a certain date; defining a certain term certain terms; providing for the application of this Act; and generally relating to electronic control devices.~~

7 BY adding to

8 Article – Criminal Law

9 Section 4–109

10 Annotated Code of Maryland

11 (2002 Volume and 2008 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Public Safety

14 Section 3–207

15 Annotated Code of Maryland

16 (2003 Volume and 2008 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Correctional Services

19 Section 8–208(a)

20 Annotated Code of Maryland

21 (2008 Replacement Volume and 2008 Supplement)

22 ~~BY repealing and reenacting, with amendments,~~

23 ~~Article – Public Safety~~

24 ~~Section 3–207~~

25 ~~Annotated Code of Maryland~~

26 ~~(2003 Volume and 2008 Supplement)~~

27 ~~BY repealing and reenacting, with amendments,~~

28 ~~Article – Correctional Services~~

29 ~~Section 8–208(a)~~

30 ~~Annotated Code of Maryland~~

31 ~~(2008 Replacement Volume and 2008 Supplement)~~

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
33 MARYLAND, That the Laws of Maryland read as follows:

34 **Article – Criminal Law**

35 **4–109.**

36 ~~(A) (1) IN THIS SECTION, “ELECTRONIC CONTROL DEVICE” MEANS A~~

1           (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
2 MEANINGS INDICATED.

3                   (2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14-101  
4 OF THIS ARTICLE.

5                   ~~(2)~~ (3) “ELECTRONIC CONTROL DEVICE” MEANS A PORTABLE  
6 DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR  
7 INFLECTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL  
8 CURRENT.

9                   ~~(2)~~ “ELECTRONIC CONTROL DEVICE” INCLUDES A STUN GUN AND  
10 A TASER.

11                   ~~(3)~~ “CRIME OF VIOLENCE” HAS THE MEANING STATED IN §  
12 14-101 OF THIS ARTICLE.

13           (B) A PERSON MAY NOT POSSESS OR USE AN ELECTRONIC CONTROL  
14 DEVICE UNLESS THE PERSON:

15                   (1) HAS ATTAINED THE AGE OF 18 YEARS; AND

16                   (2) HAS NEVER BEEN CONVICTED OF A ~~FELONY~~; CRIME OF  
17 VIOLENCE OR A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, §  
18 5-613, OR § 5-614 OF THIS ARTICLE; ~~AND~~

19                   ~~(3)~~ HAS REGISTERED THE ELECTRONIC CONTROL DEVICE WITH  
20 THE MANUFACTURER; AND.

21                   ~~(4)~~ HAS RECEIVED ADEQUATE TRAINING IN THE USE OF THE  
22 ELECTRONIC CONTROL DEVICE FROM THE MANUFACTURER OR AN AGENT OF  
23 THE MANUFACTURER.

24           (C) AN ELECTRONIC CONTROL DEVICE MAY NOT BE SOLD AND  
25 ACTIVATED, POSSESSED, OR USED IN THE STATE UNLESS:

26                   (1) THE ELECTRONIC CONTROL DEVICE AND ANY CARTRIDGE  
27 ATTACHED TO THE ELECTRONIC CONTROL DEVICE EACH DISPLAY A SERIAL  
28 NUMBER; AND AN INSTRUCTIONAL MANUAL OR AUDIO OR AUDIOVISUAL  
29 INSTRUCTIONS ARE PROVIDED TO THE PURCHASER;

30                   (2) THE ELECTRONIC CONTROL DEVICE HAS A TRACKING SYSTEM  
31 THAT ALLOWS LAW ENFORCEMENT TO FIND THE THE MANUFACTURER

1 MAINTAINS A RECORD OF THE ORIGINAL OWNER OF THE ELECTRONIC CONTROL  
 2 DEVICE; AND

3 (3) THE MANUFACTURER OR SELLER HAS OBTAINED A STATE AND  
 4 FEDERAL CRIMINAL HISTORY RECORDS CHECK REGARDING THE PURCHASER OF  
 5 THE ORIGINAL OWNER TO ENSURE COMPLIANCE WITH SUBSECTION (B)(2) OF  
 6 THIS SECTION.

7 (D) A MANUFACTURER OF ELECTRONIC CONTROL DEVICES SHALL  
 8 PROVIDE AN INVESTIGATING LAW ENFORCEMENT AGENCY WITH PROMPT  
 9 ACCESS TO THE MANUFACTURER'S RECORDS ON ELECTRONIC CONTROL  
 10 DEVICES AND CARTRIDGES SOLD IN THE STATE.

11 (E) (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION  
 12 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO  
 13 IMPRISONMENT NOT EXCEEDING 2 MONTHS OR A FINE NOT EXCEEDING \$500 OR  
 14 BOTH.

15 (2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION  
 16 WHILE COMMITTING A SEPARATE CRIME THAT IS A ~~FELONY~~ CRIME OF VIOLENCE  
 17 IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT  
 18 NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

19 (F) THIS SECTION DOES NOT PROHIBIT A LOCAL GOVERNMENT FROM  
 20 ADOPTING A RESTRICTION OR REQUIREMENT CONCERNING THE POSSESSION OF  
 21 AN ELECTRONIC CONTROL DEVICE THAT IS MORE STRINGENT THAN THE  
 22 REQUIREMENTS OF THIS SECTION.

23 *Article – Public Safety*

24 *3-207.*

25 *Subject to the authority of the Secretary, the Commission has the following*  
 26 *powers and duties:*

27 *(1) to establish standards for the approval and continuation of*  
 28 *approval of schools that conduct police entrance-level and in-service training courses*  
 29 *required by the Commission, including State, regional, county, and municipal training*  
 30 *schools;*

31 *(2) to approve and issue certificates of approval to police training*  
 32 *schools;*

33 *(3) to inspect police training schools;*

- 1           (4) to revoke, for cause, the approval or certificate of approval issued to  
2 a police training school;
- 3           (5) to establish the following for police training schools:
- 4                   (i) curriculum;
- 5                   (ii) minimum courses of study;
- 6                   (iii) attendance requirements;
- 7                   (iv) eligibility requirements;
- 8                   (v) equipment and facilities;
- 9                   (vi) standards of operation; and
- 10                  (vii) minimum qualifications for instructors;
- 11           (6) to require, for entrance-level police training and at least every 3  
12 years for in-service level police training conducted by the State and each county and  
13 municipal police training school, that the curriculum and minimum courses of study  
14 include special training, attention to, and study of the application and enforcement of  
15 the criminal laws concerning rape and sexual offenses, including:
- 16                   (i) the sexual abuse of children;
- 17                   (ii) related evidentiary procedures; and
- 18                   (iii) the contact with and treatment of victims of these crimes;
- 19           (7) to certify and issue appropriate certificates to qualified instructors  
20 for police training schools authorized by the Commission to offer police training  
21 programs;
- 22           (8) to verify that police officers have satisfactorily completed training  
23 programs and issue diplomas to those police officers;
- 24           (9) to conduct and operate police training schools authorized by the  
25 Commission to offer police training programs;
- 26           (10) to make a continuous study of entrance-level and in-service  
27 training methods and procedures;
- 28           (11) to consult with and accept the cooperation of any recognized federal,  
29 State, or municipal law enforcement agency or educational institution;

1 (12) to consult and cooperate with universities, colleges, and institutions  
2 in the State to develop specialized courses of study for police officers in police science  
3 and police administration;

4 (13) to consult and cooperate with other agencies and units of the State  
5 concerned with police training;

6 (14) to develop, with the cooperation of the Office of the Chief Medical  
7 Examiner and the Federal Bureau of Investigation, a uniform missing person report  
8 form to be available for use by each law enforcement agency of the State on or before  
9 October 1, 2008; [and]

10 **(15) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND**  
11 **ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE**  
12 **STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT**  
13 **THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE, FOR POLICE**  
14 **OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A LAW**  
15 **ENFORCEMENT AGENCY, SPECIAL TRAINING IN THE PROPER USE OF**  
16 **ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW**  
17 **ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS**  
18 **AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS; AND**

19 [(15)] (16) to perform any other act that is necessary or appropriate to  
20 carry out the powers and duties of the Commission under this subtitle.

### 21 Article – Correctional Services

22 8-208.

23 (a) Subject to the authority of the Secretary, the Commission has the following  
24 powers and duties:

25 (1) to prescribe standards for the approval and continuation of  
26 approval of schools that conduct correctional, parole, or probation entrance level and  
27 in-service training courses required by the Commission, including State, regional,  
28 county, and municipal training schools;

29 (2) to approve and issue certificates of approval to correctional training  
30 schools;

31 (3) to inspect correctional training schools;

32 (4) to revoke, for cause, any approval or certificate of approval issued to  
33 a correctional training school;

34 (5) to prescribe the following for correctional training schools:

1                   (i) curriculum, INCLUDING ENTRANCE-LEVEL AND ANNUAL  
2 TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED  
3 IN § 4-109 OF THE CRIMINAL LAW ARTICLE, FOR CORRECTIONAL OFFICERS WHO  
4 ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A CORRECTIONAL UNIT,  
5 CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL  
6 AND STATE CONSTITUTIONAL PROVISIONS;

7                   (ii) courses of study;

8                   (iii) attendance requirements;

9                   (iv) eligibility requirements;

10                  (v) equipment and facilities;

11                  (vi) standards of operation; and

12                  (vii) minimum qualifications for instructors;

13                  (6) to certify and issue appropriate certificates to qualified instructors  
14 for approved correctional training schools;

15                  (7) to certify and issue appropriate certificates to correctional officers  
16 who have satisfactorily completed training programs;

17                  (8) to conduct and operate approved correctional training schools;

18                  (9) to adopt regulations necessary to carry out this subtitle, including  
19 regulations that establish and enforce standards for prior substance abuse by  
20 individuals applying for certification as a correctional officer;

21                  (10) to make a continuous study of correctional training methods and  
22 procedures for all correctional training schools;

23                  (11) to consult with and accept the cooperation of any recognized federal,  
24 State, or municipal correctional agency or educational institution;

25                  (12) to consult and cooperate with universities, colleges, and institutions  
26 to develop all general and specialized courses of study for correctional officers;

27                  (13) to consult and cooperate with other units of the State concerned  
28 with correctional training;

1 (14) subject to subsection (b) of this section, to develop and implement  
 2 specific program design and appropriate course curriculum and training for  
 3 Department of Juvenile Services employees; and

4 (15) to perform any other act that is necessary or appropriate to carry  
 5 out this subtitle.

6 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before  
 7 December 31, 2011, the Governor's Office of Crime Control and Prevention shall report  
 8 to the Senate Judicial Proceedings Committee and the House Judiciary Committee, in  
 9 accordance with § 2-1246 of the State Government Article, on the compliance by  
 10 electronic control device manufacturers with the relevant requirements and provisions  
 11 of this Act.

12 ~~Article Public Safety~~

13 ~~§ 207.~~

14 ~~Subject to the authority of the Secretary, the Commission has the following~~  
 15 ~~powers and duties:~~

16 ~~(1) to establish standards for the approval and continuation of~~  
 17 ~~approval of schools that conduct police entrance level and in-service training courses~~  
 18 ~~required by the Commission, including State, regional, county, and municipal training~~  
 19 ~~schools;~~

20 ~~(2) to approve and issue certificates of approval to police training~~  
 21 ~~schools;~~

22 ~~(3) to inspect police training schools;~~

23 ~~(4) to revoke, for cause, the approval or certificate of approval issued~~  
 24 ~~to a police training school;~~

25 ~~(5) to establish the following for police training schools:~~

26 ~~(i) curriculum;~~

27 ~~(ii) minimum courses of study;~~

28 ~~(iii) attendance requirements;~~

29 ~~(iv) eligibility requirements;~~

30 ~~(v) equipment and facilities;~~

31 ~~(vi) standards of operation; and~~



- 1                   ~~(vii) minimum qualifications for instructors;~~
- 2                   ~~(6) to require, for entrance level police training and at least every 3~~  
3 ~~years for in-service level police training conducted by the State and each county and~~  
4 ~~municipal police training school, that the curriculum and minimum courses of study~~  
5 ~~include special training, attention to, and study of the application and enforcement of~~  
6 ~~the criminal laws concerning rape and sexual offenses, including:~~
- 7                   ~~(i) the sexual abuse of children;~~
- 8                   ~~(ii) related evidentiary procedures; and~~
- 9                   ~~(iii) the contact with and treatment of victims of these crimes;~~
- 10                  ~~(7) to certify and issue appropriate certificates to qualified instructors~~  
11 ~~for police training schools authorized by the Commission to offer police training~~  
12 ~~programs;~~
- 13                  ~~(8) to verify that police officers have satisfactorily completed training~~  
14 ~~programs and issue diplomas to those police officers;~~
- 15                  ~~(9) to conduct and operate police training schools authorized by the~~  
16 ~~Commission to offer police training programs;~~
- 17                  ~~(10) to make a continuous study of entrance level and in-service~~  
18 ~~training methods and procedures;~~
- 19                  ~~(11) to consult with and accept the cooperation of any recognized~~  
20 ~~federal, State, or municipal law enforcement agency or educational institution;~~
- 21                  ~~(12) to consult and cooperate with universities, colleges, and~~  
22 ~~institutions in the State to develop specialized courses of study for police officers in~~  
23 ~~police science and police administration;~~
- 24                  ~~(13) to consult and cooperate with other agencies and units of the State~~  
25 ~~concerned with police training;~~
- 26                  ~~(14) to develop, with the cooperation of the Office of the Chief Medical~~  
27 ~~Examiner and the Federal Bureau of Investigation, a uniform missing person report~~  
28 ~~form to be available for use by each law enforcement agency of the State on or before~~  
29 ~~October 1, 2008; [and]~~
- 30                  ~~(15) TO REQUIRE, FOR ENTRANCE LEVEL POLICE TRAINING AND~~  
31 ~~ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE~~  
32 ~~STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT~~

~~1 THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL  
2 TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED  
3 IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED  
4 LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL  
5 PROVISIONS; AND~~

~~6 [(15)] (16) to perform any other act that is necessary or appropriate to  
7 carry out the powers and duties of the Commission under this subtitle.~~

### ~~8 Article Correctional Services~~

~~9 § 208.~~

~~10 (a) Subject to the authority of the Secretary, the Commission has the  
11 following powers and duties:~~

~~12 (1) to prescribe standards for the approval and continuation of  
13 approval of schools that conduct correctional, parole, or probation entrance level and  
14 in-service training courses required by the Commission, including State, regional,  
15 county, and municipal training schools;~~

~~16 (2) to approve and issue certificates of approval to correctional  
17 training schools;~~

~~18 (3) to inspect correctional training schools;~~

~~19 (4) to revoke, for cause, any approval or certificate of approval issued  
20 to a correctional training school;~~

~~21 (5) to prescribe the following for correctional training schools:~~

~~22 (i) curriculum, INCLUDING ENTRANCE LEVEL AND ANNUAL  
23 TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED  
24 IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED  
25 LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL  
26 PROVISIONS;~~

~~27 (ii) courses of study;~~

~~28 (iii) attendance requirements;~~

~~29 (iv) eligibility requirements;~~

~~30 (v) equipment and facilities;~~

~~31 (vi) standards of operation; and~~

- 1                   ~~(vii) minimum qualifications for instructors;~~
- 2                   ~~(6) to certify and issue appropriate certificates to qualified instructors~~  
3 ~~for approved correctional training schools;~~
- 4                   ~~(7) to certify and issue appropriate certificates to correctional officers~~  
5 ~~who have satisfactorily completed training programs;~~
- 6                   ~~(8) to conduct and operate approved correctional training schools;~~
- 7                   ~~(9) to adopt regulations necessary to carry out this subtitle, including~~  
8 ~~regulations that establish and enforce standards for prior substance abuse by~~  
9 ~~individuals applying for certification as a correctional officer;~~
- 10                  ~~(10) to make a continuous study of correctional training methods and~~  
11 ~~procedures for all correctional training schools;~~
- 12                  ~~(11) to consult with and accept the cooperation of any recognized~~  
13 ~~federal, State, or municipal correctional agency or educational institution;~~
- 14                  ~~(12) to consult and cooperate with universities, colleges, and~~  
15 ~~institutions to develop all general and specialized courses of study for correctional~~  
16 ~~officers;~~
- 17                  ~~(13) to consult and cooperate with other units of the State concerned~~  
18 ~~with correctional training;~~
- 19                  ~~(14) subject to subsection (b) of this section, to develop and implement~~  
20 ~~specific program design and appropriate course curriculum and training for~~  
21 ~~Department of Juvenile Services employees; and~~
- 22                  ~~(15) to perform any other act that is necessary or appropriate to carry~~  
23 ~~out this subtitle.~~

24                  ~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December~~  
25 ~~31, 2011, the Governor's Office of Crime Control and Prevention shall report to the~~  
26 ~~Senate Judicial Proceedings Committee and the House Judiciary Committee, in~~  
27 ~~accordance with § 2-1246 of the State Government Article, on the compliance by~~  
28 ~~electronic control device manufacturers with the relevant requirements and provisions~~  
29 ~~of this Act.~~

30                  SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall be  
31 construed to apply only prospectively and may not be applied or interpreted to have  
32 any effect on or application to any electronic control device sold or purchased before  
33 the effective date of this Act.

1           SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 2009.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.