

HOUSE BILL 176

E4

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CF SB 205

By: **Delegate Guzzone (Chair, Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities)**

Introduced and read first time: January 15, 2014

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 25, 2014

CHAPTER _____

1 AN ACT concerning

2 **Correctional Services – Correctional Facilities – Officers and Inspection**
3 **Standards**

4 FOR the purpose of authorizing the appointing authority of a State correctional
5 facility to impose on a correctional officer an emergency suspension of
6 correctional powers without pay if the correctional officer is charged with a
7 certain contraband violation; providing that a correctional officer who receives
8 an emergency suspension without pay after being charged with a certain
9 misdemeanor and who is not convicted of the misdemeanor violation shall have
10 the emergency suspension rescinded and any lost time, compensation, status,
11 and benefits restored, subject to a certain exception; requiring the Secretary of
12 Public Safety and Correctional Services to direct the Department of Public
13 Safety and Correctional Services, in collaboration with a certain person, to
14 study certain issues on or before a certain date; requiring the Secretary to adopt
15 certain regulations, provide a certain schedule, and make a certain report to the
16 Governor and General Assembly on or before a certain date; and generally
17 relating to public safety and security in State and local correctional facilities.

18 BY repealing and reenacting, with amendments,
19 Article – Correctional Services
20 Section 10–913
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2013 Supplement)

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 BY repealing and reenacting, without amendments,
 2 Article – Criminal Law
 3 Section ~~9-412~~, 9-415, 9-416, and 9-417
 4 Annotated Code of Maryland
 5 (2012 Replacement Volume and 2013 Supplement)

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

8 **Article – Correctional Services**

9 10-913.

10 (a) This subtitle does not prohibit emergency suspension with pay by a
 11 correctional officer of higher rank as designated by the appointing authority.

12 (b) (1) The appointing authority may impose emergency suspension with
 13 pay if it appears that the action is in the best interest of the inmates, the public, and
 14 the correctional facility.

15 (2) If the correctional officer is suspended with pay, the appointing
 16 authority may suspend the correctional powers of the correctional officer and reassign
 17 the correctional officer to restricted duties pending:

18 (i) a determination by a court with respect to a criminal
 19 violation; or

20 (ii) a final determination by the hearing board or the Office of
 21 Administrative Hearings with respect to a correctional facility violation.

22 (3) A correctional officer who is suspended under this subsection is
 23 entitled to a prompt hearing.

24 (c) (1) [If a correctional officer is charged with a felony, the] **THE**
 25 appointing authority may impose an emergency suspension of correctional powers
 26 without pay **IF:**

27 **(I) A CORRECTIONAL OFFICER IS CHARGED WITH A**
 28 **FELONY; ~~OR~~**

29 **(II) A CORRECTIONAL OFFICER IS CHARGED WITH A**
 30 **VIOLATION OF ~~§ 9-412~~, § 9-415, § 9-416, OR § 9-417 OF THE CRIMINAL LAW**
 31 **ARTICLE; OR**

1 (III) A CORRECTIONAL OFFICER IS CHARGED WITH A
 2 VIOLATION OF § 9-412 OF THE CRIMINAL LAW ARTICLE INVOLVING
 3 CONTRABAND THAT IS:

4 1. MONEY OR A MONEY EQUIVALENT; OR

5 2. AN ITEM OR SUBSTANCE INTENDED TO CAUSE
 6 PHYSICAL INJURY.

7 (2) A correctional officer who is suspended under paragraph (1) of this
 8 subsection is entitled to a prompt hearing, held no more than 90 days after the
 9 suspension.

10 (3) Except as provided in paragraph (4) of this subsection, a
 11 correctional officer who is suspended under paragraph (1) of this subsection and who is
 12 not convicted of the felony OR MISDEMEANOR for which the suspension was imposed
 13 shall have:

14 (i) the suspension rescinded; and

15 (ii) any lost time, compensation, status, and benefits restored.

16 (4) Paragraph (3) of this subsection does not apply to a correctional
 17 officer who:

18 (i) resigns before the disposition of the criminal matter for
 19 which the suspension was imposed; or

20 (ii) is no longer employed by the Department when a
 21 determination is made by a court with respect to the criminal matter for which the
 22 suspension was imposed.

23 **Article – Criminal Law**

24 ~~9-412.~~

25 ~~(a) A person may not:~~

26 ~~(1) deliver any contraband to a person detained or confined in a place~~
 27 ~~of confinement;~~

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

30 ~~(3) knowingly possess contraband in a place of confinement.~~

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

4 9-415.

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

7 (b) A person may not:

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

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

12 (c) A person detained or confined in a place of confinement may not
13 knowingly possess or receive an alcoholic beverage.

14 (d) 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 9-416.

18 (a) A person may not:

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

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

23 (b) A person detained or confined in a place of confinement may not
24 knowingly possess or receive a controlled dangerous substance.

25 (c) A person who violates this section is guilty of a misdemeanor and on
26 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
27 \$1,000 or both.

28 9-417.

29 (a) (1) A person may not deliver a telecommunication device to a person
30 detained or confined in a place of confinement with signs posted indicating that such
31 conduct is prohibited.

1 (2) A person may not possess a telecommunication device with the
2 intent to deliver it to a person detained or confined in a place of confinement with
3 signs posted indicating that such conduct is prohibited.

4 (3) A person may not deposit or conceal a telecommunication device in
5 or about a place of confinement with signs posted indicating that such conduct is
6 prohibited or on any land appurtenant to the place of confinement with the intent that
7 it be obtained by a person detained or confined in the place of confinement.

8 (4) A person detained or confined in a place of confinement may not
9 knowingly possess or receive a telecommunication device.

10 (b) A person who violates this section is guilty of a misdemeanor and on
11 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
12 \$1,000 or both.

13 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
14 2014, the Secretary of Public Safety and Correctional Services shall:

15 (1) direct the Department, in collaboration with the exclusive
16 representative for correctional officers at State facilities, to study:

17 (i) the extent to which correctional facilities in the State are in
18 compliance with mandatory standards set by the Maryland Commission on
19 Correctional Standards;

20 (ii) methods to prevent duplication of efforts and resources with
21 facility evaluations conducted by both the Commission and the American Correctional
22 Association; and

23 (iii) methods to align standards at all correctional facilities,
24 regardless of whether the facility is accredited by the American Correctional
25 Association;

26 (2) adopt regulations amending the Commission's standards in
27 accordance with the results of the study;

28 (3) provide the proposed implementation schedule for American
29 Correctional Association accreditation at each correctional facility; and

30 (4) report the study findings and accompanying regulatory changes to
31 the Governor and General Assembly, in accordance with § 2-1246 of the State
32 Government Article.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2014.