

# SENATE BILL 742

P2, E4, L6

9lr1323  
CF HB 224

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By: **Senator Pinsky**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Government – Correctional Units – Detention Agreements and**  
3 **Contracting for Privatization of Facilities**

4 FOR the purpose of prohibiting a correctional unit, with certain exceptions, from  
5 contracting with a private contractor or vendor for the ownership, operation, or  
6 management of State and local correctional and detention facilities; prohibiting a  
7 correctional unit from being reimbursed in an amount greater than a certain per  
8 diem rate under a certain detention agreement for the detention of certain persons;  
9 defining certain terms; making technical changes; providing for the application of  
10 this Act; prohibiting a correctional unit from extending the term of a certain  
11 detention agreement by exercising a certain extension option or clause under certain  
12 circumstances; and generally relating to correctional units.

13 BY repealing and reenacting, without amendments,  
14 Article – Correctional Services  
15 Section 1–101(a)  
16 Annotated Code of Maryland  
17 (2017 Replacement Volume and 2018 Supplement)

18 BY adding to  
19 Article – Correctional Services  
20 Section 1–101(d–1), 1–202, and 1–203  
21 Annotated Code of Maryland  
22 (2017 Replacement Volume and 2018 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Correctional Services  
25 Section 2–401  
26 Annotated Code of Maryland  
27 (2017 Replacement Volume and 2018 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Correctional Services**

4 1–101.

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

6 (D–1) (1) “CORRECTIONAL UNIT” MEANS A UNIT OF STATE OR LOCAL  
7 GOVERNMENT THAT IS DIRECTLY RESPONSIBLE FOR THE CARE, CUSTODY, AND  
8 CONTROL OF INDIVIDUALS COMMITTED TO THE CUSTODY OF THE UNIT FOR THE  
9 COMMISSION OR ALLEGED COMMISSION OF A CRIME OR AN ACT THAT WOULD BE A  
10 CRIME IF COMMITTED BY AN ADULT.

11 (2) “CORRECTIONAL UNIT” INCLUDES:

12 (I) THE DEPARTMENT OF PUBLIC SAFETY AND  
13 CORRECTIONAL SERVICES;

14 (II) THE DEPARTMENT OF JUVENILE SERVICES; AND

15 (III) THE OFFICE OF THE SHERIFF OF A COUNTY OR OTHER UNIT  
16 OF GOVERNMENT WITH RESPONSIBILITY FOR OPERATING A LOCAL CORRECTIONAL  
17 FACILITY OR COUNTY DETENTION CENTER.

18 1–202.

19 (A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, A  
20 CORRECTIONAL UNIT MAY NOT CONTRACT WITH A PRIVATE CONTRACTOR OR  
21 VENDOR FOR THE OWNERSHIP, OPERATION, OR MANAGEMENT OF A STATE  
22 CORRECTIONAL FACILITY, LOCAL CORRECTIONAL FACILITY, OR COUNTY  
23 DETENTION CENTER.

24 (B) A CORRECTIONAL UNIT MAY CONTRACT WITH A PRIVATE CONTRACTOR  
25 OR VENDOR FOR:

26 (1) ANCILLARY SERVICES, INCLUDING COMMISSARY, DENTAL,  
27 EDUCATIONAL, MAINTENANCE, MEDICAL, PHARMACY, REPAIR, AND  
28 TRANSPORTATION SERVICES;

29 (2) OTHER SERVICES NOT DIRECTLY RELATED TO THE OWNERSHIP,  
30 OPERATION, OR MANAGEMENT OF A STATE CORRECTIONAL FACILITY, LOCAL  
31 CORRECTIONAL FACILITY, OR COUNTY DETENTION CENTER; AND

1           **(3) THE OWNERSHIP, OPERATION, OR MANAGEMENT OF A**  
2 **COMMUNITY ADULT REHABILITATION CENTER OPERATED IN ACCORDANCE WITH**  
3 **TITLE 11, SUBTITLE 3 OF THIS ARTICLE.**

4 2-401.

5           **[(a)]** In this subtitle [the following words have the meanings indicated.

6           (b) (1) “Correctional unit” means a unit of Maryland State or local government  
7 that is directly responsible for the care, custody, and control of individuals committed to  
8 the custody of the unit for the commission or alleged commission of a crime or an act that  
9 would be a crime if committed by an adult.

10           (2) “Correctional unit” includes:

11                   (i) the Department of Public Safety and Correctional Services;

12                   (ii) the Department of Juvenile Services; and

13                   (iii) the office of the sheriff of a county or other unit of government  
14 with responsibility for operating a local correctional facility or county detention center.

15           (c) “Mutual], “**MUTUAL** aid agreement” means a written agreement to establish  
16 and carry out a plan to assist in providing temporary services to alleviate an emergency  
17 situation at a facility operated by a correctional unit.

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

20                                   **Article – Correctional Services**

21 **1-203.**

22           **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
23 **INDICATED.**

24           **(2) “ALIEN” HAS THE MEANING INDICATED IN 8 U.S.C. § 1101.**

25           **(3) (1) “DETENTION AGREEMENT” MEANS AN AGREEMENT OR**  
26 **CONTRACT BETWEEN THE FEDERAL GOVERNMENT AND A CORRECTIONAL UNIT FOR**  
27 **THE DETENTION OF AN ALIEN OR PERSON BELIEVED TO BE AN ALIEN IN A STATE**  
28 **CORRECTIONAL FACILITY, LOCAL CORRECTIONAL FACILITY, OR COUNTY**  
29 **DETENTION CENTER.**

1                   **(II) “DETENTION AGREEMENT” INCLUDES AN AGREEMENT**  
2 **BETWEEN THE DEPARTMENT OF HOMELAND SECURITY AND A CORRECTIONAL UNIT**  
3 **IN ACCORDANCE WITH 8 U.S.C. § 1357.**

4           **(B) A CORRECTIONAL UNIT MAY NOT BE REIMBURSED UNDER A DETENTION**  
5 **AGREEMENT IN AN AMOUNT GREATER THAN THE PER DIEM REIMBURSEMENT RATE**  
6 **UNDER § 9-402 OF THIS ARTICLE.**

7           SECTION 3. AND BE IT FURTHER ENACTED, That:

8           (a) Section 2 of this Act may not be construed to affect a detention agreement  
9 entered into before the effective date of this Act.

10           (b) For a detention agreement entered into by a correctional unit before the  
11 effective date of this Act, the correctional unit may not extend the term of the detention  
12 agreement by exercising an extension option or clause.

13           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
14 1, 2019.