

SENATE BILL 205

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CF HB 176

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

Introduced and read first time: January 16, 2014

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 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 State correctional officer who
8 receives an emergency suspension without pay after being charged with a
9 certain contraband violation shall have the emergency suspension rescinded
10 and any lost time, compensation, status, and benefits restored under certain
11 circumstances; requiring the Secretary of Public Safety and Correctional
12 Services to direct the Department of Public Safety and Correctional Services to
13 study certain issues on or before a certain date; requiring the Secretary to adopt
14 certain regulations, provide a certain schedule, and make a certain report to the
15 Governor and General Assembly on or before a certain date; and generally
16 relating to public safety and security in State and local correctional facilities.

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

22 BY repealing and reenacting, without amendments,

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 Article – Criminal Law
 2 Section ~~9-412, 9-415, 9-416, 9-416~~ and 9-417
 3 Annotated Code of Maryland
 4 (2012 Replacement Volume and 2013 Supplement)

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

7 **Article – Correctional Services**

8 10–913.

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

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

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

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

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

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

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

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

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

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

1 (3) Except as provided in paragraph (4) of this subsection, a
 2 correctional officer who is suspended under paragraph (1) of this subsection and who is
 3 not convicted of the felony OR THE VIOLATION OF § 9-416 OR § 9-417 OF THE
 4 CRIMINAL LAW ARTICLE for which the suspension was imposed shall have:

5 (i) the suspension rescinded; and

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

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

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

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

14 Article – Criminal Law

15 ~~9-412.~~

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

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

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

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

22 ~~(b) A person who violates this section is guilty of a misdemeanor and on~~
 23 ~~conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding~~
 24 ~~\$1,000 or both.~~

25 ~~9-415.~~

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

28 ~~(b) A person may not:~~

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

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

3 ~~(e) A person detained or confined in a place of confinement may not~~
4 ~~knowingly possess or receive an alcoholic beverage.~~

5 ~~(d) A person who violates this section is guilty of a misdemeanor and on~~
6 ~~conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding~~
7 ~~\$1,000 or both.~~

8 9-416.

9 (a) A person may not:

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

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

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

16 (c) A person who violates this section is guilty of a misdemeanor and on
17 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
18 \$1,000 or both.

19 9-417.

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

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

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

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

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 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
5 2014, the Secretary of Public Safety and Correctional Services shall:

6 (1) direct the Department to study:

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

10 (ii) methods to prevent duplication of efforts and resources with
11 facility evaluations conducted by both the Commission and the American Correctional
12 Association; and

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.