

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 22.**  
**CRIMINAL OFFENSES AND PENALTIES.**

**CHAPTER 26.**  
**PRISON MISCONDUCT.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 26. PRISON MISCONDUCT.**

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# CHAPTER 26. PRISON MISCONDUCT.

## SUBCHAPTER I. ESCAPE.

### § 22-2601. ESCAPE FROM INSTITUTION OR OFFICER.

(a) No person shall escape or attempt to escape from:

- (1) Any penal institution or facility in which that person is confined pursuant to an order issued by a court, judge, or commissioner of the District of Columbia;
- (2) The lawful custody of an officer or employee of the District of Columbia or of the United States; or
- (3) An institution or facility, whether located in the District of Columbia or elsewhere, in which a person committed to the Department of Youth Rehabilitation Services is placed.

(b) Any person who violates subsection (a) of this section shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both, said sentence to begin, if the person is an escaped prisoner, upon the expiration of the original sentence or disposition for the offense for which he or she was confined, committed, or in custody at the time of his or her escape.

(July 15, 1932, 47 Stat. 698, ch. 492, § 8; June 6, 1940, 54 Stat. 243, ch. 254, § 6(a); July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 157(b); Aug. 20, 1994, D.C. Law 10-151, § 203, 41 DCR 2608; June 3, 2011, D.C. Law 18-377, § 9, 58 DCR 1174.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 22-2601.

1973 Ed., § 22-2601.

##### *Effect of Amendments*

D.C. Law 18-377, in subsec. (a), deleted "or" from the end of par. (1), substituted "; or" for a period the end of par. (2), and added par. (3); and, in subsec. (b), substituted "original sentence or disposition for the offense for which he or she was confined, committed, or in custody at the time of his or her escape" for "original sentence".

##### *Emergency Act Amendments*

For temporary amendment of section, see § 203 of the Omnibus Criminal Justice Reform Emergency Amendment Act of 1994 (D.C. Act 10-255, June 22, 1994, 41 DCR 4286).

For temporary (90 day) amendment of section, see § 509 of Public Safety Legislation Sixty-Day Layover Emergency Amendment Act of 2010 (D.C. Act 18-693, January 18, 2011, 58 DCR 640).

For temporary (90 day) amendment of section, see § 509 of Public Safety Legislation Sixty-Day Layover Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-45, April 20, 2011, 58 DCR 3701).

##### *Legislative History of Laws*

Law 10-151, the "Omnibus Criminal Justice Reform Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-98, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on March 29, 1994, and April 12, 1994, respectively. Signed by the Mayor on May 4, 1994, it was assigned Act No. 10-238 and transmitted to both Houses of Congress for its review. D.C. Law 10-151 became effective on August 20, 1994.

For history of Law 18-377, see notes under § 22-303.

## SUBCHAPTER II. MISPRISIONS.

## **§ 22-2602. MISPRISIONS BY OFFICERS OR EMPLOYEES OF JAIL.[REPEALED]**

(Dec. 1, 1982, D.C. Law 4-164, § 602(o), 29 DCR 3976.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 22-2602.

#### *Legislative History of Laws*

Law 4-164, the "District of Columbia Theft and White Collar Crimes Act of 1982," was introduced in council and assigned Bill No. 4-133, which was referred to the Committee on the Judiciary. The Bill was adopted on first, amended first and second readings on June 22, 1982, July 6, 1982, and July 20, 1982, respectively. Signed by the Mayor on August 4, 1982, it was assigned Act No. 4-238 and transmitted to both Houses of Congress for its review.

## **SUBCHAPTER III. INTRODUCTION OF CONTRABAND INTO PENAL INSTITUTION.**

### **§ 22-2603.01. DEFINITIONS.**

For the purposes of this subchapter, the term:

(1) "Cellular telephone or other portable communication device and accessories thereto" means any device carried, worn, or stored that is designed, intended, or readily converted to create, receive or transmit oral or written messages or visual images, access or store data, or connect electronically to the Internet, or any other electronic device that enables communication in any form. The term "cellular telephone or other portable communication device and accessories thereto" includes portable 2-way pagers, hand-held radios, cellular telephones, Blackberry-type devices, personal digital assistants or PDAs, computers, cameras, and any components of these devices. The term "cellular telephone or other portable communication device and accessories thereto" also includes any new technology that is developed for communication purposes and includes accessories that enable or facilitate the use of the cellular telephone or other portable communication device.

(2)(A) "Class A Contraband" means:

(i) Any item, the mere possession of which is unlawful under District of Columbia or federal law;

(ii) Any controlled substance listed or described in Unit A of Chapter 9 of Title 48, or any controlled substance scheduled by the Mayor pursuant to § 48-902.01;

(iii) Any dangerous weapon or object which is capable of such use as may endanger the safety or security of a penal institution or secure juvenile residential facility or any person therein, including,:

(I) A firearm or imitation firearm, or any component of a firearm;

(II) Ammunition or ammunition clip;

(III) A stun gun, taser, or other device capable of disrupting a person's nervous system;

(IV) Flammable liquid or explosive powder;

(V) A knife, screwdriver, ice pick, box cutter, needle, or any other object or tool that can be used for cutting, slicing, stabbing, or puncturing a person;

(VI) A shank or homemade knife; or

(VII) Tear gas, pepper spray, or other substance that can be used to cause temporary blindness or incapacitation;

(iv) Any object designed or intended to facilitate an escape;

(v) Handcuffs, security restraints, handcuff keys, or any other object designed or intended to lock, unlock, or release handcuffs or security restraints;

(vi) A hacksaw, hacksaw blade, wire cutter, file, or any other object or tool that can be used to cut through metal, concrete, or plastic;

(vii) Rope; or

(viii) When possessed by, given to, or intended to be given to an inmate or securely detained juvenile, a correctional officer's uniform, law enforcement officer's uniform, medical staff

clothing, any other uniform, or civilian clothing.

(B) The term "Class A contraband" does not include any object or substance which a person is authorized to possess in the penal institution or secure juvenile residential facility by the director of the penal institution or secure juvenile residential facility and that is in the form or quantity for which it was authorized.

(3)(A) "Class B Contraband" means:

(i) Any alcoholic liquor or beverage;

(ii) A hypodermic needle or syringe or other item that can be used for the administration of unlawful controlled substances; or

(iii) A cellular telephone or other portable communication device and accessories thereto.

(B) The term "Class B contraband" does not include any object or substance which a person is authorized to possess in the penal institution or secure juvenile residential facility by the director of the penal institution or secure juvenile residential facility and that is in the form or quantity for which it was authorized.

(4)(A) "Class C Contraband" means any article or thing which a person confined in a penal institution or secure juvenile residential facility is prohibited from obtaining or possessing by rule. The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall promulgate by rulemaking the articles or things that are Class C contraband. The rules shall be posted in the facility to give notice of the prohibited articles or things.

(B) The term "Class C contraband" does not include any object or substance which a person is authorized to possess in the penal institution or secure juvenile residential facility by the director of the penal institution or secure juvenile residential facility and that is in the form or quantity for which it was authorized.

(5) "Grounds" means the area of land occupied by the penal institution or secure juvenile residential facility and its yard and outbuildings, with a clearly identified perimeter.

(6) "Penal institution" means any penitentiary, prison, jail, or secure facility owned, operated, or under the control of the Department of Corrections, whether located within the District of Columbia or elsewhere.

(7) "Secure juvenile residential facility" means a locked residential facility providing custody, supervision, and care for one or more juveniles that is owned, operated, or under the control of the Department of Youth Rehabilitation Services, excluding residential treatment facilities and accredited hospitals.

(Dec. 15, 1941, 55 Stat. 800, ch. 572, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(30); redesignated § 2, Dec. 10, 2009, D.C. Law 18-88, § 210, 56 DCR 7413; Nov. 6, 2010, D.C. Law 18-259, § 5, 57 DCR 5591; June 3, 2011, D.C. Law 18-377, § 10(a), 58 DCR 1174.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

2001 Ed., § 22-2603.

1981 Ed., § 22-2603.

1973 Ed., § 22-2603.

##### *Effect of Amendments*

D.C. Law 18-88 rewrote the section, which had read as follows:

"Any person, not authorized by law, or by the Mayor of the District of Columbia, or by the Director of the Department of Corrections of the District of Columbia, who introduces or attempts to introduce into or upon the grounds of any penal institution of the District of Columbia, whether located within the District of Columbia or elsewhere, any narcotic drug, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony, and, upon conviction thereof in the Superior Court of the District of Columbia or in any court of the United States, shall be punished by imprisonment for not more than 10 years."

D.C. Law 18-259, in par. (3)(A)(iii), substituted "telephone, cell phone accessories," for "telephone".

D.C. Law 18-377 rewrote pars. (1) and (3)(A)(iii), which formerly read:

"(1) 'Cellular telephone or other portable communication device' means any device carried, worn, or stored that is designed, intended, or readily converted to create, receive, or transmit verbal or written messages or visual images, access or store data, or connect electronically to the Internet or any other electronic device and which allows communications in any form. The term 'cellular telephone or other portable communication device' includes portable 2-way pagers, hand-held radios, cellular telephones, Blackberry-type devices,

personal digital assistants or PDAs, computers, cameras, or any components of these devices which are intended to be used to assemble such devices. The term 'cellular telephone or other portable communication device' also includes any new technology that is developed for similar purposes."

"(iii) A cellular telephone, cell phone accessories, or other portable communication device."

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 210 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) amendment of section, see § 210 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

For temporary (90 day) amendment of section, see § 510(a) of Public Safety Legislation Sixty-Day Layover Emergency Amendment Act of 2010 (D.C. Act 18-693, January 18, 2011, 58 DCR 640).

For temporary (90 day) amendment of section, see § 510(a) of Public Safety Legislation Sixty-Day Layover Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-45, April 20, 2011, 58 DCR 3701).

#### *Legislative History of Laws*

For Law 18-88, see notes following § 22-404.

For history of Law 18-259, see notes under § 22-2724.

For history of Law 18-377, see notes under § 22-303.

#### *Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 22-2603.02. UNLAWFUL POSSESSION OF CONTRABAND.**

(a) Except as authorized by law, the Mayor, the Director of the Department of Corrections, or the Director of the Department of Youth Rehabilitation Services, it is unlawful to:

(1) Knowingly bring Class A, Class B, or Class C contraband into or upon the grounds of a penal institution or a secure juvenile residential facility with the intent that it be given to or received by an inmate or securely detained juvenile;

(2) Knowingly cause another to bring Class A, Class B, or Class C contraband into or upon the grounds of a penal institution or a secure juvenile residential facility with the intent that it be given to or received by an inmate or securely detained juvenile; or

(3) Knowingly place Class A, Class B, or Class C contraband in such proximity to a penal institution or a secure juvenile residential facility with the intent to give an inmate, a securely detained juvenile, a staff member, or a visitor access to the contraband.

(b) It is unlawful for an inmate, or securely detained juvenile, to possess Class A, Class B, or Class C contraband, regardless of the intent with which he or she possesses it.

(c) It is unlawful for an employee of the Department of Corrections or Department of Youth Rehabilitation Services who becomes aware of any violation of this section to fail to report such knowledge as required by department regulations, policies, or procedures.

(d)(1) Any item listed as contraband is not deemed to be contraband when issued by a penal institution or secure juvenile residential facility to an employee and the item is being used in the performance of the employee's duties within the penal institution or secure juvenile residential facility.

(2) Any item listed as contraband is not deemed to be contraband when issued by a law enforcement agency to its sworn officers and the item is being used in the performance of his or her duties.

(e) It is not unlawful for an attorney, or representative or agent of an attorney, during the course of a visit for the purpose of legal representation of the inmate or securely detained juvenile, to:

(1) Possess a cellular telephone or other portable communication device and accessories thereto for the purpose of the legal visit for use by the attorney, representative, or agent, and not for the personal

use of any inmate or securely detained juvenile; or

(2) Give or transmit to an inmate or securely detained juvenile legal written or recorded communication pertaining to his or her legal representation.

(f) It is not unlawful for a person to possess or carry a controlled substance that is prescribed to that person and that is medically necessary for that person to carry.

(Dec. 15, 1941, 55 Stat. 800, ch. 572, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(30); redesignated § 3, Dec. 10, 2009, D.C. Law 18-88, § 210, 56 DCR 7413; June 3, 2011, D.C. Law 18-377, § 10(b), 58 DCR 1174.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

2001 Ed., § 22-2603.

1981 Ed., § 22-2603.

1973 Ed., § 22-2603.

##### *Effect of Amendments*

D.C. Law 18-377, in subsec. (e)(1), substituted "portable communication device and accessories thereto" for "portable communication device".

##### *Emergency Act Amendments*

For temporary (90 day) addition, see § 210 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) addition, see § 210 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

For temporary (90 day) amendment of section, see § 510(b) of Public Safety Legislation Sixty-Day Layover Emergency Amendment Act of 2010 (D.C. Act 18-693, January 18, 2011, 58 DCR 640).

For temporary (90 day) amendment of section, see § 510(b) of Public Safety Legislation Sixty-Day Layover Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-45, April 20, 2011, 58 DCR 3701).

##### *Legislative History of Laws*

For Law 18-88, see notes following § 22-404.

For history of Law 18-377, see notes under § 22-303.

## **§ 22-2603.03. PENALTIES.**

(a) A person convicted of violating this subchapter with regard to Class A contraband shall be imprisoned for not more than 10 years, fined not more than \$10,000, or both.

(b) A person convicted of violating this subchapter with regard to Class B contraband shall be imprisoned for not more than 2 years, fined not more than \$2,000, or both.

(c) A person convicted of violating § 22-2603.02(c) shall be imprisoned for not more than 1 year, fined not more than \$1,000, or both.

(d) Any term of imprisonment imposed on an inmate or prisoner pursuant to this section shall be:

(1) Consecutive to the term of imprisonment being served at the time this offense was committed; or

(2) If the inmate was confined pending trial or sentencing, consecutive to any term of imprisonment imposed in the case in which the inmate was being detained at the time this offense was committed.

(e) The violation of this subchapter with regard to Class C contraband shall be an administrative penalty prescribed by the Department of Corrections or the Department of Youth Rehabilitation Services.

(Dec. 15, 1941, 55 Stat. 800, ch. 572, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(30); redesignated § 4, Dec. 10, 2009, D.C. Law 18-88, § 210, 56 DCR 7413.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

2001 Ed., § 22-2603.

1981 Ed., § 22-2603.

1973 Ed., § 22-2603.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 210 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) addition, see § 210 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

*Legislative History of Laws*

For Law 18-88, see notes following § 22-404.

## **§ 22-2603.04. DETAINMENT POWER.**

Any person who, being lawfully upon the grounds of the penal institution, introduces or attempts to introduce contraband prohibited by § 2-2603.02(a) may be taken into custody by the warden and detained for not more than 2 hours, pending surrender to a police officer with the Metropolitan Police Department.

(Dec. 15, 1941, 55 Stat. 800, ch. 572, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(30); redesignated § 5, Dec. 10, 2009, D.C. Law 18-88, § 210, 56 DCR 7413.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

2001 Ed., § 22-2603.

1981 Ed., § 22-2603.

1973 Ed., § 22-2603.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 210 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) addition, see § 210 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

*Legislative History of Laws*

For Law 18-88, see notes following § 7-2508.01.