

MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996, AND FOR OTHER PURPOSES

DECEMBER 1, 1995.—Ordered to be printed

Mr. ROGERS, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2076]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2076) "making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:*

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

*For expenses necessary for the administration of the Department of Justice, \$74,282,000; including not to exceed \$3,317,000 for the Facilities Program 2000, and including \$5,000,000 for management and oversight of Immigration and Naturalization Service activities, both sums to remain available until expended: Provided, That not to exceed 45 permanent positions and 51 full-time equivalent workyears and \$7,477,000 shall be expended for the Department Leadership Program only for the Offices of the Attorney Gen-*

*Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.*

**TITLE VII—RESCISSIONS**

**DEPARTMENT OF JUSTICE**

**GENERAL ADMINISTRATION**

**WORKING CAPITAL FUND**

**(RESCISSION)**

*Of the unobligated balances available under this heading, \$65,000,000 are rescinded.*

**DEPARTMENT OF STATE**

**ADMINISTRATION OF FOREIGN AFFAIRS**

**ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD**

**(RESCISSION)**

*Of the unobligated balances available under this heading, \$60,000,000 are rescinded.*

**RELATED AGENCIES**

**UNITED STATES INFORMATION AGENCY**

**RADIO CONSTRUCTION**

**(RESCISSION)**

*Of the unobligated balances available under this heading, \$7,400,000 are rescinded.*

**TITLE VIII—PRISON LITIGATION REFORM**

**SEC. 801. SHORT TITLE.**

*This title may be cited as the "Prison Litigation Reform Act of 1995".*

**SEC. 802. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.**

*(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:*

**"§3626. Appropriate remedies with respect to prison conditions**

**"(a) REQUIREMENTS FOR RELIEF.—**

**"(1) PROSPECTIVE RELIEF.—(A) Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not**

grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

“(B) The court shall not order any prospective relief that requires or permits a government official to exceed his or her authority under State or local law or otherwise violates State or local law, unless—

“(i) Federal law permits such relief to be ordered in violation of State or local law;

“(ii) the relief is necessary to correct the violation of a Federal right; and

“(iii) no other relief will correct the violation of the Federal right.

“(C) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

“(2) PRELIMINARY INJUNCTIVE RELIEF.—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the preliminary relief and shall respect the principles of comity set out in paragraph (1)(B) in tailoring any preliminary relief. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

“(3) PRISONER RELEASE ORDER.—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

“(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

“(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

“(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

“(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a

three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

"(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

"(E) The three-judge court shall enter a prisoner release order only if the court finds by clear and convincing evidence that—

"(i) crowding is the primary cause of the violation of a Federal right; and

"(ii) no other relief will remedy the violation of the Federal right.

"(F) Any State or local official or unit of government whose jurisdiction or function includes the appropriation of funds for the construction, operation, or maintenance of program facilities, or the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

"(b) TERMINATION OF RELIEF.—

"(1) TERMINATION OF PROSPECTIVE RELIEF.—(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party or intervener—

"(i) 2 years after the date the court granted or approved the prospective relief;

"(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

"(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

"(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

"(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

"(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the pro-

spective relief is narrowly drawn and the least intrusive means to correct the violation.

"(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party or intervener from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

"(c) SETTLEMENTS.—

"(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

"(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

"(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy available under State law.

"(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

"(e) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

"(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

"(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law; and

"(B) ending on the date the court enters a final order ruling on the motion.

"(f) SPECIAL MASTERS.—

"(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a special master who shall be disinterested and objective and who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

"(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

"(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each sub-

mit a list of not more than 5 persons to serve as a special master.

"(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

"(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

"(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master under this subsection, on the ground of partiality.

"(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Judiciary.

"(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

"(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

"(A) may be authorized by a court to conduct hearings and prepare proposed findings of fact, which shall be made on the record;

"(B) shall not make any findings or communications ex parte;

"(C) may be authorized by a court to assist in the development of remedial plans; and

"(D) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements;

"(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

"(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

"(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the

prison population, or that directs the release from or nonadmission of prisoners to a prison;

"(5) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

"(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

"(7) the term 'prospective relief' means all relief other than compensatory monetary damages;

"(8) the term 'special master' means any person appointed by a Federal court pursuant to Rule 53 of the Federal Rules of Civil Procedure or pursuant to any inherent power of the court to exercise the powers of a master, regardless of the title or description given by the court; and

"(9) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements."

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this title.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

"3626. Appropriate remedies with respect to prison conditions."

**SEC. 803. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.**

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the "Act") is amended to read as follows:

"(c) The Attorney General shall personally sign any complaint filed pursuant to this section."

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—

(A) by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by striking "his" and inserting "the Attorney General's"; and

(2) by amending subsection (b) to read as follows:

"(b) The Attorney General shall personally sign any certification made pursuant to this section."

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Attorney General shall personally sign any certification made pursuant to this section."; and

(2) by amending subsection (c) to read as follows:

"(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section."

(d) **SUITS BY PRISONERS.**—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

**"SEC. 7. SUITS BY PRISONERS.**

"(a) **APPLICABILITY OF ADMINISTRATIVE REMEDIES.**—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

"(b) **FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.**—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

"(c) **DISMISSAL.**—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

"(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

"(d) **ATTORNEY'S FEES.**—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), such fees shall not be awarded, except to the extent that—

"(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and

"(B)(i) the amount of the fee is proportionately related to the court ordered relief for the violation; or

"(ii) the fee was directly and reasonably incurred in enforcing the relief ordered for the violation.

"(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is not greater than 150 percent of the judgment, the excess shall be paid by the defendant.



"(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

"(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988).

"(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

"(f) HEARINGS.—(1) To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

"(2) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.

"(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

"(2) The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

"(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program."

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking "his report" and inserting "the report".

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking "his action" and inserting "the action"; and

(2) by striking "he is satisfied" and inserting "the Attorney General is satisfied".

**SEC. 804. PROCEEDINGS IN FORMA PAUPERIS.**

(a) **FILING FEES.**—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “(a) Any” and inserting “(a)(1) Subject to subsection (b), any”;

(B) by striking “and costs”;

(C) by striking “makes affidavit” and inserting “submits an affidavit that includes a statement of all assets such prisoner possesses”;

(D) by striking “such costs” and inserting “such fees”;

(E) by striking “he” each place it appears and inserting “the person”;

(F) by adding immediately after paragraph (1), the following new paragraph:

“(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.”; and

(G) by striking “An appeal” and inserting “(3) An appeal”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

“(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

“(A) the average monthly deposits to the prisoner’s account;

or

“(B) the average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

“(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

“(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

“(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.”;

(4) in subsection (c), as redesignated by paragraph (2), by striking "subsection (a) of this section" and inserting "subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)"; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) The court may request an attorney to represent any person unable to afford counsel.

"(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

"(A) the allegation of poverty is untrue; or

"(B) the action or appeal—

"(i) is frivolous or malicious;

"(ii) fails to state a claim on which relief may be granted; or

"(iii) seeks monetary relief against a defendant who is immune from such relief."

(b) EXCEPTION TO DISCHARGE OF DEBT IN BANKRUPTCY PROCEEDING.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (16), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(17) for a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under section 1915 (b) or (f) of title 28, or the debtor's status as a prisoner, as defined in section 1915(h) of title 28."

(c) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking "(f) Judgment" and inserting "(f)(1) Judgment";

(2) by striking "cases" and inserting "proceedings"; and

(3) by adding at the end the following new paragraph:

"(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

"(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

"(C) In no event shall the costs collected exceed the amount of the costs ordered by the court."

(d) SUCCESSIVE CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted."

ed, unless the prisoner is under imminent danger of serious physical injury.”.

(e) **DEFINITION.**—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

“(h) As used in this section, the term ‘prisoner’ means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.”.

**SEC. 805. JUDICIAL SCREENING.**

(a) **IN GENERAL.**—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

**“§ 1915A. Screening**

“(a) **SCREENING.**—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

“(b) **GROUND FOR DISMISSAL.**—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

“(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

“(2) seeks monetary relief from a defendant who is immune from such relief.

“(c) **DEFINITION.**—As used in this section, the term ‘prisoner’ means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.”.

(b) **TECHNICAL AMENDMENT.**—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item:

“1915A. Screening.”.

**SEC. 806. FEDERAL TORT CLAIMS.**

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking “(b)” and inserting “(b)(1)”; and

(2) by adding at the end the following:

“(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.”.

**SEC. 807. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION ORDERS.**

Any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, shall be paid directly to satisfy any outstanding restitution orders pending against the pris-

oner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner.

**SEC. 808. NOTICE TO CRIME VICTIMS OF PENDING DAMAGE AWARD.**

Prior to payment of any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, reasonable efforts shall be made to notify the victims of the crime for which the prisoner was convicted and incarcerated concerning the pending payment of any such compensatory damages.

**SEC. 809. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.**

(a) *IN GENERAL.*—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

**“§1932. Revocation of earned release credit**

“In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

“(1) the claim was filed for a malicious purpose;

“(2) the claim was filed solely to harass the party against which it was filed; or

“(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.”.

(b) *TECHNICAL AMENDMENT.*—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1931 the following:

“1932. Revocation of earned release credit.”.

(c) *AMENDMENT OF SECTION 3624 OF TITLE 18.*—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking “A prisoner” and inserting “Subject to paragraph (2), a prisoner”;

(ii) by striking “for a crime of violence.”; and

(iii) by striking “such”;

(C) in the third sentence, by striking “If the Bureau” and inserting “Subject to paragraph (2), if the Bureau”;

(D) by striking the fourth sentence and inserting the following: “In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree.”; and

(E) in the sixth sentence, by striking “Credit for the last” and inserting “Subject to paragraph (2), credit for the last”; and

(2) by amending paragraph (2) to read as follows:

“(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litiga-

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*tion Reform Act shall vest on the date the prisoner is released from custody."*

**SEC. 810. SEVERABILITY.**

*If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.*

*This act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996".*

And the Senate agree to the same.

HAROLD ROGERS,  
JIM KOLBE,  
CHARLES H. TAYLOR,  
RALPH REGULA,  
MIKE FORBES,  
BOB LIVINGSTON,  
ALAN B. MOLLOHAN,  
*Managers on the Part of the House.*

JUDD GREGG,  
MARK O. HATFIELD,  
TED STEVENS,  
PETE V. DOMENICI,  
MITCH MCCONNELL,  
JAMES M. JEFFORDS,  
THAD COCHRAN,  
ERNEST F. HOLLINGS (with  
reservations),  
ROBERT C. BYRD,  
DANIEL K. INOUE,  
*Managers on the Part of the Senate.*

## RELATED AGENCIES

## UNITED STATES INFORMATION AGENCY

## RADIO CONSTRUCTION

## (RESCISSION)

The conference agreement includes a rescission of \$7,400,000 against unobligated balances available under the Radio Construction account, as proposed by the Senate, instead of no rescission, as proposed by the House.

The conferees expect the United States Information Agency to report on the manner in which it intends to apply this rescission.

## TITLE VIII—PRISON LITIGATION REFORM

The conference agreement includes a separate title containing legislative language to carry out prison litigation reform and is similar to the language proposed by the Senate bill to limit the remedies for prison condition lawsuits and discourage frivolous and abusive prison lawsuits.

Section 801 contains the short title of the bill, the "Prison Litigation Reform Act of 1995", as proposed by the Senate.

*Prison conditions remedies.*—Section 802 amends 18 U.S.C. 3626 to require that prison condition remedies do not go beyond the measures necessary to remedy federal rights violations and that public safety and criminal justice needs are given appropriate weight in framing such remedies. Specifically, the section places limits on the type of prospective relief available to inmate litigants. The relief is generally limited to the minimum necessary to correct the violation of a federal right. Measures limiting prison population such as prison caps or prison release orders can only be imposed as last resort measures after less drastic remedies had proven ineffective. A prison cap in federal proceedings can be ordered only by a three-judge court. These same limitations on prospective relief are applied to preliminary injunctive relief and such relief would expire after a ninety-day period. Prior consent decrees are made terminable upon the motion of either party, and can be continued only if the court finds that the imposed relief is necessary to correct the violation of the federal right. The section also permits the appointment of a disinterested special master to monitor the imposed relief. The special master is intended to assist the court in finding facts and is to place those findings in the record. In addition, the conference agreement contains language, not included in the Senate bill, that provides standing to State legislators to intervene in prison lawsuits.

*Prisoner litigation.*—The conference agreement includes language proposed by the Senate, with the addition of provisions relating to victim notification and restitution requirements for monetary awards and severability. Section 803 amends the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) to require that administrative remedies be exhausted prior to any prison conditions action being brought under any federal law by an inmate in federal court. It also directs the courts to dismiss suits if they are frivo-

lous, malicious, or fail to state a claim and permits the State to waive its right of reply to any action brought by a prisoner.

Section 804 amends 28 U.S.C. 1915 to require the prisoner to list all assets when filing *in forma pauperis* suits. Section 805 adds a new section 1915A to 28 U.S.C. to require early judicial screening and prompt dismissal of clearly meritless suits against governmental entities or employees. Section 806 amends 28 U.S.C. 1346(b) to limit prisoner suits against the Federal government for mental or emotional injury under the Federal Tort Claims Act to instances where the prisoner shows physical injury as well. The legislation also includes new language in Sections 807 and 808, not included in the Senate bill, that mandates that restitution payments must be taken from any award won by the prisoner and that requires victims to be notified whenever a prisoner receives a monetary award from the State. Section 809 adds a new section 1932 to 28 U.S.C. to allow the court to revoke the prisoner's "good time" credit if he files repetitive frivolous, or malicious suits designed to misuse the justice system. The conference agreement also includes a provision on severability in Section 810, which was not included in the Senate bill.

The conferees also understand that approximately eight percent, or 800,000 of the 10.1 million admittances to jails annually, suffer from severe mental illness such as schizophrenia and manic depressive illness. Most of these individuals have not committed violent or serious felonies but rather misdemeanors, or other non-violent offenses. The conferees further understand that eight percent, or 80,000 of the approximately one million people currently incarcerated in our nation's prisons, suffer from severe mental illness. The conferees agree that the care and treatment provided to these individuals is essential to their health and do not intend for any of the provisions in this title to impact adversely on the availability of this care and treatment.

#### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follows:

New budget (obligational) authority, fiscal year 1995 .....	\$26,698,336,000
Budget estimates of new (obligational) authority, fiscal year 1996	31,158,679,000
House bill, fiscal year 1996 .....	27,585,240,000
Senate bill, fiscal year 1996 .....	27,033,679,665
Conference agreement, fiscal year 1996 .....	27,287,525,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995 .....	+589,189,000
Budget estimates of new (obligational) authority, fiscal year 1996 .....	-3,871,154,000
House bill, fiscal year 1996 .....	-297,715,000
Senate bill, fiscal year 1996 .....	+253,845,335

HAROLD ROGERS,  
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