

To provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 25), 1995

Mr. ABRAHAM (for himself, Mr. HATCH, Mr. SPECTER, Mr. KYL, and Mrs. HUTCHINSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Prison Conditions Liti-
5 gation Reform Act".

6 SEC. 2. APPROPRIATE REMEDIES FOR PRISON CONDI-

7 TIONS.

8 (a) IN GENERAL.—Section 3626 of title 18, United

9 States Code, is amended to read as follows:

1 "§ 3626. Appropriate remedies with respect to prison
2 conditions

3 "(a) REQUIREMENTS FOR RELIEF.—

4 "(1) PROSPECTIVE RELIEF.—Prospective relief
5 in any civil action with respect to prison conditions
6 shall extend no further than necessary to correct the
7 violation of the Federal right of a particular plaintiff
8 or plaintiffs. The court shall not grant or approve
9 any prospective relief unless the court finds that
10 such relief is narrowly drawn, extends no further
11 than necessary to correct the violation of the Federal
12 right, and is the least intrusive means necessary to
13 correct the violation. In determining the intrusive-
14 ness of the relief, the court shall give substantial
15 weight to any adverse impact on public safety or the
16 operation of a criminal justice system caused by the
17 relief.

18 "(2) PRELIMINARY INJUNCTIVE RELIEF.—In
19 any civil action with respect to prison conditions, to
20 the extent otherwise authorized by law, the court
21 may enter a temporary restraining order or an order
22 for preliminary injunctive relief. Preliminary injunc-
23 tive relief shall automatically expire on the date that
24 is 90 days after its entry, unless the court makes the
25 order final before the expiration of the 90-day pe-
26 riod.

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

4 “(i) a court has previously entered an
5 order for less intrusive relief that has failed to
6 remedy the deprivation of the Federal right
7 sought to be remedied through the prisoner re-
8 lease order; and

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

12 “(B) In any civil action in Federal court with
13 respect to prison conditions, a prisoner release order
14 shall be entered only by a three-judge court in ac-
15 cordance with section 2284 of title 28, if the require-
16 ments of subparagraph (E) have been met.

17 “(C) A party seeking a prisoner release order in
18 Federal court shall file with any request for such re-
19 lief, a request for a three-judge court and materials
20 sufficient to demonstrate that the requirements of
21 subparagraph (A) have been met.

22 “(D) If the requirements under subparagraph
23 (A) have been met, a Federal judge before whom a
24 civil action with respect to prison conditions is pend-
25 ing who believes that a prison release order should

1 be considered may sua sponte request the convening
2 of a three-judge court to determine whether a pris-
3 oner release order should be entered.

4 "(E) The court shall enter a prisoner release
5 order only if the court finds—

6 "(i) by clear and convincing evidence—

7 "(I) that crowding is the primary
8 cause of the violation of a Federal right;
9 and

10 "(II) that no other relief will remedy
11 the violation of the Federal right; and

12 "(ii) by a preponderance of the evidence—

13 "(I) that crowding has deprived a par-
14 ticular plaintiff or plaintiffs of at least one
15 essential, identifiable human need; and

16 "(II) that prison officials have acted
17 with obduracy and wantonness in depriving
18 a particular plaintiff or plaintiffs of at
19 least one essential, identifiable human
20 need.

21 "(F) Any State or local official or unit of gov-
22 ernment whose jurisdiction or function includes the
23 prosecution or custody of persons who may be re-
24 leased from, or not admitted to, a prison as a result
25 of a prisoner release order shall have standing to op-

1 pose the imposition or continuation in effect of such
2 relief, and shall have the right to intervene in any
3 proceeding relating to such relief.

4 "(b) TERMINATION OF RELIEF.—

5 "(1) TERMINATION OF PROSPECTIVE RELIEF.—

6 (A) In any civil action with respect to prison condi-
7 tions in which prospective relief is ordered, such re-
8 lief shall be terminable upon the motion of any
9 party—

10 "(i) 2 years after the date the court grant-
11 ed or approved the prospective relief;

12 "(ii) 1 year after the date the court has
13 entered an order denying termination of pro-
14 spective relief under this paragraph; or

15 "(iii) in the case of an order issued on or
16 before the date of enactment of the Prison Liti-
17 gation Reform Act, 2 years after such date of
18 enactment.

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

23 "(2) IMMEDIATE TERMINATION OF PROSPEC-
24 TIVE RELIEF.—In any civil action with respect to
25 prison conditions, a defendant or intervener shall be

1 entitled to the immediate termination of any pro-
2 spective relief if the relief was approved or granted
3 in the absence of a finding by the court that the
4 relief is narrowly drawn, extends no further than
5 necessary to correct the violation of the Federal
6 right, and is the least intrusive means necessary to
7 correct the violation.

8 "(3) LIMITATION.—Prospective relief shall not
9 terminate if the court makes written findings based
10 on the record that prospective relief remains nec-
11 cessary to correct the violation of the Federal right,
12 extends no further than necessary to correct the vio-
13 lation of the Federal right, and that the prospective
14 relief is the least intrusive means to correct the vio-
15 lation.

16 "(4) TERMINATION OR MODIFICATION.—Noth-
17 ing in this section shall prevent any party from seek-
18 ing modification or termination before the relief is
19 terminable under paragraph (1) or (2), to the extent
20 that modification or termination would otherwise be
21 legally permissible.

22 "(c) SETTLEMENTS.—

23 "(1) CONSENT DECREES.—In any civil action
24 with respect to prison conditions, the court shall not
25 enter or approve a consent decree unless it complies

1 with the limitations on relief set forth in subsection
2 (a).

3 "(2) PRIVATE SETTLEMENT AGREEMENTS.—

4 (A) Nothing in this section shall preclude parties
5 from entering into a private settlement agreement
6 that does not comply with the limitations on relief
7 set forth in subsection (a), if the terms of that
8 agreement are not subject to court enforcement
9 other than the reinstatement of the civil proceeding
10 that the agreement settled.

11 "(B) Nothing in this section shall preclude any
12 party claiming that a private settlement agreement
13 has been breached from seeking in State court any
14 remedy for breach of contract available under State
15 law.

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

20 "(e) PROCEDURE FOR MOTIONS AFFECTING PRO-
21 SPECTIVE RELIEF.—

22 "(1) GENERALLY.—The court shall promptly
23 rule on any motion to modify or terminate prospec-
24 tive relief in a civil action with respect to prison con-
25 ditions.

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

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

8 “(ü) beginning on the 180th day after such
9 motion is filed, in the case of a motion made
10 under subsection (b)(3); and

11 “(B) ending on the date the court enters
12 a final order ruling on the motion.

13 “(f) DEFINITIONS.—As used in this section—

14 “(1) the term ‘consent decree’ means any relief
15 entered by the court that is based in whole or in
16 part upon the consent or acquiescence of the parties;

17 “(2) the term ‘civil action with respect to prison
18 conditions’ means any civil proceeding arising under
19 Federal law with respect to the conditions of con-
20 finement or the effects of actions by government of-
21 ficials on the lives of persons confined in prison, but
22 does not include habeas corpus proceedings challeng-
23 ing the fact or duration of confinement in prison;

24 “(3) the term ‘prisoner’ means any person in-
25 carcerated or detained in any facility who is accused

1 of, convicted of, sentenced for, or adjudicated delin-
2 quent for, violations of criminal law or the terms
3 and conditions of parole, probation, pretrial release,
4 or diversionary program;

5 “(4) the term ‘prisoner release order’ includes
6 any order, including a temporary restraining order
7 or preliminary injunctive relief, that has the purpose
8 or effect of reducing or limiting the prison popu-
9 lation, or that directs the release from or
10 nonadmission of prisoners to a prison;

11 “(5) the term ‘prison’ means any Federal,
12 State, or local facility that incarcerates or detains
13 juveniles or adults accused of, convicted of, sen-
14 tenced for, or adjudicated delinquent for, violations
15 of criminal law;

16 “(6) the term ‘prospective relief’ means all re-
17 lief other than monetary damages; and

18 “(7) the term ‘relief’ means all relief in any
19 form that may be granted or approved by the court,
20 and includes consent decrees and settlement agree-
21 ments (except a settlement agreement the breach of
22 which is not subject to any court enforcement other
23 than reinstatement of the civil proceeding that such
24 agreement settled).”.

25 (b) APPLICATION OF AMENDMENT.—

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

7 (2) TECHNICAL AMENDMENT.—Subsections (b)
8 and (d) of section 20409 of the Violent Crime Con-
9 trol and Law Enforcement Act of 1994 are repealed.

10 (c) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of subchapter C of chapter 229 of title
12 18, United States Code, is amended to read as follows:

“3626. Appropriate remedies with respect to prison conditions.”

13 **SEC. 2. AMENDMENTS TO CIVIL RIGHTS OF INSTITU-**
14 **TIONALIZED PERSONS ACT.**

15 Section 7 of the Civil Rights of Institutionalized Per-
16 sons Act (42 U.S.C. 1997e) is amended by adding at the
17 end the following new subsections:

18 “(f) ATTORNEY’S FEES.—(1) In any action brought
19 by a prisoner who is confined to any jail, prison, or other
20 correctional facility, in which attorney’s fees are author-
21 ized under section 2 of the Revised Statutes of the United
22 States (42 U.S.C. 1988), such fees shall be awarded only
23 if—

24 “(A) the fee was directly and reasonably in-
25 curred in proving an actual violation of the plain-

1 tiff's rights protected by a statute pursuant to which
2 a fee may be awarded under section 2 of the Revised
3 Statutes; and

4 “(B) the amount of the fee is proportionately
5 related to the court ordered relief for the violation.

6 “(2) Whenever a monetary judgment is awarded in
7 an action described in paragraph (1), a portion of the
8 judgment (not to exceed 25 percent) shall be applied to
9 satisfy the amount of attorney's fees awarded against the
10 defendant. If the award of attorney's fees is greater than
11 25 percent of the judgment, the excess shall be paid by
12 the defendant.

13 “(3) No award of attorney's fees in an action de-
14 scribed in paragraph (1) shall be based on an hourly rate
15 greater than the hourly rate established under section
16 3006A of title 18, United States Code, for payment of
17 court-appointed counsel.

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

24 “(g) TELEPHONE HEARINGS.—To the extent prac-
25 ticable, in any action brought in Federal court pursuant

1 to section 1979 of the Revised Statutes of the United
2 States (42 U.S.C. 1983) by a prisoner crime confined in
3 any jail, prison, or other correctional facility, pretrial pro-
4 ceedings in which the prisoner's participation is required
5 or permitted shall be conducted by telephone without re-
6 moving the prisoner from the facility in which the prisoner
7 is confined. Any State may adopt a similar requirement
8 regarding hearings in such actions in that State's courts.

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

15 **SEC. 4. SUCCESSIVE CLAIMS IN PROCEEDINGS IN FORMA**
16 **PAUPERIS.**

17 Section 1915 of title 28, United States Code, is
18 amended by adding at the end the following new sub-
19 section:

20 “(f)(1) In no event shall a prisoner in any prison
21 bring a civil action or appeal a judgment in a civil action
22 or proceeding under this section if the prisoner has, on
23 3 or more prior occasions, brought an action or appeal
24 in a court of the United States that was dismissed on the
25 grounds that it is frivolous, malicious, or fails to state a

1 claim upon which relief may be granted, unless the pris-
2 oner is under imminent danger of serious bodily harm.

3 “(2) As used in this subsection, the term ‘prisoner’
4 means any person incarcerated or detained in any facility
5 who is accused of, convicted of, sentenced for, or adju-
6 dicated delinquent for, violations of criminal law or the
7 terms and conditions of parole, probation, pretrial release,
8 or diversionary program.”.

○

H.R.3019

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996. (Engrossed Senate Amendment)

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:

'Sec. 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 prisoner 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.

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. 1997c) 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.

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;

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:

'Sec. 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) GROUNDS FOR DISMISSAL- On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of 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 prisoner. 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:

Sec. 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 Litigation 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.'