

## 1 TITLE VIII—PRISON LITIGATION REFORM

## 2 SEC. 801. SHORT TITLE

3 This title may be cited as the "Prison Litigation Re-  
4 form Act of 1995".

5 SEC. 802. APPROPRIATE REMEDIES FOR PRISON CONDI-  
6 TIONS.

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

9 "§ 3626. Appropriate remedies with respect to prison  
10 conditions

11 "(a) REQUIREMENTS FOR RELIEF.—

12 "(1) PROSPECTIVE RELIEF.—(A) Prospective  
13 relief in any civil action with respect to prison condi-  
14 tions shall extend no further than necessary to cor-  
15 rect the violation of the Federal right of a particular  
16 plaintiff or plaintiffs. The court shall not grant or  
17 approve any prospective relief unless the court finds  
18 that such relief is narrowly drawn, extends no fur-  
19 ther than necessary to correct the violation of the  
20 Federal right, and is the least intrusive means nec-  
21 essary to correct the violation of the Federal right.  
22 The court shall give substantial weight to any ad-  
23 verse impact on public safety or the operation of a  
24 criminal justice system caused by the relief.

H.R. 3019, Depts. of Commerce, Justice, and State,  
the Judiciary, and Appropriations Act, 1996 (Title  
VIII, Prison Litigation Reform) (as introduced in the  
House, March 5, 1996).

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

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

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

9                   “(iii) no other relief will correct the viola-  
10 tion of the Federal right.

11           “(C) Nothing in this section shall be construed  
12 to authorize the courts, in exercising their remedial  
13 powers, to order the construction of prisons or the  
14 raising of taxes, or to repeal or detract from other-  
15 wise applicable limitations on the remedial powers of  
16 the courts.

17           “(2) PRELIMINARY INJUNCTIVE RELIEF.—In  
18 any civil action with respect to prison conditions, to  
19 the extent otherwise authorized by law, the court  
20 may enter a temporary restraining order or an order  
21 for preliminary injunctive relief. Preliminary injunc-  
22 tive relief must be narrowly drawn, extend no fur-  
23 ther than necessary to correct the harm the court  
24 finds requires preliminary relief, and be the least in-  
25 trusive means necessary to correct that harm. The

1 court shall give substantial weight to any adverse  
2 impact on public safety or the operation of a crimi-  
3 nal justice system caused by the preliminary relief  
4 and shall respect the principles of comity set out in  
5 paragraph (1)(B) in tailoring any preliminary relief.  
6 Preliminary injunctive relief shall automatically ex-  
7 pire on the date that is 90 days after its entry, un-  
8 less the court makes the findings required under  
9 subsection (a)(1) for the entry of prospective relief  
10 and makes the order final before the expiration of  
11 the 90-day period.

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

15 "(i) a court has previously entered an  
16 order for less intrusive relief that has failed to  
17 remedy the deprivation of the Federal right  
18 sought to be remedied through the prisoner re-  
19 lease order; and

20 "(ii) the defendant has had a reasonable  
21 amount of time to comply with the previous  
22 court orders.

23 "(B) In any civil action in Federal court with  
24 respect to prison conditions, a prisoner release order  
25 shall be entered only by a three-judge court in ac-

1 cordance with section 2284 of title 28, if the require-  
2 ments of subparagraph (E) have been met.

3 "(C) A party seeking a prisoner release order in  
4 Federal court shall file with any request for such re-  
5 lief, a request for a three-judge court and materials  
6 sufficient to demonstrate that the requirements of  
7 subparagraph (A) have been met.

8 "(D) If the requirements under subparagraph  
9 (A) have been met, a Federal judge before whom a  
10 civil action with respect to prison conditions is pend-  
11 ing who believes that a prison release order should  
12 be considered may sua sponte request the convening  
13 of a three-judge court to determine whether a pris-  
14 oner release order should be entered.

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

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

20 "(ii) no other relief will remedy the viola-  
21 tion of the Federal right.

22 "(F) Any State or local official or unit of gov-  
23 ernment whose jurisdiction or function includes the  
24 appropriation of funds for the construction, oper-  
25 ation, or maintenance of program facilities, or the

1 prosecution or custody of persons who may be re-  
2 leased from, or not admitted to, a prison as a result  
3 of a prisoner release order shall have standing to op-  
4 pose the imposition or continuation in effect of such  
5 relief and to seek termination of such relief, and  
6 shall have the right to intervene in any proceeding  
7 relating to such relief.

8 "(b) TERMINATION OF RELIEF.—

9 "(1) TERMINATION OF PROSPECTIVE RELIEF.—

10 (A) In any civil action with respect to prison condi-  
11 tions in which prospective relief is ordered, such re-  
12 lief shall be terminable upon the motion of any party  
13 or intervener—

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

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

19 "(iii) in the case of an order issued on or  
20 before the date of enactment of the Prison Liti-  
21 gation Reform Act, 2 years after such date of  
22 enactment.

23 "(B) Nothing in this section shall prevent the  
24 parties from agreeing to terminate or modify relief

1 before the relief is terminated under subparagraph  
2 (A).

3       “(2) IMMEDIATE TERMINATION OF PROSPEC-  
4 TIVE RELIEF.—In any civil action with respect to  
5 prison conditions, a defendant or intervener shall be  
6 entitled to the immediate termination of any pro-  
7 spective relief if the relief was approved or granted  
8 in the absence of a finding by the court that the re-  
9 lief is narrowly drawn, extends no further than nec-  
10 cessary to correct the violation of the Federal right,  
11 and is the least intrusive means necessary to correct  
12 the violation of the Federal right.

13       “(3) LIMITATION.—Prospective relief shall not  
14 terminate if the court makes written findings based  
15 on the record that prospective relief remains nec-  
16 cessary to correct a current or ongoing violation of  
17 the Federal right, extends no further than necessary  
18 to correct the violation of the Federal right, and  
19 that the prospective relief is narrowly drawn and the  
20 least intrusive means to correct the violation.

21       “(4) TERMINATION OR MODIFICATION OF RE-  
22 LIEF.—Nothing in this section shall prevent any  
23 party or intervener from seeking modification or ter-  
24 mination before the relief is terminable under para-

1 graph (1) or (2), to the extent that modification or  
2 termination would otherwise be legally permissible.

3 "(c) SETTLEMENTS.—

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

9 "(2) PRIVATE SETTLEMENT AGREEMENTS.—

10 (A) Nothing in this section shall preclude parties  
11 from entering into a private settlement agreement  
12 that does not comply with the limitations on relief  
13 set forth in subsection (a), if the terms of that  
14 agreement are not subject to court enforcement  
15 other than the reinstatement of the civil proceeding  
16 that the agreement settled.

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

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

1       “(e) PROCEDURE FOR MOTIONS AFFECTING PRO-  
2 SPECTIVE RELIEF.—

3           “(1) GENERALLY.—The court shall promptly  
4 rule on any motion to modify or terminate prospec-  
5 tive relief in a civil action with respect to prison con-  
6 ditions.

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

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

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

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

19       “(f) SPECIAL MASTERS.—

20           “(1) IN GENERAL.—(A) In any civil action in a  
21 Federal court with respect to prison conditions, the  
22 court may appoint a special master who shall be dis-  
23 interested and objective and who will give due regard  
24 to the public safety, to conduct hearings on the  
25 record and prepare proposed findings of fact.



1           “(B) The court shall appoint a special master  
2 under this subsection during the remedial phase of  
3 the action only upon a finding that the remedial  
4 phase will be sufficiently complex to warrant the ap-  
5 pointment.

6           “(2) APPOINTMENT.—(A) If the court deter-  
7 mines that the appointment of a special master is  
8 necessary, the court shall request that the defendant  
9 institution and the plaintiff each submit a list of not  
10 more than 5 persons to serve as a special master.

11           “(B) Each party shall have the opportunity to  
12 remove up to 3 persons from the opposing party’s  
13 list.

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

17           “(3) INTERLOCUTORY APPEAL.—Any party  
18 shall have the right to an interlocutory appeal of the  
19 judge’s selection of the special master under this  
20 subsection, on the ground of partiality.

21           “(4) COMPENSATION.—The compensation to be  
22 allowed to a special master under this section shall  
23 be based on an hourly rate not greater than the  
24 hourly rate established under section 3006A for pay-  
25 ment of court-appointed counsel, plus costs reason-

1 ably incurred by the special master. Such compensa-  
2 tion and costs shall be paid with funds appropriated  
3 to the Judiciary.

4       “(5) REGULAR REVIEW OF APPOINTMENT.—In  
5 any civil action with respect to prison conditions in  
6 which a special master is appointed under this sub-  
7 section, the court shall review the appointment of  
8 the special master every 6 months to determine  
9 whether the services of the special master continue  
10 to be required under paragraph (1). In no event  
11 shall the appointment of a special master extend be-  
12 yond the termination of the relief.

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

15               “(A) may be authorized by a court to con-  
16 duct hearings and prepare proposed findings of  
17 fact, which shall be made on the record;

18               “(B) shall not make any findings or com-  
19 munications ex parte;

20               “(C) may be authorized by a court to as-  
21 sist in the development of remedial plans; and

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

25       “(g) DEFINITIONS.—As used in this section—

1           “(1) the term ‘consent decree’ means any relief  
2 entered by the court that is based in whole or in  
3 part upon the consent or acquiescence of the parties  
4 but does not include private settlements;

5           “(2) the term ‘civil action with respect to prison  
6 conditions’ means any civil proceeding arising under  
7 Federal law with respect to the conditions of con-  
8 finement or the effects of actions by government of-  
9 ficials on the lives of persons confined in prison, but  
10 does not include habeas corpus proceedings challeng-  
11 ing the fact or duration of confinement in prison;

12           “(3) the term ‘prisoner’ means any person sub-  
13 ject to incarceration, detention, or admission to any  
14 facility who is accused of, convicted of, sentenced  
15 for, or adjudicated delinquent for, violations of  
16 criminal law or the terms and conditions of parole,  
17 probation, pretrial release, or diversionary program;

18           “(4) the term ‘prisoner release order’ includes  
19 any order, including a temporary restraining order  
20 or preliminary injunctive relief, that has the purpose  
21 or effect of reducing or limiting the prison popu-  
22 lation, or that directs the release from or  
23 nonadmission of prisoners to a prison;

24           “(5) the term ‘prison’ means any Federal,  
25 State, or local facility that incarcerates or detains

1 juveniles or adults accused of, convicted of, sen-  
2 tenced for, or adjudicated delinquent for, violations  
3 of criminal law;

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

9 "(7) the term 'prospective relief' means all re-  
10 lief other than compensatory monetary damages;

11 "(8) the term 'special master' means any per-  
12 son appointed by a Federal court pursuant to Rule  
13 53 of the Federal Rules of Civil Procedure or pursu-  
14 ant to any inherent power of the court to exercise  
15 the powers of a master, regardless of the title or de-  
16 scription given by the court; and

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

21 (b) APPLICATION OF AMENDMENT.—

22 (1) IN GENERAL.—Section 3626 of title 18,  
23 United States Code, as amended by this section,  
24 shall apply with respect to all prospective relief  
25 whether such relief was originally granted or ap-

1 proved before, on, or after the date of the enactment  
2 of this title.

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

6 (c) CLERICAL AMENDMENT.—The table of sections  
7 at the beginning of subchapter C of chapter 229 of title  
8 18, United States Code, is amended to read as follows:

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

9 SEC. 803. AMENDMENTS TO CIVIL RIGHTS OF INSTITU-  
10 TIONALIZED PERSONS ACT.

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

15 “(c) The Attorney General shall personally sign any  
16 complaint filed pursuant to this section.”.

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

19 (1) in subsection (a)—

20 (A) by striking “he” each place it appears  
21 and inserting “the Attorney General”; and

22 (B) by striking “his” and inserting “the  
23 Attorney General's”; and

24 (2) by amending subsection (b) to read as fol-  
25 lows:

1       “(b) The Attorney General shall personally sign any  
2 certification made pursuant to this section.”.

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

5           (1) in subsection (b)—

6               (A) in paragraph (1), by striking “he”  
7 each place it appears and inserting “the Attor-  
8 ney General”; and

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

11       “(2) The Attorney General shall personally sign any  
12 certification made pursuant to this section.”; and

13           (2) by amending subsection (c) to read as fol-  
14 lows:

15       “(c) The Attorney General shall personally sign any  
16 motion to intervene made pursuant to this section.”.

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

19 ~~“SEC. 7. SUITS BY PRISONERS.~~

20       “(a) APPLICABILITY OF ADMINISTRATIVE REM-  
21 EDIES.—No action shall be brought with respect to prison  
22 conditions under section 1979 of the Revised Statutes of  
23 the United States (42 U.S.C. 1983), or any other Federal  
24 law, by a prisoner confined in any jail, prison, or other

1 correctional facility until such administrative remedies as  
2 are available are exhausted.

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

8       “(c) DISMISSAL.—(1) The court shall on its own mo-  
9 tion or on the motion of a party dismiss any action  
10 brought with respect to prison conditions under section  
11 1979 of the Revised Statutes of the United States (42  
12 U.S.C. 1983), or any other Federal law, by a prisoner con-  
13 fined in any jail, prison, or other correctional facility if  
14 the court is satisfied that the action is frivolous, malicious,  
15 fails to state a claim upon which relief can be granted,  
16 or seeks monetary relief from a defendant who is immune  
17 from such relief.

18       “(2) In the event that a claim is, on its face, frivolous,  
19 malicious, fails to state a claim upon which relief can be  
20 granted, or seeks monetary relief from a defendant who  
21 is immune from such relief, the court may dismiss the un-  
22 derlying claim without first requiring the exhaustion of ad-  
23 ministrative remedies.

24       “(d) ATTORNEY'S FEES.—(1) In any action brought  
25 by a prisoner who is confined to any jail, prison, or other

1 correctional facility, in which attorney's fees are author-  
2 ized under section 2 of the Revised Statutes of the United  
3 States (42 U.S.C. 1988), such fees shall not be awarded,  
4 except to the extent that—

5           “(A) the fee was directly and reasonably in-  
6 curred in proving an actual violation of the plain-  
7 tiff's rights protected by a statute pursuant to which  
8 a fee may be awarded under section 2 of the Revised  
9 Statutes; and

10           “(B)(i) the amount of the fee is proportionately  
11 related to the court ordered relief for the violation;  
12 or

13           “(ii) the fee was directly and reasonably in-  
14 curred in enforcing the relief ordered for the viola-  
15 tion.

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

23           “(3) No award of attorney's fees in an action de-  
24 scribed in paragraph (1) shall be based on an hourly rate  
25 greater than 150 percent of the hourly rate established



1 under section 3006A of title 18, United States Code, for  
2 payment of court-appointed counsel.

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

9       “(e) LIMITATION ON RECOVERY.—No Federal civil  
10 action may be brought by a prisoner confined in a jail,  
11 prison, or other correctional facility, for mental or emo-  
12 tional injury suffered while in custody without a prior  
13 showing of physical injury.

14       “(f) HEARINGS.—(1) To the extent practicable, in  
15 any action brought with respect to prison conditions in  
16 Federal court pursuant to section 1979 of the Revised  
17 Statutes of the United States (42 U.S.C. 1983), or any  
18 other Federal law, by a prisoner confined in any jail, pris-  
19 on, or other correctional facility, pretrial proceedings in  
20 which the prisoner’s participation is required or permitted  
21 shall be conducted by telephone, video conference, or other  
22 telecommunications technology without removing the pris-  
23 oner from the facility in which the prisoner is confined.

24       “(2) Subject to the agreement of the official of the  
25 Federal, State, or local unit of government with custody

1 over the prisoner, hearings may be conducted at the facil-  
2 ity in which the prisoner is confined. To the extent prac-  
3 ticable, the court shall allow counsel to participate by tele-  
4 phone, video conference, or other communications tech-  
5 nology in any hearing held at the facility.

6       “(g) WAIVER OF REPLY.—(1) Any defendant may  
7 waive the right to reply to any action brought by a pris-  
8 oner confined in any jail, prison, or other correctional fa-  
9 cility under section 1979 of the Revised Statutes of the  
10 United States (42 U.S.C. 1983) or any other Federal law.  
11 Notwithstanding any other law or rule of procedure, such  
12 waiver shall not constitute an admission of the allegations  
13 contained in the complaint. No relief shall be granted to  
14 the plaintiff unless a reply has been filed.

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

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

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

4 (f) NOTICE TO FEDERAL DEPARTMENTS.—Section  
5 10 of the Act (42 U.S.C. 1997h) is amended—

6 (1) by striking “his action” and inserting “the  
7 action”; and

8 (2) by striking “he is satisfied” and inserting  
9 “the Attorney General is satisfied”.

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

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

13 (1) in subsection (a)—

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

16 (B) by striking “and costs”;

17 (C) by striking “makes affidavit” and in-  
18 serting “submits an affidavit that includes a  
19 statement of all assets such prisoner possesses”;

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

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

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

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

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

13               (2) by redesignating subsections (b), (c), (d),  
14 and (e) as subsections (c), (d), (e), and (f), respec-  
15 tively;

16               (3) by inserting after subsection (a) the follow-  
17 ing new subsection:

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

1           “(A) the average monthly deposits to the pris-  
2           oner’s account; or

3           “(B) the average monthly balance in the pris-  
4           oner’s account for the 6-month period immediately  
5           preceding the filing of the complaint or notice of ap-  
6           peal.

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

14          “(3) In no event shall the filing fee collected exceed  
15          the amount of fees permitted by statute for the commence-  
16          ment of a civil action or an appeal of a civil action or  
17          criminal judgment.

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

22                 (4) in subsection (c), as redesignated by para-  
23                 graph (2), by striking “subsection (a) of this sec-  
24                 tion” and inserting “subsections (a) and (b) and the

1 prepayment of any partial filing fee as may be re-  
2 quired under subsection (b)"; and

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

5 "(e)(1) The court may request an attorney to rep-  
6 resent any person unable to afford counsel.

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

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

11 "(B) the action or appeal—

12 "(i) is frivolous or malicious;

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

15 "(iii) seeks monetary relief against a de-  
16 fendant who is immune from such relief."

17 (b) EXCEPTION TO DISCHARGE OF DEBT IN BANK-  
18 RUPTCY PROCEEDING.—Section 523(a) of title 11, United  
19 States Code, is amended—

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

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

24 "(17) for a fee imposed by a court for the filing  
25 of a case, motion, complaint, or appeal, or for other

1 costs and expenses assessed with respect to such fil-  
2 ing, regardless of an assertion of poverty by the  
3 debtor under section 1915 (b) or (f) of title 28, or  
4 the debtor's status as a prisoner, as defined in sec-  
5 tion 1915(h) of title 28."

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

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

11 (2) by striking "cases" and inserting "proceed-  
12 ings"; and

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

15 "(2)(A) If the judgment against a prisoner includes  
16 the payment of costs under this subsection, the prisoner  
17 shall be required to pay the full amount of the costs or-  
18 dered.

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

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

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

4 “(g) In no event shall a prisoner bring a civil action  
5 or appeal a judgment in a civil action or proceeding under  
6 this section if the prisoner has, on 3 or more prior occa-  
7 sions, while incarcerated or detained in any facility,  
8 brought an action or appeal in a court of the United  
9 States that was dismissed on the grounds that it is frivo-  
10 lous, malicious, or fails to state a claim upon which relief  
11 may be granted, unless the prisoner is under imminent  
12 danger of serious physical injury.”

13 (e) DEFINITION.—Section 1915 of title 28, United  
14 States Code, is amended by adding at the end the follow-  
15 ing new subsection:

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

22 SEC. 806. JUDICIAL SCREENING.

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



## 1 "§ 1915A. Screening

2 "(a) SCREENING.—The court shall review, before  
3 docketing, if feasible or, in any event, as soon as prac-  
4 ticable after docketing, a complaint in a civil action in  
5 which a prisoner seeks redress from a governmental entity  
6 or officer or employee of a governmental entity.

7 "(b) GROUNDS FOR DISMISSAL.—On review, the  
8 court shall identify cognizable claims or dismiss the com-  
9 plaint, or any portion of the complaint, if the complaint—

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

12 "(2) seeks monetary relief from a defendant  
13 who is immune from such relief.

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

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

"1915A. Screening".

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

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

4 (1) by striking "(b)" and inserting "(b)(1)",

5 and

6 (2) by adding at the end the following:

7 "(2) No person convicted of a felony who is incarcer-  
8 ated while awaiting sentencing or while serving a sentence  
9 may bring a civil action against the United States or an  
10 agency, officer, or employee of the Government, for mental  
11 or emotional injury suffered while in custody without a  
12 prior showing of physical injury."

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

15 Any compensatory damages awarded to a prisoner in  
16 connection with a civil action brought against any Federal,  
17 State, or local jail, prison, or correctional facility or  
18 against any official or agent of such jail, prison, or correc-  
19 tional facility, shall be paid directly to satisfy any out-  
20 standing restitution orders pending against the prisoner.  
21 The remainder of any such award after full payment of  
22 all pending restitution orders shall be forwarded to the  
23 prisoner.

1 SEC. 808. NOTICE TO CRIME VICTIMS OF PENDING DAMAGE  
2 AWARD.

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

11 SEC. 809. EARNED RELEASE CREDIT OR GOOD TIME CRED-  
12 IT REVOCATION.

13 (a) IN GENERAL.—Chapter 123 of title 28, United  
14 States Code, is amended by adding at the end the follow-  
15 ing new section:

16 "§ 1932. Revocation of earned release credit

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

23 "(1) the claim was filed for a malicious pur-  
24 pose;

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

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

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

                  “1932 Revocation of earned release credit.”

8           (c) AMENDMENT OF SECTION 3624 OF TITLE 18.—  
9           Section 3624(b) of title 18, United States Code, is amend-  
10          ed—

11           (1) in paragraph (1)—

12                   (A) by striking the first sentence;

13                   (B) in the second sentence—

14                           (i) by striking “A prisoner” and in-  
15                           serting “Subject to paragraph (2), a pris-  
16                           oner”;

17                           (ii) by striking “for a crime of vio-  
18                           lence,”; and

19                           (iii) by striking “such”;

20                   (C) in the third sentence, by striking “If  
21                   the Bureau” and inserting “Subject to para-  
22                   graph (2), if the Bureau”;

23                   (D) by striking the fourth sentence and in-  
24                   serting the following: “In awarding credit under  
25                   this section, the Bureau shall consider whether

1 the prisoner, during the relevant period, has  
2 earned, or is making satisfactory progress to-  
3 ward earning, a high school diploma or an  
4 equivalent degree.”; and

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

8 (2) by amending paragraph (2) to read as fol-  
9 lows:

10 “(2) Notwithstanding any other law, credit  
11 awarded under this subsection after the date of en-  
12 actment of the Prison Litigation Reform Act shall  
13 vest on the date the prisoner is released from cus-  
14 tody.”.

15 **SEC. 810. SEVERABILITY.**

16 If any provision of this title, an amendment made by  
17 this title, or the application of such provision or amend-  
18 ment to any person or circumstance is held to be unconsti-  
19 tutional, the remainder of this title, the amendments made  
20 by this title, and the application of the provisions of such  
21 to any person or circumstance shall not be affected there-  
22 by.

23 This Act may be cited as the “Departments of Com-  
24 merce, Justice, and State, the Judiciary, and Related  
25 Agencies Appropriations Act, 1996.”.