

H.R.3019

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996. (Passed by the House)

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.

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(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. 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.

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.