

ENGROSSED HOUSE
BILL NO. 1177

By: Vaughn, Askins, Beutler,
Culver, Dank, Fields,
Hager, Hiett, Miller,
Perry, Pettigrew,
Smaligo, Wells, Adair,
Adkins, Blackburn,
Bryant, Case, Coleman,
Cox, Greenwood,
Hastings, Holt, Peltier,
Reese, Roach, Seikel,
Smith (Bill), Sullivan
(Leonard), Thornbrugh,
Tyler and Widener of the
House

and

Hendrick of the Senate

An Act relating to prisons and reformatories;
amending 57 O.S. 1991, Section 566, which relates
to actions against the Department of Corrections;
making law apply to pro se actions; expanding
application of law; authorizing court sanctions for
frivolous or malicious causes of action; providing
that certain awards serve as judgement; defining
term; authorizing payment from certain trust fund;
providing time period that judgment is subject to
execution without further order of the court;
providing for payments and distribution from damage
awards; providing for codification; and providing
an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 57 O.S. 1991, Section 566, is amended to read as follows:

Section 566. ~~An~~ A. A pro se action initiated against the state, the Department of Corrections, or other state agency or political subdivision by an inmate offender in the custody or under the supervision of the Department of Corrections may be:

1. Dismissed without prejudice, by the court on its own motion or on a motion of the defendant, if all administrative remedies available to the ~~defendant~~ offender have not been exhausted; or

2. Dismissed with prejudice, by the court on a motion of the defendant, if the court is satisfied that the action is frivolous or malicious.

B. As used in this section, "frivolous" means having no reasonable basis in law or fact, or lacking any good faith legal argument for the extension, modification or reversal of existing law. Malicious means filing numerous actions, or actions brought in bad faith on de minimus issues.

C. If the court determines that one or more of the causes of action are frivolous or malicious, any one or more of the following sanctions shall be imposed against the offender upon motion by the defendant:

1. Award attorney fees and actual costs incurred by the Department, another state agency, a political subdivision, the Attorney General's Office, or the legal representative of the defendant, the amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) per frivolous cause of action or appeal; provided actual costs shall not exceed Five Hundred Dollars (\$500.00) per cause of action or appeal; or

2. Order the Department of Corrections to remove up to seven hundred twenty (720) earned credits accrued by the offender; or

3. Order the Department to confiscate nonessential personal property of the offender, including but not limited to televisions, radios, stereos, or tape recorders; or

4. Impose a fine as a civil sanction in an amount not to exceed One Thousand Dollars (\$1,000.00).

D. Any award of attorney fees, costs, or fines shall serve as a judgment against the offender and the Department is authorized to take up to fifty percent (50%) of the offender's nonmandatory trust funds per month until paid. The judgment shall be subject to execution without further order of any court for a period of seven (7) years from the date of an award or imposition of a fine.

E. The sanctions provided for in this section are cumulative through the state appellate system for any appeals of lower court sanctions.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 566.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

Any offender who successfully obtains a final court order or settlement agreement awarding damages for any cause of action in any federal or state proceedings against the state, a state agency, the Department or any political subdivision, or any employee thereof, shall pay or satisfy from the award any previous assessments of court costs or fines involving the criminal convictions of the offender, victims compensation assessments, restitution awards, probation or parole fees, child support or alimony, civil judgments, and any deficiencies of secured debts not paid. Twenty percent (20%) of the remaining balance of the award shall be placed in the offender's mandatory savings account and the remainder shall be placed in the offender's regular draw account.

SECTION 3. This act shall become effective November 1, 1995.

Passed the House of Representatives the 22nd day of February, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate