

ENROLLED 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, Widener and
Bryant of the House

and

Hendrick, Campbell,
Gustafson, Wilkerson and
Henry of the Senate

An Act relating to civil procedure; providing procedures for certain actions filed by inmates of penal institutions; specifying information required; providing additional requirements for proceeding without payment of costs; requiring return for noncompliance; requiring the Administrative Office of the Courts to adopt forms; 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 judgment; 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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2003.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. Petitions, motions, or other pleadings filed by an inmate of a penal institution as defined in paragraph 2 of subsection B of Section 2 of this act appearing pro se shall be on forms approved by the district court and supplied without charge by the clerk of the district court upon request.

B. The following information shall be supplied by an inmate who is seeking relief in a civil action:

1. Plaintiff's full name;
2. Place of plaintiff's residence;
3. Name(s) of defendant(s);
4. Place(s) of defendant(s) residence;
5. Title and position of (each) defendant;
6. Whether the defendant(s) was (were) acting under color of state law at the time the claim alleged in the complaint arose;
7. Brief statement of the facts;
8. Grounds upon which plaintiff bases allegations that constitutional rights, privileges, or immunities have been violated, together with the facts which support each of these grounds;
9. A statement of prior judicial and administrative relief sought; and
10. A statement of the relief requested.

C. In all cases in which the petitioner, movant, or plaintiff is an inmate of a penal institution and desires to proceed in forma pauperis, in addition to the proof of poverty required by subsection C of Section 152 of Title 28 of the Oklahoma Statutes, the inmate shall submit a certificate executed by an authorized officer of the institution in which the inmate is confined stating the amount of money or securities on deposit to the inmate's credit in any account in the institution. The certificate may be considered by the court in acting on the motion for leave to proceed in forma pauperis. In the absence of exceptional circumstances, leave to proceed in forma pauperis may be denied if the value of the money and securities in petitioner's, movant's, or plaintiff's institutional account exceeds Two Hundred Dollars (\$200.00).

D. If the court determines that the filing is a noncomplying petition, motion, or other pleading filed by an inmate in a penal institution appearing pro se it shall be returned together with a copy of this statute and a statement of the reason or reasons for its return.

E. If the defendant claims either qualified or absolute immunity in its answer, the court may order the plaintiff to file a detailed reply to the answer pursuant to subsection A of Section 2007 of Title 12 of the Oklahoma Statutes.

F. The Administrative Office of the Courts shall adopt forms to be used by inmates of penal institutions appearing pro se pursuant to this section.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 566, is amended to read as follows:

Section 566. ~~An~~ A. A civil action initiated against the state, the Department of Corrections, another state agency, or political subdivision, or an original action in an appellate court, or an appeal of an action whether or not the plaintiff was represented in the district court, by an inmate in the custody of the Department a penal institution appearing pro se 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~~ inmate 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:

1. "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;
2. "Inmate" or "inmate in a penal institution" includes, but is not limited to, a person in the custody or under the supervision of the Department of Corrections or the Federal Bureau of Prisons; and

3. "Malicious" means filing numerous actions, or actions brought in bad faith on de minimus issues.

C. If the court determines before or at trial that one or more of the causes of action are frivolous or malicious, any one or more of the following sanctions may be imposed:

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

2. Court costs not to exceed Five Hundred Dollars (\$500.00) per cause of action;

3. Order the Department of Corrections to revoke up to seven hundred twenty (720) earned credits accrued by the inmate;

4. Order the Department to revoke permission to have nonessential personal property of the inmate, including, but not limited to, televisions, radios, stereos, or tape recorders. If permission is revoked, the Department shall take appropriate precautions to protect the property during the period of the revocation; or

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

D. Any award of attorney fees, or costs, or the imposition of a sanction shall serve as a judgment against the inmate and the Department is authorized to take up to fifty percent (50%) of the inmate'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 sanction.

SECTION 3. 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 inmate in a penal institution as defined in paragraph 2 of subsection B of Section 2 of this act 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 debts not paid of which the Department of Corrections has notice by lien, garnishment, or other appropriate process. 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 4. This act shall become effective November 1, 1995.

Passed the House of Representatives the 25th day of April, 1995.

Speaker of the House of
Representatives

Passed the Senate the 11th day of April, 1995.

President of the Senate