

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 575

By: Price of the Senate

and

Bonny of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to prisons and reformatories;
11 amending 57 O.S. 1991, Section 566, as amended by
12 Section 2, Chapter 141, O.S.L. 1995 and Section 3,
13 Chapter 141, O.S.L. 1995 (57 O.S. Supp. 1998,
14 Sections 566 and 566.1), which relate to inmate
15 lawsuits; modifying definitions; increasing sanctions
16 that can be ordered by the court for frivolous
17 actions; requiring certain notice; providing for
18 disbursement of award; providing for distribution of
19 damages arising out of tort or contract against any
20 party; providing for notification and distribution;
21 providing right of subrogation; providing an
22 effective date; and declaring an emergency.

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

24 SECTION 1. AMENDATORY 57 O.S. 1991, Section 566, as
25 amended by Section 2, Chapter 141, O.S.L. 1995 (57 O.S. Supp. 1998,
26 Section 566), is amended to read as follows:

27 Section 566. A. A civil action initiated against the state,
28 the Department of Corrections, another state agency, or political
29 subdivision, or an original action in an appellate court, or an
30 appeal of an action whether or not the plaintiff was represented in
31 the district court, by an inmate in a penal institution appearing
32 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 and statutory
remedies available to the inmate have not been exhausted; or

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

4 B. As used in this section:

5 1. "Frivolous" means having no reasonable basis in law or fact,
6 or lacking any good faith legal argument for the extension,
7 modification, or reversal of existing law, or being maintained
8 solely or primarily for delay or to harass the party filed against;

9 2. "Inmate" or "inmate in a penal institution" includes, but is
10 not limited to, a person in the custody or under the supervision of
11 the Department of Corrections or the Federal Bureau of Prisons, a
12 person who has been convicted of a crime and is incarcerated for
13 that crime in a county jail, a person who is being held in custody
14 for trial or sentencing, or a person on parole; and

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

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

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

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

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

29 4. Order the Department to revoke permission to have
30 nonessential personal property of the inmate, including, but not
31 limited to, televisions, radios, stereos, or tape recorders. If
32 permission is revoked, the Department shall take appropriate

1 precautions to protect the property during the period of the
2 revocation; ~~or~~

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

5 6. Impose a monetary judgment against the inmate, not to exceed
6 Five Hundred Dollars (\$500.00), to be paid to each named defendant.

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

14 SECTION 2. AMENDATORY Section 3, Chapter 141, O.S.L.
15 1995 (57 O.S. Supp. 1998, Section 566.1), is amended to read as
16 follows:

17 Section 566.1 A. Any inmate in a penal institution as defined
18 in paragraph 2 of subsection B of Section ~~2~~ 566 of this ~~act~~ title
19 who successfully obtains a final court order or settlement agreement
20 awarding damages for any cause of action in any federal or state
21 proceedings against the state, a state agency, the Department or any
22 political subdivision, or any employee thereof, shall pay or satisfy
23 from the award any previous assessments of court costs or fines
24 involving the criminal convictions of the offender, victims
25 compensation assessments, restitution awards, probation or parole
26 fees, child support or alimony, civil judgments, and any
27 deficiencies of debts not paid of which the Department of
28 Corrections has notice by lien, garnishment, or other appropriate
29 process. Twenty percent (20%) of the remaining balance of the award
30 shall be placed in the offender's mandatory savings account and the
31 remainder shall be placed in the offender's regular draw account.
32 The state shall give notice to the inmate of known debts owed by the

1 inmate and shall disburse the award ninety (90) days after the
2 notice is mailed.

3 B. Any inmate, as defined in paragraph 2 of subsection B of
4 Section 566 of this title, who successfully obtains a final court
5 order awarding damages for any cause of action arising in tort or
6 contract, in any state or federal proceedings, or any settlement
7 agreement, against any party shall notify the Department of
8 Corrections of the award and shall make the same distribution of the
9 award as is provided in subsection A of this section. In addition,
10 the state, the Department of Corrections, any other state agency, or
11 any political subdivision of the state shall have the first right of
12 subrogation to any such award or settlement for costs of services
13 incurred by the state, state agency, or political subdivision in
14 relation to such claim, for service provided to the inmate at the
15 request of the inmate, and for all costs of incarceration, before
16 any part of the award is placed in the trust account of the inmate.

17 SECTION 3. This act shall become effective July 1, 1999.

18 SECTION 4. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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