

ENROLLED SENATE
BILL NO. 575

By: Price of the Senate

and

Bonny, Adair, Adkins,
Coleman, Graves, Hastings,
Sullivan (Leonard), Webb
and Worthen of the House

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

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

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

Section 566. 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 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 and statutory
remedies available to the 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, or being maintained
solely or primarily for delay or to harass the party filed against;

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, a person who has been convicted of a crime and is incarcerated for that crime in a county jail, a person who is being held in custody for trial or sentencing, or a person on parole; 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); or

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

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

Section 566.1 A. Any inmate in a penal institution as defined in paragraph 2 of subsection B of Section ~~2~~ 566 of this ~~act~~ title 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. The state shall give notice to the inmate of known debts owed by the inmate and shall disburse the award ninety (90) days after the notice is mailed.

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

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

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

Passed the Senate the 19th day of April, 1999.

President of the Senate

Passed the House of Representatives the 7th day of April, 1999.

Speaker of the House of Representatives

