

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 575

By: Price

AS INTRODUCED

An Act relating to prison lawsuits; creating the Prisoner Lawsuit Act; providing short title; defining terms; restricting certain lawsuits until administrative remedies have been exhausted; providing for dismissal of certain actions; limiting attorney fees in certain cases; limiting certain court attorney fees to certain rate; construing certain limitation of fees; requiring certain proof of funds in inmate trust account prior to filing certain actions; providing for payment of court filing fees from inmate trust funds; setting payment criteria for indigent prisoner plaintiff; prohibiting denial of certain prisoners to file lawsuits; 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 650 of Title 57, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Prisoner Lawsuit Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 650.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Civil action" means the filing of a complaint, petition, writ, or motion with any court within this state, including any appellate court; except that "civil action" does not include any criminal action or an action for habeas corpus pursuant to state or federal law;

2. "Detaining facility" means any state correctional facility, any private correctional facility housing state prisoners, or any jail. A detaining facility shall not include any juvenile detention facility that detains only juveniles.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 650.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. No inmate shall bring a civil action based upon prison conditions under any statute or constitutional provision until all available administrative remedies have been exhausted in a timely fashion by the entity operating the detaining facility and having custody of the inmate. For purposes of this section, an inmate shall be considered to have exhausted all available administrative remedies when the inmate has completed the last step in the inmate grievance process as set forth in the rules promulgated for the detaining facility.

B. Notwithstanding subsection A of this section, if a court finds that a claim filed by an inmate is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from monetary relief, a court may dismiss the claim without first requiring exhaustion of administrative remedies. If the claim is raised in subsequent civil or administrative action, such claim may be summarily dismissed.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 650.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Any civil action based upon prison conditions brought by an inmate who has filed three or more separate actions based upon prison conditions that have been dismissed on the grounds that the actions were frivolous, malicious, failed to state a claim upon which relief may be granted, or sought monetary relief from a

defendant who is immune from such relief shall be summarily dismissed.

B. An inmate whose action may be or has been summarily dismissed pursuant to subsection A of this section may file an application with the court requesting permission to file the action. The court may grant the application if the court determines the suit may have merit or the inmate is in imminent danger of serious physical injury.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 650.4 of Title 57, unless there is created a duplication in numbering, reads as follows:

Any compensatory damages awarded to an inmate in connection with a civil action brought against any federal or state jail, prison, or facility or against any official or agent of a jail, prison, or facility, after deduction for any court-ordered award of attorney fees shall be paid directly to satisfy any outstanding claims against the inmate, including but not limited to restitution, cost of incarceration, medical treatment, and child support. The remainder of the award after full payment of all claims shall be forwarded to the inmate's trust account.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 650.5 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. In any action based upon prison conditions brought pursuant to any statute or constitutional provision, if attorney fees are recoverable pursuant to any state or federal statute, no attorney fees shall be awarded to an inmate, except to the extent that:

1. The fees were directly and reasonably incurred in proving an actual violation of the inmate's rights protected by the Constitution or statute; and

2. The amount of the fees is proportionately related to the court-ordered relief for the violation or the fees were directly and

reasonably incurred in enforcing the relief ordered for the violation.

B. No award of attorney fees payable under this section shall be based on an hourly rate in excess of one hundred percent (100%) of the hourly rate paid to court-appointed counsel in the district in which the action was filed.

C. Whenever a monetary judgment is awarded in an action in which attorney fees are awarded under this section, a portion of the judgment not to exceed twenty-five percent (25%) shall be applied to reduce the amount of attorney fees awarded against the defendant.

D. Nothing in this section shall prohibit an inmate from entering into an agreement to pay an attorney fee in excess of the amount authorized in this section. The excess attorney fees shall be paid by the inmate rather than by a defendant.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 650.6 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. An inmate seeking to bring a civil action or appeal a judgment in the civil action without prepayment of fees, in addition to filing any required affidavit, shall submit a copy of the inmate's trust fund account statement for the six-month period immediately preceding the filing of the complaint or notice of appeal, certified by an appropriate official at the detaining facility. If the inmate account demonstrates that the inmate has sufficient funds to pay the filing fee, the motion to proceed as an indigent person shall be denied.

B. Any inmate who is allowed to proceed in the civil action as an indigent person shall be required to pay the full amount of the filing fee pursuant to the following schedule:

1. An inmate who has at least Ten Dollars (\$10.00) in an inmate trust fund account, shall make an initial partial payment in accordance with the order of the court; and

2. The balance shall be paid in continuing monthly payments to the court equal to twenty percent (20%) of the preceding month's deposits in the inmate's trust account until the fee is paid in full.

C. In no event shall an inmate be prohibited from filing a civil action or appealing a civil or criminal judgment because the inmate has no assets and no means by which to pay the initial partial payment.

SECTION 8. This act shall become effective November 1, 1999.

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