

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1963

By: Lamb

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5
6 AS INTRODUCED

7 An Act relating to corrections; amending 57 O.S.
8 2001, Section 566, as last amended by Section 4,
9 Chapter 151, O.S.L. 2007 (57 O.S. Supp. 2007, Section
10 566), which relates to inmate lawsuits; providing for
11 notice of frivolous claim; providing an effective
12 date; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 57 O.S. 2001, Section 566, as last
15 amended by Section 4, Chapter 151, O.S.L. 2007 (57 O.S. Supp. 2007,
16 Section 566), is amended to read as follows:

17 Section 566. A. Any action by an inmate initiated against any
18 person, party or entity, the state, the Department of Corrections,
19 an entity contracting with the Department of Corrections to provide
20 correctional services, another state agency, or political
21 subdivision, or an original action in an appellate court, or an
22 appeal of an action whether or not the plaintiff was represented in
23 the district court, may be:

1 1. Dismissed with or without prejudice, by the court on its own
2 motion or on a motion of the defendant, if all administrative and
3 statutory remedies available to the inmate have not been exhausted
4 in a timely manner; or

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

8 B. As used in this title:

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

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

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

22 C. If the court determines from the pleadings or the evidence
23 that one or more of the causes of action are frivolous or malicious,
24 any one or more of the following sanctions may be imposed, after

1 notice to the inmate as specified herein and an opportunity for the
2 inmate to respond, without the need for an additional hearing:

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

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

10 3. Order the Department of Corrections to revoke up to seven
11 hundred twenty (720) earned credits accrued by the inmate. In any
12 case in which the prisoner submits a frivolous or malicious claim,
13 or one that is intended solely or primarily for delay or to harass
14 the party filed against, or testifies falsely or otherwise presents
15 false evidence or information to the court in depositions or in a
16 notarized statement to the court or commits a fraud upon the court,
17 the prisoner shall suffer a loss of earned credits. The earned
18 credits shall be deducted upon a finding of fact and an order of the
19 court. In the absence of such a finding by the court and upon
20 review and recommendation by the Office of the Attorney General, a
21 prison disciplinary hearing may be held to determine whether the
22 prisoner has filed such a claim or evidence. Upon such a finding,
23 the earned credits of the prisoner shall be revoked by the
24 Department or political subdivision;

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

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

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

11 Notice shall be made by motion of the defendant/respondent or by
12 the court on its own motion. Notice shall include the sanctions
13 proposed and reasons the proposed sanctions are appropriate.

14 D. Any award of attorney fees, or costs, or the imposition of a
15 sanction shall serve as a judgment against the inmate and the
16 Department or political subdivision is authorized to take up to
17 eighty percent (80%) of the inmate's nonmandatory savings trust
18 funds per month until paid. The judgment shall be subject to
19 execution without further order of any court for a period of seven
20 (7) years from the date of an award or imposition of a sanction.

21 SECTION 2. This act shall become effective July 1, 2008.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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