

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 672

By: Crain of the Senate

and

Sullivan of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to prisons and reformatories;
11 amending Section 11, Chapter 402, O.S.L. 2002, as
12 last amended by Section 4, Chapter 31, O.S.L. 2006
(57 O.S. Supp. 2008, Section 566.4), which relates to
13 inmate lawsuits; directing certain appeals; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY Section 11, Chapter 402, O.S.L.
17 2002, as last amended by Section 4, Chapter 31, O.S.L. 2006 (57 O.S.
18 Supp. 2008, Section 566.4), is amended to read as follows:

19 Section 566.4 A. No action may be brought in a court of this
20 state by a prisoner or former prisoner for mental or emotional
21 injury allegedly suffered while under arrest, being detained, or in
22 custody or incarcerated without a prior showing of actual physical
23 injury.

1 B. 1. Neither the state, any of its agencies or boards, the
2 Department of Corrections, any county jail, city jail, private
3 correctional company, nor their members, agents, servants or
4 employees shall be liable for any form of civil claim or action
5 alleged to have arisen from any theory of contract law. No arrest
6 or conviction resulting in detention or incarceration shall create
7 any contractual obligation, either actual, implied or at common law,
8 between the prisoner and the state, any of its agencies or boards,
9 the Department of Corrections, any county jail, city jail nor their
10 members, agents, servants or employees. No policy or internal
11 management procedure issued for the management of the prison or jail
12 shall constitute any contractual relationship or obligation between
13 the state, agency, board, commission, prison, jail, or any of its
14 officers, members, servants or employees, and the prisoner or any
15 visitor to the prison or jail.

16 2. No tort action or civil claim may be filed against any
17 employee, agent, or servant of the state, the Department of
18 Corrections, private correctional company, or any county jail or any
19 city jail alleging acts related to the duties of the employee, agent
20 or servant, until all of the notice provisions of the Governmental
21 Tort Claims Act have been fully complied with by the claimant. This
22 requirement shall apply to any claim against an employee of the
23 state, the Department of Corrections, or any county jail or city
24 jail in either their official or individual capacity, and to any

1 claim against a private correctional contractor and its employees
2 for actions taken pursuant to or in connection with a governmental
3 contract.

4 C. No civil action of any type may be brought seeking an
5 injunction or temporary restraining order against any city, county
6 or state agency, or any officer or employee thereof, brought by a
7 plaintiff who is currently incarcerated in any jail, state prison or
8 private prison in the state if the claim alleges matters arising
9 from the incarceration of the plaintiff and related to management of
10 the prison, including but not limited to, prison transfers, cell
11 assignments, prison job or work assignments and disciplinary action.

12 D. In any complaint or allegation made by a prisoner against
13 any person holding a license to any state court, agency, board,
14 commission or association which issues any form of license, in which
15 the state court, agency, board, commission or association has made a
16 determination that the complaint of the prisoner is frivolous,
17 malicious or without merit, the state court, agency, board,
18 commission or association may sanction the prisoner as provided for
19 by law.

20 E. No prisoner of any city or county jail or of any state,
21 federal or private prison in Oklahoma or any person on parole or
22 probation may obtain any public records maintained by any government
23 entity and pertaining in any manner to any public employee, officer
24 or to any citizen, or any criminal history record of any convicted

1 felon. No prisoner, probationer or parolee may obtain without
2 prepayment of the required fees and costs any other public record
3 subject to release. The Director of the Department of Corrections
4 shall promulgate a rule for the release of criminal history records
5 available to the public which shall include the requirement that
6 requests for criminal history records include the name of the person
7 whose record is being requested and shall charge Fifteen Dollars
8 (\$15.00) for each completed request responded to in any form of
9 written communication by the Department.

10 F. No default judgment shall be rendered against any person,
11 city, county or state agency, or any officer or employee thereof, in
12 any form of civil action brought by a plaintiff who is currently
13 incarcerated in any jail, state prison or private prison in the
14 state.

15 G. Venue for tort actions filed by a prisoner or a former
16 prisoner of any state prison in the state shall be as follows:

17 1. Venue for actions filed by any prisoner of any state prison
18 or private prison in which the state, the Department of Corrections,
19 the Board of Corrections as a whole or individual members, or any
20 officer or employee that has multicounty responsibilities is named
21 as a party shall be in the county of the official residence of the
22 Department of Corrections; and

23 2. Venue for tort actions filed by prisoners of a county jail
24 or city jail, and not involving the Department of Corrections, but

1 against the sheriff, jailer, county officials or employees, or city
2 officials or employees shall be in the county where the jail is
3 located.

4 The limitations on venue set out in this section shall also
5 apply to tort actions filed by former prisoners, if said tort action
6 is based on facts that occurred while the plaintiff was a prisoner.

7 H. The Attorney General, district attorneys and the general
8 counsel of the Department of Corrections shall notify the Pardon and
9 Parole Board of all lawsuits filed by any prisoner in which a
10 determination was made by a court that the lawsuit was either
11 frivolous or malicious.

12 I. The Department of Corrections may assess an administrative
13 fee not to exceed Five Dollars (\$5.00) for the processing of any
14 grievance or disciplinary report that has been appealed to the
15 Director and shall charge prisoners for the costs of any supplies,
16 materials or services provided to the inmate at the request of the
17 inmate. Any fees collected pursuant to this subsection shall be
18 deposited into the Department of Corrections Revolving Fund. If the
19 appeal of the grievance or the disciplinary report results in a
20 finding in favor of the prisoner, all fees and costs collected
21 pursuant to this section shall be returned to the prisoner.

22 J. Judgments rendered against prisoners and received by the
23 Department of Corrections for, but not limited to, monetary damages,
24 child support, transportation costs, filing fees, court costs,

1 sanctions or attorney fees may be withdrawn by the Department from
2 any funds deposited into a prison trust account of the prisoner and
3 forwarded to the prevailing party.

4 K. Upon motion of the defendant or the court for a special
5 report in any civil action filed by a prisoner or former prisoner or
6 attorney of the prisoner against any party, the court shall stay all
7 proceedings in the case and order the custodian or appropriate party
8 to prepare a special report to the court prior to defendants being
9 required to answer. The special report will order corrections
10 officials or the appropriate party to undertake a review of the
11 subject matter of the petition in order to provide the court with
12 additional information for the processing of the claim of the
13 prisoner, to ascertain the facts and circumstances, to consider
14 whether any action can and should be taken by the institution or
15 other appropriate officials to resolve the subject matter of the
16 petition and to determine whether other like matters, whether
17 pending in this court or elsewhere, are related to this matter and
18 should be taken up and considered together. All reports made in the
19 course of the review shall be attached to and filed with the special
20 report, and a date the special report is due to the court shall be
21 set. All pending motions are stricken without prejudice to their
22 being reasserted after the special report is filed. All discovery
23 under the Oklahoma Rules of Civil Procedure is stayed until the
24 special report has been filed and any dispositive motions based on

1 the special report are ruled upon. A copy of the special report
2 shall be sent to the respective parties by the agency or person
3 preparing the special report. Upon receipt of the special report,
4 dispositive motions may be filed by the parties and the district
5 court may properly dismiss the petition as being frivolous or
6 malicious or for failure to state a claim, may grant summary
7 judgment or order that the case may proceed under the Oklahoma Rules
8 of Civil Procedure.

9 L. Notwithstanding any other provision of law, appeal of a
10 decision of the district court in a civil action related to a
11 person's incarceration or supervision while in custody of the
12 Department of Corrections, a county or municipal jail, or a private
13 prison, adverse to a municipal, county or state employee or a person
14 employed by a private prison, shall be appealed directly to the
15 appropriate appellate court without further motions.

16 SECTION 2. This act shall become effective November 1, 2009.

18 52-1-7544 GRS 03/31/09