

THE HOUSE OF REPRESENTATIVES
Wednesday, April 1, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 672

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 672 - By: CRAIN
of the Senate and SULLIVAN of the House.

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

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

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

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

8 B. 1. Neither the state, any of its agencies or boards, the Department of
9 Corrections, any county jail, city jail, private correctional company, nor their members,
10 agents, servants or employees shall be liable for any form of civil claim or action alleged

1 to have arisen from any theory of contract law. No arrest or conviction resulting in
2 detention or incarceration shall create any contractual obligation, either actual, implied
3 or at common law, between the prisoner and the state, any of its agencies or boards, the
4 Department of Corrections, any county jail, city jail nor their members, agents, servants
5 or employees. No policy or internal management procedure issued for the management
6 of the prison or jail shall constitute any contractual relationship or obligation between
7 the state, agency, board, commission, prison, jail, or any of its officers, members,
8 servants or employees, and the prisoner or any visitor to the prison or jail.

9 2. No tort action or civil claim may be filed against any employee, agent, or servant
10 of the state, the Department of Corrections, private correctional company, or any county
11 jail or any city jail alleging acts related to the duties of the employee, agent or servant,
12 until all of the notice provisions of the Governmental Tort Claims Act have been fully
13 complied with by the claimant. This requirement shall apply to any claim against an
14 employee of the state, the Department of Corrections, or any county jail or city jail in
15 either their official or individual capacity, and to any claim against a private correctional
16 contractor and its employees for actions taken pursuant to or in connection with a
17 governmental contract.

18 C. No civil action of any type may be brought seeking an injunction or temporary
19 restraining order against any city, county or state agency, or any officer or employee
20 thereof, brought by a plaintiff who is currently incarcerated in any jail, state prison or
21 private prison in the state if the claim alleges matters arising from the incarceration of

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 the plaintiff and related to management of the prison, including but not limited to, prison
2 transfers, cell assignments, prison job or work assignments and disciplinary action.

3 D. In any complaint or allegation made by a prisoner against any person holding a
4 license to any state court, agency, board, commission or association which issues any
5 form of license, in which the state court, agency, board, commission or association has
6 made a determination that the complaint of the prisoner is frivolous, malicious or
7 without merit, the state court, agency, board, commission or association may sanction the
8 prisoner as provided for by law.

9 E. No prisoner of any city or county jail or of any state, federal or private prison in
10 Oklahoma or any person on parole or probation may obtain any public records
11 maintained by any government entity and pertaining in any manner to any public
12 employee, officer or to any citizen, or any criminal history record of any convicted felon.
13 No prisoner, probationer or parolee may obtain without prepayment of the required fees
14 and costs any other public record subject to release. The Director of the Department of
15 Corrections shall promulgate a rule for the release of criminal history records available
16 to the public which shall include the requirement that requests for criminal history
17 records include the name of the person whose record is being requested and shall charge
18 Fifteen Dollars (\$15.00) for each completed request responded to in any form of written
19 communication by the Department.

20 F. No default judgment shall be rendered against any person, city, county or state
21 agency, or any officer or employee thereof, in any form of civil action brought by a

1 plaintiff who is currently incarcerated in any jail, state prison or private prison in the
2 state.

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

5 1. Venue for actions filed by any prisoner of any state prison or private prison in
6 which the state, the Department of Corrections, the Board of Corrections as a whole or
7 individual members, or any officer or employee that has multicounty responsibilities is
8 named as a party shall be in the county of the official residence of the Department of
9 Corrections; and

10 2. Venue for tort actions filed by prisoners of a county jail or city jail, and not
11 involving the Department of Corrections, but against the sheriff, jailer, county officials or
12 employees, or city officials or employees shall be in the county where the jail is located.

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

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

20 I. The Department of Corrections may assess an administrative fee not to exceed
21 Five Dollars (\$5.00) for the processing of any grievance or disciplinary report that has
22 been appealed to the Director and shall charge prisoners for the costs of any supplies,

1 materials or services provided to the inmate at the request of the inmate. Any fees
2 collected pursuant to this subsection shall be deposited into the Department of
3 Corrections Revolving Fund. If the appeal of the grievance or the disciplinary report
4 results in a finding in favor of the prisoner, all fees and costs collected pursuant to this
5 section shall be returned to the prisoner.

6 J. Judgments rendered against prisoners and received by the Department of
7 Corrections for, but not limited to, monetary damages, child support, transportation
8 costs, filing fees, court costs, sanctions or attorney fees may be withdrawn by the
9 Department from any funds deposited into a prison trust account of the prisoner and
10 forwarded to the prevailing party.

11 K. Upon motion of the defendant or the court for a special report in any civil action
12 filed by a prisoner or former prisoner or attorney of the prisoner against any party, the
13 court shall stay all proceedings in the case and order the custodian or appropriate party
14 to prepare a special report to the court prior to defendants being required to answer. The
15 special report will order corrections officials or the appropriate party to undertake a
16 review of the subject matter of the petition in order to provide the court with additional
17 information for the processing of the claim of the prisoner, to ascertain the facts and
18 circumstances, to consider whether any action can and should be taken by the institution
19 or other appropriate officials to resolve the subject matter of the petition and to
20 determine whether other like matters, whether pending in this court or elsewhere, are
21 related to this matter and should be taken up and considered together. All reports made
22 in the course of the review shall be attached to and filed with the special report, and a

1 date the special report is due to the court shall be set. All pending motions are stricken
2 without prejudice to their being reasserted after the special report is filed. All discovery
3 under the Oklahoma Rules of Civil Procedure is stayed until the special report has been
4 filed and any dispositive motions based on the special report are ruled upon. A copy of
5 the special report shall be sent to the respective parties by the agency or person
6 preparing the special report. Upon receipt of the special report, dispositive motions may
7 be filed by the parties and the district court may properly dismiss the petition as being
8 frivolous or malicious or for failure to state a claim, may grant summary judgment or
9 order that the case may proceed under the Oklahoma Rules of Civil Procedure.

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-31-09 - DO PASS,
17 As Amended.