

FINAL BILL REPORT

SHB 1037

C 220 L 11
Synopsis as Enacted

Brief Description: Placing restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Ross, Johnson, Bailey, Upthegrove, Hurst, Armstrong, Walsh, Hinkle, Angel, Warnick, Schmick, Short, Klippert, Dammeier, McCune, Fagan, Nealey, Blake, Ladenburg, Kristiansen, Pearson, Tharinger and Moeller; by request of Attorney General).

House Committee on Judiciary
House Committee on General Government Appropriations & Oversight
Senate Committee on Human Services & Corrections

Background:

Generally, a person must pay a filing fee to the court in order to commence a civil lawsuit. However, a person who is indigent may ask the court to proceed in an action "in forma pauperis." In forma pauperis, a Latin phrase meaning "in the form of a pauper," is a designation allowing a person who is indigent to maintain a court action without having to pay fees for filing the action.

In 1996 as one part of the federal Prison Litigation Reform Act (PLRA), the United States Congress enacted limitations on the ability of a prisoner who has brought a number of prior court actions that were found to be frivolous or without basis to bring subsequent actions in forma pauperis.

Under the PLRA, a prisoner who has had three or more cases dismissed as frivolous, malicious, or failing to state a claim for relief, may not proceed in forma pauperis in a civil action or appeal unless the prisoner is under imminent danger of serious physical injury. This provision of the PLRA is often referred to as the "three strikes" provision. "Prisoner" is defined as a person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms of parole, probation, pretrial release, or a diversionary program.

A frivolous action is one that cannot be supported by any rational argument on the law or facts. An action fails to state a claim for relief when it appears beyond doubt that the plaintiff

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can prove no set of facts consistent with the complaint that would entitle the plaintiff to relief.

Summary:

Limitations are established on the ability of a person serving a criminal sentence in a federal, state, local, or private correctional facility (correctional inmate) to proceed in certain civil actions or appeals without payment of filing fees.

A court must deny a request from a correctional inmate to proceed without the payment of filing fees in a civil action or appeal against governmental entities or their officers, employees, or volunteers, if the court finds that the correctional inmate, while incarcerated or detained, has had three or more prior civil actions or appeals dismissed by a federal or state court on the grounds that they were frivolous or malicious. One of the three dismissals must have involved an action or appeal commenced on or after the effective date of the act.

This restriction on a correctional inmate's ability to proceed without paying filing fees does not apply to actions or appeals that, if successful, would affect the duration of the person's confinement, or to actions or appeals where the court finds that the correctional inmate is in imminent danger of serious physical injury.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate receded)

Effective: July 22, 2011