

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 926

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, strike “the full amount” and substitute “all or a certain portion”; strike beginning with “in” in line 6 down through “Act” in line 14; in line 17, strike “requiring” and substitute “allowing”; strike beginning with “providing” in line 21 down through “account” in line 29 and substitute “providing certain sanctions for filing a certain number of frivolous actions”; and in line 30, after “circumstances;” insert “providing for the application of this Act;”.

On page 1, in line 34, strike “5-511” and substitute “5-506”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 27 and 28; in lines 29, 31, and 34, strike “(IV)”, “(V)”, and “(VI)”, respectively, and substitute “(III)”, “(IV)”, and “(V)”, respectively.

On page 3, strike beginning with “THAT” in line 2 down through “CONVICTION” in line 3; strike in their entirety lines 4 and 5; in line 6, strike “(E)(1)” and substitute “(D)”; strike in their entirety lines 9 through 24, inclusive; and in lines 25, 27, and 29, strike “(F)”, “(G)”, and “(H)”, respectively, and substitute “(E)”, “(F)”, and “(G)”, respectively.

On pages 3 and 4, strike in their entirety the lines beginning with line 32 on page 3 through line 5 on page 4, inclusive.

On page 4, in line 7, after “(1)” insert “(I)”; in the same line, strike “(D)” and substitute “(C)”; in line 8, strike “THE FULL AMOUNT” and substitute “ALL OR A PORTION”; in line 9, after “FEE” insert “, AS DETERMINED BY THE COURT”; after line 9, insert:

“(II) UNLESS A WAIVER IS GRANTED UNDER SUBSECTION (C) OF THIS SECTION, A FEE DETERMINED BY THE COURT UNDER SUBPARAGRAPH (I) OF

(Over)

THIS PARAGRAPH SHALL BE AT LEAST 25 PERCENT OF THE ENTIRE FILING FEE OTHERWISE REQUIRED FOR A CIVIL ACTION.”;

before line 10, insert:

“(2) THE COURT MAY:

(I) AUTHORIZE ANY FEE TO BE PAID OVER A SPECIFIC PERIOD OF TIME; AND

(II) ESTABLISH A PAYMENT SCHEDULE.”;

in line 10, strike “(2)” and substitute “(3)”; strike beginning with “IN” in line 10 down through “SECTION” in line 11; and after line 13, insert:

“(B) IN ESTABLISHING THE AMOUNT OF THE FILING FEE TO BE PAID UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL CONSIDER, BASED ON INFORMATION IN THE COMPLAINT AND PROVIDED BY THE PRISONER:

(1) THE SERIOUSNESS OF THE CLAIM;

(2) THE LIKELIHOOD OF SUCCESS;

(3) THE URGENCY OF CONSIDERATION;

(4) THE AMOUNT OF FUNDS AVAILABLE IN ANY INSTITUTIONAL ACCOUNT AND ANY ACCOUNT OUTSIDE OF THE INSTITUTION;

(5) THE EMPLOYMENT STATUS OF THE PRISONER IN THE INSTITUTION AND INCOME FROM THE EMPLOYMENT;

(6) ANY FINANCIAL OBLIGATIONS OF THE PRISONER; AND

(7) THE LENGTH OF TIME THAT IS LIKELY TO PASS BEFORE THE FILING FEE THAT IS IMPOSED IS ABLE TO BE PAID. “.

On pages 4 and 5, strike in their entirety the lines beginning with line 14 on page 4 through line 14 on page 5, inclusive.

On page 5, in line 15, strike “(D)” and substitute “(C)”; in the same line, after “THE” insert “ENTIRE”; after line 25, insert:

“(D) IF A PRISONER PREVAILS IN AN ACTION, THE FILING FEE THAT IS PAID BY THE PRISONER SHALL BE REIMBURSED TO THE PRISONER BY THE DEFENDANT THROUGH COSTS AWARDED BY THE COURT.”;

in line 33, after “INCLUDING” insert “ANY AVAILABLE”; in line 34, strike “AND DISMISSAL WITHOUT CONSIDERATION OF THE MERITS OF THE CLAIM”; and in line 35, strike “AN ADMINISTRATIVE REMEDY IS NOT EXHAUSTED IF” and substitute “JUDICIAL REVIEW FOLLOWING ADMINISTRATIVE CONSIDERATION SHALL BE THE EXCLUSIVE JUDICIAL REMEDY FOR ANY GRIEVANCE OR COMPLAINT WITHIN THE SCOPE OF THE ADMINISTRATIVE PROCESS, UNLESS”.

On page 6, in line 21, strike “(1)”; in line 22, strike “SHALL” and substitute “MAY”; in line 24, strike “(2)” and substitute “(B)”; in lines 27, 29, and 31, strike “(I)”, “(II)”, and “(III)”, respectively, and substitute “(1)”, “(2)”, and “(3)”, respectively; in line 32, strike “(3)” and substitute “(C)”; and strike beginning with “PARAGRAPH” in line 32 down through “SUBSECTION” in line 33 and substitute “SUBSECTION (B)(1) OR (2) OF THIS SECTION”.

On pages 6 and 7, strike in their entirety the lines beginning with line 34 on page 6 through line 15 on page 7, inclusive.

On page 7, after line 20, insert:

“(C) (1) A PRISONER WHO HAS FILED THREE OR MORE CIVIL ACTIONS THAT HAVE BEEN DECLARED TO BE FRIVOLOUS BY A COURT OF THIS STATE OR A FEDERAL COURT FOR A CASE ORIGINATING IN THIS STATE MAY NOT FILE ANY FURTHER CIVIL ACTIONS WITHOUT LEAVE OF COURT.

“(2) IF A PRISONER HAS FILED THREE OR MORE CIVIL ACTIONS THAT HAVE BEEN DECLARED TO BE FRIVOLOUS BY A COURT OF THIS STATE OR A FEDERAL COURT FOR A CASE ORIGINATING IN THIS STATE, A COURT MAY PLACE

(Over)

THE PRISONER'S REMAINING AND FUTURE CIVIL ACTIONS ON AN INACTIVE CASE

LIST AND PERMIT THE PRISONER TO PURSUE ONLY ONE CIVIL ACTION AT A TIME, REGARDLESS OF JURISDICTION.”.

On pages 7 and 8, strike in their entirety the lines beginning with line 21 on page 7 through line 21 on page 8.

On page 8, in line 22, strike “5-511.” and substitute “5-506.”.

AMENDMENT NO. 3

On page 8, after line 26, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively to apply only to civil actions filed on or after the effective date of this Act.”; and in line 27, strike “2.” and substitute “3.”.