

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL NO. 516

(Third 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; and in line 17, strike “requiring” and substitute “allowing”.

On pages 1 and 2, strike beginning with “requiring” in line 21 on page 1 through “account” in line 4 on page 2 and substitute “providing certain sanctions for filing a certain number of frivolous actions”.

On page 2, in line 5, after “circumstances;” insert “providing for the application of this Act;”.

On page 2, in line 9, strike “5-511” and substitute “5-506”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 37 and 38.

On page 3, in lines 1, 3, and 6, strike “(IV)”, “(V)”, and “(VI)”, respectively, and substitute “(III)”, “(IV)”, and “(V)”, respectively; strike beginning with “THAT” in line 9 down through “CONVICTION” in line 10; strike in their entirety lines 11 and 12; in line 13, strike “(E)(1)” and substitute “(D)”; strike in their entirety lines 16 through 31, inclusive; and in lines 32, 34, and 36, strike “(F)”, “(G)”, and “(H)”, respectively, and substitute “(E)”, “(F)”, and “(G)”, respectively.

On page 4, strike in their entirety lines 2 through 12, inclusive; in line 14, after “(1)” insert “(D)”; in the same line, strike “(D)” and substitute “(C)”; in line 15, strike “THE FULL AMOUNT” and substitute “ALL OR A PORTION”; in line 16, after “FEE” insert “, AS DETERMINED BY THE COURT”; after line 16, insert:

(Over)

“(II) UNLESS A WAIVER IS GRANTED UNDER SUBSECTION (C) OF THIS SECTION, A FEE DETERMINED BY THE COURT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE AT LEAST 25 PERCENT OF THE ENTIRE FILING FEE OTHERWISE REQUIRED FOR A CIVIL ACTION.”;

before line 17, 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 17, strike “(2)” and substitute “(3)”; strike beginning with “IN” in line 17 down through “SECTION” in line 18; and after line 20, 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 21 on page 4 through line 23 on page 5, inclusive.

On page 5, in line 24, strike “(D)” and substitute “(C)”; in the same line, after “THE” insert “ENTIRE”; after line 34, 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.”;

and strike in their entirety lines 35 through 37, inclusive.

On page 6, in line 38, strike “(1)”; and in line 39, strike “SHALL” and substitute “MAY”.

On page 7, in line 1, strike “(2)” and substitute “(B)”; in lines 4, 6, and 8, strike “(I)”, “(II)”, and “(III)”, respectively, and substitute “(1)”, “(2)”, and “(3)”, respectively; in line 9, strike “(3)” and substitute “(C)”; strike beginning with “PARAGRAPH” in line 9 down through “SUBSECTION” in line 10 and substitute “SUBSECTION (B)(1) OR (2) OF THIS SECTION”; strike in their entirety lines 11 through 31, inclusive; and after line 36, 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 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 37 on page 7 through line 38 on page 8.

On page 9, in line 1, strike “5-511.” and substitute “5-506.”.

AMENDMENT NO. 3

On page 9, after line 5, 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 6, strike “2.” and substitute “3.”.