
By: Senator Munson

Introduced and read first time: January 9, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Inmates - Frivolous or Malicious Lawsuits - Penalties**

3 FOR the purpose of requiring an inmate who files a civil action to pay certain court costs;
4 establishing procedures for payment of certain court costs by inmates; authorizing
5 the court to dismiss an inmate's action under certain circumstances; authorizing the
6 court to waive certain costs under certain circumstances; requiring the
7 Commissioner of Correction and certain other officials to revoke some or all of an
8 inmate's diminution credits under certain circumstances; and generally relating to
9 civil actions filed by inmates.

10 BY repealing and reenacting, without amendments,
11 Article - Courts and Judicial Proceedings
12 Section 7-201, 7-301(c), and 12-101(f)
13 Annotated Code of Maryland
14 (1995 Replacement Volume and 1996 Supplement)

15 BY adding to
16 Article - Courts and Judicial Proceedings
17 Section 7-406 and 7-407
18 Annotated Code of Maryland
19 (1995 Replacement Volume and 1996 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article 27 - Crimes and Punishments
22 Section 678B, 700, and 704A
23 Annotated Code of Maryland
24 (1996 Replacement Volume)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

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1 **Article - Courts and Judicial Proceedings**

2 7-201.

3 (a) Except for an appeal from the State Workers' Compensation Commission or
4 an appeal, by an individual claiming benefits, from a decision of the Board of Appeals of
5 the Department of Business and Economic Development, no case may be docketed and
6 no writ of attachment, fieri facias, or execution on judgment may be issued unless the
7 plaintiff or appellant pays the required fee.

8 (b) The circuit court shall pass an order waiving the payment in advance if:

9 (1) Upon petition for waiver, it is satisfied that the petitioner is unable by
10 reason of his poverty to make the payment; and

11 (2) The petitioner's attorney, if any, certifies that the suit, appeal, or writ is
12 meritorious.

13 7-301.

14 (c) (1) The filing fees and costs in a civil case are those prescribed by law
15 subject to modification by law, rule, or administrative regulation.

16 (2) The Court of Appeals may provide by rule for waiver of prepayment of
17 filing fees and other costs in cases of indigency.

18 7-406.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "CIVIL ACTION" INCLUDES AN APPEAL, APPLICATION FOR LEAVE TO
22 APPEAL, OR PETITION FOR CERTIORARI TAKEN FROM A FINAL JUDGMENT.

23 (3) "FINAL JUDGMENT" HAS THE MEANING STATED IN § 12-101(F) OF
24 THIS ARTICLE.

25 (4) "INMATE" MEANS A PERSON COMMITTED TO THE CUSTODY OF THE
26 DIVISION OF CORRECTION OR A LOCAL DETENTION CENTER.

27 (B) EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, AN INMATE
28 WHO FILES A CIVIL ACTION SHALL PAY ALL REQUIRED FILING FEES AND COURT
29 COSTS.

30 (C) IF THE COURT FINDS THAT AN INMATE WHO FILES A CIVIL ACTION IS
31 UNABLE TO PAY ALL REQUIRED FILING FEES AND COURT COSTS AT THE TIME THEY
32 ARE DUE, THE COURT SHALL ORDER THAT THE INMATE PAY AT LEAST 20% OF THE
33 FILING FEES AND COURT COSTS BEFORE THE COURT TAKES FURTHER ACTION AND
34 THAT THE INMATE MAKE MONTHLY PAYMENTS TO THE COURT EQUAL TO 10% OF
35 ALL REMAINING FEES AND COSTS.

36 (D) AN INMATE WHO IS UNABLE TO PAY ALL REQUIRED FILING FEES AND
37 COURT COSTS AT THE TIME THEY ARE DUE SHALL FILE A CERTIFIED RECORD OF
38 ANY FINANCIAL ACCOUNT THAT IS MAINTAINED BY THE DIVISION OF CORRECTION
39 UNDER ARTICLE 27, § 678B OF THE CODE ON BEHALF OF THE INMATE OR OF A

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1 FINANCIAL ACCOUNT MAINTAINED BY A LOCAL DETENTION CENTER ON BEHALF OF
2 THE INMATE.

3 (E) AN INMATE MAY MAKE OR MAY AUTHORIZE THE COMMISSIONER OF
4 CORRECTION OR MANAGING OFFICER OF A LOCAL DETENTION CENTER TO MAKE
5 INITIAL OR SUBSEQUENT PAYMENTS BEYOND THE AMOUNTS REQUIRED UNDER
6 SUBSECTION (C) OF THIS SECTION.

7 (F) IN ACCORDANCE WITH A COURT ORDER:

8 (1) THE COMMISSIONER OF CORRECTION SHALL WITHDRAW FUNDS IN
9 AN INMATE'S FINANCIAL ACCOUNT MAINTAINED UNDER ARTICLE 27, § 678B OF THE
10 CODE AND FORWARD THE FUNDS TO THE COURT FOR PAYMENT OF FILING FEES
11 AND COURT COSTS; AND

12 (2) A MANAGING OFFICER OF A LOCAL DETENTION CENTER SHALL
13 WITHDRAW FUNDS IN A FINANCIAL ACCOUNT MAINTAINED BY A LOCAL
14 DETENTION CENTER ON BEHALF OF AN INMATE AND FORWARD THE FUNDS TO THE
15 COURT FOR PAYMENT OF FILING FEES AND COURT COSTS.

16 (G) IF AN INMATE FAILS TO COMPLY WITH THIS SECTION, THE COURT MAY
17 DISMISS A CIVIL ACTION FILED BY THE INMATE.

18 (H) THE COURT MAY WAIVE FILING FEES AND COURT COSTS IF THE COURT
19 FINDS THAT:

20 (1) AN INMATE DOES NOT HAVE SUFFICIENT FUNDS IN THE INMATE'S
21 FINANCIAL ACCOUNTS OR SUFFICIENT FUNDS FLOWING INTO THE ACCOUNTS TO
22 MAKE PAYMENTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

23 (2) THE INMATE MEETS ALL OTHER APPLICABLE REQUIREMENTS FOR
24 WAIVER OF PREPAYMENT OF FILING FEES AND COURT COSTS.

25 7-407.

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (2) "CIVIL ACTION" INCLUDES AN APPEAL, APPLICATION FOR LEAVE TO
29 APPEAL, OR PETITION FOR CERTIORARI TAKEN FROM A FINAL JUDGMENT.

30 (3) "FINAL JUDGMENT" HAS THE MEANING STATED IN § 12-101(F) OF
31 THIS ARTICLE.

32 (4) "INMATE" MEANS A PERSON COMMITTED TO THE CUSTODY OF THE
33 DIVISION OF CORRECTION OR A LOCAL DETENTION CENTER.

34 (B) IN A CIVIL ACTION FILED BY AN INMATE, THE COURT MAY DISMISS THE
35 ACTION IF IT FINDS THAT:

36 (1) THE ACTION IS FRIVOLOUS OR MALICIOUS, EITHER WHOLLY OR IN
37 PART; OR

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1 (2) THE INMATE HAS MADE FALSE STATEMENTS OR PRESENTED FALSE
2 EVIDENCE OR INFORMATION TO THE COURT IN MAINTAINING THE ACTION.

3 (C) IN DETERMINING WHETHER A CIVIL ACTION IS FRIVOLOUS OR
4 MALICIOUS THE COURT MAY CONSIDER:

5 (1) WHETHER THE CLAIM HAS NO ARGUABLE BASIS IN LAW OR FACT;

6 (2) WHETHER THE CLAIM IS SUBSTANTIALLY SIMILAR TO A PREVIOUS
7 CLAIM IN THAT IT:

8 (I) IS BROUGHT AGAINST THE SAME PARTY AS A PREVIOUS
9 CLAIM; OR

10 (II) ARISES OUT OF THE SAME OPERATIVE FACTS AS A PREVIOUS
11 CLAIM; AND

12 (3) WHETHER THE ACTION IS MAINTAINED IN BAD FAITH OR WITHOUT
13 SUBSTANTIAL JUSTIFICATION.

14 (D) IN MAKING A DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION,
15 THE COURT MAY HOLD A HEARING ON ITS OWN MOTION OR ON THE MOTION OF A
16 PARTY.

17 (E) IF THE COURT ORDERS DISMISSAL OF AN ACTION UNDER SUBSECTION (B)
18 OF THIS SECTION, THE COURT SHALL SEND WRITTEN NOTICE OF ITS ORDER TO:

19 (1) THE COMMISSIONER OF CORRECTION IF THE INMATE IS
20 COMMITTED TO THE CUSTODY OF THE DIVISION OF CORRECTION; OR

21 (2) THE MANAGER OFFICER OF A LOCAL DETENTION CENTER, IF THE
22 INMATE IS COMMITTED TO THE CUSTODY OF A LOCAL DETENTION CENTER.

23 12-101.

24 (f) "Final judgment" means a judgment, decree, sentence, order, determination,
25 decision, or other action by a court, including an orphans' court, from which an appeal,
26 application for leave to appeal, or petition for certiorari may be taken.

27 **Article 27 - Crimes and Punishments**

28 678B.

29 (a) Each institution of the Division of Correction shall maintain a reserve
30 financial account and a spending financial account for each inmate in the institution.

31 (b) The accounts of an inmate may be charged for:

32 (1) The reasonable value of any State property that is willfully or maliciously
33 destroyed by the inmate or that is destroyed as a result of gross negligence by the inmate;
34 or

35 (2) Any fees assessed under Article 41, § 4-104 of the Code.

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1 (3) ANY FILING FEES OR COURT COSTS THAT AN INMATE HAS BEEN
2 ORDERED BY A COURT TO PAY UNDER § 7-406 OF THE COURTS ARTICLE.

3 (c) The Commissioner shall adopt rules and regulations that:

4 (1) Set forth those items that may be credited to or disbursed from an
5 account under this section; and

6 (2) Set forth procedures for carrying out the provisions of this section,
7 including procedures that provide due process of law to any inmate before his accounts
8 may be charged with a disbursement under subsection (b) of this section.

9 700.

10 (a) In this section, "term of confinement" means:

11 (1) The length of the sentence for a single sentence; or

12 (2) The period from the first day of the sentence beginning first through the
13 last day of the sentence ending last for:

14 (i) Concurrent sentences;

15 (ii) Partially concurrent sentences;

16 (iii) Consecutive sentences; or

17 (iv) A combination of concurrent and consecutive sentences.

18 (b) Subject to the provisions of § 4-612 of Article 41 of this Code and subsection
19 (k) of this section, each inmate committed to the custody of the Commissioner of
20 Correction is entitled to a diminution of the inmate's term of confinement in accordance
21 with the provisions of this section.

22 (c) An inmate serving a concurrent Maryland sentence in a foreign jurisdiction
23 earns credits under this section only from the date the inmate is received into the physical
24 custody of the Commissioner of Correction.

25 (d) (1) An inmate shall be allowed a deduction in advance from the inmate's
26 term of confinement, subject to the inmate's future good conduct.

27 (2) For an inmate whose term of confinement includes a consecutive or
28 concurrent sentence for either a crime of violence as defined in Article 27, § 643B of the
29 Code or a crime of manufacturing, distributing, dispensing, or possessing a controlled
30 dangerous substance as provided under Article 27, § 286 of the Code, this deduction shall
31 be calculated at the rate of 5 days for each calendar month, and on a prorated basis for
32 any portion of a calendar month, from the first day of commitment to the custody of the
33 Commissioner through the last day of the inmate's maximum term of confinement.

34 (3) For all other inmates, this deduction shall be calculated at the rate of 10
35 days for each calendar month, and on a prorated basis for any portion of a calendar
36 month, from the first day of commitment to the custody of the Commissioner through the
37 last day of the inmate's maximum term of confinement.

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1 (4) Deductions under this subsection may not be allowed for periods during
2 which an inmate does not receive credit for service of the inmate's term of confinement
3 including periods:

4 (i) During which an inmate's sentence is stayed;

5 (ii) During which the inmate has escaped; or

6 (iii) For which the Maryland Parole Commission has declined to grant
7 credit after revocation of parole or mandatory supervision.

8 (e) For each calendar month during which the inmate has manifested satisfactory
9 performance of work tasks assigned to the inmate, the inmate may be allowed an
10 additional deduction of 5 days from the inmate's term of confinement. These deductions
11 shall commence on the first day that the task is performed and shall be made on a
12 prorated basis for any portion of a calendar month during which the inmate performed
13 the task. The Commissioner shall establish regulations governing the determination of
14 deductions authorized by this subsection.

15 (f) For each calendar month during which the inmate has manifested satisfactory
16 progress in vocational or other educational and training courses, the inmate may be
17 allowed an additional deduction of 5 days from the inmate's term of confinement. Such
18 deductions shall commence on the first day that the inmate participates in such courses
19 and shall be made on a prorated basis for any portion of the calendar month during which
20 the inmate participated in the course.

21 (g) (1) For a violation of the applicable rules of discipline, the Division may
22 revoke a portion or all of the deductions allowed under subsections (d) and (h) of this
23 section according to the nature and frequency of the violation.

24 (2) IF A COURT ORDERS DISMISSAL OF AN ACTION UNDER § 7-407 OF
25 THE COURTS ARTICLE, THE DIVISION SHALL REVOKE PART OR ALL OF THE
26 DEDUCTIONS ALLOWED UNDER SUBSECTIONS (D) AND (H) OF THIS SECTION.

27 (3) The deductions allowed and earned under subsections (e) and (f) of this
28 section shall not be affected by the provisions of this subsection.

29 (4) Any credits forfeited pursuant to this subsection may be restored. The
30 Commissioner shall promulgate rules and regulations governing the restoration of
31 forfeited credits.

32 (h) For each calendar month or fraction thereof commencing on the first day of
33 assignment, during which the inmate has manifested satisfactory progress in special
34 selected work projects, or other special programs, the inmate may be allowed an
35 additional deduction of days, not exceeding 10 in number, from the inmate's term of
36 confinement. Such projects and programs shall be designated by the Commissioner and
37 approved by the Secretary of Public Safety and Correctional Services.

38 (i) No inmate shall be allowed a deduction of more than 20 days for any month
39 under this section.

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1 (j) If an inmate in an institution under the Division of Correction or the Patuxent
2 Institution is admitted to a mental health facility under § 10-614 of the Health - General
3 Article, the inmate is eligible to earn credits under this section.

4 (k) (1) Except as provided in paragraph (2) of this subsection, if an inmate who
5 is convicted and sentenced to imprisonment for a crime committed while on parole and
6 the parole is revoked, diminution credits that were allowed prior to the inmate's release
7 on parole may not be applied toward the inmate's term of confinement upon return to the
8 Division of Correction.

9 (2) Paragraph (1) of this subsection does not apply to any diminution credits
10 earned following the inmate's return to the Division of Correction.

11 704A.

12 (a) In this section "local detention center" means a county or town jail, work
13 release or prerelease center, the Baltimore City Detention Center, or any correctional
14 facility operated by one or more counties for the purpose of adult detention and
15 confinement.

16 (b) An inmate sentenced to or held in a pre-trial or pre-sentence status in a local
17 detention center is entitled to a diminution of the period of his or her confinement in
18 accordance with the provisions of this section.

19 (c) For each calendar month during which the inmate is not guilty of a violation of
20 applicable rules of discipline and labors with diligence and fidelity when the opportunity
21 for labor is made available, the inmate shall be allowed a deduction of 5 days from the
22 period of the commitment or sentence. These deductions:

23 (1) Shall commence on the day the inmate arrived at the local detention
24 center;

25 (2) Shall be made on a prorated basis for any portion of a calendar month
26 during which the inmate was committed to the local detention center; and

27 (3) Shall cease upon release or commitment to the custody of the
28 Commissioner.

29 (d) (1) Subject to the inmate's future good conduct, each inmate sentenced to a
30 local detention center shall be allowed an initial deduction from the period of the
31 commitment or sentence.

32 (2) This deduction shall be calculated at the rate of 5 days for each calendar
33 month, and on a prorated basis for any portion of a calendar month, within the period
34 between the first day of commitment to the custody of the local detention center and the
35 last day of the inmate's maximum term of confinement.

36 (e) For each calendar month during which the inmate has manifested exceptional
37 industry, application, and skill in the performance of any industrial, agricultural, or
38 administrative tasks assigned to the inmate, or where he or she has manifested
39 satisfactory industry, application, and progress in any vocational or other educational and
40 training courses, the inmate may be allowed an additional deduction of 5 days from the
41 period of his or her commitment or sentence. These deductions:

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1 (1) Shall commence on the first day that the task is performed or the course
2 is taken;

3 (2) Shall be made on a prorated basis for any portion of a calendar month
4 during which the inmate performed the task or attended the course; and

5 (3) Shall cease upon release or commitment of the inmate to the custody of
6 the Commissioner.

7 (f) For each calendar month or fraction thereof commencing on the first day of
8 assignment, during which the inmate has manifested satisfactory industry, application,
9 and progress in special selected work projects, or other special programs, he or she may
10 be allowed an additional deduction of days, not exceeding 5 in number, from the period
11 of his or her commitment or sentence. Such projects and programs shall be designated by
12 the managing officer of the local detention center.

13 (g) (1) For each and every violation of the rules of discipline of the local
14 detention center, the managing officer of the local detention center may deduct all gained
15 time in the month in which such violation occurs. Further, according to the aggravated
16 nature or frequency of the violation, a deduction may be made of some or all of the time
17 gained for good conduct under subsections (c) and (d) of this section.

18 (2) IF A COURT ORDERS DISMISSAL OF AN ACTION UNDER § 7-407 OF
19 THE COURTS ARTICLE, THE MANAGING OFFICER OF THE LOCAL DETENTION
20 CENTER SHALL REVOKE PART OR ALL OF THE DEDUCTIONS ALLOWED UNDER
21 SUBSECTIONS (C) AND (D) OF THIS SECTION.

22 (3) The deductions allowed and earned under subsections (e) and (f) of this
23 section shall not be affected by the provisions of this subsection.

24 (4) An inmate may not forfeit time gained unless prior to the forfeiture he
25 or she is afforded due process of law.

26 (h) If the inmate is ultimately committed to the custody of the Commissioner of
27 Correction, or transferred to another local detention center, the inmate's records of
28 accrued credits for diminution of sentence shall be forwarded to the receiving institution,
29 which shall apply the credits to reduce the inmate's period of confinement.

30 (i) An inmate entitled to a diminution of the period of his or her confinement
31 under this section who is transferred to a hospital or mental institution may not be denied
32 credit authorized by this section.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997.