

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 926 (Delegate Preis, *et al.*)

Judiciary

Referred to Judicial Proceedings

Prisoner Litigation Act

This enrolled bill establishes the civil actions that may be filed by a prisoner, and the circumstances under which such actions may or may not be filed.

Fiscal Summary

State Effect: Indeterminate increases in general fund revenues and expenditures as discussed below.

Local Effect: Indeterminate increases in revenues and expenditures as discussed below.

Small Business Effect: None. The bill would not directly affect small businesses.

Fiscal Analysis

Bill Summary: This bill requires a prisoner who files a civil action relating to the conditions of confinement to pay, subject to specified exceptions, all or a portion of the applicable filing fee as determined by the court. A prisoner is prohibited from maintaining a civil action until all administrative remedies for resolving the complaint or grievance are fully exhausted. A prisoner is also prohibited from filing civil actions if three or more prior actions have been declared frivolous by a State or federal court. The bill's provisions do not apply to civil actions involving a postconviction petition or petition for *habeas corpus* relief. In a civil action that is an appeal on the record, a court is not required to hold a hearing if it determines that a hearing is not necessary for disposition of the matter.

Unless a court waives an entire filing fee, a fee determined by the court must be at least 25% of the entire applicable fee. A court is allowed to establish a payment schedule. The bill specifies facts and circumstances that a court must consider in establishing the amount of a filing fee. The bill also provides the conditions under which a court may waive the entire fee.

If a prisoner prevails in an action, the prisoner must be reimbursed for the filing fee by the defendant through costs awarded by the court.

The bill requires that any compensatory damages awarded a prisoner in connection with a civil action must be used to satisfy any outstanding restitution order or child support order pending against the prisoner. A prisoner's custodian must notify victims of the prisoner's crimes as well as the recipients of any child support obligations of any civil action awards made to the prisoner. The bill provides that the State and specified State agencies may not be liable for any failure to credit an award. The State, specified agencies of the State, and local governments may reclaim any money erroneously credited to a prisoner without judicial action in order to comply with these provisions.

The bill is applied to civil actions filed on or after October 1, 1997.

State Effect: The bill is intended to reduce the number of civil suits filed by inmates relating to the conditions of confinement, especially the number of frivolous suits. The magnitude and form of the bill's impact on State finances and operations is substantially dependent on its ability to deter or slow the pace at which such civil actions are filed by inmates. That potential deterrence cannot be reliably estimated at this time.

There are approximately 480 inmate civil action cases defended by the Attorney General annually. These are cases where the State and/or its employees are being sued by inmates. In addition, there are also large numbers of inmate filings annually in the form of petitions to change names which, regardless of the change sought, are not now treated as frivolous by the judiciary. New federal legislation aimed at reducing inmate filings in federal courts may have the effect of driving the number of State filings significantly higher. The workload of the Office of the Attorney General could be significantly affected by this bill, but only to the extent that staff time now spent in court or otherwise defending the State and/or its employees would be reallocated.

General fund revenues could increase to the extent that the bill's provisions for the payment of filing fees and court costs is successful in securing actual payments from inmates, for those cases heard in the District Court or the courts of appeal. The magnitude of such an increase cannot be reliably estimated at this time. Any reduction in hearings for the courts resulting from this bill would reduce court dockets and, thereby, reduce the workload of the courts by an indeterminate amount.

It is unclear whether this bill would, in the short or long term, increase or decrease the workload of the Public Defender.

Local Effect: Local revenues could increase to the extent that the bill's provisions for the payment of filing fees and court costs is successful in securing actual payments from inmates, for those cases heard in the circuit courts. Such an increase is expected to be minimal. Any reduction in hearings for the circuit courts resulting from this bill would reduce court dockets and, thereby, reduce the workload of the courts by an indeterminate amount.

Local expenditures spent on defending such cases may vary. For example, Prince George's County reports that very few frivolous lawsuits have been filed by county inmates in the past ten years. However, Allegany County has reported that the county could save thousands of dollars currently spent on defending the county in lawsuits believed to be frivolous or malicious.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Attorney General; Department of Public Safety and Correctional Services (Division of Correction); Department of Fiscal Services

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