

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: S2/14/97

A Bill

SENATE BILL 279

4
5 By: Senator Gordon
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For An Act To Be Entitled

9 "AN ACT TO AUTHORIZE THE COURTS TO ASSESS SANCTIONS
10 AGAINST INCARCERATED PERSONS OR INMATES IN PENAL
11 INSTITUTIONS FOR FILING FRIVOLOUS OR MALICIOUS CAUSES OF
12 ACTION IN STATE COURTS; AND FOR OTHER PURPOSES."

Subtitle

14 "TO AUTHORIZE COURTS TO ASSESS SANCTIONS
15 AGAINST INCARCERATED PERSONS FOR FILING
16 FRIVOLOUS AND MALICIOUS LAWSUITS"
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. A civil action or claim initiated against the State, the
22 Board of Corrections and Community Punishment, the Department of Correction,
23 or the Department of Community Punishment, another State agency, or political
24 subdivision, or an original action in an appellate court, or an appeal of an
25 action whether or not the plaintiff was represented in court, by an inmate in
26 a penal institution or incarcerated person appearing pro se may be:

27 (1) Dismissed without prejudice, by the court on its own motion or on a
28 motion of the defendant, if all administrative remedies available to the
29 inmate have not been exhausted; or

30 (2) Dismissed with prejudice, by the court on a motion of the
31 defendant, if the court is satisfied that the action is frivolous or
32 malicious.

33 For purposes of this section, 'civil action' shall not include a
34 petition for a writ of habeas corpus or other petition for post-conviction
35 release in which the court is jurisdictionally empowered to grant release from
36 incarceration or a reduction in sentence.

1 SECTION 2. As used in this act:

2 (1) "Frivolous" means having no reasonable basis in law or fact, or
3 lacking any good faith legal argument for the extension, modification, or
4 reversal of existing law;

5 (2) "Inmate" or "inmate in a penal institution" includes, but is not
6 limited to, a person in the custody or under the supervision of the Department
7 of Correction, the Department of Community Punishment, or the Federal Bureau
8 of Prisons; and

9 (3) "Malicious" means filing numerous actions, or actions brought in
10 bad faith on de minimis issues.

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12 SECTION 3. If the court determines before or at trial that one or more
13 of the causes of action are frivolous or malicious, any one or more of the
14 following sanctions may be imposed:

15 (1) Award attorney fees and actual costs incurred by the State, the
16 Department of Correction, or the Department of Community Punishment, another
17 State agency, a political subdivision, the Attorney General's Office, or the
18 defendant, not to exceed two thousand five hundred dollars (\$2,500) per
19 frivolous cause of action;

20 (2) Court costs not to exceed five hundred dollars (\$500) per cause of
21 action;

22 (3) Order the Department of Correction to revoke up to thirty (30)
23 days' earned good-time credits accrued, under Arkansas Code Annotated §§ 12-
24 29-201, et seq.

25 (4) Order the Department to revoke permission to have nonessential
26 personal property of the inmate, including, but not limited to, televisions,
27 radios, stereos, or tape recorders. If permission is revoked, the Department
28 shall take appropriate precautions to protect the property during the period
29 of the revocation; or

30 (5) Impose a civil sanction in an amount not to exceed one thousand
31 dollars (\$1,000).

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33 SECTION 4. Any award of attorney fees, or costs, or the imposition of a
34 sanction shall serve as a judgment against the inmate and the Department is
35 authorized to take up to fifty percent (50%) of the inmates account per month
36 until paid. The judgment shall be subject to execution without further order

1 of any court for a period of ten (10) years from the date of an award or
2 imposition of a sanction.

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4 SECTION 5. All provisions of this act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 6. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

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14 SECTION 7. All laws and parts of laws in conflict with this act are
15 hereby repealed.

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17 SECTION 8. EMERGENCY. It is found and determined by the General
18 Assembly of the State of Arkansas that litigation of a frivolous nature by
19 incarcerated persons is flooding the State court systems. Therefore in order
20 to immediately implement this measure, and thereby alleviate the burden on the
21 court systems, an emergency is declared to exist and this act being
22 immediately necessary for the preservation of the public peace, health and
23 safety shall become effective on the date of its approval by the Governor. If
24 the bill is neither approved nor vetoed by the Governor, it shall become
25 effective on the expiration of the period of time during which the Governor
26 may veto the bill. If the bill is vetoed by the Governor and the veto is
27 overridden, it shall become effective on the date the last house overrides the
28 veto.

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/s/Gordon

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