
A BILL FOR AN ACT

RELATING TO PRISON LITIGATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 607, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§607- Proceedings in forma pauperis. (a) Subject to
5 subsection (b), any court of the State may authorize the
6 commencement, prosecution, or defense of any suit, action, or
7 proceeding, civil or criminal, or appeal therein, without
8 prepayment of fees or security therefor, by a person who is
9 incarcerated in a correctional facility if that person submits
10 an affidavit that includes a statement of all assets such
11 prisoner possesses and that declares that the person is unable
12 to pay such fees or give security therefor. The affidavit shall
13 state the nature of the action, defense, or appeal and the
14 affiant's belief that the person is entitled to redress.

15 (b) A prisoner seeking to bring a civil action or appeal
16 a judgment in a civil action or proceeding without prepayment of
17 fees or security therefor, in addition to filing the affidavit



1 filed under subsection (a), shall submit a certified copy of
2 the trust fund account statement (or institutional equivalent)
3 for the prisoner for the six-month period immediately preceding
4 the filing of the complaint or notice of appeal, obtained from
5 the appropriate official of each prison at which the prisoner
6 is or was confined.

7 (c) An appeal may not be taken in forma pauperis if the
8 trial court certifies in writing that it is not taken in good
9 faith.

10 (d) Notwithstanding subsection (a), if a prisoner brings
11 a civil action or files an appeal in forma pauperis, the
12 prisoner shall be required to pay the full amount of a filing
13 fee. The court shall assess and, when funds exist, collect, as
14 a partial payment of any court fees required by law, an initial
15 partial filing fee of twenty per cent of the greater of:

16 (1) The average monthly deposits to the prisoner's
17 account; or

18 (2) The average monthly balance in the prisoner's account
19 for the six-month period immediately preceding the
20 filing of the complaint or notice of appeal.

21 After payment of the initial partial filing fee, the prisoner
22 shall be required to make monthly payments of twenty per cent of



1 the preceding month's income credited to the prisoner's account.
2 The agency having custody of the prisoner shall forward payments
3 from the prisoner's account to the clerk of the court each time
4 the amount in the account exceeds \$10 until the filing fees are
5 paid. In no event shall the filing fee collected exceed the
6 amount of fees permitted by statute for the commencement of a
7 civil action or an appeal of a civil action or criminal
8 judgment.

9 (e) Any prisoner who has had four or more in forma
10 pauperis civil actions or appeals dismissed by the court as
11 frivolous or malicious must pay the full filing fee in advance
12 for any further civil actions during the time the prisoner
13 remains incarcerated, unless the prisoner is in imminent danger
14 or serious physical, mental, or emotional injury; provided that
15 the prepayment requirement may be waived at the discretion of
16 the court in the interest of justice. With the exception of the
17 preceding circumstance, in no event shall a prisoner be
18 prohibited from bringing a civil action or appealing a civil or
19 criminal judgment for the reason that the prisoner has no
20 assets and no means by which to pay the initial partial filing
21 fee.



1 (f) Upon the filing of an affidavit in accordance with
2 subsection (a) and the prepayment of any partial filing fee as
3 may be required under subsection (d), the court may direct
4 payment by the State of the expenses of:

5 (1) Printing the record on appeal in any civil or criminal
6 case, if such printing is required by the appellate
7 court; and

8 (2) Preparing a transcript of proceedings in any civil or
9 criminal case, if such transcript is required by the
10 appellate court.

11 Such expenses shall be paid when authorized by the administrative
12 director of the courts.

13 (g) Notwithstanding any filing fee, or any portion
14 thereof, that may have been paid, the court shall dismiss the case
15 at any time if the court determines that:

16 (1) The allegation of poverty is untrue; or

17 (2) The action or appeal

18 (A) Is frivolous or malicious;

19 (B) Fails to state a claim on which relief may be
20 granted; or

21 (C) Seeks monetary relief against a defendant who is
22 immune from such relief.



1 (h) Judgment may be rendered for costs at the conclusion
2 of the suit or action as in other proceedings, but the State shall
3 not be liable for any of the costs thus incurred. If the State has
4 paid the cost of a stenographic transcript or printed record for
5 the prevailing party, the cost shall be remitted in favor of the
6 State. If the judgment against a prisoner includes the payment
7 of costs under this subsection, the prisoner shall be required to
8 pay the full amount of the costs ordered. The prisoner shall be
9 required to make payments for costs under this subsection in the
10 same manner as is provided for filing fees under subsection (d).
11 In no event shall the costs collected exceed the amount of the
12 costs ordered by the court.

13 (i) As used in this section, the term "prisoner" means any
14 person incarcerated or detained in any facility who is accused
15 of, convicted of, or sentenced for, violations of criminal law or
16 the terms and conditions of parole, probation, pretrial release, or
17 diversionary program. The term does not apply to juveniles
18 incarcerated in youth correctional facilities."

19 SECTION 2. Chapter 661, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§661- Exhaustion of administrative remedies; action by
2 prisoners, when limited. (a) No action shall be brought with
3 respect to prison conditions under any state or federal law, by
4 a prisoner confined in any jail, prison, or other correctional
5 facility until such administrative remedies as are available
6 are exhausted.

7 (b) In no event shall a prisoner bring a civil action or appeal
8 a judgment in a civil action or proceeding under any state or federal
9 law in forma pauperis if the prisoner, on four or more prior
10 occasions, while incarcerated or detained in any jail, prison, or
11 other correctional facility, has brought an action or appeal in a
12 court that was dismissed on the grounds that it was frivolous or
13 malicious, unless the prisoner is under imminent danger of serious
14 physical, mental, or emotional injury.

15 (c) As used in this chapter, the term "prisoner" means any
16 person incarcerated or detained in any facility who is accused of,
17 convicted of, or sentenced for, violations of criminal law or the
18 terms and conditions of parole, probation, pretrial release, or
19 diversionary program. The term does not apply to juveniles
20 incarcerated in youth correctional facilities."



1 SECTION 3. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Limitation on recovery for prisoners. (a) No
5 civil action may be brought by a prisoner confined in a jail,
6 prison, or other correctional facility for mental or emotional
7 injury suffered while in custody without a prior showing of
8 physical injury or sexual assault.

9 (b) As used in this section, the term "prisoner" means any
10 person incarcerated or detained in any facility who is accused
11 of, convicted of, or sentenced for, violations of criminal law or
12 the terms and conditions of parole, probation, pretrial release, or
13 diversionary program. The term does not apply to juveniles
14 incarcerated in youth correctional facilities."

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on January 1, 2050.



Report Title:

Relating to Prison Litigation

Description:

Limits ability of detained or incarcerated individuals to file frivolous lawsuits through state courts. (SD1)

