

30:4-16.2

**LEGISLATIVE HISTORY CHECKLIST**  
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(Frivolous lawsuits)

NJSA: 30:4-16.2

LAWS OF: 1996 CHAPTER: 11

BILL NO: A879

SPONSOR(S): Blee and Gibson

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Law & Public Safety  
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage denoted  
Second reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: February 8, 1996  
SENATE: February 26, 1996

DATE OF APPROVAL: March 28, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings-attached:  
"Bill to curb 'frivolous' inmate suit advances" 2-27-96, Star Ledger.

KBP:pp

[Second Reprint]  
ASSEMBLY, No. 879

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen BLEE, GIBSON, Assemblywoman Allen, Assemblymen DeSopo, Gregg, LeFevre, Asselta, Azzolina, Corodemus, DeCroce, DiGaetano, Felice, Geist, Assemblywoman Heck, Assemblyman Kelly, Assemblywoman Murphy, Assemblyman O'Toole, Assemblywoman J. Smith and Assemblyman T. Smith

1 AN ACT concerning civil actions by inmates of correctional facilities  
2 and supplementing Title 30 of the Revised Statutes.

3  
4 BE IT ENACTED by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. <sup>1</sup>[If a court determines that any civil action or proceeding filed  
8 by an inmate is frivolous, unreasonable or groundless, the court shall  
9 order that commutation time or work credits earned by the inmate be  
10 reduced but not less than 10 but not more than 30 days. Such order  
11 shall be forwarded by the court to the appropriate State or county  
12 correctional institutional. If at the time such an order is entered, the  
13 inmate has not accumulated sufficient time to satisfy the order, the  
14 days shall be deducted from any commutation time or work credit  
15 earned in the future by the inmate]

16 a. In any civil action filed by an inmate in which the defendant is  
17 represented by the Attorney General or county counsel and the  
18 Attorney General or county counsel believes the lawsuit is frivolous,  
19 the Attorney General or county counsel shall move to recover costs  
20 and fees.

21 b. The commissioner shall promulgate regulations providing for the  
22 forfeiture of progressive time credits authorized pursuant to R.S.30:4-  
23 140 when an inmate's lawsuit:

24 (1) was filed to harass or retaliate against another individual, to  
25 disrupt or interfere with the operation of the correctional institution,  
26 or for some other malicious purpose, and

27 (2) has been determined by a court to be frivolous<sup>1</sup>.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ALP committee amendments adopted January 29, 1996.

<sup>2</sup> Senate SJU committee amendments adopted February 15, 1996.

1       2. a. If an inmate files an action or proceeding in any court of this  
2 State and requests a waiver of filing fees on the grounds of indigency  
3 the inmate shall attach to the filing a certified copy of the prisoner's  
4 fund account statement from the appropriate correctional institution  
5 for the six months immediately <sup>1</sup>~~proceeding~~ preceding<sup>1</sup> the filing of  
6 the complaint or petition. If any filing fee is waived, the inmate shall  
7 pay a partial filing fee that is 20% of the greater of;

8       (1) the average monthly balance in the inmate's account;

9       (2) the average deposits to the inmate's account;  
10 for the six months immediately <sup>1</sup>~~proceeding~~ preceding<sup>1</sup> the filing  
11 of the complaint or petition. However, the partial fee may not exceed  
12 the full filing fee for the commencement of the action or proceeding.

13       b. If an inmate claims exceptional circumstances that render the  
14 offender unable to pay the partial filing fee required by this section, in  
15 addition to the statement of account required by subsection a. the  
16 inmate shall submit an affidavit of special circumstances setting forth  
17 the reasons and circumstances that justify relief from the partial filing  
18 fee requirement.

19       c. If the court approves the application to waive all fees, the court  
20 shall give written notice to the inmate that all fees and costs relating  
21 to the filing and service will be waived. If the court denies the  
22 application to waive all fees, the court shall give written notice to the  
23 inmate that the offender's case will be dismissed if the partial filing fee  
24 is not paid within 45 days after the date of the order, or within an  
25 additional period that the court may, upon request, allow. Process in  
26 an action filed by an inmate shall not be served until the fee is paid.

27

28       3. If an inmate is awarded a money judgement as the result of a  
29 civil action, the monies derived from that judgment shall be deposited  
30 in the inmate's account at the correctional institution in which the  
31 inmate is confined. These monies shall be used to satisfy any  
32 court-imposed fines, restitution or penalties which the inmate has not  
33 met. These monies may also be used to meet any claims for  
34 reimbursement for medical treatment sought by the State or a county  
35 pursuant to the provisions of <sup>1</sup>~~["P.L. c. (C. ) (now pending~~  
36 before the Legislature as Senate Committee Substitute for Senate Bill  
37 Nos. 1751 and 1908 of 1995)] P.L. 1995, c.254 (C.30:7E-1 et seq.)<sup>1</sup>.

38

39       4. As used in this act:

40       <sup>1</sup>~~[a.] "Commissioner" means the Commissioner of Corrections.~~<sup>1</sup>

41       " Inmate" means a person sentenced to imprisonment, or ordered to  
42 pretrial or investigative detention, in a State prison or county jail.

43       <sup>1</sup>~~[b. "Commutation time and work credit" means any time earned~~  
44 by an inmate pursuant to any provision of law for good behavior or  
45 diligent application to work assignments.]<sup>1</sup>



ASSEMBLY, No. 879

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen BLEE and GIBSON

1 AN ACT concerning civil actions by inmates of correctional facilities  
2 and supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. If a court determines that any civil action or proceeding filed by  
8 an inmate is frivolous, unreasonable or groundless, the court shall  
9 order that commutation time or work credits earned by the inmate be  
10 reduced but not less than 10 but not more than 30 days. Such order  
11 shall be forwarded by the court to the appropriate State or county  
12 correctional institutional. If at the time such an order is entered, the  
13 inmate has not accumulated sufficient time to satisfy the order, the  
14 days shall be deducted from any commutation time or work credit  
15 earned in the future by the inmate.

16

17 2. a. If an inmate files an action or proceeding in any court of this  
18 State and requests a waiver of filing fees on the grounds of indigency  
19 the inmate shall attach to the filing a certified copy of the prisoner's  
20 fund account statement from the appropriate correctional institution  
21 for the six months immediately proceeding the filing of the complaint  
22 or petition. If any filing fee is waived, the inmate shall pay a partial  
23 filing fee that is 20% of the greater of;

24 (1) the average monthly balance in the inmate's account;

25 (2) the average deposits to the inmate's account;

26 for the six months immediately proceeding the filing of the complaint  
27 or petition. However, the partial fee may not exceed the full filing fee  
28 for the commencement of the action or proceeding.

29 b. If an inmate claims exceptional circumstances that render the  
30 offender unable to pay the partial filing fee required by this section, in  
31 addition to the statement of account required by subsection a. the  
32 inmate shall submit an affidavit of special circumstances setting forth  
33 the reasons and circumstances that justify relief from the partial filing  
34 fee requirement.

35 c. If the court approves the application to waive all fees, the court

1 shall give written notice to the inmate that all fees and costs relating  
2 to the filing and service will be waived. If the court denies the  
3 application to waive all fees, the court shall give written notice to the  
4 inmate that the offender's case will be dismissed if the partial filing fee  
5 is not paid within 45 days after the date of the order, or within an  
6 additional period that the court may, upon request, allow. Process in  
7 an action filed by an inmate shall not be served until the fee is paid.

8  
9 3. If an inmate is awarded a money judgement as the result of a  
10 civil action, the monies derived from that judgment shall be deposited  
11 in the inmate's account at the correctional institution in which the  
12 inmate is confined. These monies shall be used to satisfy any  
13 court-imposed fines, restitution or penalties which the inmate has not  
14 met. These monies may also be used to meet any claims for  
15 reimbursement for medical treatment sought by the State or a county  
16 pursuant to the provisions of P.L. c. (C. ) (now pending before  
17 the Legislature as Senate Committee Substitute for Senate Bill Nos.  
18 1751 and 1908 of 1995).

19  
20 4. As used in this act:

21 a. "Inmate" means a person sentenced to imprisonment, or ordered  
22 to pretrial or investigative detention, in a State prison or county jail.

23 b. "Commutation time and work credit" means any time earned by  
24 an inmate pursuant to any provision of law for good behavior or  
25 diligent application to work assignments.

26  
27 5. This act shall take effect immediately.  
28  
29

### 30 STATEMENT

31  
32 This bill is intended to discourage the filing of frivolous civil actions  
33 by inmates confined in State and county correctional institutions. This  
34 bill would provide that if a court determines that an action or  
35 proceeding instituted by an inmate is frivolous, unreasonable or  
36 groundless, the court shall order that any commutation time or work  
37 credits earned by the inmate be reduced by not less than 10 days nor  
38 more than 30 days.

39 The bill also would establish a procedure requiring an inmate to pay  
40 at least a partial fee for filing a civil action. Presently, pursuant to  
41 court rules, the fee normally charged for filing a civil action is waived  
42 if it is determined that the plaintiff is indigent. Filing fees are often  
43 waived in civil cases filed by inmates on the grounds of indigency. In  
44 order to determine the amount of the partial filing fee to be paid by the  
45 inmate instituting the action, this bill would require that if an inmate  
46 requests a waiver of a filing fee, the inmate must attach to the filing a

1 certified statement indicating the balance for a period of six months  
2 maintained in the inmate's account at the correctional institution where  
3 the inmate is confined. The partial filing fees would be set at 20% of  
4 the greater of the average monthly balance in the inmate's account or  
5 the average monthly deposits to the inmate's account for the six  
6 months immediately preceding the filing of the action.

7 In addition, this bill would provide that if an inmate is awarded a  
8 money judgment as the result of a civil action, that the monies derived  
9 from that judgment would be deposited in the inmate's institutional  
10 account. These monies could then be used to meet any court-imposed  
11 fines, restitution or penalties which the inmate has not paid. These  
12 funds would also be available to satisfy any medical costs for which  
13 the State or a county is entitled to reimbursement.

14

15

16

17

18 Establishes several procedures with regard to civil actions filed by  
19 inmates of State and county correctional institutions.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 879**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 29, 1996

The Assembly Law and Public Safety Committee favorably reports Assembly, Bill No. 879 with committee amendments.

Assembly Bill No. 879, as amended by the committee, supplements Title 30 of the Revised Statutes and is designed to discourage the filing of frivolous civil actions by inmates confined in State and county correctional facilities by permitting the Attorney General or county counsel, as the case may be, to move for the recovery of fees and costs in those instances where the Attorney General or county counsel believes the law suit to be frivolous.

The bill also authorizes the Department of Corrections to promulgate regulations providing for the forfeiture of progressive time ("good time") credits when a lawsuit by a state-sentenced inmate has been determined by the court to be frivolous and was filed to harass or retaliate against another individual, disrupt or interfere with the operation of the correctional facility, or for some other malicious purpose.

In addition, the bill establishes a procedure requiring an inmate to pay at least a partial fee for filing a civil action. Under current court rules, the fee normally charged for filing a civil action is waived if it is determined that the plaintiff is indigent. Filing fees are often waived in civil cases filed by inmates on the grounds of indigency.

To determine the amount an inmate requesting a waiver would be required to pay as a partial filing fee, the bill provides that the inmate must submit, as part of his request for that waiver, a certified statement indicating the balance maintained in his inmate account during the immediately preceding six months at the correctional facility where he is incarcerated. If the waiver request is granted, the inmate is to be assessed a partial filing fee equal to 20% of either (1) the average monthly balance in the inmate's account or (2) the average deposits to the inmate's account during the immediately preceding six month period, whichever is greater.

Finally, the bill provides that if an inmate is awarded a money judgment as the result of a civil action, the monies derived from that judgment are to be deposited into the inmate's institutional account and used to satisfy any outstanding court-imposed fines, restitution, or



penalties. The monies also may be used to satisfy any claims for reimbursement the State or county may seek, in accordance with P.L.1995, c.254 (C.30:7E-1 et seq.), for medical treatment rendered to that inmate.

The committee, at the request of the Attorney General, amended the bill to establish the procedures governing the recovery of costs and fees by the Attorney General or county counsel, as the case may be, in those instances where a suit filed by an inmate has been found to be frivolous and to authorize the Department of Corrections to promulgate regulations for the forfeiture of "good time" credits when a frivolous lawsuit has been filed by a State inmate.

The committee also adopted three technical amendments.

This bill was pre-filed for introduction in the 1996-1997 legislative session pending technical review. As reported by the committee, the bill contains changes required by technical review which has been performed.

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 879**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 15, 1996

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 879 (1R).

This bill is intended to discourage the filing of frivolous civil actions by inmates confined in State and county correctional institutions by permitting the Attorney General or county counsel to move for the recovery of fees and costs in cases in which the Attorney General or county counsel believes the lawsuit to be frivolous.

The bill would also authorize the Department of Corrections to promulgate regulations for the forfeiture of commutation time ("good time") credits when a frivolous lawsuit by a State-sentenced inmate was filed to harass or retaliate against another individual; to disrupt or interfere with the operation of a correctional institution or for some other malicious purpose.

In addition, the bill would establish a procedure requiring an inmate to pay at least a partial fee for filing a civil action. Presently, pursuant to court rules, the fee normally charged for filing a civil action is waived if it is determined that the plaintiff is indigent. Filing fees are often waived in civil cases filed by inmates on the grounds of indigency. In order to determine the amount of the partial filing fee to be paid by the inmate instituting the action, the bill would require that if an inmate requests a waiver of a filing fee, the inmate must attach to the filing a certified statement indicating the balance for a period of six months maintained in the inmate's account at the correctional institution where the inmate is confined. The partial filing fees would be set at 20% of the greater of the average monthly balance in the inmate's account or the average monthly deposits to the inmate's account for the six months immediately preceding the filing of the action.

The bill would further provide that if an inmate is awarded a money judgment as the result of a civil action, that the monies derived from that judgment would be deposited in the inmate's institutional account. These monies could then be used to meet any court-imposed fines, restitution or penalties which the inmate has not paid. These funds

would also be available to satisfy any medical costs for which the State or a county is entitled to reimbursement.

The amendments adopted by the committee would delay the bill's effective date for 90 days.

Gov. Whitman signed into law **A-879/S-668**, sponsored by Assemblypersons Francis Blee (R- Atlantic) and John Gibson (R- Cape May/Atlantic/Cumberland). This bill is intended to discourage the filing of frivolous civil actions by inmates confined in state and county correctional institutions. The bill allows for the Attorney General or County Counsel to recover costs where they are representing the defendant in a frivolous lawsuit brought forward by an inmate.

The bill allows the Commissioner of the Department of Corrections to develop regulations providing for the forfeiture of "good time" credits when a lawsuit by an inmate has been found to be frivolous and filed to intimidate another or disrupt the operation of the correctional facility. Additionally, the measure establishes a procedure requiring an inmate to pay at least a partial fee for filing a civil action.

This legislation also provides that if an inmate is awarded a money judgment in a civil action, the award will be deposited into the inmate's institutional account. This account is to be used to meet any court-imposed fines, restitution or penalties the inmate has not paid. These funds will also be available to satisfy any medical costs for which the state or county is entitled to a reimbursement.

Gov. Whitman also signed into law **S-489/A-181**, sponsored by Senators Bernard Kenny, Jr. (D-Hudson) and Joseph Palaia (R-Monmouth). This legislation will allow the Department of Taxation in the Department of the Treasury to establish alternatives for satisfying the signature requirement on gross income tax returns.

This legislation will allow for the verification of gross income tax returns, previously accepted only in writing, by telephone using a touch-tone keypad. It also permits the Director of the Division of Taxation to develop regulations which will allow the use of voice signatures, and other technologies, as they evolve, to satisfy the signature requirements of the gross income tax.