

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 22-105 as follows:

6 (735 ILCS 5/22-105)

7 Sec. 22-105. Frivolous lawsuits filed by prisoners.

8 (a) If a prisoner confined in an Illinois Department of
9 Corrections facility files a pleading, motion, or other filing
10 which purports to be a legal document in a case seeking
11 post-conviction relief under Article 122 of the Code of
12 Criminal Procedure of 1963, pursuant to Section 116-3 of the
13 Code of Criminal Procedure of 1963, in a habeas corpus action
14 under Article X of this Code, in a claim under the Court of
15 Claims Act, or a second or subsequent petition for relief from
16 judgment under Section 2-1401 of this Code or in another action
17 against the State, the Illinois Department of Corrections, or
18 the Prisoner Review Board, or against any of their officers or
19 employees and the Court makes a specific finding that the
20 pleading, motion, or other filing which purports to be a legal
21 document filed by the prisoner is frivolous, the prisoner is
22 responsible for the full payment of filing fees and actual
23 court costs.

1 On filing the action or proceeding the court shall assess
2 and, when funds exist, collect as a partial payment of any
3 court costs required by law a first time payment of 50% of the
4 average monthly balance of the prisoner's trust fund account
5 for the past 6 months. Thereafter 50% of all deposits into the
6 prisoner's individual account under Sections 3-4-3 and 3-12-5
7 of the Unified Code of Corrections administered by the Illinois
8 Department of Corrections shall be withheld until the actual
9 court costs are collected in full. The Department of
10 Corrections shall forward any moneys withheld to the court of
11 jurisdiction. If a prisoner is released before the full costs
12 are collected, the Department of Corrections shall forward the
13 amount of costs collected through the date of release. The
14 court of jurisdiction is responsible for sending the Department
15 of Corrections a copy of the order mandating the amount of
16 court fees to be paid. Nothing in this Section prohibits an
17 applicant from filing an action or proceeding if the applicant
18 is unable to pay the court costs.

19 (b) In this Section, "frivolous" means that a pleading,
20 motion, or other filing which purports to be a legal document
21 filed by a prisoner in his or her lawsuit meets any or all of
22 the following criteria:

23 (1) it lacks an arguable basis either in law or in
24 fact;

25 (2) it is being presented for any improper purpose,
26 such as to harass or to cause unnecessary delay or needless

1 increase in the cost of litigation;

2 (3) the claims, defenses, and other legal contentions
3 therein are not warranted by existing law or by a
4 nonfrivolous argument for the extension, modification, or
5 reversal of existing law or the establishment of new law;

6 (4) the allegations and other factual contentions do
7 not have evidentiary support or, if specifically so
8 identified, are not likely to have evidentiary support
9 after a reasonable opportunity for further investigation
10 or discovery; or

11 (5) the denials of factual contentions are not
12 warranted on the evidence, or if specifically so
13 identified, are not reasonably based on a lack of
14 information or belief.

15 (Source: P.A. 90-505, eff. 8-19-97.)