



Sen. William R. Haine

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09500SB1026sam001

LRB095 05917 AJO 34123 a

1 AMENDMENT TO SENATE BILL 1026

2 AMENDMENT NO. _____. Amend Senate Bill 1026 by replacing
3 everything after the enacting clause with the following:

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

1 against the State, the Illinois Department of Corrections, or
2 the Prisoner Review Board, or against any of their officers or
3 employees and the Court makes a specific finding that the
4 pleading, motion, or other filing which purports to be a legal
5 document filed by the prisoner is frivolous, the prisoner is
6 responsible for the full payment of filing fees and actual
7 court costs.

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

26 (b) In this Section, "frivolous" means that a pleading,

1 motion, or other filing which purports to be a legal document
2 filed by a prisoner in his or her lawsuit meets any or all of
3 the following criteria:

4 (1) it lacks an arguable basis either in law or in
5 fact;

6 (2) it is being presented for any improper purpose,
7 such as to harass or to cause unnecessary delay or needless
8 increase in the cost of litigation;

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

13 (4) the allegations and other factual contentions do
14 not have evidentiary support or, if specifically so
15 identified, are not likely to have evidentiary support
16 after a reasonable opportunity for further investigation
17 or discovery; or

18 (5) the denials of factual contentions are not
19 warranted on the evidence, or if specifically so
20 identified, are not reasonably based on a lack of
21 information or belief.

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