

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.

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

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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.

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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.  
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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).  
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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.  
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27 5. This act shall take effect immediately.  
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## 30 STATEMENT

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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.

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