

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.