

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 668

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 15, 1996

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 668.

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.