

1 State of Arkansas As Engrossed: S1/28/19 H2/6/19 H2/19/19
2 92nd General Assembly **A Bill**
3 Regular Session, 2019

SENATE BILL 116

4
5 By: Senator B. Ballinger
6 By: Representative Capp
7

8 **For An Act To Be Entitled**

9 AN ACT REQUIRING AN INMATE IN THE DEPARTMENT OF
10 CORRECTION TO FIRST EXHAUST ALL AVAILABLE
11 ADMINISTRATIVE REMEDIES AS A CONDITION PRECEDENT TO
12 FILING A CLAIM UNDER THE ARKANSAS CIVIL RIGHTS ACT OF
13 1993 OR ANY OTHER STATE LAW CONCERNING PRISON
14 CONDITIONS; AND FOR OTHER PURPOSES.
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17 **Subtitle**

18 REQUIRING AN INMATE IN THE DEPARTMENT OF
19 CORRECTION TO FIRST EXHAUST ALL AVAILABLE
20 ADMINISTRATIVE REMEDIES AS A CONDITION
21 PRECEDENT TO FILING A CLAIM UNDER THE
22 ARKANSAS CIVIL RIGHTS ACT OF 1993 OR ANY
23 OTHER STATE LAW.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 16-106-301 is amended to read as follows:
29 16-106-301. Exhaustion of administrative remedies required –

30 Definition.

31 ~~No action shall be brought~~ (a) An incarcerated person may not bring an
32 action with respect to prison conditions under the Arkansas Civil Rights Act
33 of 1993, § 16-123-101 et seq., any other state law, 42 U.S.C. § 1983, or any
34 other federal law, ~~by an incarcerated person, defined for purposes of this~~
35 ~~subchapter as a person who has been convicted of a crime and is incarcerated~~
36 ~~for that crime or is being held in custody for trial or sentencing,~~ until



1 ~~such the incarcerated person has exhausted all available~~ administrative
2 ~~remedies as are available are exhausted, provided, that the statute of~~
3 ~~limitations is tolled during the period of time the application for the~~
4 ~~administrative remedies is pending.~~

5 (b) As used in this section, "incarcerated person" means a person who:

6 (1) Has been convicted of an offense and is incarcerated for
7 that offense; or

8 (2) Is being held in custody for trial or sentencing.

9 (c) This section does not apply to an action challenging the validity
10 of a conviction or sentence, including without limitation the following
11 actions:

12 (1) Direct appeal;

13 (2) A petition under Rule 37 of the Arkansas Rules of Criminal
14 Procedure;

15 (3) A petition for writ of error coram nobis; or

16 (4) A petition for writ of habeas corpus.

17 (d) When determining the issue of exhaustion of administrative
18 remedies, including if a dismissal of an action is without prejudice, the
19 court may look to state and federal court decisions that interpret the Prison
20 Litigation Reform Act, 42 U.S.C. § 1997e.

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22 /s/B. Ballinger

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25 **APPROVED: 3/13/19**