

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 286 OF 1997
SENATE BILL 167

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5 By: Senator Gordon
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For An Act To Be Entitled

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9 "AN ACT TO AUTHORIZE THE COURTS TO PERMIT DEFENDANTS IN
10 ACTIONS BROUGHT BY INCARCERATED PERSONS TO WAIVE A REPLY;
11 AND FOR OTHER PURPOSES."

Subtitle

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14 "TO AUTHORIZE COURTS TO PERMIT
15 DEFENDANTS IN ACTIONS BROUGHT BY
16 INCARCERATED PERSONS TO WAIVE A REPLY."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. (a) Any defendant may waive the right to reply to any
21 action brought by an incarcerated person, defined for purposes of this act as
22 a person who has been convicted of a crime and is incarcerated for that crime
23 or is being held in custody for trial or sentencing, under Section 1979 of the
24 Revised Statutes of the United States (42 U.S.C. §1983) or any other federal
25 law or state law. Notwithstanding any other law or rule of procedure, such
26 waiver shall not constitute an admission of the allegations contained in the
27 complaint. No relief shall be granted to the plaintiff unless a reply has
28 been filed.

29 (b) The court may require any defendant to reply to a complaint brought
30 under this section if it finds that the plaintiff has a reasonable opportunity
31 to prevail on the merits.
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33 SECTION 2. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.
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1 SECTION 3. If any provision of this act or the application thereof to
 2 any person or circumstance is held invalid, such invalidity shall not affect
 3 other provisions or applications of the act which can be given effect without
 4 the invalid provision or application, and to this end the provisions of this
 5 act are declared to be severable.

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 7 SECTION 4. All laws and parts of laws in conflict with this act are
 8 hereby repealed.

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 10 SECTION 5. EMERGENCY. It is found and determined by the General
 11 Assembly of the State of Arkansas that litigation of a frivolous nature by
 12 incarcerated persons is flooding the state court systems. Therefore an
 13 emergency is declared to exist and this act being immediately necessary for
 14 the preservation of the public peace, health and safety shall become effective
 15 on the date of its approval by the Governor. If the bill is neither approved
 16 nor vetoed by the Governor, it shall become effective on the expiration of the
 17 period of time during which the Governor may veto the bill. If the bill is
 18 vetoed by the Governor and the veto is overridden, it shall become effective
 19 on the date the last house overrides the veto.

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 24 APPROVED: 2-26-97
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