

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

# A Bill

SENATE BILL 167

4  
5 By: Senator Gordon

## For An Act To Be Entitled

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

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8 hereby repealed.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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