

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

As Engrossed: S2/27/97

A Bill

SENATE BILL 178

4
5 By: Senator Bradford
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For An Act To Be Entitled

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9 "AN ACT TO AUTHORIZE THE COURTS TO REQUIRE INCARCERATED
10 PERSONS TO EXHAUST ADMINISTRATIVE REMEDIES; TO DECLARE AN
11 EMERGENCY; AND FOR OTHER PURPOSES."
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Subtitle

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14 "TO AUTHORIZE THE COURTS TO REQUIRE
15 INCARCERATED PERSONS TO EXHAUST
16 ADMINISTRATIVE REMEDIES."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. No action shall be brought with respect to prison conditions
21 under section 1979 of the Revised Statutes of the United States (42 U.S.C. §
22 1983), or any other Federal law, by an incarcerated person, defined for
23 purposes of this act as a person who has been convicted of a crime and is
24 incarcerated for that crime or is being held in custody for trial or
25 sentencing, until such administrative remedies as are available are exhausted,
26 provided, that the statute of limitations is tolled during the period of time
27 the application for the administrative remedies is pending.
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29 SECTION 2. (a) The court shall on its own motion or on the motion of a
30 party dismiss any action brought with respect to prison conditions under
31 section 1979 of the Revised Statutes of the United States (42 U.S.C. § 1983),
32 or any other Federal law, by any incarcerated person if the court is satisfied
33 that the action is frivolous, malicious, fails to state a claim upon which
34 relief can be granted, or seeks monetary relief from a defendant who is immune
35 from such relief.

36 (b) In the event that a claim is, on its face, frivolous, malicious,

1 fails to state a claim upon which relief can be granted, or seeks monetary
2 relief from a defendant who is immune from such relief, the court may dismiss
3 the underlying claim without first requiring the exhaustion of administrative
4 remedies.

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6 SECTION 3. All provisions of this act of a general and permanent nature
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
8 Revision Commission shall incorporate the same in the Code.

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10 SECTION 4. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 5. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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19 SECTION 6. EMERGENCY. It is hereby found and determined by the General
20 Assembly that litigation of a frivolous nature by incarcerated persons is
21 flooding the state court systems. Therefore, in order to immediately
22 implement this measure, and thereby alleviate the burden on the court systems,
23 an emergency is hereby declared to exist and this act being immediately
24 necessary for the preservation of the public peace, health and safety shall
25 become effective on the date of its approval by the Governor. If the bill is
26 neither approved nor vetoed by the Governor, it shall become effective on the
27 expiration of the period of time during which the Governor may veto the bill.
28 If the bill is vetoed by the Governor and the veto is overridden, it shall
29 become effective on the date the last house overrides the veto.

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/s/Bradford

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