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

1	State of Arkansas As Engrossed: S1/23/97
2	81st General Assembly A Bill
3	Regular Session, 1997 SENATE BILL 42
4	By: Senator Walters
5	
6	
7	For An Act To Be Entitled
8	"AN ACT TO AUTHORIZE THE COURTS TO REQUIRE INCARCERATED
9	PERSONS TO PAY FILING FEES, COURT COSTS, AND ATTORNEYS_
10	FEES; TO PROVIDE A METHOD BY WHICH THE INMATE SHALL PAY
11	FILING FEES, COURT COSTS, AND ATTORNEYS_ FEES; AND FOR
12	OTHER PURPOSES."
13	
14	Subtitle
15	"TO AUTHORIZE COURTS TO REQUIRE
16	INCARCERATED PERSONS TO PAY FILING FEES,
17	COURT COSTS, AND ATTORNEYS_ FEES"
18	
19	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20	
21	SECTION 1. If an incarcerated person, defined for purposes of this act
22	as a person who has been convicted of a crime and is imprisoned for that crime
23	or is being held in custody for trial or sentencing, files a civil action, the
24	court shall order the incarcerated person to pay, as a partial payment of any
25	court filing fees and court costs required by law, a first-time payment of
26	twenty percent (20%) of the preceding six (6) months_ income from the
27	incarcerated person_s inmate account as administered by the Department of
28	Correction or the Department of Community Punishment. The Department of
29	Correction or the Department of Community Punishment shall withdraw these
30	monies maintained in the account for payment of the filing fees and court
31	costs and shall forward these monies collected at such times as the monies
32	exceed ten dollars (\$10.00) to the appropriate court clerk or clerks until the
33	actual court fees are paid in full.
34	
35	SECTION 2. Nothing in this act shall be construed to prevent an
36	incarcerated person from authorizing payment beyond that required by this act.

**As Engrossed: S1/23/97** SB 42

1

- 2 SECTION 3. Nothing in this act should be construed to prohibit an
- 3 incarcerated person from filing his civil action or proceeding if the
- 4 incarcerated person is found to be indigent pursuant to the Arkansas indigency
- 5 statutes.

6

- 7 SECTION 4. Any court of the State of Arkansas may authorize the
- 8 commencement, prosecution, or defense of any suit, action, or proceeding
- 9 without payment of fees and costs, by an incarcerated person who makes an
- 10 affidavit that he is unable to pay such costs or give security therefor. This
- 11 affidavit shall contain complete information as to the incarcerated person\_s
- 12 identity, nature and amount of income, spouse\_s income, if available to the
- 13 incarcerated person, property owned, cash or checking accounts, dependents,
- 14 debts and monthly expenses. The incarcerated person, if applicable, shall
- 15 also state the amount of money deposited in his inmate account for the past
- 16 six months. The affidavit shall contain the following statements: "I,
- 17 ....., am unable to pay the filing fees and court costs described
- 18 herein. I verify that the statements made in this affidavit are true and
- 19 correct." The Attorney General or other counsel for the defendant shall be
- 20 authorized to receive information from the prison or jail verifying the
- 21 financial information given by the incarcerated person.

22

- 23 SECTION 5. A court in which an affidavit of inability to pay has been
- 24 filed may dismiss the action in whole or in part on a finding that:
- 25 (1) the allegation of poverty is false; or
- 26 (2) the action or a portion of the action lacks a justiciable issue as
- 27 defined by Arkansas Code Annotated 16-22-309.

28

- 29 SECTION 6. If the court authorizes the commencement of the action and
- 30 the court concludes, based on information contained in the affidavit or other
- 31 information available to the court, that such person is able to pay part of
- 32 the fees, costs, or security otherwise required, then the court shall order a
- 33 partial payment to be made as a condition of the commencement or further
- 34 prosecution of the action, provided that any such payment is not less than
- 35 required under Section 1. Furthermore, if the court dismisses the action for

**As Engrossed: S1/23/97** SB 42

1 the reason that it lacks a justiciable issue, then the court may order the 2 incarcerated person to pay reasonable attorneys\_ fees pursuant to Arkansas 3 Code Annotated 16-22-309. 4 SECTION 7. In no event shall an incarcerated person bring a civil 5 action or appeal a judgment in a civil action or proceeding under the Arkansas 6 indigency statutes if the incarcerated person has, on three (3) or more prior 7 occasions, while incarcerated or detained in any facility, brought an action 8 that it is frivolous, malicious, or fails to state a claim upon which relief 9 may be granted, unless the incarcerated person is under imminent danger of serious physical injury. 11 SECTION 8. All provisions of this act of a general and permanent nature 12 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code 13 Revision Commission shall incorporate the same in the Code. 14 15 SECTION 9. If any provision of this act or the application thereof to 16 any person or circumstance is held invalid, such invalidity shall not affect 17 other provisions or applications of the act which can be given effect without 18 the invalid provision or application, and to this end the provisions of this 19 act are declared to be severable. 2.0 21 SECTION 10. All laws and parts of laws in conflict with this act are 22 hereby repealed. 23 24 /s/Walters 25 26 27 28 29 30 31 32 33 34

35

1

2