

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

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4 By: Senator Walters

As Engrossed: S1/23/97

A Bill

SENATE BILL 42

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."

Subtitle

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15 "TO AUTHORIZE COURTS TO REQUIRE
16 INCARCERATED PERSONS TO PAY FILING FEES,
17 COURT COSTS, AND ATTORNEYS_ FEES"

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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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.

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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.

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

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

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

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

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