### SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL:	SB 2474						
SPONSO	Senator Argen	Senator Argenziano					
SUBJEC	τ: Frivolous Cou	Frivolous Court Filings/Prisoner					
DATE:	April 4, 2003	REVISED:					
1. C	ANALYST lodfelter	STAFF DIRECTOR	REFERENCE CJ	ACTION Favorable			
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### I. Summary:

This bill amends s. 944.279, F.S., to provide authority for the Department of Corrections to take disciplinary action against a prisoner if a state or federal court finds that the prisoner filed a frivolous, malicious, or false suit, action, claim, proceeding, or appeal in a criminal proceeding or a collateral criminal proceeding after June 30, 2003. Previously, the disciplinary authority did not apply to criminal proceedings or collateral criminal proceedings.

The bill is to become effective upon becoming a law.

This bill substantially amends, creates, or repeals the following section of the Florida Statutes: 944.279.

#### II. Present Situation:

Section 944.279, F.S., authorizes the Department of Corrections to take disciplinary action against a prisoner if a court determines that the prisoner made frivolous or malicious filings in court proceedings other than criminal proceedings or collateral criminal proceedings. The court may also make such a finding if the prisoner brought false information or evidence before the court either knowingly or with reckless regard for the truth. Section 944.28, F.S., authorizes the department to forfeit the gain time of a prisoner who brought a frivolous action or brought false information or evidence before the court, but is silent as to the type of proceedings to which the provision applies. Section 944.279, F.S., and the pertinent provision of s. 944.28, F.S., both became law in 1996 as part of ch. 96-106, Laws of Florida.

After the 1996 amendment to s. 944.28, F.S., criminal courts relied on s. 944.28, F.S., to enter orders declaring prisoner filings to be frivolous and requesting that the department take

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appropriate disciplinary action. However, in *Hall v. State*, 752 So.2d 575 (Fla. 2000) and *Saucer v. State*, 779 So.2d 261 (Fla. 2001), the Florida Supreme Court held that s. 944.279, F.S., which specifically excludes criminal proceedings or collateral criminal proceedings, is the basis for taking disciplinary action for frivolous filings. The Court found that s. 944.28, F.S., is not an independent basis for imposing discipline for such filings.

The department indicates that it has received numerous recommendations from criminal courts as well as a personal letter from the State Attorney's Office in Miami-Dade County advocating expansion of the law to include matters filed in criminal courts.

## III. Effect of Proposed Changes:

The bill would expand the courts' authority to recommend that the department take disciplinary action against a prisoner who files frivolous, malicious, or false matters by including filings made in criminal proceedings and collateral criminal proceedings. It is anticipated that this will serve as a deterrent to prisoners who habitually file such frivolous or malicious pleadings or present false evidence.

The bill has an effective date upon becoming law, and would apply to filings made in criminal proceedings or a collateral criminal proceeding after June 30, 2003. The bill does not change the current law with respect to matters filed or brought before civil courts.

#### IV. Constitutional Issues:

A.	Municipality/County	Mandates	Restrictions:
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None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

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# C. Government Sector Impact:

The amount of reduction of frivolous filings in criminal courts cannot be determined, but there should be some reduction that lessens the financial impact and time taken by such actions. It is not expected that there will be a significant fiscal impact upon the Department of Corrections.

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None.

### VII. Related Issues:

None.

# VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.