

HB 1153

2004

1 A bill to be entitled
 2 An act relating to discipline of state prisoners; amending
 3 s. 944.279, F.S.; authorizing the Department of
 4 Corrections to pursue disciplinary action against
 5 prisoners who bring certain frivolous or malicious
 6 collateral criminal actions; reenacting s. 944.28(2),
 7 F.S., relating to forfeiture of gain-time, to conform;
 8 providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Section 944.279, Florida Statutes, is amended
 13 to read:

14 944.279 Disciplinary procedures applicable to prisoner for
 15 filing frivolous or malicious actions or bringing false
 16 information before court.--

17 (1) At any time, and upon its own motion or on motion of a
 18 party, a court may conduct an inquiry into whether any action or
 19 appeal brought by a prisoner was brought in good faith. A
 20 prisoner who is found by a court to have brought a frivolous or
 21 malicious suit, action, claim, proceeding, or appeal in any
 22 court of this state or in any federal court, which is filed
 23 after June 30, 1996, or a frivolous or malicious collateral
 24 criminal action, which is filed after October 1, 2004, or who
 25 knowingly or with reckless disregard for the truth brought false
 26 information or evidence before the court, is subject to
 27 disciplinary procedures pursuant to the rules of the Department
 28 of Corrections. The court shall issue a written finding and
 29 direct that a certified copy be forwarded to the appropriate

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30 institution or facility for disciplinary procedures pursuant to
 31 the rules of the department as provided in s. 944.09.

32 (2) This section does not apply to a criminal proceeding
 33 ~~or a collateral criminal proceeding.~~

34 (3) For purposes of this section, "prisoner" means a
 35 person who is convicted of a crime and is incarcerated for that
 36 crime or who is being held in custody pending extradition or
 37 sentencing.

38 Section 2. Subsection (2) of section 944.28, Florida
 39 Statutes, is reenacted to read:

40 944.28 Forfeiture of gain-time and the right to earn gain-
 41 time in the future.--

42 (2)(a) All or any part of the gain-time earned by a
 43 prisoner according to the provisions of law is subject to
 44 forfeiture if such prisoner unsuccessfully attempts to escape;
 45 assaults another person; threatens or knowingly endangers the
 46 life or person of another person; refuses by action or word to
 47 carry out any instruction duly given to him or her; neglects to
 48 perform in a faithful, diligent, industrious, orderly, and
 49 peaceful manner the work, duties, and tasks assigned to him or
 50 her; is found by a court to have brought a frivolous suit,
 51 action, claim, proceeding, or appeal in any court; is found by a
 52 court to have knowingly or with reckless disregard for the truth
 53 brought false information or evidence before the court; or
 54 violates any law of the state or any rule or regulation of the
 55 department or institution.

56 (b) A prisoner's right to earn gain-time during all or any
 57 part of the remainder of the sentence or sentences under which
 58 he or she is imprisoned may be declared forfeited because of the

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59 seriousness of a single instance of misconduct or because of the
60 seriousness of an accumulation of instances of misconduct.

61 (c) The method of declaring a forfeiture under paragraph
62 (a) or paragraph (b) shall be as follows: A written charge shall
63 be prepared, which shall specify each instance of misconduct
64 upon which it is based and the approximate date thereof. A copy
65 of such charge shall be delivered to the prisoner, and he or she
66 shall be given notice of a hearing before the disciplinary
67 committee created under the authorization of rules heretofore or
68 hereafter adopted by the department for the institution in which
69 he or she is confined. The prisoner shall be present at the
70 hearing. If at such hearing the prisoner pleads guilty to the
71 charge or if the committee determines that the prisoner is
72 guilty thereof upon the basis of proof presented at such
73 hearing, it shall find him or her guilty. If the committee
74 considers that all or part of the prisoner's gain-time and the
75 prisoner's right to earn gain-time during all or any part of the
76 sentence or sentences under which he or she is imprisoned shall
77 be forfeited, it shall so recommend in its written report. Such
78 report shall be presented to the warden of the institution, who
79 may approve such recommendation in whole or in part by endorsing
80 such approval on the report. In the event of approval, the
81 warden shall forward the report to the department. Thereupon,
82 the department may, in its discretion, declare the forfeiture
83 thus approved by the warden or any specified part thereof.

84 Section 3. This act shall take effect October 1, 2004.