

Bill No. SB 914

Barcode 781276

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Joyner) recommended the following amendment:

Senate Amendment (with title amendment)

On page 2, between lines 7 and 8,

insert:

Section 2. Section 57.085, Florida Statutes, is amended to read:

57.085 Deferral of prepayment of court costs and fees for indigent prisoners and indigent persons in custody pending trial.--

(1) For the purposes of this section, the term "prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or who is being held in custody pending extradition or sentencing.

(2) When a prisoner who is intervening in or initiating a judicial proceeding seeks to defer the prepayment of court costs and fees because of indigence, the prisoner must file an affidavit of indigence with the appropriate clerk of the court. The affidavit must contain complete information

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1 about the prisoner's identity; the nature and amount of the
2 prisoner's income; all real property owned by the prisoner;
3 all tangible and intangible property worth more than \$100
4 which is owned by the prisoner; the amount of cash held by the
5 prisoner; the balance of any checking, savings, or money
6 market account held by the prisoner; the prisoner's
7 dependents, including their names and ages; the prisoner's
8 debts, including the name of each creditor and the amount owed
9 to each creditor; and the prisoner's monthly expenses. The
10 prisoner must certify in the affidavit whether the prisoner
11 has been adjudicated indigent under this section, certified
12 indigent under s. 57.081, or authorized to proceed as an
13 indigent under 28 U.S.C. s. 1915 by a federal court. The
14 prisoner must attach to the affidavit a photocopy of the
15 prisoner's trust account records for the preceding 6 months or
16 for the length of the prisoner's incarceration, whichever
17 period is shorter. The affidavit must contain the following
18 statements: "I am presently unable to pay court costs and
19 fees. Under penalty of perjury, I swear or affirm that all
20 statements in this affidavit are true and complete."

21 (3) Before a prisoner may receive a deferral of
22 prepayment of any court costs and fees for an action brought
23 under this section, the clerk of court must review the
24 affidavit and determine the prisoner to be indigent.

25 (4) When the clerk has found the prisoner to be
26 indigent but concludes the prisoner is able to pay part of the
27 court costs and fees required by law, the court shall order
28 the prisoner to make, prior to service of process, an initial
29 partial payment of those court costs and fees. The initial
30 partial payment must total at least 20 percent of the average
31 monthly balance of the prisoner's trust account for the

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1 preceding 6 months or for the length of the prisoner's
2 incarceration, whichever period is shorter.

3 (5) When the clerk has found the prisoner to be
4 indigent, the court shall order the prisoner to make monthly
5 payments of no less than 20 percent of the balance of the
6 prisoner's trust account as payment of court costs and fees.
7 When a court orders such payment, the Department of
8 Corrections or the local detention facility shall place a lien
9 on the inmate's trust account for the full amount of the court
10 costs and fees, and shall withdraw money maintained in that
11 trust account and forward the money, when the balance exceeds
12 \$10, to the appropriate clerk of the court until the
13 prisoner's court costs and fees are paid in full.

14 (6) Before an indigent prisoner or indigent person who
15 is being held in custody pending trial may intervene in or
16 initiate any judicial proceeding, the court must review the
17 prisoner's claim or the claim of the indigent person who is
18 being held in custody pending trial to determine whether it is
19 legally sufficient to state a cause of action for which the
20 court has jurisdiction and may grant relief. The court shall
21 dismiss all or part of an indigent prisoner's claim or the
22 claim of an indigent person who is being held in custody
23 pending trial which:

24 (a) Fails to state a claim for which relief may be
25 granted;

26 (b) Seeks monetary relief from a defendant who is
27 immune from such relief;

28 (c) Seeks relief for mental or emotional injury where
29 there has been no related allegation of a physical injury; or

30 (d) Is frivolous, malicious, or reasonably appears to
31 be intended to harass one or more named defendants.

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1 (7) A prisoner who has twice in the preceding 3 years
2 been adjudicated indigent under this section, certified
3 indigent under s. 57.081, or authorized to proceed as an
4 indigent under 28 U.S.C. s. 1915 by a federal court may not be
5 adjudicated indigent to pursue a new suit, action, claim,
6 proceeding, or appeal without first obtaining leave of court.
7 In a request for leave of court, the prisoner must provide a
8 complete listing of each suit, action, claim, proceeding, or
9 appeal brought by the prisoner or intervened in by the
10 prisoner in any court or other adjudicatory forum in the
11 preceding 5 years. The prisoner must attach to a request for
12 leave of court a copy of each complaint, petition, or other
13 document purporting to commence a lawsuit and a record of
14 disposition of the proceeding.

15 (8) In any judicial proceeding in which a certificate
16 of indigence has been issued to a prisoner, the court may at
17 any time dismiss the prisoner's action, in whole or in part,
18 upon a finding that:

19 (a) The prisoner's claim of indigence is false or
20 misleading;

21 (b) The prisoner provided false or misleading
22 information regarding another judicial or administrative
23 proceeding in which the prisoner was a party;

24 (c) The prisoner failed to pay court costs and fees
25 under this section despite having the ability to pay; or

26 (d) The prisoner's action or a portion of the action
27 is frivolous or malicious.

28 (9) In determining whether an action is frivolous or
29 malicious, the court may consider whether:

30 (a) The prisoner's claim has no arguable basis in law
31 or fact;

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1 (b) The prisoner's claim reasonably appears intended
2 solely to harass a party filed against;

3 (c) The prisoner's claim is substantially similar to a
4 previous claim in that it involves the same parties or arises
5 from the same operative facts as a previous claim;

6 (d) The prisoner's claim has little likelihood of
7 success on its merits; or

8 (e) The allegations of fact in the prisoner's claim
9 are fanciful or not credible.

10 (10) This section does not apply to a criminal
11 proceeding or a collateral criminal proceeding.

12

13 (Redesignate subsequent sections.)

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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 1, line 6, after the semicolon,

19

20 insert:

21 amending s. 57.085, F.S.; revising requirements
22 regarding the deferral of prepayment of court
23 costs and fees for indigent prisoners to
24 include indigent persons being held in custody
25 pending trial;

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