
A BILL FOR AN ACT

RELATING TO PRISON LITIGATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 607, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§607- Proceedings in forma pauperis. (a) Any court of
5 the State may authorize the commencement, prosecution, or
6 defense of any suit, action, or proceeding or appeal therein,
7 without prepayment of fees or security therefor, by a person who
8 is incarcerated in a correctional facility if that person
9 submits a statement certified by the correctional facility, of
10 all financial assets for the previous six months that the
11 prisoner possesses or possessed and an affidavit or declaration
12 given pursuant to section 710-1061, that the person is unable to
13 pay the fees or give security therefor. A copy of the complaint
14 or claim in any suit, action, or proceeding shall accompany any
15 application for in forma pauperis.

16 (b) An appeal may not be taken in forma pauperis if the
17 trial court certifies in writing that it is not taken in good
18 faith.



1 (c) If a prisoner brings a civil action or files an appeal
2 in forma pauperis not in compliance with subsection (a) or if
3 the court denies the in forma pauperis application, the prisoner
4 shall be required to pay the full amount of a filing fee. The
5 court shall assess and, when the prisoner acquires the funds,
6 collect, as a partial payment of any court fees required by law,
7 an initial partial filing fee of twenty per cent of the greater
8 of:

- 9 (1) The average monthly deposits to the prisoner's
10 account; or
11 (2) The average monthly balance in the prisoner's account
12 for the six-month period immediately preceding the
13 filing of the complaint or notice of appeal.

14 After payment of the initial partial filing fee, the prisoner
15 shall be required to make monthly payments of twenty per cent of
16 the preceding month's income credited to the prisoner's account.
17 The agency having custody of the prisoner shall forward payments
18 from the prisoner's account to the clerk of the court each time
19 the amount in the account exceeds \$10 until the filing fees are
20 paid. In no event shall the filing fee collected exceed the
21 amount of fees permitted by statute for the commencement of a



1 civil action or an appeal of a civil action or criminal
2 judgment.

3 (d) Any prisoner who has had five or more in forma
4 pauperis civil actions or appeals dismissed by any state or
5 federal court as frivolous, as malicious, or for failure to
6 state a claim, shall pay the full filing fee in advance for any
7 further civil actions during the time the prisoner remains
8 incarcerated, unless the prisoner is in imminent danger of
9 serious physical, mental, or emotional injury; provided that the
10 prepayment requirement may be waived at the discretion of the
11 court in the interest of justice. With the exception of the
12 preceding circumstance, in no event shall a prisoner be
13 prohibited from bringing a civil action or appealing a civil or
14 criminal judgment for the reason that the prisoner has no assets
15 and no means by which to pay the initial partial filing fee.

16 (e) Upon compliance with subsection (a) and the prepayment
17 of any partial filing fee as may be required under subsection
18 (c), the court may direct payment by the State of the expenses
19 of:

20 (1) Printing the record on appeal if such printing is
21 required by the appellate court; and



1 (2) Preparing a transcript of proceedings if the
2 transcript is required by the appellate court.
3 Any expenses shall be paid when authorized by the administrative
4 director of the courts.

5 (f) Notwithstanding any filing fee, or any portion
6 thereof, that may have been paid, the court shall dismiss the
7 case at any time if the court determines that:

8 (1) The allegation of poverty is untrue; or

9 (2) The action or appeal

10 (A) Is frivolous or malicious;

11 (B) Fails to state a claim on which relief may be
12 granted; or

13 (C) Seeks monetary relief against a defendant who is
14 immune from such relief.

15 (g) Judgment may be rendered for costs at the conclusion
16 of the suit or action as in other proceedings, but the State
17 shall not be liable for any of the costs incurred. If the State
18 has paid the cost of a stenographic transcript or printed record
19 for the prevailing party, the cost shall be remitted in favor of
20 the State. If the judgment against a prisoner includes the
21 payment of costs under this subsection, the prisoner shall be
22 required to pay the full amount of the costs ordered. The



1 prisoner shall be required to make payments for costs under this
2 subsection in the same manner as is provided for filing fees
3 under subsection (c). In no event shall the costs collected
4 exceed the amount of the costs ordered by the court.

5 (h) As used in this section, the term "prisoner" means any
6 person incarcerated or detained in any facility who is accused
7 of, convicted of, or sentenced for, violations of criminal law
8 or the terms and conditions of parole, probation, pretrial
9 release, or diversionary program. The term does not apply to
10 juveniles incarcerated at youth correctional facilities."

11 SECTION 2. New statutory material is underscored.

12 SECTION 3. This Act shall take effect on July 1, 2030.



Report Title:

Prison Litigation; In Forma Pauperis

Description:

Requires inmates to pay filing fees for a civil lawsuit they file in State court and requires inmates who have five lawsuits deemed "frivolous" to pay the filing fees in advance of filing another lawsuit. (SD1)

