
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 804 Session of
1997

INTRODUCED BY BROWNE, DENT, NAILOR, ORIE, BAKER, EGOLF,
MARKOSEK, PHILLIPS, HUTCHINSON, DEMPSEY, SAYLOR, GEORGE,
ARGALL, HALUSKA, STAIRS, GEIST, FARGO, STABACK, WAUGH,
KAISER, SCHULER, WALKO, ROONEY, SATHER, RUBLEY, FAIRCHILD,
KENNEY, READSHAW, PETTIT, PESCI, BROWN, GORDNER, BATTISTO,
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TRUE, TIGUE, PLATTS, LAUGHLIN, WOGAN, TRELLO, MAITLAND, BARD,
LEH, WILT, J. TAYLOR, SEYFERT, SCHRODER, BLAUM, HASAY, DALLY,
BOSCOLA, SEMMEL, B. SMITH, ROHRER, WOJNAROSKI, MAYERNIK,
BENNINGHOFF, HESS, BELFANTI, RAYMOND, EACHUS, HERMAN,
E. Z. TAYLOR AND ROSS, MARCH 12, 1997

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 12, 1997

AN ACT

1 Providing for prisoner litigation reform, for prisoner filing
2 fees, for limitations on remedies, for prospective relief,
3 for time limits on settlements and for payments of damage
4 award.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Prisoner
9 Litigation Reform Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Consent decree." Relief entered by the court that is based

1 in whole or in part upon the consent or acquiescence of the
2 parties. The term does not include a settlement agreement.

3 "Government party." The Commonwealth or a political
4 subdivision and any person elected, appointed, hired or employed
5 or contracted with by the Commonwealth or a political
6 subdivision.

7 "Prison." A State, county or local facility which
8 incarcerates adults accused of, convicted of or sentenced for
9 violations of criminal law or the terms or conditions of parole,
10 probation, pretrial release or a diversionary program.

11 "Prison conditions litigation." A civil proceeding arising
12 in whole or in part under Pennsylvania law with respect to the
13 conditions of confinement or the effects of actions by a
14 government party on an individual confined in prison. The term
15 includes an appeal. The term does not include habeas corpus
16 proceedings challenging the fact or duration of confinement in
17 prison.

18 "Prisoner." A person subject to incarceration, detention or
19 admission to prison.

20 "Prisoner release order." An order, including a temporary
21 restraining order or preliminary injunction, which has the
22 purpose or effect of reducing or limiting the prison population
23 or which directs the release of prisoners from or nonadmission
24 of prisoners to a prison.

25 "Private settlement agreement." An agreement entered into
26 among parties to an action which is not subject to judicial
27 enforcement other than reinstatement of the civil proceeding
28 which the agreement settled.

29 "Relief." Relief agreement which may be granted or approved
30 by a court. The term includes a consent decree. The term does

1 not include a private settlement agreement.

2 "Special master." A person appointed by a court to assist
3 the court in matters relating to prison conditions.

4 Section 3. Prisoner filing fees.

5 (a) Prisoner filing requirements.--

6 (1) A prisoner seeking to bring prison conditions
7 litigation without the prepayment of fees or security due to
8 indigency must submit a request to the court to proceed
9 without the prepayment of fees. The request must include a
10 certified copy of the prisoner's prison account statement,
11 which shall be provided by the prison, for the 12-month
12 period immediately preceding the filing of the complaint or
13 notice of appeal.

14 (2) The court shall order the prisoner to pay the full
15 amount of the filing fee and shall assess and, when funds
16 exit, collect a full or partial payment of the filing fee,
17 which shall be the greater of the following:

18 (i) The average monthly deposits to the prisoner's
19 account.

20 (ii) The average monthly balance in the prisoner's
21 account for the six-month period immediately preceding
22 the filing of the complaint or notice of appeal requiring
23 the payment of a fee.

24 (b) Payment of filing fees.--Following payment of an initial
25 partial filing fee, the prisoner shall make monthly payments of
26 20% of the preceding month's income credited to the prisoner's
27 account. The prison having custody of the prisoner shall forward
28 payments from the prisoner's account to the clerk of the court
29 when the total amount of fees exceeds \$10 until the filing fees
30 are paid in full. The prison having custody of the prisoner

1 shall develop written procedures regarding priority of payment
2 consistent with law.

3 (c) Access to courts.--A prisoner shall not be prohibited
4 from bringing prison conditions litigation because the prisoner
5 has no assets or means by which to pay a filing fee. The court
6 may stay an action for a period not to exceed six months if the
7 prisoner has the ability to lawfully earn wages in the prison
8 and can reasonably earn sufficient funds to pay the partial
9 filing fee. The court shall not stay a request for preliminary
10 injunctive relief or a temporary restraining order which makes a
11 credible allegation that the prisoner is in imminent danger of
12 serious bodily injury, but the court may stay related requests
13 for relief. A stay imposed under this subsection shall be
14 automatically terminated upon payment of the partial filing fee.

15 (d) Frivolous litigation.--Notwithstanding any filing fee
16 which has been paid, the court shall dismiss prison conditions
17 litigation at any time, including prior to service on the
18 defendant, if the court determines any of the following:

19 (1) The allegation of indigency is untrue.

20 (2) The prison conditions litigation is frivolous or
21 malicious or fails to state a claim upon which relief may be
22 granted.

23 (3) The defendants are reasonably likely to be immune
24 from the cause of action.

25 (4) The prisoner has previously filed prison conditions
26 litigation against a person named as a defendant in the
27 instant action or a person serving in the same official
28 capacity as a named defendant and a court made a finding, sua
29 sponte or at the request of a party, that the prior action
30 was filed in bad faith or that the prisoner knowingly

presented false evidence or testimony at a hearing or trial.

Section 4. Limitations on remedies.

(a) Limitations on remedies for Federal claims.--Prison conditions litigation filed in or remanded to a court of this Commonwealth alleging in whole or in part a violation of Federal law shall be subject to any limitations or remedies established by Federal law or Federal courts.

(b) Limitations on remedies under Pennsylvania law.--In prison conditions litigation arising in whole or in part a violation of Pennsylvania law shall be subject to the limitations set forth in this act.

(c) Special masters.--In prison conditions litigation arising in whole or in part under Pennsylvania law, the court shall not appoint a person to assist the court or delegate any judicial function, including fact finding, reporting or monitoring, unless the appointment or delegation is specifically authorized under Pennsylvania court rules.

Section 5. Prospective relief.

(a) General rule.--Prospective relief in prison conditions litigation shall extend no further than necessary to correct the violation. The court shall not grant or approve prospective relief unless the relief is narrowly drawn, extends no further than necessary and is the least intrusive means necessary to correct the violations of Pennsylvania law. The court shall give substantial weight to any adverse impact on public safety, prison operations or the operation of the criminal justice system.

(b) Conformity.--The court shall not order any prospective relief that requires or permits a government official to exceed authority under, or otherwise violate, Pennsylvania law or the

1 law of a political subdivision unless the relief meets all of
2 the following:

3 (1) Is required by Pennsylvania law.

4 (2) Is necessary to correct the violation.

5 (3) Is the only relief which will correct the violation.

6 (c) Limitation.--Nothing in this section shall be construed
7 to authorize the court to order the construction of prisons or
8 to repeal or detract from otherwise applicable limitations on
9 the remedial powers of the courts.

10 Section 6. Types of prospective relief.

11 (a) Preliminary injunctive relief.--In prison conditions
12 litigation, the court may, to the extent authorized by law,
13 enter a temporary restraining order or preliminary injunction. A
14 preliminary injunction shall automatically expire 90 days after
15 its entry unless the court determines that the requirements of
16 subsection (b)(1) have been met and makes the order final before
17 the expiration of the 90-day period.

18 (b) Prisoner release orders.--The court shall enter a
19 prisoner release order only if it finds by clear and convincing
20 evidence that crowding is the primary cause of the violation.
21 The government party with jurisdiction over prisons or the
22 prosecution or custody of persons who may be released from
23 prison as a result of a prisoner release order shall have
24 standing to intervene in any related proceeding and to oppose
25 the imposition or continuation of the order and to seek
26 termination of the order. No prisoner release order shall be
27 entered unless all of the following apply:

28 (1) A court previously entered an order for less
29 intrusive relief which has failed to remedy the violation
30 sought to be remedied.

1 (2) The defendant has had a reasonable amount of time to
2 comply with the previous court order.

3 (3) No other relief will remedy the violation.

4 Section 7. Termination or modification of prospective relief.

5 (a) General rule.--In prison conditions litigation in which
6 prospective relief is ordered, the relief shall be terminable
7 upon the motion of a party or intervener two years after the
8 date the court granted or approved the prospective relief or one
9 year after the date the court entered an order denying
10 termination of prospective relief under this subsection.

11 (b) Early termination.--Nothing in this section shall
12 prevent the parties from agreeing to terminate or modify relief
13 before the relief is terminated under subsection (a).

14 (c) Immediate termination.--In prison conditions litigation,
15 a party or intervener shall be entitled to the immediate
16 termination of prospective relief if the relief was approved or
17 granted in the absence of a finding by the court that the relief
18 is narrowly drawn and extends no further than necessary and is
19 the least intrusive means necessary to correct the violation.

20 (d) Limitation.--Prospective relief shall not terminate if
21 the court makes written findings based on the record that
22 prospective relief remains necessary to correct a current and
23 ongoing violation and extends no further than necessary and is
24 the least intrusive means necessary to correct the violation.

25 (e) Other termination or modification.--Nothing in this
26 section shall prevent a party or intervener from seeking
27 modification or termination to the extent otherwise legally
28 permissible.

29 Section 8. Time limits on settlements.

30 In prison conditions litigation, the government party,

1 including an elected official who was not in office at the time
2 of the settlement agreement, may petition the court to modify or
3 vacate the terms of a settlement previously entered into. The
4 court shall have the power and authority to void or modify the
5 settlement agreement at any time upon a showing of good cause.

6 Section 9. Payment of damage award.

7 Monetary damages awarded to a prisoner in connection with
8 prison conditions litigation and payable from funds appropriated
9 by the General Assembly or by a political subdivision or an
10 insurance policy purchased by the Commonwealth or political
11 subdivision shall first be paid directly to satisfy any
12 outstanding court orders requiring the prisoner to pay
13 restitution, costs, bail, judgments, fines or other court-
14 imposed fees in connection with a criminal prosecution or
15 sentence. Upon receipt of a copy of the order, the government
16 party shall deduct the full amount owed and pay it directly to
17 the person or entity owed. Notice to the prisoner shall be
18 satisfied by certified mail or personal notice.

19 Section 10. Application.

20 Section 7 of this act applies to cases pending on the
21 effective date of this act.

22 Section 11. Effective date.

23 This act shall take effect in 60 days.