

CHAPTER 46

(SB 32)

AN ACT relating to inmate civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 454.400 is amended to read as follows:

As used in KRS 454.405 *to 454.415* ~~and 454.410~~, "inmate" means any person confined in either a state or federally operated facility, a county jail or other facility of local government, or in a private facility under contract with the Department of Corrections.

➔Section 2. KRS 454.405 is amended to read as follows:

- (1) At any time, and upon its own motion or on motion of a party, a court may dismiss a civil action brought by an inmate or on behalf of an inmate if satisfied that the action is malicious or harassing or if satisfied that the action is legally without merit or factually frivolous. In addition to any other available disposition, a court may dismiss the civil action if satisfied that the affidavit of poverty in support of a request to proceed in forma pauperis is wholly or partly false or misleading.
- (2) This section does not apply to criminal or collateral criminal proceedings.
- (3) A court which dismisses a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section shall include as part of its order specific findings as to the reasons for the dismissal. The court shall, upon issuing the order, direct the circuit clerk to transmit a copy of the entire court order to the official having custody of the inmate and to *all persons named as a party defendant in the action* ~~county attorney of the county where the action was filed~~.
- (4) A court which dismisses a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section may include as part of its order an assessment of fines and costs against the inmate as the court may deem reasonable and prudent. The Department of Corrections, *county jail, or other local or regional correctional facility* may enforce this assessment against the inmate's *canteen* ~~prison~~ account and against any other assets of the inmate through any other mechanism provided by law.
- (5) No inmate may maintain a civil action for monetary damages in any state court for mental or emotional injury without a prior showing of physical injury.

➔Section 3. KRS 454.415 is amended to read as follows:

- (1) No action shall be brought by or on behalf of an inmate, with respect to:
 - (a) *An inmate* ~~a prison~~ disciplinary proceeding; ~~or~~
 - (b) Challenges to a sentence calculation; ~~or~~
 - (c) Challenges to custody credit; ~~or to prison~~
 - (d) *A conditions of confinement issue*; ~~or~~
 until administrative remedies as set forth in ~~the Department of Corrections~~ policies and procedures *of the Department of Corrections, county jail, or other local or regional correctional facility* are exhausted.
- (2) Administrative remedies shall be exhausted even if the remedy the inmate seeks is unavailable.
- (3) The inmate shall attach to any complaint filed documents verifying that administrative remedies have been exhausted.
- (4) *A court shall dismiss a civil action brought by an inmate for any of the reasons set out in subsection (1) of this section if the inmate has not exhausted administrative remedies, and may include as part of its order an assessment of court costs against the inmate as the court may deem reasonable and prudent. The correctional facility may enforce this assessment against the inmate's canteen account and against any other assets of the inmate through any other mechanism provided by law.*
- (5) *A court which dismisses a civil action brought by an inmate for the reasons set out in this section shall include as part of its order specific findings as to the reasons for the dismissal. The court shall, upon*

issuing the order, direct the circuit clerk to transmit a copy of the entire court order to the official having custody of the inmate, to all persons named as a party defendant in the action, and also, by certified mail, return receipt requested, to the inmate.

- (6) *The period of limitations applicable to the cause of action after it has been dismissed by a court under this section for failure to exhaust administrative remedies is the period fixed by the applicable statute or ninety (90) days following the exhaustion of administrative remedies if the grievance is filed within the applicable period of limitations, whichever is later. Nothing in this subsection shall be construed to revive a cause of action that is barred by the applicable period of limitations.*

Signed by Governor March 30, 2010.