

VIRGINIA ACTS OF ASSEMBLY -- 2002 RECONVENED SESSION

CHAPTER 871

An Act to amend the Code of Virginia by adding in Title 8.01 a chapter numbered 27, consisting of sections numbered 8.01-689 through 8.01-695, relating to limiting civil law suits by prisoners.

[H 547]

Approved April 17, 2002

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 8.01 a chapter numbered 27, consisting of sections numbered 8.01-689 through 8.01-695, as follows:

CHAPTER 27.

VIRGINIA PRISONER LITIGATION REFORM ACT.

§ 8.01-689. *Short title.*

This chapter shall be known and may be cited as the "Virginia Prisoner Litigation Reform Act."

§ 8.01-690. *Applicability provisions.*

The provisions of this chapter shall apply to all pro se civil actions for money damages brought under the laws of this Commonwealth, or for injunctive, declaratory or mandamus relief, brought by prisoners incarcerated in any state or local correctional facility, or operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

§ 8.01-691. *Payment of filing fees and costs by prisoners; when in forma pauperis status granted.*

A prisoner seeking in forma pauperis status shall provide the court with a certified copy of his inmate trust account for the preceding twelve months. Any prisoner granted leave to proceed in forma pauperis shall nonetheless make payments, in equal installments as the court directs, towards satisfaction of the filing fee and costs. If the court determines the prisoner has had no deposits in his inmate trust account for the preceding six months, the court shall permit the prisoner to proceed without paying the filing fee and costs. However, the filing fee and costs shall be taxed as costs at the end of the case. Any prisoner failing to make any payment when due shall have his case dismissed without prejudice.

§ 8.01-692. *When in forma pauperis status denied.*

The court shall deny in forma pauperis status to any prisoner who has had three or more cases or appeals dismissed by any federal or state court for being frivolous, malicious, or for failure to state a claim, unless the prisoner shows that he is in imminent danger of serious physical injury at the time of filing his motion for judgment or the court determines that it would be manifest injustice to deny in forma pauperis status.

§ 8.01-693. *Venue of prisoner actions.*

Notwithstanding any other provision of law, no prisoner action shall be filed except in the city or county in which the prison is located where the prisoner was housed when his cause of action arose. When an action is filed in an improper venue, upon motion of the defendant or the court sua sponte, the court shall transfer the case to the proper venue.

§ 8.01-694. *Service of process; time for response.*

Upon the grant of in forma pauperis status or receipt of the filing fee and costs, the court shall serve the Office of the Attorney General with a copy of the motion for judgment and all necessary supporting papers. The Office of the Attorney General shall have no fewer than thirty days from receipt in which to file responsive pleadings. The prisoner's failure to state his claims in a written motion for judgment plainly stating facts sufficient to support his cause of action, accompanied by all necessary supporting documentation, may be grounds for dismissal of the action.

§ 8.01-695. *When argument held; when discovery permitted.*

Oral argument on any motion in any prisoner civil action shall be heard orally only at the request of the court; whenever possible, the court shall rule upon the record before it. No prisoner shall be permitted to request subpoenas for witnesses or documents, or file discovery requests, until the court has ruled upon any demurrer, plea or motion to dismiss. Where a case proceeds past the initial dispositive motions, the court shall require the prisoner seeking discovery to demonstrate that his requests are relevant and material to the issues in the case.