

HOUSE BILL 816
By Sands

AN ACT to amend Tennessee Code Annotated, Section 41-21-807; Section 41-21-808 and Section 41-21-801, relative to inmate litigation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 41-21-801, is amended by deleting subsections (1) and (4) in their entirety and substituting instead the following:

(1) "Claim" means any lawsuit or appeal filed by an inmate except a petition for post-conviction relief;

(4) "Inmate" means a person housed in a facility operated by the department, housed in a county jail, or housed in a correctional facility operated by a private corporation pursuant to a contract with the state or local government; and

SECTION 2. Tennessee Code Annotated, Section 41-21-807, is amended by deleting the section in its entirety and substituting instead the following:

(a) An inmate seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit required by § 41-21-805, shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the inmate for the six-month period immediately

preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each facility at which the inmate is or was confined.

(b)

(1) If an inmate brings a civil action or files an appeal in forma pauperis, the inmate shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of twenty percent (20%) of the greater of:

(A) the average monthly deposits to the inmate's account; or

(B) the average monthly balance in the inmate's account for the six-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the inmate shall be required to make monthly payments of twenty percent (20%) of the preceding month's income credited to the inmate's account. The agency having custody of the inmate shall forward payments from the inmate's account to the clerk of the court each time the amount in the account exceeds ten dollars (\$10) until the filing fees are paid.

(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

(4) In no event shall an inmate be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the inmate has no assets and no means by which to pay the initial partial filing fee.

(c) In no event shall an inmate bring a civil action or appeal a judgment in a civil action or proceeding under this section if the inmate has, on three (3) or more prior

occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of this state or the United States that was dismissed on the grounds that it is frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the inmate is under imminent danger of serious physical injury.

SECTION 3. Tennessee Code Annotated, Section 41-21-808, is amended by deleting the section in its entirety and substituting instead the following:

Judgment may be rendered for costs at the conclusion of the suit or action as in other proceedings.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.