

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Civil Procedure is amended by changing Section 22-105 as follows:

(735 ILCS 5/22-105)

Sec. 22-105. Frivolous lawsuits filed by prisoners.

(a) If a prisoner confined in an Illinois Department of Corrections facility files a pleading, motion, or other filing which purports to be a legal document in a case seeking post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963, pursuant to Section 116-3 of the Code of Criminal Procedure of 1963, in a habeas corpus action under Article X of this Code, in a claim under the Court of Claims Act, or a second or subsequent petition for relief from judgment under Section 2-1401 of this Code or in another action against the State, the Illinois Department of Corrections, or the Prisoner Review Board, or against any of their officers or employees and the Court makes a specific finding that the pleading, motion, or other filing which purports to be a legal document filed by the prisoner is frivolous, the prisoner is responsible for the full payment of filing fees and actual court costs.

On filing the action or proceeding the court shall assess and, when funds exist, collect as a partial payment of any court costs required by law a first time payment of 50% of the average monthly balance of the prisoner's trust fund account for the past 6 months. Thereafter 50% of all deposits into the prisoner's individual account under Sections 3-4-3 and 3-12-5 of the Unified Code of Corrections administered by the Illinois Department of Corrections shall be withheld until the actual court costs are collected in full. The Department of Corrections shall forward any moneys withheld to the court of jurisdiction. If a prisoner is released before the full costs are collected, the Department of Corrections shall forward the amount of costs collected through the date of release. The court of jurisdiction is responsible for sending the Department of Corrections a copy of the order mandating the amount of court fees to be paid. Nothing in this Section prohibits an applicant from filing an action or proceeding if the applicant is unable to pay the court costs.

(b) In this Section, "frivolous" means that a pleading, motion, or other filing which purports to be a legal document filed by a prisoner in his or her lawsuit meets any or all of the following criteria:

- (1) it lacks an arguable basis either in law or in fact;
- (2) it is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless

increase in the cost of litigation;

(3) the claims, defenses, and other legal contentions therein are not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(4) the allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; or

(5) the denials of factual contentions are not warranted on the evidence, or if specifically so identified, are not reasonably based on a lack of information or belief.

(Source: P.A. 90-505, eff. 8-19-97.)