

By: Representative Malone

To: Penitentiary

HOUSE BILL NO. 1301

1 AN ACT TO AMEND SECTION 47-5-76, MISSISSIPPI CODE OF 1972, TO
2 MAKE A TECHNICAL REVISION IN THE LAW GOVERNING PAYMENT OF COURT
3 COSTS BY OFFENDERS WHO FILE FRIVOLOUS LAWSUITS; AND FOR RELATED
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 47-5-76, Mississippi Code of 1972, is
7 amended as follows:

8 47-5-76. (1) Except as provided in subsection (2) of this
9 section, if an inmate plaintiff files a pauper's affidavit in a
10 civil action and the defendant is an employee of the department
11 and the civil action pertains to the inmate's condition of
12 confinement, the department shall pay, out of any funds available
13 for such purpose, all costs of court assessed against the inmate
14 in the civil action. However, the department shall not pay the
15 costs of court if the inmate has on three (3) or more prior
16 occasions, while incarcerated, brought an action or appeal that
17 was dismissed on the grounds that it was frivolous, malicious, or
18 failed to state a claim upon which relief could be granted.

19 An inmate shall not bring a civil action or appeal a judgment
20 in a civil action or proceeding in forma pauperis if the prisoner
21 has, on three (3) or more prior occasions, while incarcerated or
22 detained in any facility, brought an action or appeal in a court
23 that was dismissed on the grounds that it was frivolous,
24 malicious, or failed to state a claim upon which relief may be
25 granted, unless the prisoner is under imminent danger of serious
26 physical injury.

27 (2) Before any inmate, who has or has had funds in his

28 inmate account during the preceding six (6) months, can file a
29 civil action pertaining to the inmate's condition of confinement,
30 or violation of his civil rights, the inmate shall pay at the time
31 of filing to the circuit clerk all filing fees and costs of the
32 action or shall pay twenty percent (20%) of the total of all funds
33 located in his inmate account over the six (6) months immediately
34 preceding the date of filing, whichever is less. The department
35 shall pay out of any funds available for such purpose the
36 difference, if any, between the actual filing fees and costs and
37 what the inmate actually pays to the circuit clerk if the action
38 is filed against an employee of the Department of Corrections. If
39 the lawsuit is dismissed as being frivolous, the inmate shall be
40 required to pay all costs of court that are incurred. The
41 provisions of this subsection shall not apply if an inmate is
42 under imminent danger of serious physical injury.

43 SECTION 2. This act shall take effect and be in force from
44 and after July 1, 1999.