

By: Representative Malone

To: Corrections

HOUSE BILL NO. 611

1 AN ACT TO AMEND SECTION 47-5-76, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE AN INMATE WHO PROCEEDS IN FORMA PAUPERIS TO PAY CERTAIN
3 LITIGATION EXPENSES TO THE DEPARTMENT OF CORRECTIONS IN INCREMENTS
4 OF TWENTY PERCENT FROM HIS OR HER INMATE ACCOUNT; TO REMOVE THE
5 REQUIREMENT THAT IN ORDER FOR AN INMATE TO PAY CERTAIN LITIGATION
6 EXPENSES RELATED TO THE IN FORMA PAUPERIS PROCEEDINGS, THE INMATE
7 MUST HAVE HAD FUNDS IN HIS OR HER ACCOUNTS DURING THE PRECEDING
8 SIX MONTHS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 47-5-76, Mississippi Code of 1972, is
11 amended as follows:

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

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

31 (2) An inmate who proceeds in forma pauperis in a civil
32 action shall pay twenty percent (20%) per month of the funds in
33 his or her inmate account to the Department of Corrections until
34 all filing fees and costs of his or her litigation are paid to the
35 department. The department may withdraw such funds automatically
36 from the account of any inmate permitted a civil filing as a
37 pauper. If an inmate is allowed an appeal in forma pauperis of a
38 civil action, the inmate shall reimburse all costs and fees to the
39 department by automatic withdrawal each month in the amount of
40 twenty percent (20%) of his or her funds until all state funds are
41 reimbursed.

42 **SECTION 2.** This act shall take effect and be in force from
43 and after its passage.