

111TH CONGRESS
1ST SESSION

H. R. 4335

To provide for the redress of prison abuses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Mr. SCOTT of Virginia introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide for the redress of prison abuses, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prison Abuse Remedies
5 Act of 2009”.

6 **SEC. 2. SHOWING OF PHYSICAL INJURY NOT MANDATORY**
7 **FOR CLAIMS.**

8 (a) CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS
9 ACT.—Section 7 of the Civil Rights of Institutionalized
10 Persons Act (42 U.S.C. 1997e) is amended by striking
11 subsection (e).

1 (b) TITLE 28.—Section 1346(b) of title 28, United
2 States Code, is amended by striking paragraph (2).

3 **SEC. 3. STAYING OF NONFRIVOLOUS CIVIL ACTIONS TO**
4 **PERMIT RESOLUTION THROUGH ADMINIS-**
5 **TRATIVE PROCESSES.**

6 Subsection (a) of section 7 of the Civil Rights of In-
7 stitutionalized Persons Act (42 U.S.C. 1997e(a)) is
8 amended to read as follows:

9 “(a) ADMINISTRATIVE REMEDIES.—

10 “(1) PRESENTATION.—No claim with respect to
11 prison conditions under section 1979 of the Revised
12 statutes (42 U.S.C. 1983), or any other Federal law,
13 by a prisoner confined in any jail, prison, or other
14 correctional facility shall be adjudicated except
15 under section 1915A(b) of title 28, United States
16 Code, until the claim has been presented for consid-
17 eration to officials of the facility in which the claim
18 arose. Such presentation satisfies the requirement of
19 this paragraph if it provides prison officials of the
20 facility in which the claim arose with reasonable no-
21 tice of the prisoner’s claim, and if it occurs within
22 the generally applicable limitations period for filing
23 suit.

24 “(2) STAY.—If a claim included in a complaint
25 has not been presented as required by paragraph

(1), and the court does not dismiss the claim under section 1915A(b) of title 28, United States Code, the court shall stay the action for a period not to exceed 90 days and shall direct prison officials to consider the relevant claim or claims through such administrative process as they deem appropriate. However, the court shall not stay the action if the court determines that the prisoner is in danger of immediate harm.

“(3) PROCEEDING.—Upon the expiration of the stay under paragraph (2), the court shall proceed with the action except to the extent the court is notified by the parties that it has been resolved.”.

SEC. 4. EXEMPTION OF JUVENILES FROM PRISON LITIGATION REFORM ACT.

(a) TITLE 18.—

(1) JUVENILE PROCEEDINGS.—Section 3626(g) of title 18, United States Code, is amended—

(A) in paragraph (3) by striking “or adjudicated delinquent for,”; and

(B) so that paragraph (5) reads as follows:

“(5) the term ‘prison’ means any Federal, State, or local facility that incarcerates or detains prisoners;”.

1 (2) ADULT CONVICTIONS.—Section 3626 of title
2 18, United States Code, is amended by adding at
3 the end the following:

4 “(h) EXCLUSION OF CHILD PRISONERS.—This sec-
5 tion does not apply with respect to a prisoner who has
6 not attained the age of 18 years.”.

7 (b) CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS
8 ACT.—

9 (1) Section 7(h) of the Civil Rights of Institu-
10 tionalized Persons Act (42 U.S.C. 1997e(h)), is
11 amended by striking “or adjudicated delinquent
12 for,”.

13 (2) Section 7 of the Civil Rights of Institu-
14 tionalized Persons Act (42 U.S.C. 1997e) is amend-
15 ed by adding at the end the following:

16 “(i) EXCLUSION OF CHILD PRISONERS.—This sec-
17 tion does not apply with respect to a prisoner who has
18 not attained the age of 18 years.”.

19 (c) TITLE 28.—Title 28, United States Code, is
20 amended—

21 (1) in section 1915(h)—

22 (A) by inserting “who has attained the age
23 of 18 years” after “means any person”; and

24 (B) by striking “or adjudicated delinquent
25 for,”; and

1 (2) in section 1915A(c)—

2 (A) by inserting “who has attained the age
3 of 18 years” after “means any person”; and

4 (B) by striking “or adjudicated delinquent
5 for,”.

6 **SEC. 5. MODIFICATION OF BAN ON MULTIPLE IN FORMA**
7 **PAUPERIS CLAIMS.**

8 Section 1915(g) of title 28, United States Code, is
9 amended—

10 (1) by inserting “within the preceding 5 years”
11 after “3 or more occasions”; and

12 (2) by striking “, malicious, or fails to state a
13 claim upon which relief may be granted” and insert-
14 ing “or malicious”.

15 **SEC. 6. FILING FEES IN FORMA PAUPERIS.**

16 Section 1915(b)(1) of title 28, United States Code,
17 is amended—

18 (1) by striking “or files an appeal”; and

19 (2) by inserting “and the action is dismissed at
20 initial screening pursuant to subsection (e)(2) of this
21 section, section 1915A of this title, or section 7(c)(1)
22 of the Civil Rights of Institutionalized Persons Act
23 (42 U.S.C. 1997e(c)(1)),” after “in forma
24 pauperis,”.

1 **SEC. 7. TECHNICAL AMENDMENT TO RESOLVE AMBIGUITY.**

2 Section 1915(a)(1) of title 28, United States Code, is
 3 amended by striking “that includes a statement of all as-
 4 sets such prisoner possesses” and inserting “(including a
 5 statement of assets such person possesses)”.

6 **SEC. 8. ENCOURAGEMENT OF APPROPRIATE SETTLEMENT**
 7 **OF PRISONER LITIGATION.**

8 Section 3626(c)(1) of title 18, United States Code,
 9 is amended, by striking the period at the end and inserting
 10 “, except that the violation of a Federal right may be al-
 11 leged by plaintiff rather than proven or stipulated.”.

12 **SEC. 9. JUDICIAL DISCRETION IN CRAFTING PRISON ABUSE**
 13 **REMEDIES.**

14 Section 3626 of title 18, United States Code, is
 15 amended—

16 (1) in subsection (a)(2) by striking the final
 17 sentence;

18 (2) in subsection (b)(1)(A), by inserting “if that
 19 party demonstrates that it has eliminated the viola-
 20 tion of the Federal right that gave rise to the pro-
 21 spective relief and that the violation is reasonably
 22 unlikely to recur” after “intervener”;

23 (3) in subsection (b)(1)(B), by adding at the
 24 end the following: “Nothing in this section shall pre-
 25 vent the court from extending any of the time peri-
 26 ods set out in subsection (A), if the court finds, at

1 the time of granting or approval of the prospective
2 relief, that correction of the violation will take longer
3 than those time periods.”; and

4 (4) in subsection (e) by striking paragraphs (2),
5 (3), and (4).

6 **SEC. 10. EFFECTIVE DATE.**

7 The amendments made by this Act shall apply to all
8 cases currently pending in Federal court and any such
9 cases filed on or after the date of enactment of this Act.

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